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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

OLIVIA M., *Appellant*,

v.

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

No. 1 CA-JV 16-0244
FILED 2-14-2017

Appeal from the Superior Court in Maricopa County
No. JD509818
The Honorable Timothy J. Ryan, Judge

AFFIRMED

COUNSEL

Law Office of H. Clark Jones LLC, Mesa
By Clark Jones
Counsel for Appellant

Arizona Attorney General's Office, Mesa
By Amanda L. Adams
Counsel for Appellee DCS

MEMORANDUM DECISION

Judge Donn Kessler delivered the decision of the Court, in which Presiding Judge Peter B. Swann and Judge Kent E. Cattani joined.

K E S S L E R, Judge:

¶1 Appellant Olivia M. (“Mother”) appeals the juvenile court’s termination of her parental rights as to her child, JM. Mother asserts the juvenile court incorrectly found JM had been in an out-of-home placement for more than fifteen months, that the Department of Child Safety (“DCS”) had made reasonable efforts at providing services, and that severance was in JM’s best interests. For the following reasons, we affirm the juvenile court’s ruling.

FACTUAL AND PROCEDURAL HISTORY

¶2 Mother and JA¹ (“Father”) are the biological parents of JM, born December 2009. In January 2012, Mother called the police and reported that she planned to crash her car with herself and JM’s sibling inside. DCS filed a dependency action for JM and his sibling, alleging neglect due to mental illness and substance abuse. Mother’s rights to JM’s sibling were terminated in September 2014 on the grounds of mental illness and time in care.

¶3 Although JM’s sibling was taken into DCS custody in January 2012, JM was not taken into physical DCS custody until May 2015. Mother took JM to California to visit Father in November 2011, and Father refused to allow JM to return to Arizona. Father refused to provide DCS with his address and admitted he chose to remain unemployed to avoid paying child support for three of his other children. However, Father maintained he would be able to provide for JM if awarded custody. Father did not have legal custody of JM and DCS repeatedly attempted to locate JM to return him to Arizona. In January 2012, the juvenile court issued an order allowing DCS to take JM into temporary custody, and in April 2012 the juvenile court issued a second order directing Father to return JM to Arizona. JM’s

¹ Father is referred to as both “JA” and “AJ” at the trial level.

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paternal grandparents contacted DCS after Father's death and JM was subsequently relocated to Arizona.

¶4 Mother has been diagnosed with schizophrenia, depressive disorders, borderline personality disorder, and bipolar disorders, and she also has a history of suicidal ideation. Mother denied having any symptoms or having ever attempted suicide. Dr. SP, a psychologist, testified that Mother's prognosis for parenting was poor because of her lack of compliance with mental health treatment.

¶5 Mother was offered services by DCS, including parent aides, psychological evaluations, individual counseling, and visitation. Mother frequently refused to provide release of information consent, which limited DCS's ability to provide some services. The DCS case manager, VJ, testified Mother had not been compliant with her medication regimen and had not attended therapy for several months. Mother was incarcerated from July 2013 to July 2014 for custodial interference with JM's sibling. While incarcerated, Mother was offered behavioral health services and medication, which she refused. Mother attempted suicide while imprisoned. After her release, Mother sporadically attended therapy and stopped attending altogether in November 2015. DCS moved to sever Mother's rights to JM in October 2015.

¶6 VJ testified that JM's current placement is willing to adopt and that he is very closely bonded with his placement. VJ asserted JM's current placement is meeting all of his needs and is able to provide him with permanency and stability.

¶7 The juvenile court terminated Mother's parental rights, finding statutory grounds of mental illness, prior termination within two years, and fifteen months in an out-of-home placement. The court determined that termination was in the child's best interests. Mother timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 8-235(A) (2014) and 12-120.21(A)(1) (2016).²

DISCUSSION

I. Standard of Review

² We cite the current version of the applicable statute unless revisions material to this decision have since occurred.

