

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

*v.*

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

No. 1 CA-JV 18-0095  
FILED 9-11-2018

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Appeal from the Superior Court in Maricopa County  
No. JD34918  
The Honorable Jo Lynn Gentry, Judge

**AFFIRMED**

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COUNSEL

Denise L. Carroll, Esq., Scottsdale  
By Denise Lynn Carroll  
*Counsel for Appellant*

Arizona Attorney General's Office, Phoenix  
By Sandra L. Nahigian  
*Counsel for Appellee DCS*

LARRY B. v. DCS, et al.  
Decision of the Court

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**MEMORANDUM DECISION**

Judge Diane M. Johnsen delivered the decision of the Court, in which Presiding Judge Jennifer B. Campbell and Judge Maria Elena Cruz joined.

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**J O H N S E N**, Judge:

**¶1** Larry B. ("Father") appeals the superior court's order adjudicating his children dependent. Father challenges only the court's exercise of jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"). We affirm.

**FACTS AND PROCEDURAL HISTORY**

**¶2** Father and Jacqueline B. ("Mother") are the parents of two children born in 2009 and 2010. In October 2017, Mother and the children had been in Arizona without Father for only ten days when police stopped her for a minor traffic violation, then arrested her on a federal warrant for her fourth charge of driving under the influence ("DUI"). The Department of Child Safety ("DCS") took custody of the children because Mother did not identify a suitable adult to care for them. She told DCS they were running from Father, who lives in Nevada, and that she had a restraining order against him.

**¶3** In the ensuing investigation, Mother stated that Father had physically abused the children in the past. The children likewise claimed that someone they called "father" had physically abused them; Father denied ever abusing the children. The children could not identify a school they had ever attended or where they lived. Father, contacted in Nevada, told DCS that although he worried about the children's safety while in Mother's care, he lacked money to pursue custody of them and instead was "just waiting" for Mother to "mess up again."

**¶4** DCS filed a petition alleging the children were dependent as to Father because he failed to protect them from Mother's substance abuse and neglect. It alleged the Arizona superior court had temporary emergency jurisdiction over the children pursuant to Arizona Revised

LARRY B. v. DCS, et al.  
Decision of the Court

Statutes ("A.R.S.") section 25-1034 (2018).<sup>1</sup> In December 2017, the superior court held a UCCJEA conference with the Nevada court, which declined to exercise jurisdiction over the children.

¶5 The superior court then set a contested dependency hearing, at which it heard evidence that child welfare agencies in other states had intervened with the family multiple times for various reasons, including for substance abuse by Mother. Around 2012, while living in Tennessee, Mother had given birth to another child. A year later, the baby was fatally shot when Father's loaded firearm malfunctioned. Father pled guilty to reckless endangerment and was placed on probation. Mother's substance-abuse issues worsened thereafter. Around 2014, the family moved to Nevada, and in December 2015, the parents separated, and Mother left with the children. Despite the separation, neither parent commenced divorce or custody proceedings in a Nevada court.

¶6 Between January 2016 and October 2017, Mother and the children lived in various places while Father remained in Nevada. During this time, Father saw the children only intermittently. For instance, he testified he picked them up from school in February 2016 and spent some time with them, but Mother then "ran off" with them. Two months later, while in Arizona, Mother drove while impaired with the children in her car, and the State charged her with a third DUI. At that point, Father took the children and they lived with him in Nevada for the next six months. During that time, he allowed Mother to see the children on the weekends. During one of those visits, according to Father, Mother "disappeared with them again." Father next spent a day with the children in April 2017 but testified he returned them to Mother after she "stirred up a fuss" with his probation officer by claiming he had illegally taken the children from her. According to Father, Mother then obtained a protective order against him.

¶7 After hearing the evidence, the court found that it had temporary emergency jurisdiction under the UCCJEA, adjudicated the children dependent as to Father and directed DCS to commence proceedings to return the children to a safe placement in Nevada. Father timely appealed.<sup>2</sup>

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<sup>1</sup> Absent material revision after the relevant date, we cite the current version of a statute.

