

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



DIVISION ONE  
FILED: 7/23/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

DANIEL L., ) 1 CA-JV 13-0041  
)  
) DEPARTMENT C  
Appellant, )  
) **MEMORANDUM DECISION**  
v. ) (Not for Publication -  
) Ariz. R.P. Juv. Ct. 103(G);  
ARIZONA DEPARTMENT OF ECONOMIC ) ARCAP 28)  
SECURITY, D.L., M.L., )  
)  
Appellees. )  
)

Appeal from the Superior Court in Maricopa County

Cause No. JD20391

The Honorable Colleen McNally, Judge

**AFFIRMED**

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

Vierling Law Offices Phoenix  
By Thomas A. Vierling  
Attorney for Appellant

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**N O R R I S**, Judge

¶1 Daniel L. ("Father") appeals from the juvenile court's  
order terminating his parental rights to his children, D.L. and

M.L. (the "children").<sup>1</sup> On appeal, he argues termination was not in the children's best interest<sup>2</sup> because he had relationships with the children, should be given the opportunity to develop those relationships, and the children were not adoptable because Mother's parental rights had not been terminated.<sup>3</sup> We disagree. The juvenile court found termination was in the children's best interest because of Father's domestic violence, emotional abuse, and substance abuse. *James S. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 351, ¶ 18, 356, 972 P.2d 684, 689 (App. 1998) (to find termination was in child's best interest, the juvenile court must find the child will either benefit from termination or be harmed by continuation of the parent-child relationship). The court's findings were amply supported by the record; indeed, by more than a preponderance of the evidence. *Kent K. v. Bobby M.*,

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<sup>1</sup>We have amended the caption pursuant to this court's Administrative Order 2013-001.

<sup>2</sup>The juvenile court found Father had abandoned and neglected the children, and the children were being cared for in an out-of-home placement for both nine and fifteen months. Ariz. Rev. Stat. ("A.R.S.") § 8-533(B)(1),(2), (8)(a), (8)(c) (Supp. 2012). Father does not challenge these findings, and, instead, challenges only the court's best interest determination.

<sup>3</sup>The Arizona Department of Economic Security ("ADES") had originally moved to terminate both Mother and Father's parental rights, but because Mother was participating in services and making "significant behavioral change[s]," ADES withdrew its motion to terminate her parental rights to the children, subject to the possibility of filing another termination motion in six months if Mother "relapse[d]."

210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005) (juvenile court must find by preponderance of the evidence termination is in child's best interest); *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 47, ¶ 8, 83 P.3d 43, 47 (App. 2004) (appellate court reviews for abuse of discretion; appellate court will not disturb juvenile court's findings unless clearly erroneous, meaning no reasonable evidence supports findings).

¶12 At the termination hearing, ADES presented evidence Father perpetrated multiple instances of domestic violence against Mother in front of the children, was emotionally abusive to the children, and used and sold drugs. The children's ongoing CPS caseworker testified Father had not had a normal parenting relationship with the children. A CPS case manager testified the children would benefit from termination because they would have a stable living environment, without exposure to domestic violence, Father's verbal abuse, and dangers in the home. The case manager further explained the children would be harmed if Father's rights were not terminated because of the detrimental relationship he had with the children, including verbal abuse, which caused D.L. to suffer anxiety and develop a nervous tick and eye-blinking that required counseling.

¶13 In addition to the forgoing testimony, Mother testified Father used methamphetamine, was "very violent . . . very controlling and there were a lot of drugs involved in

[their] relationship." She further explained Father had made a living selling drugs and was in prison because he had "transport[ed] considerable quantities of hashish . . . [over a pound of] methamphetamines [and a gun] to sell." She also testified the children "witnessed a lot of violence," because Father "was very violent towards [her] emotionally and physically," his violence towards her continued to escalate, and he was "verbally and emotionally abusive" to the children, including calling D.L. "stupid."

¶4 Despite this evidence, Father argues he had relationships with the children and should be given the opportunity to develop these relationships. The record reflects, however, Father had not seen the children since CPS took them into custody -- for over a year and a half -- nor provided them with any financial support, had not participated in any services, had done nothing to remedy his anger, domestic violence, and substance abuse problems, and had not maintained a normal parenting relationship with the children.

¶5 Finally, we reject Father's argument that terminating his parental rights was not in the children's best interest because Mother's parental rights remained intact, and thus the children were not adoptable. The termination of Father's parental rights would allow Mother to enter into an adoptive

