

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

SABRIE R., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, E.A., K.A., *Appellees*.

No. 1 CA-JV 18-0104
FILED 9-20-2018

Appeal from the Superior Court in Mohave County
No. B8015JD201504038
The Honorable Rick A. Williams, Judge

AFFIRMED

COUNSEL

Carr Law Office PLLC, Kingman
By Sandra Carr
Counsel for Appellant

Arizona Attorney General's Office, Mesa
By Lauren J. Lowe
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Maria Elena Cruz joined.

H O W E, Judge:

¶1 Sabrie R. (“Mother”) appeals the juvenile court’s order terminating her parental rights to her children, E.A. and K.A. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 We view the facts in the light most favorable to sustaining the juvenile court’s order. *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 2 ¶ 2 (2016). Mother and Kevin A. (“Father”) are the biological parents of A.A., E.A., K.A., and C.A.¹ In 2014, Mother gave birth to A.A., and a few months later the Washington Department of Social and Health Services (“DSHS”) received a report about Mother and Father due to “the conditions of the family home as well as untreated mental health for both parents.” At the time, Mother suffered from postpartum depression. A psychologist reported to DSHS that Mother had low insight, basic cognitive skills, limited internal resources to resolve conflicts, and poor judgment. DSHS initially allowed Mother to retain custody of A.A., but it obtained custody after Mother was convicted of writing fraudulent checks and incarcerated.

¶3 After her release, Mother moved to Arizona while pregnant with E.A. DSHS notified the Department of Child Safety (the “Department”) of Mother and Father’s mental-health issues and their inability to care for a child. After E.A.’s birth, the Department took E.A. into custody because Mother and Father were flight risks, had untreated mental-health issues, and were unable to care for E.A.

¹ The juvenile court terminated Father’s parental rights, and he is not a party in this appeal. Although relevant to this case’s facts, A.A. and C.A. are not parties to this appeal.

¶4 The Department petitioned for dependency alleging that E.A. was dependent because Mother had another dependency in Washington and her mental illness, which prevented her from performing daily functions, such as maintaining a clean home, caused her to neglect E.A.² The court adjudicated E.A. dependent as to Mother in December 2015. During E.A.'s dependency, Mother gave birth to K.A. The Department initially allowed Mother to keep custody of K.A., but Mother again experienced postpartum depression. Mother called a mental-health clinic to report that she was concerned about having feelings about shaking or hurting K.A., including leaving K.A. outside or throwing her against a wall. She also pushed K.A. in a stroller outside in 120-degree weather on several occasions, which caused K.A. to overheat. Consequently, the Department removed K.A. and petitioned for her dependency, alleging neglect due to Mother's mental illness and inappropriate supervision. The court later found K.A. dependent in August 2016.

¶5 During E.A.'s and K.A.'s dependencies, the Department provided Mother with various services, including a psychological evaluation, a psychiatric evaluation, individual counseling, medication management, domestic-violence services, parent-aide services, supervised visitation, parenting classes, and transportation. Mother generally adequately participated in the Department's provided services. Mother's psychological evaluation showed that she had a mood disorder and an anxiety disorder. She participated in counseling through Mohave Mental Health ("MMH") and focused on her anger issues, coping skills, and mood stabilization. MMH also gave Mother medication to help address her mental-health issues.

¶6 In July 2016, Mother participated in a psychiatric evaluation at MMH. The psychiatrist opined that Mother "ha[d] extremely poor insight and [was] currently in a relationship with a man who also lack[ed] insight and [was] on [disability] for his own mental illness." The psychiatrist also opined that Mother "appear[ed] to lack basic skills necessary for child rearing and independent living." The psychiatrist further opined that although Mother reported suffering from postpartum depression at the time, "it appear[ed] life ha[d] been a challenge for [Mother] overall and not just [postpartum]."

² The juvenile courts in Washington and Arizona determined that Arizona had jurisdiction over E.A.'s case despite A.A.'s ongoing dependency in Washington. Mother later agreed to the termination of her parental rights to A.A.

SABRIE R. v. DCS, et al.
Decision of the Court

¶7 In April 2017, Mother participated in another psychiatric evaluation at the Veterans' Administration ("VA"), and she was diagnosed with bipolar disorder, anxiety disorder, and complex posttraumatic stress disorder. The VA prescribed Mother a different medication to address her mental-health issues, which appeared to have a more positive effect than the previous medication. In July 2017, the State moved to change the case plan to severance and adoption as to E.A. and K.A., and the court granted the motion. Two weeks after the court's order, the Department moved to terminate Mother's parental rights to both children on neglect and mental-illness grounds. It also alleged a 15 months' out-of-home placement ground for E.A.

