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See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 10/23/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

MICHELLE C.,) 1 CA-JV 12-0027
)
Appellant,) DEPARTMENT B
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
ARIZONA DEPARTMENT OF ECONOMIC) 103(G), Ariz. R.P. Juv. Ct.;
SECURITY, AMANDA C.,) Rule 28, ARCAP)
)
Appellees.)
)
)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. JD506679

The Honorable Raymond P. Lee, Retired Judge

AFFIRMED

The Stavris Law Firm, PLLC
by Alison Stavris
Attorney for Appellant

Scottsdale

Thomas C. Horne, Attorney General
by Amanda Holguin, Assistant Attorney General
Attorneys for Appellee Arizona Department of Economic Security

Phoenix

Mesa

P O R T L E Y, Judge

¶1 Michelle C. ("Mother") appeals from the order terminating her parental rights to her daughter. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 The child was born in January 2007 and was diagnosed with severe congenital brain defects, blindness, seizures, scoliosis, chronic lung disease and asthma, and spastic-quadrupleia cerebral palsy, a neurological condition that affects her ability to eat, walk, talk, and sit without assistance. Shortly after her birth, a brain shunt and gastric feeding tube were implanted. Following the surgeries, the child's treating physician contacted Child Protective Services ("CPS"), and Mother agreed to an in-home dependency. She received in-home services, including case management, physical and occupational therapies, and respite care. Because she completed the services, the in-home dependency case was dismissed in October 2007.

¶13 Two years later, CPS received a report that the child had been admitted to Cardon Children's Hospital for septic shock, respiratory failure, and dehydration. Mother admitted to diluting the child's prescribed Pedialyte with water for several days. CPS also learned that Mother had failed to take the child to several medical and therapy appointments, and that the child had not seen her pediatrician in eight months. Upon visiting Mother's house, CPS discovered it did not have heat or working water and was unsanitary.

¶14 Following her release from the hospital in January 2010, the child was placed in foster care by the Arizona Department of Economic Security ("ADES"). The child was found dependent as to Mother in April 2010, and the juvenile court adopted ADES's case plan of family reunification. Despite the variety of services that were offered to reunify Mother and child, Mother canceled many of her supervised visits, did not complete parental skills training, and missed many of the child's medical appointments. Additionally, she did not attend counseling, seek employment, or secure heating or air-conditioning in her home. Mother also admitted that other family members who engaged in domestic violence and methamphetamine abuse were living in the home.

¶15 At the permanency planning hearing in May 2011, the juvenile court granted ADES's request to change the case plan to severance and adoption. ADES then filed a termination motion alleging that Mother was unable to remedy the circumstances that had caused the child to remain in an out-of-home placement for fifteen months or longer under Arizona Revised Statutes ("A.R.S.") section 8-533(B)(8)(c) (West 2012). After a three-day contested hearing, the juvenile court entered its findings of facts and conclusions of law and terminated her parental rights. Mother appealed, and we have jurisdiction pursuant to A.R.S. §§ 8-235(A) and 12-2101(A)(1), (B).

DISCUSSION

¶16 Mother asserts that the juvenile court erred when it held that ADES made diligent efforts to reunite her with her child pursuant to § 8-533(B)(8)(c). Specifically, she argues that ADES failed to satisfy its statutory obligation by not providing her with psychiatric and counseling services, or parenting skills and training tailored to her child's special needs.

¶17 We review a judgment terminating parental rights for an abuse of discretion. *Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, 452, ¶ 19, 153 P.3d 1074, 1081 (App. 2007). When reviewing the judgment "[w]e view the facts in the light most favorable to sustaining the juvenile court's decision." *Id.* at 449, ¶ 12, 153 P.3d at 1078. And, we will not disturb the termination order "unless there is no reasonable evidence to support the findings." *Pima Cnty. Juvenile Severance Action No. S-113432*, 178 Ariz. 288, 292, 872 P.2d 1240, 1244 (App. 1993).

¶18 Parental rights may be terminated if ADES has made a diligent effort to provide appropriate reunification services and "the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement" for a cumulative period of fifteen months or longer pursuant to court order. A.R.S. § 8-533(B)(8)(c). Additionally, there must be "a substantial likelihood that the parent will not be capable of

exercising proper and effective parental care and control in the near future." *Id.*

¶9 ADES fulfills the mandate when it provides the parent "with the time and opportunity to participate in programs designed to help her become an effective parent." *Maricopa Cnty. Juvenile Action No. JS-501904*, 180 Ariz. 348, 353, 884 P.2d 234, 239 (App. 1994). It need not, however, provide "every conceivable service," or reunification efforts that are futile. *Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, 192, ¶¶ 34, 37, 971 P.2d 1046, 1053 (App. 1999). Rather, ADES has satisfied its duty when it provides the "type of therapy [that] offer[s] the most hope for enabling the mother to carry out her parental responsibilities." *Maricopa Cnty. Juvenile Action No. JS-5209 & No. JS-4963*, 143 Ariz. 178, 189, 692 P.2d 1027, 1038 (App. 1984).

¶10 Here, ADES provided Mother with a psychological consultation, psychological and psychiatric evaluations, supervised visits, transportation, and one-on-one parent aide sessions to assist her in parenting, job seeking, and budgeting skills. She was also provided with mental health services, appointment reminders, and parenting and anger management classes. Despite the many offered services for more than two years, Mother missed medical appointments and refused to fully participate in counseling, supervised visits with her child,

medical treatment for the youngster, or other parenting aid exercises. She also refused to seek employment or make her home safe and sanitary. There is nothing in the record to suggest Mother refused to visit her child or participate in her child's services because they were not designed to address the myriad medical needs of the child. Moreover, her failure to participate in the services was not due to inadequate efforts by ADES. See *Maricopa Cnty. Juvenile Action No. 4238*, 133 Ariz. 598, 601, 653 P.2d 55, 58 (App. 1982) (noting that the State's responsibility to make all reasonable efforts to preserve the parent-child relationship is not without limits and that the parent is "required to make a good-faith effort to reunite the family"). And, contrary to her claim, she did not demonstrate that there were other services that ADES could have provided to improve her ability to care for the child. See *Pima Cnty. Severance Action No. S-2397*, 161 Ariz. 574, 577, 780 P.2d 407, 410 (App. 1989) (upholding severance where evidence established that no other services that might preserve the family could be offered that had not already been offered). Consequently, the juvenile court did not abuse its discretion by finding that ADES provided reasonable services to attempt to unify the family.

CONCLUSION

¶11 Based on the foregoing, we affirm the termination of parental rights of Mother to her daughter.

/s/

MAURICE PORTLEY, Presiding Judge

CONCURRING:

/s/

PATRICIA A. OROZCO, Judge

/s/

RANDALL M. HOWE, Judge