

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

C.S., D.S., M.S., A.S., JEFFERY S., *Appellants,*

v.

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

No. 1 CA-JV 17-0255
FILED 12-28-2017

Appeal from the Superior Court in Maricopa County
No. JD28935
The Honorable Joseph C. Welty, Judge

AFFIRMED

COUNSEL

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Counsel for Appellant Jeffery S.

Denise L. Carroll, Esq., Scottsdale
By Denise L. Carroll
Counsel for Appellant Children

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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.

C A T T A N I, Judge:

¶1 Jeffery S., (“Father”) C.S., D.S., M.S., and A.S. (the “Children”) appeal the superior court’s revocation of the court’s prior designation of Patricia S. and Gary S.’s (the “Grandparents”) as the Children’s permanent guardian. For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 Tabitha S. (“Mother”) and Father (collectively the “Parents”) are the biological parents of C.S., D.S., M.S., A.S., I.S., X.S., and B.S. Mother had an additional child, K.S. who had a different biological father. While Parents were away from the home, they routinely allowed a man, “Rico,” to care for the Children. Parents claim not to have known that Rico had a warrant out for his arrest for domestic assault.

¶3 While Rico was watching the Children, K.S. died from “non-accidental” blunt-force trauma. During the investigation of K.S.’s death, police found that Parents’ home was littered with feces, urine, and trash; marijuana was found in Parents’ bedroom; the smoke detectors were disabled; the refrigerator and pantries were locked; and the Children’s bedroom lock was reversed so the Children could be locked in their room. The Children had told Parents that when Rico took care of them, he punched them, bit them, and attempted to suffocate two of them.

¶4 The Arizona Department of Child Safety (“DCS”) took the Children into care in August 2014. DCS alleged the Children were dependent as to Parents due to abuse and neglect. DCS conducted an in-home study to determine whether Grandparents were a suitable placement, but DCS determined they were not because they refused to recognize Parents’ role in the death of K.S.

¶5 At Father’s urging, the superior court directed DCS to reconsider Grandparents as a placement for the Children. Thus, DCS conducted a second in-home study. Although DCS provided the

Grandparents the autopsy and police reports regarding K.S.'s death, Grandparents maintained their view that Parents were not at fault.

¶6 Mother filed a motion to appoint Grandparents as the Children's permanent guardians, and the superior court awarded Grandparents permanent guardianship of the Children contingent on their agreement to a safety plan providing that (1) Parents were to move out of Grandparents' house and (2) Grandparents were to supervise any contact between the Children and Parents.

¶7 Despite the safety plan, after being appointed as permanent guardians, Grandparents moved into a condominium in Nevada with the Children and Parents. And only one month after moving to Nevada, Grandparents moved to Minnesota, leaving the Children with Parents in Nevada.

¶8 DCS again took the Children into care, and filed a dependency petition alleging that Parents failed to protect the Children and that Grandparents left the Children in the unsupervised care of Parents. The superior court held a combined dependency, termination, and permanent guardianship revocation hearing. The superior court found the Children to be dependent, terminated Parents' rights, and revoked Grandparents' permanent guardianship.

¶9 The Children and Father timely appealed the revocation of Grandparents' permanent guardianship, and we have jurisdiction under Arizona Revised Statutes ("A.R.S.") § 8-235(A).¹

DISCUSSION

¶10 As a preliminary matter, Father lacks standing to challenge the superior court's revocation of Grandparents' permanent guardianship because his parental rights have been severed. An order of severance terminates the parent's standing to challenge the superior court's orders regarding the children. *See Antonio M. v. Ariz. Dep't of Econ. Sec.*, 222 Ariz. 369, 370, ¶ 2 (App. 2009); *Sands v. Sands*, 157 Ariz. 322, 324 (App. 1988). Thus, we do not independently address Father's arguments regarding the revocation of Grandparents' permanent guardianship.

¶11 The Children argue that the superior court erred by revoking Grandparents' permanent guardianship, asserting in particular that DCS

¹ The superior court also terminated Father's parental rights, and he separately appealed that ruling.

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failed to prove that revocation was in the Children's best interests. We review revocation of a guardianship for an abuse of discretion and view the facts in the light most favorable to sustaining the superior court's decision. *Jennifer B. v. Ariz. Dep't of Econ. Sec.*, 189 Ariz. 553, 555, 558 (App. 1997).

¶12 The superior court is authorized to revoke an order granting a permanent guardianship when clear and convincing evidence shows that revocation is in the best interests of the child. A.R.S. § 8-873(C). Revocation is in the best interests of a child if continuing the permanent guardianship would be detrimental to the child. *Jennifer B.*, 189 Ariz. at 557.

¶13 Here, prior to being appointed as guardians, Grandparents agreed to a safety plan that prohibited Parents from living in the same house with Grandparents and the Children and prohibited Grandparents from allowing Parents unsupervised contact with the Children. Nevertheless, within days of their appointment, Grandparents allowed Parents to move in with them and the Children, and within three months, Grandparents had left the Children exclusively in the care of Parents. Grandparents indicated that they intended to remain in Minnesota and supervise Parents via Skype, phone calls, and quarterly visits, and apparently had never intended to provide long-term care and supervision for the Children. Having considered this evidence, the superior court did not abuse its discretion by concluding that continuing Grandparents' permanent guardianship was not in the Children's best interests.

CONCLUSION

¶14 For the foregoing reasons, we affirm the superior court's decision revoking Grandparents' permanent guardianship of the Children.



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