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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 3/28/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

SCOTT C., ) No. 1 CA-JV 12-0201  
 )  
Appellant, ) DEPARTMENT E  
 )  
v. ) **MEMORANDUM DECISION**  
 )  
ARIZONA DEPARTMENT OF ECONOMIC ) (Not for Publication -  
SECURITY, PRUDIENCE C., ) Ariz. R.P. Juv. Ct. 103(G);  
 ) ARCAP 28)  
Appellees. )  
 )  
 )  
 )

Appeal from the Superior Court in Coconino County

Cause No. S0300JD201200004

The Honorable Ted S. Reed, Judge Pro Tempore

**AFFIRMED**

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Harris & Winger  
By Chad J. Winger  
Attorney for Appellant

Flagstaff

Thomas C. Horne, Arizona Attorney General  
By Amanda Holguin, Assistant Attorney General  
Attorneys for Appellees

Mesa

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**H A L L**, Judge

¶1 Scott C. (Father) appeals the juvenile court's order finding his minor child (the child) dependent. For the following reasons, we affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

¶12 On February 9, 2012, the Arizona Department of Economic Security (ADES) filed a dependency petition alleging the child is dependent as to Father<sup>1</sup> and Tracie Cousin (Mother), the biological mother. The petition alleged Mother abused the child by keeping her in a home environment in which she repeatedly sustained physical abuse by Mother's boyfriend. The petition also alleged Mother abused the child by failing to seek medical attention to treat the child's numerous injuries. The petition further alleged Father neglected the child by failing to establish a normal parental relationship with her and by failing to provide support.

¶13 On June 5, 2012, at an uncontested dependency hearing for Mother, the juvenile court found the child dependent as to Mother. Mother stipulated "to the dependency based on the need for services."

¶14 On July 19, 2012, the juvenile court held a dependency adjudication hearing for Father. Father testified that he began a "romantic" relationship with Mother in late 1999 and the child was born the following August. He was not present for the child's birth and did not sign the birth certificate. Approximately two weeks after the child's birth, he visited his

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<sup>1</sup> The petition also alleged that the child was dependent, secondarily, as to "John Doe" because Father's paternity was not established until June 22, 2012 by court order.

daughter for "maybe 20, 25 minutes." He testified that he recalled seeing the child briefly when she was three or four months old. From that time, he "lost contact" and had no relationship with the child even though he "knew how to get a hold of [Mother]." He never attempted to provide any financial support or gifts or letters and conceded that he made no attempt to have any contact with the child since she was "three or four months old" until he was served with the dependency petition in March 2012.

¶15 Nonetheless, Father testified that he is willing to take immediate custody of the child. Father is currently unemployed and resides in Missouri with his fiancée, her son, and their daughter.

¶16 After Father and Mother testified, the juvenile court found the State had proven by a preponderance of the evidence that the child is dependent as to Father. In relevant part, the juvenile court stated:

[T]he child is, one, in need of proper and effective parental care, and two, the child, at this time, has no parent, in the form of [Father], who is capable of exercising such care and control due to the lack of any parental relationship.

¶17 At a dependency disposition hearing held on August 14, 2012, the case manager testified regarding the child's current placement with non-relative foster parents. Although the case manager acknowledged that the child did not have a relationship

with the foster parents before the placement, she nonetheless testified that Father needed to establish some relationship with the child before she could be placed in his care. After the presentation of evidence, the juvenile court concluded that the child's current foster placement "is the least restrictive consistent with the needs of the child."

¶18 On September 10, 2012, the juvenile court reduced its hearing rulings to a signed order of dependency. Father timely appealed.<sup>2</sup> We have jurisdiction pursuant to Arizona Revised Statutes (A.R.S.) section 8-235 (2007) and Rule 103(A) of the Arizona Rules of Procedure for the Juvenile Court.

#### **DISCUSSION**

¶19 Father contends the juvenile court erred by finding the child dependent as to him. Specifically, Father argues the juvenile court erred by finding he is presently not capable of parenting the child.

¶10 As defined in A.R.S. § 8-201(13)(a)(i) (Supp. 2012), a dependent child is a child who is adjudicated to be: "In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing

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<sup>2</sup> Mother did not file a notice of appeal in this case. She has filed, however, an answering brief. Because Mother is not a party aggrieved by the September 10, 2012 order of dependency, she lacks standing and we strike her answering brief. See ARCAP 1 (explaining the right to appeal is limited to "part[ies] aggrieved by the judgment").

to exercise or capable of exercising care and control." For a child to be adjudicated dependent, ADES must prove by a preponderance of the evidence that the statutory requirements have been met. A.R.S. § 8-844(C) (2007); Ariz. R.P. Juv. Ct. 55(C).

¶11 In reviewing an adjudication of dependency, we view the evidence in the light most favorable to sustaining the juvenile court's findings. *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, 235, ¶ 21, 119 P.3d 1034, 1038 (App. 2005). The juvenile court is "in the best position to weigh the evidence, judge the credibility of the parties, observe the parties, and make appropriate factual findings." *Pima County Dependency Action No. 93511*, 154 Ariz. 543, 546, 744 P.2d 455, 458 (App. 1987). Therefore, we do not reweigh the evidence, but look only to determine if there is evidence to support the juvenile court's ruling. *Maricopa County Juv. Action No. JV-132905*, 186 Ariz. 607, 609, 925 P.2d 748, 750 (App. 1996). Moreover, "because the primary consideration in a dependency case is always the best interest of the child, . . . the juvenile court is vested with a great deal of discretion." *Willie G.*, 211 Ariz. at 235, ¶ 21, 119 P.3d at 1038.

¶12 Here, reasonable evidence supports the juvenile court's findings that the child is dependent as to Father. The record reflects that, at the time of the disposition and

adjudication hearings, Father had no relationship with the child. Indeed, at the disposition hearing, Father admitted that he had no contact with the child for more than a decade and made no effort to establish a relationship with her although, admittedly, he was able to contact Mother if he chose to do so. At the adjudication hearing, the caseworker testified that, before placing the child in Father's care, Father needed to develop "some relationship with the child." In addition, the caseworker testified that Father needed to participate in services such as individual counseling and family therapy before the child is placed in his care so that the transition will not cause the child undue distress. Finally, the caseworker testified that ADES needed to complete a home and safety study of Father's Missouri residence to ensure that it is a safe place for the child to live. Therefore, the record supports the juvenile court's finding that Father is currently not capable of parenting the child and we affirm the juvenile court's order adjudicating the child dependent as to Father.

**CONCLUSION**

¶13 For the foregoing reasons, we affirm.

      /s/        
PHILIP HALL, Judge

CONCURRING:

      /s/        
MARGARET H. DOWNIE, Presiding Judge

      /s/        
MAURICE PORTLEY, Judge