

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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In re the Matter of:

CHRISTOPHER JAMES WITHROW, *Petitioner/Appellant*,

v.

MEGAN MARIE MIZELLE, *Respondent/Appellee*.

No. 1 CA-CV 17-0585 FC  
FILED 8-28-2018

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Appeal from the Superior Court in Maricopa County  
No. FC2015-002674  
The Honorable Katherine Cooper, Judge

**AFFIRMED**

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COUNSEL

Christopher James Withrow, Littleton, Colorado  
*Petitioner/Appellant*

Megan Marie Mizelle, Phoenix  
*Respondent/Appellee*

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**MEMORANDUM DECISION**

Presiding Judge David D. Weinzweig delivered the decision of the Court, in which Judge Lawrence F. Winthrop and Judge Paul J. McMurdie joined.

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**WEINZWEIG**, Judge:

¶1 Christopher James Withrow appeals the family court’s denial of his “Motion to Enforce Petitioner’s Right to Direct the Upbringing of Daughter” and dismissal of his family court action with prejudice. We affirm.

¶2 Withrow and Megan M. (“Mother”) are the biological parents of G.W. (“Child”), born in January 2015. Withrow and Mother were arrested in August 2014 for distribution of methamphetamines and originally held in a Nebraska detention facility. Mother was pregnant. Child was delivered in a Nebraska hospital. Mother granted permission to care for Child to the maternal aunt, Mallory M. (“Aunt”). Aunt and Child returned to Aunt’s home in Arizona, where they have since resided. Withrow was sentenced to 5.83 years in federal prison on the drug charges.

¶3 In February 2015, Withrow brought an action in Arizona family court to challenge the custody and placement of Child with Aunt, which he called a “Petition to Establish Paternity/Require Paternity Testing.” In April 2015, Aunt filed a “Petition to Terminate Biological Father’s Parental Rights” in juvenile court on the grounds of abandonment, substance abuse, and length of incarceration. Aunt indicated her intent to adopt Child upon termination of Withrow’s parental rights.

¶4 In May 2015, the family court learned about the severance action in juvenile court and stayed all proceedings in the family court action pending a final determination of all matters in the juvenile court. The family court expressly directed that “the Juvenile Court proceedings shall take precedence over any related actions filed in another division of this Court, pursuant to Rule 7, Arizona Rules of Procedure for the Juvenile Court.”

¶5 The juvenile court held a contested severance hearing on February 6, 2017. Both Withrow and Aunt testified. The court recognized that Withrow is the biological father of Child. On February 13, 2017, the

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court terminated Withrow's parental rights. It found by clear and convincing evidence that Withrow had been convicted of a felony and would be incarcerated for a length of time that would deprive Child of a normal home for a period of years. A.R.S. § 8-533(B)(4). It also found that severance was in Child's best interests. Withrow appealed and this Court affirmed the severance order in a detailed memorandum decision. *Christopher W. v. Mallory M.*, 1 CA-JV 17-0087, 1 CA-JV 17-0350, 2017 WL 4545960 (Ariz. App. Oct. 12, 2017).

¶6 After the juvenile court terminated his parental rights, Withrow turned his attention to the family court action. In July 2017, he filed a "Motion to Enforce Petitioner's Right to Direct the Upbringing of Daughter Pursuant to A.R.S. Title 1, Chapter 6, Article 1, et., seq. a.k.a. Parents' Bill of Rights," which the court denied in August 2017. The court held: "Petitioner's parental rights have been terminated. As a result, he is no longer a legal parent and cannot seek any order conferring guardianship of the minor child."

¶7 Aunt notified the family court in January 2018 that her petition for adoption of Child had been granted and moved to dismiss the case in light of the completed adoption. The family court granted the motion and dismissed the case with prejudice.

¶8 Withrow timely appealed from both the order denying his motion to enforce and the order dismissing the case. He asserts that the family court (1) should have held hearings "concerning paternity" under the Parents' Bill of Rights, (2) failed to investigate the dilatory representation of court-appointed counsel, and (3) violated his constitutional rights (due process and access to courts) by delegating the decision to the juvenile court.

¶9 We are not persuaded. Withrow's appeal is merely an attempt to circumvent the juvenile court's order terminating his parental rights. This court already affirmed that order and we will not revisit it here.

¶10 We specifically reject Withrow's argument that the family court should not have stayed the proceedings. The family court properly did so under Ariz. R.P. Juv. Ct. 7, which provides: "Juvenile proceedings shall have priority over all other state court proceedings." See A.R.S. § 8-202(F) ("The orders of the juvenile court . . . take precedence over any order of any other court of this state except the court of appeals and the supreme court to the extent that they are inconsistent with orders of other courts."); *Michael M. v. Ariz. Dep't of Econ. Sec.*, 217 Ariz. 230, 234, ¶ 16 (App. 2007)

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(compiling cases for proposition that “Arizona case law repeatedly has affirmed the overriding power of the juvenile courts”).

¶11 We affirm.



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