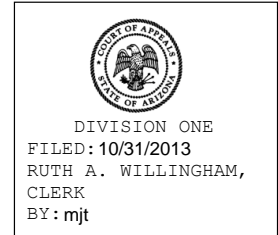


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

LATASHA T.,) CA-JV 13-0144
)
Appellant,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
ARIZONA DEPARTMENT OF ECONOMIC) 103(G) Ariz. R.P. Juv.
SECURITY, J.T.,) Ct.; Rule 28 ARCAP)
)
Appellees.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. JD504216

The Honorable Helene F. Abrams, Retired Judge

AFFIRMED

Robert D. Rosanelli Phoenix
Attorney for Appellant

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

T H U M M A, Judge

¶1 Latasha T. (Mother) challenges the superior court's termination of her parental rights to her biological child J.T.¹ Finding no error, the superior court's order is affirmed.

FACTS² AND PROCEDURAL HISTORY

¶2 J.T. was born in 1997 and is one of Mother's nine biological children. Mother has a long history of substance abuse, having started abusing PCP when she was 13 and has continued to abuse a variety of drugs in the 23 years since that time. For more than a decade, Mother has been diagnosed with a variety of psychological disorders. In late 2002, J.T., who has a number of special needs, was removed from Mother's care by the Arizona Department of Economic Security (ADES), and found dependent as to Mother, based on allegations of Mother's substance abuse, mental illness and failure to protect J.T. from sexual abuse.

¶3 Although Mother successfully completed a substance abuse program in mid-2003 and regained custody of J.T., Mother relapsed and J.T. was taken from Mother's care in November 2005. ADES offered Mother a wide variety of services including: reunification services; substance abuse assessment and

¹ The caption has been amended to safeguard the juveniles' identity pursuant to Administrative Order 2013-0001.

² This court views the evidence in a light most favorable to sustaining the superior court's findings. See *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, 207, ¶ 2, 181 P.3d 1126, 1128 (App. 2008).

treatment; psychological, psychiatric and neuropsychological evaluations; housing subsidy; counseling; transportation; day-care assistance and domestic-violence classes. Mother continued to use drugs and was hospitalized three times since 2010 for suicidal ideations and hallucinations. During her most recent hospitalization in May 2012, Mother noted experiencing "auditory hallucinations of command nature telling her to hurt herself." Mother also tested positive for PCP and admitted to weekly PCP abuse. Mother failed to participate consistently in almost all services she was offered and in mid-2010, following an evidentiary hearing, ADES was relieved from its obligation to provide Mother services. At the time of the termination hearing, J.T. was in a therapeutic foster home that was meeting her basic and special needs and was willing and able to adopt her.

¶4 In April 2013, Mother failed to appear without good cause at a pretrial conference on ADES's motion to terminate her parental rights. After receiving testimony from an ADES caseworker and documentary evidence, the superior court granted the motion and terminated Mother's parental rights on the basis of abandonment, abuse or neglect, mental illness or substance abuse and 15 months time in care. See Arizona Revised Statutes (A.R.S.) sections 8-533(B)(1)-(3) & (B)(8)(c) (2013).³ This court

³ Absent material revisions after the relevant dates, statutes cited refer to the current version unless otherwise indicated.

has jurisdiction of Mother's timely appeal pursuant to Article 6, Section 9 of the Arizona Constitution and A.R.S. § 8-235(A).

DISCUSSION

¶5 The superior court may terminate a parent-child relationship if it finds by clear and convincing evidence at least one statutory ground for severance set forth in A.R.S. § 8-533(B) and that termination is in the child's best interests. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12, 995 P.2d 682, 685 (2000); *Marina P. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 326, 329, ¶ 18, 152 P.3d 1209, 1212 (App. 2007) (discussing best interests); *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 3, 53 P.3d 203, 205 (App. 2002) (noting if one ground for severance is properly shown, this court "need not address claims pertaining to the other grounds").⁴ This court will reverse an order terminating parental rights only if the factual findings are clearly erroneous or not supported by the record. See *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 2, 982 P.2d 1290, 1291 (App. 1998).

