

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

AMANDA B., ) No. 1 CA-JV 12-0261  
)  
Appellant, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
ARIZONA DEPARTMENT OF ECONOMIC ) 103(G) Ariz. R.P. Juv.  
SECURITY, JESSE M., ELIZABETH M., ) Ct.; Rule 28 ARCAP)  
ALEXANDER B., LILLIAN E., )  
)  
Appellees. ) **FILED 4/23/2013**  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause Nos. JD21434 & JS12075

The Honorable Joan M. Sinclair, Judge *Pro Tem*

**AFFIRMED**

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Christina Phillis, Maricopa County Public Advocate                      Mesa  
By Suzanne W. Sanchez, Deputy Public Advocate  
Attorneys for Appellant

Thomas C. Horne, Arizona Attorney General                                      Phoenix  
By Michael Valenzuela, Assistant Attorney General  
Attorneys for ADES

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**D O W N I E**, Judge

¶1 Amanda B. ("Mother") challenges the juvenile court's order terminating her parental rights. For the following reasons, we affirm.

#### **FACTS AND PROCEDURAL HISTORY<sup>1</sup>**

¶2 Child Protective Services ("CPS") removed J.M., E.M., A.B., and L.E. from Mother's custody after a car accident. The accident occurred while Mother was chasing her boyfriend, who was driving a separate vehicle. She attempted an abrupt exit from the freeway to continue following him, but collided with a guardrail at highway speed. The car was totaled. The two younger children were in car seats; J.M. and E.M. were sharing the only remaining seatbelt in the back seat. J.M. had fastened the seatbelt after he became frightened at how fast Mother was driving. E.M. told a paramedic that Mother stated, "I want us all to die" right before the crash. L.E. suffered a skull fracture as a result of the accident.

¶3 The Arizona Department of Economic Security ("ADES") moved to terminate Mother's parental rights on the grounds that she willfully abused a child or failed to protect a child from willful abuse so as to cause a substantial risk of harm to the child's health or welfare. See Ariz. Rev. Stat. ("A.R.S.")

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<sup>1</sup> We view the evidence in the light most favorable to affirming the juvenile court's order. *Maricopa County Juv. Action No. JS-8490*, 179 Ariz. 102, 106, 876 P.2d 1137, 1141 (1994) (citation omitted).

§ 8-533 (B)(2). ADES later amended its motion to allege an additional ground: inability to discharge parental responsibilities due to chronic substance abuse. See A.R.S. § 8-533 (B)(3).

¶14 In October 2012, the juvenile court held a three-day consolidated dependency, contested severance, and evidentiary hearing.<sup>2</sup> Mother admitted placing the children in danger the day of the accident and being in an "altered state of mind."<sup>3</sup> She acknowledged that her substance abuse affected her ability to parent. She testified about her continuing drug use throughout the juvenile court proceedings and admitted a long-standing substance abuse problem. Mother also had no place to live and had been unemployed since 2005.

¶15 A clinical psychologist evaluated Mother and testified that Mother admitted being incapable of emotionally connecting to her children; she gave Mother a "poor prognosis" for being able to adequately parent in the foreseeable future. The CPS case specialist testified that the children were adoptable. He further testified that Mother had not adequately participated in services offered by CPS and that her drug use affected her

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<sup>2</sup> The evidentiary hearing related to ADES' request to terminate Mother's visitation.

<sup>3</sup> Mother claimed a "bad reaction" to prescription medication caused her actions the day of the accident but presented no medical evidence to support this claim.

ability to parent. The paramedic responding to the car accident testified that the children could have died in the accident.

¶16 The juvenile court found that ADES had proven by clear and convincing evidence that Mother's parental rights should be severed based on chronic substance abuse and willful abuse of a child. See A.R.S. § 8-533(B)(2), (B)(3). The court further ruled it was in the best interests of the children to terminate Mother's parental rights. Mother timely appealed. We have jurisdiction pursuant to A.R.S. § 8-235(A).

