

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

CAROLINE C., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, D.F., C.F., *Appellees*.

No. 1 CA-JV 17-0421
FILED 2-27-2018

Appeal from the Superior Court in Maricopa County
No. JD510680
The Honorable Arthur T. Anderson, Judge

AFFIRMED

COUNSEL

The Stavris Law Firm PLLC, Scottsdale
By Alison Stavris
Counsel for Appellant

Arizona Attorney General's Office, Mesa
By Nicholas Chapman-Hushek
Counsel for Appellee Department of Child Safety

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MEMORANDUM DECISION

Judge James B. Morse Jr. delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge Kenton D. Jones joined.

MORSE, Judge:

¶1 Caroline C. ("Mother") appeals the juvenile court's order returning her dependent children to the physical custody of the paternal grandparents ("Grandparents"). For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 The Department of Child Safety ("DCS") took Mother's twins into temporary physical custody in December 2016 and placed the children with Grandparents. In February 2017, the juvenile court found the children dependent as to Mother.

¶3 Six months later, DCS moved to change physical custody of the children to DCS due to concerns regarding Grandparents' ability and willingness to cooperate with the case plan of family reunification. The guardian ad litem (the "GAL") was unable to object to the motion because she was out of town and unaware of the filing. The juvenile court granted the unopposed motion and placed the children in the physical custody of DCS.

¶4 Thereafter, Grandparents moved to be named a party and for a hearing on the removal of the children. The juvenile court set a hearing, during which the GAL objected to the removal of the children from Grandparents to DCS and requested that the court reconsider the change of physical custody order. Consistent with the GAL's position, the court ordered the children returned to the physical custody of Grandparents.

¶5 Mother appealed. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, Arizona Revised Statutes ("A.R.S.") sections 8-235(A) and 12-2101(A)(1), and Arizona Rule of Procedure for the Juvenile Court 103(A).

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DISCUSSION

¶6 Mother argues that placement with Grandparents is not in the children's best interests. She claims Grandparents attempted to substantially interfere with the case plan of reunification by making the children unavailable for visitation and speaking negatively about Mother to the children.

¶7 The juvenile court has broad discretion in determining the placement of a dependent child; we review placement orders for an abuse of that discretion. *Antonio P. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 402, 404, ¶ 8 (App. 2008). In ruling on placement, the court's primary consideration is the best interests of the child. *Id.*

¶8 Section 8-514(B) provides that "[t]he department shall place a child in the least restrictive type of placement available, consistent with the needs of the child," and sets forth an order for placement listing a "grandparent" in second position, a "member of the child's extended family, including a person who has a significant relationship with the child" in third position, and "licensed family foster care" in fourth position. As we determined in *Antonio P.*, however, § 8-514(B) "clearly states that the order of placement is a preference, not a mandate." 218 Ariz. at 405, ¶ 12. The statute "provides the juvenile court with the legislature's preference for where or with whom a child is placed but it does not mandate that the order of preference be strictly followed when a placement is not consistent with the needs of the child." *Id.* This "requires only that the court include placement preference in its analysis of what is in the child's best interest." *Id.*

¶9 As with any ruling in a dependency proceeding, we view the evidence in the light most favorable to sustaining factual findings upon which the juvenile court's ruling is based. *See Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, 235, ¶ 21 (App. 2005). We do not reweigh the evidence because the juvenile court, as the trier of fact, "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).

¶10 The record contains reasonable support for the juvenile court's conclusion that placement with Grandparents is in the children's best interests. The GAL stated her unequivocal support of the placement with Grandparents and she further explained that in their new foster care placement, the children missed Grandparents. They spoke of Grandparents

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but not really of Mother, and they wished to return to their "real home, which is their grandparents' home."

¶11 After considering DCS's and Mother's allegations, weighing them against Grandparents' statements and the arguments of the GAL and Father, the juvenile court found the issues to be "fairly fixable things." The court further opined, "I have no doubt that [Grandparents are] operating in the best interest of these children," and stated that Grandparents "are these kids['] anchor." The court ultimately found placement with them to be in the children's best interests.

CONCLUSION

¶12 Because the juvenile court did not abuse its discretion by deciding that placement with Grandparents would be in the children's best interests, we affirm the placement order.



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