⁴ Mother does not challenge the superior court's best interest findings, which are supported by the evidence. See *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 6, 100 P.3d 943, 945 (App. 2004) (noting best interest shown if child "would derive an affirmative benefit from termination or incur a detriment by continuing in the relationship") (citing *Jennifer B. v. Ariz. Dep't of Econ. Sec.*, 189 Ariz. 553, 557, 944 P.2d 68, 72 (App. 1997)).

I. The Superior Court Properly Granted The Motion To Terminate Based On Fifteen Months Time In Care.

¶6 In full, the fifteen months time in care ground requires proof that:

The child has been in an out-of-home placement for a cumulative total period of fifteen months or longer pursuant to court order or voluntary placement pursuant to [A.R.S.] § 8-806, the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care and control in the near future.

A.R.S. § 8-533(B)(8)(c). Mother does not dispute that J.T. has been in an out-of-home placement pursuant to court order for a cumulative total far exceeding fifteen months.

¶7 Mother argues that no evidence supports the superior court's finding that she is "unable to remedy the circumstances" that caused J.T. to be removed from her custody. The superior court must consider "those circumstances existing at the time of the severance that prevent a parent from being able to appropriately provide for his or her children." *Marina P. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 326, 330, ¶ 22, 152 P.3d 1209, 1213 (App. 2007) (internal citations omitted).

¶8 At the April 2013 hearing, the caseworker testified that Mother "at this point . . . continues to chronically not be able to maintain her sobriety, maintain a stable living

environment and she's not able to attend and provide for [J.T.'s] special needs." The caseworker also testified that Mother's "mental illness and substance abuse will continue for a prolonged indefinite period" and that Mother had admitted using PCP as recently as May 2012.⁵ In addition, the superior court considered a January 2013 progress report noting that no behavior changes Mother could make "could remedy the safety threats and risk factors identified." Given this evidence, the superior court's findings were not clearly erroneous.

¶19 Mother argues no substantial evidence showed that she would not be "an effective parent now and in the future." Contrary to this claim, at the April 2013 hearing, the caseworker testified that "there [is] a substantial likelihood that the parent will not be capable of exercising parental care and control in the near future[.]" The same caseworker testified that Mother was "unable to handle her own mental illness and substance abuse" issues and would not be able to parent a

⁵ Mother argues there is "no evidence in the record to the effect that [she] is abusing drugs currently" and that "[t]he case manager's testimony was not supported by any of the reported 'actual documentation.'" Because Mother failed to appear at the termination hearing without good cause, she admitted the allegations contained in ADES's severance motion and all exhibits "previously admitted during [the] various dependency hearings" and all became "part of the record the juvenile court could consider" during the termination proceeding. *Adrian E. v. Ariz. Dep't of Econ. Sec.*, 215 Ariz. 96, 102, ¶ 23, 158 P.3d 225, 231 (App. 2007); see also *Ariz. R.P. Juv. Ct. 64(C)*; *Ariz. R.P. Juv. Ct. 64(D)(2)*; *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, 215, ¶ 34, 181 P.3d 1126, 1136 (App. 2008).

special needs child. In addition, the evidence showed that, as of January 2013, it had been "several years since [J.T.] has visited with her [M]other."

¶10 On this record, the superior court properly found a substantial likelihood that Mother could not parent J.T. in the near future. The court noted that Mother "has been unable to demonstrate sobriety during the past ten years" and "[s]he continues to show a chronic inability or unwillingness to benefit from services offered to her, and she habitually offers excuses for her failure to engage." Thus, the superior court did not err in finding that Mother could not be an effective parent to J.T. now or in the near future.

CONCLUSION

¶11 The superior court's order terminating Mother's parental relationship with J.T. is affirmed.

/S/ _____
SAMUEL A. THUMMA, Judge

CONCURRING:

/S/ _____
RANDALL M. HOWE, Presiding Judge

/S/ _____
PATRICIA A. OROZCO, Judge