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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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DEBORAH D., *Appellant*,

*v.*

DEPARTMENT OF CHILD SAFETY, T.G., *Appellees*.

No. 1 CA-JV 17-0046  
FILED 9-19-2017

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Appeal from the Superior Court in Maricopa County  
Nos. JS518076, JD529587  
The Honorable Rodrick J. Coffey, Judge

**AFFIRMED**

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COUNSEL

Maricopa County Public Advocate, Mesa  
By Suzanne W. Sanchez  
*Counsel for Appellant*

Arizona Attorney General's Office, Tucson  
By Dawn R. Williams  
*Counsel for Appellee DCS*

**MEMORANDUM DECISION**

Judge Michael J. Brown delivered the decision of the Court, in which Presiding Judge Paul J. McMurdie and Judge Randall M. Howe joined.

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**B R O W N**, Judge:

¶1 Deborah D. ("Mother") appeals the juvenile court's order terminating her parental rights to her child, T.G., born in 2015.<sup>1</sup> For the following reasons, we affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 The Department of Child Safety ("DCS") removed T.G. from Mother's care in December 2015 after Mother tested positive for methamphetamine, began behaving erratically, and absconded with T.G. while under the influence. T.G. was allowed to remain with Mark G. ("Father") on the condition that he seek an order of protection against Mother that included T.G. T.G. has been placed with his paternal grandparents since Father's death in January 2016.

¶3 Although Mother was informally made aware of the ongoing dependency proceedings during a phone call with the DCS case manager in February 2016, she did not appear in court until July 2016, and the dependency and severance proceedings were formally commenced shortly thereafter. Beginning in December 2015, however, DCS offered Mother various services, including drug testing, substance abuse assessment and treatment, and supervised visitations. DCS also informed Mother that if she demonstrated 30 days of sobriety, she could be referred for a psychological evaluation.

¶4 Mother's first drug tests were positive for methamphetamine, and she was referred to TERROS for substance abuse treatment in December 2015. The referral was closed out due to no contact. Mother denied setting an intake appointment with TERROS in December 2015,

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<sup>1</sup> Mother has three other children, none of whom live with her, and her rights have been severed to two of those children. The most recent prior severance was in June 2016, on grounds of abandonment. Mother did not attend the final hearing in that case.

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although records indicate otherwise. Mother was referred to TERROS again in June 2016, but was closed out, was referred again in September 2016, missed an intake appointment in October 2016, and finally completed an intake with TERROS in November 2016. Additionally, Mother failed to complete any drug testing; however, she did participate sporadically in supervised visitation. Eventually, she requested her visits with T.G. be reduced from twice a week to once a week.

¶5 The juvenile court held a two-day contested severance hearing in December 2016. The DCS case manager testified that Mother had not been compliant with the reunification services offered and was unable to maintain stable housing or employment. She also expressed concern that Mother had not remedied her substance abuse problem and that it was likely the problem would continue indefinitely. Mother testified she started using methamphetamine at 13 years old, and she last used six months before the severance hearing. She admitted she has never successfully completed a substance abuse treatment program.

¶6 The juvenile court issued a ruling terminating Mother's parental rights to T.G. on the grounds of six months' time-in-care, pursuant to Arizona Revised Statutes ("A.R.S.") section 8-533(B)(8)(b), and substance abuse, pursuant to A.R.S. § 8-533(B)(3). Mother timely appealed.

## DISCUSSION

### A. Reunification Services

¶7 Mother does not challenge the juvenile court's determination that termination was proper based on six months' time-in-care and substance abuse. Instead, she argues the court erred in terminating her parental rights because DCS failed to make diligent efforts to provide her with appropriate and timely reunification services in that DCS failed to (1) notify her she was required to participate in services, or (2) provide her with psychological services.

¶8 As a condition of termination of parental rights based on either substance abuse or time-in-care, the juvenile court must find that DCS made reasonable efforts to reunify the family or that such efforts would have been futile. A.R.S. § 8-533(B)(8); *Jennifer G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 450, 453, ¶ 12 (App. 2005). As the trier of fact, the juvenile court "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 4 (App. 2004). Accordingly, we will accept the court's findings of fact "unless no reasonable evidence

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supports those findings." *Jennifer B. v. Ariz. Dep't of Econ. Sec.*, 189 Ariz. 553, 555 (App. 1997).

¶9 The juvenile court found that (1) Mother had failed to participate in drug-related services since December 2015; (2) Mother refused to provide her physical address and other information DCS had requested in the early stages of the proceeding; and (3) based on Mother's prior experience with dependency proceedings, it was unreasonable for her to believe that she would not have to participate in services. The court also found that Mother's testimony was not credible, and that DCS informed her no later than February 2016 of the services it was offering to her.

¶10 The record supports these findings. DCS provided Mother with the time and opportunity to participate in programs designed to help her become an effective parent, including drug testing, substance abuse assessment and treatment, and supervised visitations. Mother was repeatedly referred to services over the year of the dependency, but she began to participate in services only late in the proceeding. Mother's failure or refusal to participate in the programs and services DCS offered or recommended does not foreclose termination of her parental rights.

¶11 Nor do we find persuasive Mother's assertion that DCS failed to meet its diligent efforts obligation by failing to provide her with mental health services. DCS "is not required to provide every conceivable service or to ensure that a parent participates in each service it offers," *Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353 (App. 1994), or undertake rehabilitative measures that are futile, *Yavapai Cty. Juv. Action No. J-9956*, 169 Ariz. 178, 180 (App. 1991). As the DCS case manager explained, DCS does not conduct psychological evaluations until the person has 30 days of demonstrated sobriety because, without demonstrated sobriety, the evaluations are considered invalid. Mother never demonstrated such sobriety, in part because she refused to participate in drug testing, at least in the initial stages of the dependency proceeding. Thus, whether Mother would receive mental health services was within Mother's control, and she failed to take the necessary steps to facilitate a psychological evaluation. The record supports the juvenile court's finding that DCS made diligent efforts to provide services to Mother.

**B. Best Interests**

¶12 Mother also challenges the juvenile court's best interests finding. To terminate parental rights, the juvenile court must find by a preponderance of the evidence that termination is in the best interests of the

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child. *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). Termination is in the child's best interests if the child will benefit from the termination or would be harmed if the relationship continued. *Oscar O.*, 209 Ariz. at 334, ¶ 6. DCS's showing that severance would free the child for adoption and that the child would benefit from finding an adoptive placement is sufficient. *JS-501904*, 180 Ariz. at 352. The court may also consider whether an existing placement is meeting the needs of the child. *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 5 (App. 1998).

¶13 The juvenile court's finding, that termination will allow T.G. to be free for adoption and "provide him with the permanency he very much needs," is supported by the record. T.G. has spent all but seven months of his life with his current placement. The case manager testified that the placement is meeting all of his physical, social, educational, and emotional needs, and desired to adopt him. She opined that termination of Mother's parental rights was in the child's best interests. Accordingly, sufficient evidence supports the juvenile court's finding that termination of Mother's parental rights is in T.G.'s best interests.

CONCLUSION

¶14 For the foregoing reasons, we affirm the juvenile court's order terminating Mother's parental rights to T.G.



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