¶8 The court held a two-day termination hearing between November 2017 and January 2018. At the time of the termination hearing, Mother was still participating in mental-health services and had not met all of her treatment goals. Further, she did not provide the Department with documents verifying her participation with the VA until shortly before the termination hearing.

¶9 At the hearing, a Department specialist testified that when the children were removed, the Department was concerned about Mother's mental health and her ability to appropriately parent. She stated that even though Mother had participated in services, she did not mitigate the Department's concerns about effectively supervising her children. She noted that Mother had not made the behavioral changes necessary to alleviate the Department's concerns. The specialist stated that during visits with Mother, the children regularly returned to their placements with dirty clothes and had scratches, bumps, and diaper rashes. She further testified that Mother and Father could not consistently co-parent the children. For instance, she noted that they would openly argue in front of the children and parent aides and would often rely on the parent aides to help in parenting the children. She also stated that Mother's house was dirty and cluttered with small items that presented choking hazards, along with a prescription bottle on the floor. She discussed that Mother sometimes cleaned the home, but a month later the home would revert to its previous filthy condition. The specialist explained that Mother's inability to maintain a clean home showed a lack of behavioral change. The specialist testified that the Department was also concerned about Mother's inability to identify safety issues, such as keeping her dog from jumping on the young children, picking "cigarette butts" off the couch, clearing the children's area of choking hazards, and keeping a prescription bottle off the floor.

SABRIE R. v. DCS, et al.
Decision of the Court

¶10 Next, a Department case agent testified that Mother still needed prompting to parent appropriately, such as being reminded to hold K.A.'s hand while walking through a parking lot. She later elaborated that she had to prompt Mother on new parenting issues as well as recurring issues. She also stated that Mother initially fed C.A. regular formula, even though a doctor had prescribed a "sensitive" formula to prevent her from spitting up the formula. The case agent further stated that Mother did not have much support from Father when she felt overwhelmed.

¶11 Next, Mother's case manager testified that Mother was unable to appropriately parent her children as of the date of the termination hearing. She stated that the Department still had concerns about Mother's mental health and her parenting skills. She also testified that the children were at risk for neglect in the near future because of Mother's mental-health issues and her inconsistent co-parenting with Father. The case manager explained that the goal was for Mother to make behavioral changes that would allow her to care for her children without the Department's aid. She noted that Mother still needed to be prompted to properly care for her children during visits, however. The case manager further testified that both E.A. and K.A. were adoptable and in adoptive placements meeting their needs. She added that both children were young and bonding with their placements. According to the case manager, if the court did not terminate Mother's parental rights, the children would be harmed because their lengthy time in dependency would be extended further. She also stated that terminating Mother's parental rights would benefit the children because they would be freed up for adoption by a permanent home, where they would be free from abuse and neglect. Last, she testified that she did not believe further services would improve Mother's ability to parent her children. She explained that despite having received nearly two years of services, Mother was still unable to make the behavioral changes necessary to parent her children.

¶12 The court terminated Mother's parental rights to E.A. and K.A. under the neglect and mental-illness grounds, and the additional ground of 15 months' out-of-home placement for E.A.³ Under the neglect

³ The juvenile court mistakenly stated in the background section of its termination order that Mother and Father had lived in Oregon, where reports indicated that they had left their children home alone for 20 minutes or more and that Father had used inappropriate discipline. The court relied on an exhibit in the record, but the exhibit pertained to another woman with

SABRIE R. v. DCS, et al.
Decision of the Court

ground, the court found that Mother was unable or unwilling to provide her children with appropriate supervision, food, or medical care, which caused an unreasonable risk of harm to the children's health and welfare. The court also found that while Mother had engaged in services, she had been unable to demonstrate an ability to consistently and safely supervise her children. The court further found that terminating Mother's parental rights was in E.A.'s and K.A.'s best interests because they were adoptable, living in adoptive placements meeting their needs, bonding to their placements, and would be freed up for adoption into safe and stable homes. Mother timely appealed.

DISCUSSION

¶13 Mother argues that the court erred by terminating her parental rights under the neglect ground because insufficient evidence supports the court's finding that Mother failed to provide medical care or adequate food for her children. We review a juvenile court's termination order for an abuse of discretion. *E.R. v. Dep't of Child Safety*, 237 Ariz. 56, 58 ¶ 9 (App. 2015). Additionally, we accept the juvenile court's factual findings unless no reasonable evidence supports them and will affirm a severance order unless it is clearly erroneous. *Bobby G. v. Ariz. Dep't of Econ. Sec.*, 219 Ariz. 506, 508 ¶ 1 (App. 2008).

