

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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BELINDA P.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY, A.P., M.F., M.F. AND A.G.,  
*Appellees.*

No. 2 CA-JV 2015-0205  
Filed February 26, 2016

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);  
Ariz. R. P. Juv. Ct. 103(G).

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Appeal from the Superior Court in Gila County  
No. JD201500006  
The Honorable Timothy M. Wright, Judge

**AFFIRMED**

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COUNSEL

Robert D. Rosanelli, Phoenix  
*Counsel for Appellant*

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Mark Brnovich, Arizona Attorney General  
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*Counsel for Appellee Department of Child Safety*

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**MEMORANDUM DECISION**

Presiding Judge Howard authored the decision of the Court, in which Judge Espinosa and Judge Staring concurred.

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H O W A R D, Presiding Judge:

¶1 Belinda P. appeals from the juvenile court's order terminating her parental rights to A.D.P. (born March 2007), M.M.F. (born April 2008), M.D.F. (born September 2010), and A.C.G. (born October 2011), on substance abuse and time-in-care grounds pursuant to A.R.S. § 8-533(B)(3), (8)(a), and (8)(c). Belinda argues on appeal that insufficient evidence supported the court's determination that termination was warranted and that the Arizona Department of Child Safety (DCS)<sup>1</sup> provided adequate services. We affirm.

¶2 “[W]e view the evidence and reasonable inferences to be drawn from it in the light most favorable to sustaining the [juvenile] court's decision.” *Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, ¶ 18, 219 P.3d 296, 303 (App. 2009). DCS first took custody of the children in July 2012 following Belinda's arrest for child abuse after she left the children home alone “with an inappropriate caregiver” who had been “passed out.” The children were

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<sup>1</sup>DCS is substituted for the Arizona Department of Economic Security (ADES) in this decision. For simplicity, our references to DCS in this decision encompass ADES, which formerly administered child welfare and placement services under title 8, and Child Protective Services, formerly a division of ADES. See 2014 Ariz. Sess. Laws 2d Spec. Sess., ch. 1, §§ 6, 20, 54.

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adjudicated dependent, and Belinda—a regular methamphetamine user—was provided with substance-abuse services, as well as parenting skills training. Through 2014, her participation in services was “sporadic and lacking,” but she began to make progress, the children were returned to her custody in January 2015, and the dependency was dismissed.

¶3 In March, however, DCS again removed the children from Belinda’s care following a domestic violence incident the children witnessed. Additionally, Belinda tested positive for methamphetamine and heroin in February and again tested positive for methamphetamine in March. DCS began offering an array of services and filed a dependency petition in March. In April 2015, Belinda was arrested for and ultimately convicted of organized retail theft and was incarcerated until September. The children were found dependent in June 2015.

¶4 DCS attempted to provide services for Belinda while she was in prison but was unable to do so due to her relatively short incarceration. At DCS’s urging, Belinda participated in substance-abuse treatment while incarcerated. Belinda did not re-engage in services after her release; although DCS arranged for services, Belinda moved to a new county, delaying service referrals.

¶5 Pursuant to the juvenile court’s order, near the time of Belinda’s arrest, DCS filed a motion to terminate her parental rights on substance abuse and time-in-care grounds. After a contested hearing, the court terminated Belinda’s parental rights, concluding DCS had shown, by clear and convincing evidence, that termination was warranted on all grounds alleged and was in the children’s best interest.<sup>2</sup> This appeal followed.

¶6 A juvenile court may terminate a parent’s rights if it finds clear and convincing evidence of one of the statutory grounds for severance and finds by a preponderance of the evidence that

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<sup>2</sup>The juvenile court also terminated the parental rights of the children’s fathers, none of whom are parties to this appeal.

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termination is in the child's best interests. A.R.S. §§ 8-533(B), 8-537(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005). "[W]e will affirm a termination order that is supported by reasonable evidence." *Jordan C.*, 223 Ariz. 86, ¶ 18, 219 P.3d at 303. That is, we will not reverse a termination order for insufficient evidence unless, as a matter of law, no reasonable fact-finder could have found the evidence satisfied the applicable burden of proof. See *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, ¶ 10, 210 P.3d 1263, 1266 (App. 2009).

¶7 And, in order to terminate a parent's rights on substance abuse or time-in-care grounds, DCS must have "made a diligent effort to provide appropriate reunification services." § 8-533(B)(8); *Jennifer G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 450, ¶ 12, 123 P.3d 186, 189 (App. 2005). To provide sufficient services, DCS must offer parents "the time and opportunity to participate in programs designed to help [them] become . . . effective parent[s]." *In re Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353, 884 P.2d 234, 239 (App. 1994). However, DCS is not required to provide every conceivable service, and a parent's failure or refusal to participate in the services offered or recommended by ADES does not foreclose termination of the parent's rights. *Id.* Additionally, DCS need not undertake futile rehabilitative measures, but only those that offer a reasonable possibility of success. *Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, ¶ 1, 971 P.2d 1046, 1048 (App. 1999).

¶8 We first address Belinda's argument that the juvenile court erred by terminating her parental rights on substance-abuse grounds because she "has not abused drugs since March or April 2015," has continued to participate in substance-abuse treatment, and "participated in an effective withdrawal program, namely, prison itself." But this argument ignores Belinda's long history of substance abuse, including her own admission that she previously had stopped abusing drugs for periods of time, sometimes for periods similar to that of her incarceration, only to resume drug abuse. A brief period of sobriety after a motion for severance has been filed does not prohibit severance pursuant to § 8-533(B). See *In re Maricopa Cty. Juv. Action No. JS-501568*, 177 Ariz. 571, 577, 869 P.2d

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1224, 1230 (App. 1994) (finding parent's successful efforts at rehabilitation during eight months prior to trial "too little, too late" in light of substantial neglect to remedy addiction for more than a year while child in out-of-home care). In short, Belinda asks us to reweigh the evidence, something we will not do. *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, ¶ 14, 100 P.3d 943, 947 (App. 2004).

¶9 Belinda further asserts the juvenile court erred in finding DCS had made a diligent effort to provide reunification services. Belinda argues that DCS failed to provide such services during her incarceration for shoplifting and did not investigate whether such programs were available. But she misapprehends the law and the record. DCS is not required to go to extraordinary lengths to provide a parent with services, it is required only to make diligent efforts. *See* § 8-533(B)(8); *In re Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. at 353, 884 P.2d at 239. DCS was not responsible for Belinda's incarceration, and thus cannot be faulted for the resulting delay or interruption of services. *See Yvonne L. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 415, n.18, 258 P.3d 233, 241 n.18 (App. 2011). The record shows DCS sought to provide services and urged Belinda to participate in those services during her incarceration. Belinda has not identified available services that DCS failed to provide nor has she explained how DCS could have provided such services.

¶10 Because we conclude the juvenile court correctly terminated Belinda's parental rights pursuant to § 8-533(B)(3), we need not address her arguments that the court erred in terminating her rights on time-in-care grounds. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 3, 53 P.3d 203, 205 (App. 2002).

¶11 We affirm the juvenile court's order terminating Belinda's parental rights to A.D.P., M.M.F., M.D.F., and A.C.G.