NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE

ARIZONA COURT OF APPEALS

DIVISION ONE

JOSEPHINE L., *Appellant*,

v.

ARIZONA DEPARTMENT OF CHILD SAFETY, D.G., J.L., *Appellees*.

No. 1 CA-JV 15-0384
FILED 7-19-2016

Appeal from the Superior Court in Maricopa County
No. JD509214
The Honorable Janice K. Crawford, Judge

AFFIRMED

COUNSEL

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By John L. Popilek
Counsel for Appellant

Arizona Attorney General's Office, Mesa
By Nicholas Chapman-Hushek
Counsel for Appellee Arizona Department of Child Safety

MEMORANDUM DECISION

Judge Patricia K. Norris delivered the decision of the Court, in which Presiding Judge Margaret H. Downie and Judge Maurice Portley joined.

N O R R I S, Judge:

¶1 Josephine L. appeals from the juvenile court's order terminating her parental rights to D.G. and J.L., under Arizona Revised Statutes ("A.R.S.") section 8-533(B)(1) (abandonment) (Supp. 2015). We disagree with Josephine's arguments that the juvenile court abused its discretion in admitting certain evidence at the termination hearing and in finding she had abandoned her children. Accordingly, we affirm the court's order terminating her parental rights.

¶2 Josephine first argues the juvenile court abused its discretion in admitting her probation file into evidence at the termination hearing, asserting it was hearsay. The juvenile court, however, did not abuse its discretion in admitting the probation file. *Alice M. v. Dep't of Child Safety*, 237 Ariz. 70, 72, ¶ 7, 345 P.3d 125, 127 (App. 2015) ("We review evidentiary rulings for an abuse of discretion."). As the juvenile court pointed out, Josephine failed to file an objection as required by Arizona Rule of Procedure for the Juvenile Court ("ARPJC") 44(B)(2)(e).[1] "If a party objects to the admission of an exhibit, the party shall file a notice of objection . . . within ten (10) days of receipt of the list of exhibits. Specific objections or grounds not identified in the notice of objection shall be deemed waived . . . ." ARPJC 44(B)(2)(e); *see also Alice M.*, 237 Ariz. at 73, ¶ 11, 345 P.3d at 128.

¶3 Furthermore, Josephine has not argued on appeal that the admission of the probation file prejudiced her. *Alice M.*, 237 Ariz. at 73, ¶ 12, 345 P.3d at 128 (when record was sufficient to terminate parental rights without the contested exhibits, error was harmless). Any information from the probation file that the juvenile court relied on in its ruling was admitted without objection through other exhibits or testimony. For example, the juvenile court found Josephine missed several drug tests the prior summer,

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[1]DCS's disclosure under Rule 44(B) and (D) was untimely. Josephine did not object to the timeliness of the disclosure at the termination adjudication hearing, however, and has not raised this issue on appeal.

but this information was also available in the drug test exhibit, which the court admitted without objection.

¶4 Josephine next argues the juvenile court abused its discretion in admitting two police reports into evidence, asserting they were irrelevant and inadmissible hearsay. Josephine again failed to file an objection to the police reports under ARPJC 44. *See supra* ¶ 2. And, although Josephine argues the reports were "unfairly prejudicial," she has not shown how admission of the police reports prejudiced her. Indeed, the juvenile court did not even reference the police reports in its detailed findings of fact and conclusions of law. *See supra* ¶ 3. Furthermore, the police reports were admissible under the public records exception to the hearsay rule set out in Arizona Rule of Evidence 803(8).

¶5 Finally, Josephine argues the juvenile court abused its discretion in finding she had abandoned her children because their father, Hector F., had interfered with her ability to contact her children. Although Josephine presented evidence at the hearing that Hector had made it difficult for Josephine to contact her children—in 2012, Hector had "failed to comply or communicate with [her]"; in January 2014, Hector had not responded to an email Josephine sent him after she had been released from prison; and, in December 2014, even DCS had trouble locating the children because Hector was "obstructing [DCS's] ability to take the children"—the juvenile court found, however, that Josephine had not "persistently or vigorously" tried to assert her parental rights. *Calvin B. v. Brittany B.*, 232 Ariz. 292, 296, ¶ 20, 304 P.3d 1115, 1119 (App. 2013) ("When circumstances prevent the father from exercising traditional methods of bonding with his child, he must act persistently to establish the relationship however possible and must vigorously assert his legal rights to the extent necessary.") (internal citation and quotations omitted). Sufficient evidence supports this finding. *Id.* at ¶ 17.

¶6 For example, when Josephine did not receive a response to her January 2014 email, she did not contact anyone—not Hector, not DCS, and not the courts—to try to assert her rights until February 2015. Although Josephine asserted she had sent messages to an online profile she believed belonged to D.G., both D.G. and J.L. told DCS they had not had contact with Josephine in years, and Josephine provided no proof of the attempted contact. Further, after DCS removed the children from Hector's care in January 2015, and thus from his interference, Josephine failed to respond to DCS's efforts to contact her until finally she appeared at a court hearing three months later. On this record, the juvenile court did not abuse its discretion in finding abandonment. A.R.S. § 8-531(1) (Supp. 2015); *Calvin*

B., 232 Ariz. at 296, ¶ 17, 304 P.3d at 1119 (reviewing termination order for abuse of discretion).

¶7 For the foregoing reasons, we affirm the juvenile court's order terminating Josephine's parental rights to her children.