1. Statutory Ground for Termination

¶14 To terminate parental rights, the juvenile court must find by clear and convincing evidence the existence of at least one statutory ground under A.R.S. § 8-533 and by a preponderance of the evidence that termination would be in the child's best interests. A.R.S. § 8-533(B); Ariz. R.P. Juv. Ct. 66(C). If clear and convincing evidence supports any one of the statutory grounds on which the juvenile court terminated parental rights, we need not address claims pertaining to the other grounds.⁴ *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280 ¶ 3 (App. 2002).

whom Father was involved before Mother. The remainder of the court's findings, however, are supported by the record.

⁴ Because we conclude that the court did not abuse its discretion by terminating Mother's parental rights under the neglect ground, we need not address the mental illness or 15 months' out-of-home placement grounds.

SABRIE R. v. DCS, et al.
Decision of the Court

¶15 Under A.R.S. § 8-533(B)(2), a parent's parental rights can be terminated if the parent has neglected a child. "Neglect" or "neglected" is defined as "[t]he inability or unwillingness of a parent . . . of a child to provide that child with supervision, food, clothing, shelter *or* medical care if that inability or unwillingness causes unreasonable risk of harm to the child's health or welfare[.]" A.R.S. § 8-201(25)(a) (emphasis added).

¶16 Here, the Department took custody of E.A. and K.A. because Mother could not adequately care for them. At the termination hearing, evidence showed that Mother had difficulty maintaining a clean home and could not safely parent her children without parent-aide intervention. Mother had not made the behavioral changes necessary to safely supervise her children despite having received nearly two years of services. Furthermore, the evidence showed that Mother had difficulty co-parenting with Father. Mother's case manager stated that Mother needed prompting from parent aides to properly parent and that further services would not improve Mother's ability to parent her children. Thus, the case manager testified that the children would be at risk for neglect in the near future if left in Mother's care. The record supports the court's finding that Mother could not provide her children with appropriate supervision. Thus, the court did not abuse its discretion by terminating her parental rights.

¶17 Mother argues that no evidence supports the court's finding that she failed to provide medical care or adequate food for her children. The court, however, did not need to find that she had failed to provide medical care or adequate food. As stated previously, neglect is present when a parent does not provide a child with supervision, food, clothing, shelter, *or* medical care. A.R.S. § 8-533(B)(2). A parent's failure to provide one of the stated components of parental care is sufficient to support a finding of neglect. If the legislature had intended that a finding of neglect required proof that a parent had failed to provide each of the listed components, it would have replaced "or" with "and," but it chose not to do so. As such, this argument fails.

¶18 Mother also contends that the findings of fact supporting inadequate supervision were insufficient because they did not incorporate more post-July 2017 references to the record, after the VA prescribed her different medication that yielded better results. The court's findings, however, did consider Mother's behavior after July 2017. It noted that even after July 2017 Mother had felt overwhelmed caring for her children and that she and Father continued to struggle with co-parenting. Furthermore, the case manager, who had observed Mother after July 2017, testified that Mother could not properly supervise her children. Thus, sufficient evidence

SABRIE R. v. DCS, et al.
Decision of the Court

supports the court's finding that Mother could not properly supervise her children.

2. Best Interests

¶19 Mother also argues that insufficient evidence supports the court's ruling that terminating her parental rights was in E.A.'s and K.A.'s best interests. Terminating parental rights is in a child's best interests if the child will benefit from the termination or will be harmed if the relationship continues. *Shawanee S. v. Ariz. Dep't of Econ. Sec.*, 234 Ariz. 174, 179 ¶ 20 (App. 2014). Relevant factors in this determination include whether the current placement is meeting the child's needs, an adoption plan is in place, and the child is adoptable. *Demetrius L.*, 239 Ariz. at 3-4 ¶ 12. "Of course, a court need not automatically conclude that severance is in a child's best interests just because the child is adoptable; there may be other circumstances indicating that severance is not the best option." *Id.* at 4 ¶ 14.

¶20 Mother's argument focuses on her bond with her children. While her bond is a factor, the court must consider additional factors in determining the children's best interests. Here, the court found that terminating Mother's parental rights would allow E.A. and K.A. to be adopted into safe and permanent homes. It also found that the children were adoptable and in adoptive placements that met their needs. Furthermore, the court found that the children had bonded to their respective placements. Thus, sufficient evidence supports the court's finding that terminating Mother's parental rights was in E.A.'s and K.A.'s best interests.

CONCLUSION

¶21 For the foregoing reasons, we affirm.



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