#### DISCUSSION

¶17 Mother argues ADES failed to prove willful abuse. She further contends severance based on substance abuse was improper because ADES failed to provide "essential family reunification services." Although the court terminated Mother's rights on two independent grounds, we will affirm the termination order if any one of the statutory grounds was proven. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 3, 53 P.3d 203, 205 (App. 2002) (citations omitted).

¶18 "To justify termination of the parent-child relationship, the trial court must find, by clear and convincing evidence, at least one of the statutory grounds set out in section 8-533, and also that termination is in the best interest

of the child.”<sup>4</sup> *Michael J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12, 995 P.2d 682, 685 (2000). Because 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), we do not reweigh the evidence, but look only to determine if there is evidence to support the court’s ruling, *Maricopa County Juv. Action No. JV-132905*, 186 Ariz. 607, 609, 925 P.2d 748, 750 (App. 1996) (citation omitted). “We will not disturb the juvenile court’s disposition absent an abuse of discretion or unless the court’s findings of fact were clearly erroneous, i.e., there is no reasonable evidence to support them.” *JV-132905*, 186 Ariz. at 609, 925 P.2d at 750; accord *Audra T. v. Ariz. Dep’t of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 2, 982 P.2d 1290, 1291 (App. 1998) (citations omitted).

¶19 The record amply supports the severance order based on chronic substance abuse. Mother began smoking marijuana daily when she was 14. She began using methamphetamine at the age of 23. J.M. and A.B. were both born substance-exposed. Mother had participated in substance abuse treatment four previous times, beginning in 1999. Mother admitted smoking marijuana the

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<sup>4</sup> Mother has not challenged the best-interest finding, so we do not address it.

night before her psychological evaluation, as well as on the morning of trial.<sup>5</sup>

¶10 Mother began drug testing at TASC in February 2012 but stopped without explanation in May. Every drug test she took at TASC was positive for marijuana. When she tested at TERROS in June, July, and September, each test was positive for marijuana and methamphetamine.

¶11 The juvenile court stated: "Mother has by her own admission a history of chronic substance abuse of marijuana and methamphetamine. She has been in and out of treatment for years and continues to use. The Court believes that this will continue for a prolonged indeterminate period." The record supports these findings.

¶12 Mother was provided numerous services to address her substance abuse problem, including random testing, assessments, treatment, psychological consultation and evaluation, and psychiatric evaluation. Despite these services, Mother continued abusing drugs and tested positive for marijuana and methamphetamine a month before the severance trial. Mother argues she should have been offered Ph.D-level counseling, as recommended by the evaluating psychologist, rather than the master's-level counselor certified in addiction counseling to

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<sup>5</sup> Mother testified she had recently obtained a medical marijuana card but did not introduce any corroborating evidence.

whom she was referred. ADES, though, is not required to provide every conceivable service, *Maricopa County Juv. Action No. JS-501904*, 180 Ariz. 348, 353, 884 P.2d 234, 239 (App. 1994) (citations omitted), or to provide futile services, *Pima County Severance Action No. S-2397*, 161 Ariz. 574, 577, 780 P.2d 407, 410 (App. 1989) (citation omitted). Nothing in the record suggests the counselor Mother saw was unqualified or inadequate. Moreover, Mother attended only two of nine therapy sessions, and she was disruptive when she did attend.

¶13 Reasonable and sufficient evidence supports the severance order based on substance abuse. See A.R.S. § 8-533(B)(3) (court may sever rights based on an inability to discharge parental responsibilities due to chronic substance abuse). We therefore need not address the additional ground for termination found by the juvenile court. See *Michael J.*, 196 Ariz. at 251, ¶ 27, 995 P.2d at 687 (because court affirmed one ground for termination, it need not determine whether severance was justified on additional grounds found by juvenile court).

**CONCLUSION**

¶14 We affirm the termination of Mother's parental rights.

/s/  
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MARGARET H. DOWNIE,  
Presiding Judge

CONCURRING:

/s/  
\_\_\_\_\_  
MAURICE PORTLEY, Judge

/s/  
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PHILIP HALL, Judge