IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

MICHAEL M., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, E.M., *Appellees*.

No. 1 CA-JV 15-0009
FILED 6-4-2015

Appeal from the Superior Court in Maricopa County
No. JD527383
The Honorable David J. Palmer, Judge

AFFIRMED

COUNSEL

Law Office of Anne M. Williams, P.C., Mesa
By Anne M. Williams
Counsel for Appellant

Maricopa County Public Advocate, Mesa
By Jeannette Komadina, David C. Lieb
Counsel for Appellees

MEMORANDUM DECISION

Presiding Judge Randall M. Howe delivered the decision of the Court, in which Judge Andrew W. Gould and Judge Peter B. Swann joined.

H O W E, Presiding Judge:

¶1 Michael M. ("Father") appeals from the juvenile court's order finding his sixteen-year-old daughter, E.M., dependent as to him.[1] For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Father and Mother lived with E.M.'s grandmother when E.M. was born. Father and Mother later separated. E.M. then spent alternate weeks living with Mother and Father. While visiting Father, who lived with E.M.'s grandmother, E.M.'s grandmother performed nearly all the child care.

¶3 Father later moved out of E.M.'s grandmother's house. Father was then convicted of various criminal offenses and incarcerated from 2008 until 2011, and did not see E.M. during that time. Upon his release, Father lived with his grandfather while E.M. continued to live with her grandmother. Although Father initially visited E.M., he stopped doing so after "a big blow up" with the grandmother in December 2012.

¶4 In February 2014, E.M.'s guardian ad litem filed a dependency petition alleging that E.M. was dependent as to Father. The petition alleged that Father was unable or unwilling to "provide the necessary care and control that [E.M.] needs" and that Father has "neglected [E.M.] by failing to meet his parental responsibilities. The petition also alleged that Father failed to protect E.M. from abuse by her mother. The Department of Child Safety opposed the dependency petition.

¶5 At a contested dependency adjudication hearing, E.M. testified that she felt safe living with her grandmother and did not want to live with either Father or Mother. Father testified that he was uncertain

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[1] The juvenile court also adjudicated E.M. dependent as to her biological mother ("Mother"), who is not a party to this appeal.

when he had last parented E.M. Father also acknowledged that E.M. felt abandoned as a result of his incarceration.

¶6 The juvenile court found E.M. dependent as to Father. In its ruling, the court noted that although "it does appear that Father is now willing to parent E.M., his (and Mother's) neglect of and inattention to [E.M.] for years has caused such damage to their relationship that returning [E.M.] to either parent is clearly not in [E.M.]'s best interest, as they are not able to parent her." Moreover, the court found that "[g]iven [E.M.]'s age and her adamant desire to have no contact with either parent, . . . the court finds no choice but to determine that [E.M.] is dependent as to both parents as neither is able to appropriately parent her at this time." Father timely appeals.

DISCUSSION

¶7 Father argues that insufficient evidence supports the juvenile court's finding that E.M. was dependent as to him. Father contends that the juvenile court improperly relied on Father's past—rather than future—conduct in making its dependency determination. We will not disturb the juvenile court's ruling in a dependency action unless the findings upon which it is based are clearly erroneous and no reasonable evidence supports them. *Pima County Juv. Dependency Action No. 118537*, 185 Ariz. 77, 79, 912 P.2d 1306, 1308 (App. 1994).

¶8 The juvenile court, as the trier of fact in a dependency proceeding, is "in the best position to weigh the evidence, judge the credibility of the parties, observe the parties, and make appropriate factual findings." *Pima Cnty. Dependency Action No. 93511*, 154 Ariz. 543, 546, 744 P.2d 455, 458 (App. 1987). Thus, the resolution of conflicting evidence is within the unique province of the juvenile court, and we will not reweigh the evidence. *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 47 ¶ 8, 83 P.3d 43, 47 (App. 2004).

¶9 Pursuant to A.R.S. § 8–201.14(a)(i) and (iii), a "dependent child" is a child adjudicated to be "[i]n need of proper and effective parental care and control and who has no parent . . . willing to exercise or capable of exercising such care and control," or "[a] child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent."

¶10 The juvenile court's determination that E.M. was dependent as to Father was not clear error. Even when Father lived with E.M. at her grandmother's house, the grandmother performed nearly all the child care. Father then had no contact with E.M. for three years while he was

incarcerated. Upon his release from incarceration, Father only occasionally visited E.M. for one year until a feud broke out between him and E.M.'s grandmother. Thus, sufficient evidence supports the juvenile court's finding that Father was unwilling or unable to parent E.M. Although Father argues that the juvenile court should have only considered Father's future—and not past—conduct in making its dependency determination, he provides no authority to support that claim. *Ness v. W. Sec. Life Ins. Co.*, 174 Ariz. 497, 503, 851 P.2d 122, 128 (App. 1992) ("Arguments unsupported by any authority will not be considered on appeal."). Moreover, his argument essentially asks us to reweigh the evidence, which we will not do. *See Jesus M. v. Ariz. Dep't Econ. Sec.*, 203 Ariz. 278, 282 ¶ 12, 53 P.3d 203, 207 (App. 2002) (stating that this Court—on appeal—does not reweigh the evidence). Accordingly, we affirm the juvenile court's order finding E.M. dependent as to Father.

CONCLUSION

¶11 For the foregoing reasons, we affirm.