

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



DIVISION ONE
FILED: 01/03/2012
RUTH A. WILLINGHAM,
CLERK
BY: GH

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

MELISSA J.,

Appellant,

v.

ARIZONA DEPARTMENT OF ECONOMIC
SECURITY, NOEL A., JOHN J.,

Appellees.

1 CA-JV 11-0128

DEPARTMENT E

MEMORANDUM DECISION

(Not for Publication -
Rule 28, Arizona Rules
of Civil Appellate
Procedure)

Appeal from the Superior Court in Maricopa County

Cause No. JD 18774

The Honorable Christopher A. Coury, Judge

AFFIRMED

David W. Bell
Attorney for Appellant

Mesa

Thomas C. Horne, Attorney General
by Jamie R. Katelman, Assistant Attorney General
Attorneys for Appellees

Phoenix

I R V I N E, Judge

¶1 Melissa J. ("Mother") appeals from the juvenile court's order severing her parental rights to her sons Noel A.

and John J. (the "Children").¹ For the reasons that follow, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Mother was born in August 1979 and has a long history of substance abuse. She began using alcohol at age fifteen, marijuana at eighteen, and methamphetamine at twenty-five. The Arizona Department of Economic Security ("ADES") became involved with Mother after Noel was born substance exposed to marijuana in July 2006. ADES provided Mother with services to address her substance-abuse problems. Mother admits that she did not participate in those services. Three years later, Mother gave birth to John. At birth, John tested positive for marijuana, and Mother tested positive for marijuana and methamphetamine.

¶3 In January 2010, ADES filed a dependency petition. The juvenile court granted the petition a month later. As part of the reunification process, ADES required Mother to submit to drug testing and treatment. Mother admits that she did not comply with the required drug testing because she was in denial about her substance-abuse problems. From February 2010 through November 2010, Mother participated in an outpatient substance-abuse treatment program. Mother testified that from January 2010 through November 2010, she did not use drugs. Mother admits,

¹ The Fathers' parental rights were also terminated, but they are not parties to this appeal.

however, that she was incarcerated from June 2010 to September 2010 for theft. Mother also admits that she relapsed and began using marijuana and methamphetamine from November 2010 through March 2011.

¶4 In March 2011, ADES filed a petition to terminate Mother's parental rights to the Children. The juvenile court held a contested severance hearing on ADES's motion to terminate in June 2011. Mother testified at the hearing that she had been sober for the past three months. After taking the matter under advisement, the court granted ADES's motion to terminate Mother's parental rights to the Children.

¶5 The juvenile court found that termination was in the Children's best interests and that grounds for severance existed pursuant to Arizona Revised Statutes ("A.R.S.") section 8-533(B)(3) (Supp. 2010) because there was clear and convincing evidence that Mother was unable to discharge her parental responsibilities because of a history of chronic abuse of dangerous drugs, and there were reasonable grounds to believe that Mother will continue to have a substance-abuse problem for a prolonged indeterminate period. The juvenile court also found that grounds for severance existed pursuant to A.R.S. § 8-533 (B)(8)(c) because the Children were being cared for in an out-of-home placement for a total period of fifteen months pursuant

to court order, and Mother had been unable to remedy her substance-abuse issues.

¶6 Mother timely appeals.

DISCUSSION

¶7 Mother argues that her drug use does not render her unable to discharge her parental responsibilities and that there are not reasonable grounds to believe that her drug use will continue for a prolonged indeterminate period. Mother also disputes the juvenile court's finding that severance was in the best interests of the Children.

¶8 Reasonable evidence supports the juvenile court's findings. Despite periods of compliance with drug testing, substance-abuse treatment and counseling, Mother consistently missed appointments and failed to follow through with available services. Even after Noel was born substance exposed to marijuana, Mother refused substance-abuse treatment and continued using marijuana and methamphetamine. Mother used marijuana and methamphetamine for the next three years before giving birth to John, who was also born substance exposed to marijuana. After the Children were taken into ADES custody, Mother continued to use drugs and failed to submit to required drug testing.

¶9 We also find no support for Mother's argument that the juvenile court abused its discretion when it found that

severance was in the Children's best interests. Although the Children may have had a strong bond with Mother, Mother's drug use continued to place the children at risk of harm. The case manager opined that it was not in the Children's best interests to wait and see how Mother progressed with her substance-abuse treatment. Additionally, the maternal grandmother provided a safe, stable, drug-free home for the Children for more than fifteen months, and she was willing to adopt the Children.

¶10 Mother also argues that the juvenile court abused its discretion in finding that grounds for severance existed pursuant to A.R.S. § 8-533 (B)(8)(c). Because we affirm the juvenile court's findings under A.R.S. § 8-533(B)(3), we need not address this argument. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12, 995 P.2d 682, 685 (2000).

CONCLUSION

¶11 For the foregoing reasons, we affirm the juvenile court's termination of Mother's parental rights to the Children.

/s/

PATRICK IRVINE, Judge

CONCURRING:

/s/

DIANE M. JOHNSEN, Presiding Judge

/s/

PATRICIA A. OROZCO, Judge