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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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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TAMAR B., *Appellant*,

*v.*

DEPARTMENT OF CHILD SAFETY, B.B., *Appellees*.

No. 1 CA-JV 17-0192  
FILED 11-21-2017

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Appeal from the Superior Court in Maricopa County  
No. JD16708  
The Honorable Monica S. Garfinkel, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

John L. Popilek, PC, Scottsdale  
By John L. Popilek  
*Counsel for Appellant*

Arizona Attorney General's Office, Phoenix  
By Amber E. Pershon  
*Counsel for Appellee Department of Child Safety*

**MEMORANDUM DECISION**

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge James P. Beene and Judge Randall M. Howe joined.

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**C A T T A N I**, Judge:

¶1 Tamar B. (“Mother”) appeals the superior court’s termination of her parental rights as to her daughter B.B. For reasons that follow, we affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 Mother gave birth to B.B. at home in June 2016. Just days before B.B.’s birth, Mother’s parental rights were severed as to three other children based on 15 months’ time in care because Mother’s unstable mental health had prevented her from safely parenting the children. *See* Ariz. Rev. Stat. (“A.R.S.”) § 8-533(B)(8)(c). Mother had been diagnosed as being bipolar, psychotic, and drug dependent.

¶3 Shortly after B.B.’s birth, the Department of Child Safety (“DCS”) took B.B. into care and also petitioned to sever Mother’s parental rights on grounds of prior termination, urging that Mother’s parental rights to her three other children had recently been severed due to her inability or unwillingness to address her mental health issues and that she remained unable to parent B.B. for the same reason. *See* A.R.S. § 8-533(B)(10). The superior court found B.B. dependent and set the case for severance and adoption.

¶4 During the prior dependency, DCS had offered Mother substance abuse testing, psychological evaluations, individual and group counseling, parent aide services, family coaching, supervised visitation, and transportation. But because Mother missed several appointments, her referrals for individual and group counseling and parent aide services were closed out around September 2015.

¶5 Mother underwent psychological evaluations in 2014 and 2015. The evaluations suggested that without regular psychiatric treatment, children in Mother’s care faced “neglect and, perhaps, abuse.” Nevertheless, Mother did not consistently take necessary medications, and she rarely attended individual and group counseling provided by DCS.

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¶6 During B.B.'s dependency, DCS did not refer Mother for new mental health services, but rather encouraged Mother to self-refer for mental health services to which she already had access and gave her contact information for publicly available mental health services. During and after the prior dependency and termination—and well after B.B.'s birth—Mother was enrolled in mental health services with La Frontera. Because Mother was not engaging in those services, and because all previous DCS referrals were closed because of Mother's failure to participate, DCS reasonably concluded that re-referring her for those services was futile and instead encouraged her to self-refer for services. And beyond merely encouraging Mother to do so, DCS offered transportation services to help Mother attend her appointments. The transportation was regularly turned away, however, on arrival at Mother's address, as were outreach providers sent to encourage Mother to participate in services.

¶7 At the severance hearing, Mother testified that she had not used the mental health services in which she was enrolled—or those provided by DCS in the prior dependency—since late 2015. Mother also stated that she had not taken her prescribed psychiatric medications since late 2015. Mother acknowledged that she knew where to get medication, treatment, and therapy, but had not sought any services and did not take any medication.

¶8 The superior court terminated Mother's parental rights to B.B., finding that severance was warranted based on the prior-termination ground under § 8-533(B)(10) and that severance would be in B.B.'s best interests. Mother timely appealed, and we have jurisdiction under A.R.S. § 8-235(A).

## DISCUSSION

¶9 Mother argues that the superior court erred by severing her parental rights, asserting in particular that DCS failed to provide appropriate reunification services. We review the severance order to determine whether, viewing the facts in the light most favorable to sustaining the superior court's decision, the severance determination is supported by reasonable evidence. *Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, 93, ¶ 18 (App. 2009).

¶10 The superior court is authorized to terminate a parent-child relationship if clear and convincing evidence establishes at least one statutory ground for severance, and a preponderance of the evidence shows severance to be in the child's best interests. A.R.S. § 8-533(B); *Kent K. v.*

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*Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). One such statutory ground is “[t]hat the parent has had parental rights to another child terminated within the preceding two years for the same cause and is currently unable to discharge parental responsibilities due to the same cause.” A.R.S. § 8-533(B)(10). To justify severance on this ground, DCS must additionally show that it made reasonable efforts to provide the parent with appropriate reunification services or that such efforts would be futile. *Mary Lou C. v. Ariz. Dep’t of Econ. Sec.*, 207 Ariz. 43, 49, ¶ 15 (App. 2004); *see also Mary Ellen C. v. Ariz. Dep’t of Econ. Sec.*, 193 Ariz. 185, 192, ¶ 34 (App. 1999) (noting DCS’s obligation to “undertake [rehabilitative] measures with a reasonable prospect of success”).

¶11 Here, mental health professionals opined that without regular psychiatric treatment Mother would likely “neglect and, perhaps, abuse” children in her care. Accordingly, the relevant rehabilitative services are those mental health services that would help Mother to parent effectively. *See Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353 (App. 1994). As noted above, DCS did not refer Mother for additional mental health services after B.B.’s birth. But Mother never requested additional mental health services or suggested that the available services were inadequate. Under the circumstances, DCS was not required to offer additional services.

¶12 Mother acknowledged that she knew the address and phone number of clinics where she could receive mental health services, counseling, treatment, and medication after B.B.’s birth. Nevertheless, she made it clear she did not want treatment—including counseling and medication. Accordingly, reasonable evidence shows that offering Mother additional mental health services would have been futile.

### CONCLUSION

¶13 For the foregoing reasons, we affirm the superior court’s decision terminating Mother’s parental rights as to B.B.



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