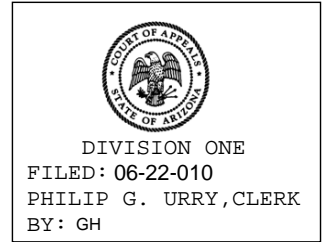


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



CECELIA E.,)
) No. 1 CA-JV 10-0013
Appellant,)
) DEPARTMENT B
v.)
) MEMORANDUM DECISION
ARIZONA DEPARTMENT OF ECONOMIC)
SECURITY, BOB M.,) (Not for Publication -
) 103(G) Ariz.R.P. Juv. Ct.;
Appellees.) Rule 28 ARCAP
)
)

Appeal from the Superior Court in Maricopa County

Cause No. JD506871

The Honorable Mark F. Aceto, Judge

AFFIRMED

Sandra L. Massetto
Attorney for Appellant

Phoenix

Terry Goddard, Attorney General
By Eric Devany, Assistant Attorney General
Attorney for Arizona Department of Economic Security

Mesa

G E M M I L L, Judge

¶1 Cecelia E. appeals the juvenile court's order

terminating her parental rights to her son, Bob M.¹ For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 On November 22, 2002, Cecelia gave birth to Bob. In June 2007, Cecelia was incarcerated. She left Bob in the care of her friend ("Friend"), who lived with them at Cecelia's house. Bob and Friend continued to live at Cecelia's house until the house was destroyed by a fire. As a result of the fire, Friend and Bob moved into another house.

¶13 On August 9, 2007, Child Protective Services ("CPS") removed Bob from the house due to health and safety hazards and placed Bob in a foster home. The house Bob was removed from was reported as "filthy, with no utilities, and drug activity." On August 15, 2007, the Arizona Department of Economic Security ("ADES") filed a dependency petition with the juvenile court. The court gave ADES temporary custody of Bob, pending a dependency hearing. Cecelia was released from jail on August 27, 2007.

¶14 On October 30, 2007, the court ordered Cecelia to attend mediation with ADES. During the mediation, Cecelia agreed to submit to substance abuse testing. Specifically, she

¹ The court also terminated the parental rights of Bob's father, Charles M., based on abandonment pursuant to Arizona Revised Statutes ("A.R.S.") section 8-533(B)(1) (Supp. 2009). Charles is not a party to this appeal.

agreed to submit four clean urinalysis tests. On January 8, 2008 the court held a pretrial conference hearing. At the hearing, ADES requested that the dependency hearing be continued to allow Cecelia "to submit 4 clean urinalysis tests and proof of residence and employment." The state anticipated that it would request the dependency petition be dismissed if Cecelia could submit four clean urinalysis tests.

¶15 On February 26, 2008, the court held another hearing. At the time of the hearing, Cecilia had submitted only one urine sample and it was negative. As a result, the court found Bob dependent as to Cecilia and approved an "in-home dependency," giving Cecilia physical custody of Bob. Cecilia, however, went back to jail a couple of days later and was not released until May 2008. By June 2008, physical custody was taken away from Cecilia, and Bob was again placed in foster care.

¶16 Over the next several months, ADES made reasonable efforts to finalize a permanency plan that would reunite Cecilia and Bob. During that time, the court ordered Cecilia to provide four consecutive clean urinalysis tests but Cecilia failed to comply with the court's orders. On March 3, 2009, the court held a permanency planning hearing and ordered Cecilia to complete a "urinalysis and a hair follicle" drug test that day. Again, Cecilia failed to follow the court's orders. On June 30, 2009, the court changed the case plan to severance and adoption

and ordered Cecelia to "do a hair follicle test and begin [urinalysis] testing two times per month." In July 2009, Cecelia submitted to the ordered testing, which came back positive for methamphetamines.

¶17 On December 1, 2009, the court held a contested severance hearing. At the hearing, the court heard testimony from CPS case manager, Jessica Nokes. Nokes recommended that the court terminate Cecelia's parental rights so that Bob could be adopted by a family who would provide Bob with stability. She testified that Bob was adoptable, and she did not believe ADES would have any trouble finding Bob an adoptive placement.

¶18 On January 7, 2010, the court entered an order terminating Cecelia's parental rights to Bob pursuant to A.R.S. §§ 8-533(B)(3) and (B)(8)(c). The court found termination of Cecelia's parental rights was in Bob's best interest because it would further the plan of adoption and provide Bob with permanency and stability. The court also found Bob to be adoptable.

¶19 Cecelia appealed and we have jurisdiction pursuant to A.R.S. § 12-2101(B) (2003).

ANALYSIS

¶10 Cecelia does not challenge the court's findings regarding the statutory grounds for termination. She challenges only the court's finding that termination of Cecelia's parental

rights was in Bob's best interest. On appeal, "we will accept the juvenile court's findings of fact unless no reasonable evidence supports those findings, and we will affirm a severance order unless it is clearly erroneous." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4, 53 P.3d 203, 205 (App. 2002).

¶11 Termination of parental rights must be in the best interests of the child. A.R.S. § 8-533(B). "To prove that the termination of parental rights would be in a child's best interests, ADES must present credible evidence demonstrating 'how the child would benefit from a severance or be harmed by the continuation of the relationship.'" *Lawrence R. v. Ariz. Dep't of Econ. Sec.*, 217 Ariz. 585, 587, ¶ 8, 177 P.3d 327, 329 (App. 2008) (quoting *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 50, ¶ 19, 83 P.3d 43, 50 (App.2004)). The best interest requirement may be satisfied if ADES shows that the child is adoptable. *Lawrence R.*, 217 Ariz. at 587, ¶ 8, 177 P.3d at 329.

¶12 In this case, reasonable evidence supports the court's finding that termination of Cecelia's parental rights was in Bob's best interest. Jessica Nokes, the CPS case worker who was assigned to the case in September 2007, testified that severance and adoption were in Bob's best interest. She recommended that Cecelia's parental rights be terminated "so that Bob can be

adopted by [a] family who will provide stability, permanency, love and take him - you know, provide him with all the medical care that he needs and requires and follow up with services for him." She also testified that Bob was adoptable and that ADES would not have any trouble finding an adoptive placement for Bob.

¶13 On this record, we conclude that sufficient evidence exists to support the juvenile court's finding that severance of Cecelia's parental rights is in Bob's best interest.

CONCLUSION

¶14 The court's severance order is affirmed as to Cecelia.

_____/s/_____
JOHN C. GEMMILL, Presiding Judge

CONCURRING:

_____/s/_____
PATRICIA K. NORRIS, Judge

_____/s/_____
MAURICE PORTLEY, Judge