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¶8 To terminate parental rights, the juvenile court must find, by clear and convincing evidence, at least one of the statutory grounds set out in A.R.S. § 8-533(B). *See* A.R.S. § 8-533(B) (Supp. 2016); *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12 (2000). It must also find DCS has shown by a preponderance of the evidence that termination is in the best interests of the child. *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). We will review the juvenile court's termination order in the light most favorable to sustaining the court's decision and will affirm its findings regarding a statutory ground for severance unless we must say as a matter of law that no one could reasonably find the evidence supporting the statutory ground to be clear and convincing. *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, 95, ¶ 10 (App. 2009) (citations and quotations omitted). We will affirm the juvenile court's severance order absent an abuse of discretion or unless the court's findings of fact were clearly erroneous. *E.R. v. Dep't of Child Safety*, 237 Ariz. 56, 58, ¶ 9 (App. 2015) (citations and quotations omitted).

II. Reasonable Efforts

¶9 Mother's only challenge to the juvenile court's findings regarding the statutory grounds of mental illness and prior termination within two years is that DCS did not make "a diligent effort to provide appropriate reunification services." A.R.S. § 8-533(B)(8). On the grounds asserted here, the State is constitutionally obligated to make reasonable efforts to preserve the family as a necessary predicate to severing parental rights. *Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, 192, ¶ 32 (App. 1999) (citations omitted) (requiring reasonable efforts by DCS when seeking severance on mental illness grounds); *see also Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 49, ¶ 15 (App. 2004) (citations omitted) (mandating DCS make reasonable efforts before severing parental rights on prior termination grounds). DCS must provide a parent with the opportunity to participate in programs designed to help her become an effective parent; however, DCS is not required to provide every conceivable service or to ensure that a parent participated in each service offered. *Matter of Appeal in Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353 (App. 1994) (citation omitted).

¶10 Mother argues DCS did not make reasonable efforts to provide her with reunification services, primarily asserting she was never provided with a psychiatric evaluation. We disagree.

¶11 The record indicates Mother was given psychological evaluations in March 2012, April 2014, and August 2015. Mother also

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referred herself for an evaluation in May 2014. The psychologist conducting her second evaluation observed that Mother's "amenability to treatment is still a major issue and her patterns of behavior continue that disrupt the efforts at assistance and intervention." The record is replete with instances of Mother refusing to engage in services, being uncooperative with intake processes and visitation guidelines, and rescinding her permission to release her medical information, thereby hindering DCS's ability to coordinate services. DCS diligently attempted to provide Mother with reunification services over the more than four years of the dependency. We therefore affirm the juvenile court's findings regarding mental illness and prior termination within two years as statutory bases for severance.

III. Time in an Out-of-Home Placement

¶12 Mother asserts the juvenile court incorrectly calculated the amount of time JM was in an out-of-home placement because he was not physically in DCS custody until May 2015. However, because Mother does not challenge the other statutory grounds on which the juvenile court based its decision—other than to argue that DCS did not provide adequate services—we decline to address this argument. *See Michael J.*, 196 Ariz. at 251, ¶ 27 (finding that if sufficient evidence supports any one of the statutory grounds upon which the juvenile court ordered severance, this court need not address claims pertaining to the other grounds).

IV. Best Interests of the Child

¶13 In addition to finding statutory grounds for termination, the juvenile court must also find it is in the best interests of the child to terminate parental rights. A.R.S. § 8-533(B). To establish that severance of a parent's rights would be in a child's best interests, "the court must find either that the child will benefit from termination of the relationship or that the child would be harmed by continuation of the parental relationship." *James S. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 351, 356, ¶ 18 (App. 1998) (citation omitted). In making this determination, the juvenile court may consider evidence that the child is adoptable or that an existing placement is meeting the needs of the child. *Mary Lou C.*, 207 Ariz. at 50, ¶ 19 (citations omitted).

¶14 Mother claims insufficient evidence supports the finding that severance was in JM's best interests. JM's current placement is willing to adopt, and JM is otherwise adoptable. JM has spent the vast majority of his life with his current placement and the placement is meeting all of his needs. Adoption would provide JM with permanency and stability, which

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Mother is currently unable to provide. Sufficient evidence supports the juvenile court's ruling.

CONCLUSION

¶15 For the foregoing reasons, we affirm the termination of Mother's parental rights as to JM.



AMY M. WOOD • Clerk of the Court
FILED: AA