<sup>2</sup> The court later declared the children dependent as to Mother; she did not contest the dependency and is not a party to this appeal.

## DISCUSSION

¶8 Father contends the superior court's dependency order is invalid because the court failed to properly establish initial or exclusive continuing jurisdiction under the UCCJEA. His brief, however, does not address temporary emergency jurisdiction – the only jurisdiction the court expressly exercised. Although Father does not address this issue on appeal, because it is a jurisdictional matter, we analyze it on its merits. *See State v. Maldonado*, 223 Ariz. 309, 311, ¶ 14 (2010) ("[A] court that lacks subject matter jurisdiction cannot adjudicate the action."); *Riendeau v. Wal-Mart Stores, Inc.*, 223 Ariz. 540, 541, ¶ 4 (App. 2010) (This court has "an independent duty to examine [its] own jurisdiction.").

¶9 Whether the superior court had jurisdiction to adjudicate the children dependent is a question of law this court reviews *de novo*. *See Angel B. v. Vanessa J.*, 234 Ariz. 69, 71, ¶ 6 (App. 2014). To the extent the court's jurisdictional determination rests on disputed facts, however, we accept the court's findings of fact if reasonable evidence and inferences support them. *Cf. Bonner v. Minico, Inc.*, 159 Ariz. 246, 253-54 (1988); *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 3, ¶ 9 (2016).

¶10 The UCCJEA is "designed to prevent competing and conflicting custody orders by courts in different jurisdictions." *Angel B.*, 234 Ariz. at 72, ¶ 8. It accomplishes this "by vesting exclusive, continuing jurisdiction with the state that issues the initial child custody determination, subject to statutory exceptions." *Id.* One of those exceptions is the exercise of temporary emergency jurisdiction. A.R.S. § 25-1034(A). Under this provision, regardless of whether another state has issued an initial child custody determination, Arizona may exercise temporary emergency jurisdiction "if the child is present [in Arizona] and . . . has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse." *Id.*

¶11 The facts in the record amply support the court's conclusion that exercise of emergency jurisdiction was necessary to protect the children from mistreatment or abuse. Mother could not care for the children after police arrested her in Arizona and she could not identify a suitable adult to care for the children. She alleged Father had abused the children and that she had obtained a restraining order against him. The children also disclosed past abuse by their "dad," though the record does not clearly specify whether the children were accusing Father or another male. Moreover, when DCS took custody of them, the children could not identify

LARRY B. v. DCS, et al.  
Decision of the Court

where they lived or any school they had attended – evidence that Mother was not providing for their needs.

**¶12** In addition to these immediate issues, the court pointed to Father's long-time failure to protect the children from Mother's serious and chronic substance abuse. The court noted that, even though Father was aware of Mother's substance-abuse problem, he allowed Mother to have parenting time and did not try to protect the children by initiating dissolution or custody proceedings. As a result, although Mother was to be released from jail shortly, there were no court orders protecting the children or preventing Mother from disappearing with them again. Additionally, the court cited evidence that the children were fearful of returning to Father and that Father may lack financial means to provide for the children.

**¶13** Given this record, we cannot say the superior court erred in exercising emergency jurisdiction to protect the children from mistreatment or abuse.

## CONCLUSION

**¶14** For the foregoing reasons, we affirm the court's order adjudicating the children dependent.<sup>3</sup>



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

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<sup>3</sup> Beyond his jurisdictional challenge, Father also asserts the superior court failed to make appropriate findings under the UCCJEA and that insufficient evidence supports the dependency order. Father's arguments on these issues consist of only two sentences without development or citations to the record or supporting law. We therefore do not address them. ARCAP 13(a)(7); *see AMERCO v. Shoen*, 184 Ariz. 150, 154, n.4 (App. 1995) (failure to develop argument or present supporting authority on appeal waives issue).