

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

BRIANA P., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, A.P., L.O., S.L., L.L., *Appellees*.

No. 1 CA-JV 18-0202
FILED 12-13-2018

Appeal from the Superior Court in Maricopa County
No. JD30074
The Honorable Sara J. Agne, Judge

AFFIRMED

COUNSEL

Maricopa County Public Advocate, Mesa
By David C. Lieb
Counsel for Appellant

Arizona Attorney General's Office, Mesa
By Amanda Adams
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 Briana P. (“Mother”) appeals the order terminating her parental rights to her four children. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In March 2015, the Department of Child Safety took custody of Mother’s four children after it had concluded that she had exposed them to domestic violence, was abusing marijuana, and could not meet their needs. The juvenile court found the children dependent and set a case plan of family reunification, concurrent with severance and adoption.

¶3 Over the next three years, the Department provided Mother with numerous services, including substance-abuse testing and treatment, a psychological evaluation, individual counseling, parent-aide services, a bonding assessment, and supervised visits. Although Mother participated in some services, she failed to fully engage in them, continued abusing marijuana, and failed to keep in contact with the Department and its contracted providers. By the termination hearing, Mother had successfully completed only the psychological evaluation and a bonding assessment. Her evaluating psychologist recommended that she complete a substance-abuse program and maintain sobriety for at least 12 months. But Mother accomplished neither goal.

¶4 In February 2018, the Department moved to terminate Mother’s parental rights under the substance-abuse, nine-months’ out-of-home placement, and fifteen-months’ out-of-home placement grounds. The next month, Mother failed to appear at an initial termination hearing and at a subsequent pretrial conference. The court proceeded to a termination adjudication hearing in her absence. The court determined that the Department had proved the grounds for termination, but the court failed to include any factual findings supporting its conclusions of law. Regarding the children’s best interests, the court included some factual

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findings, particularly that the children “reside in an adoptive placement that is willing and able to care for all of the children’s needs.”

¶5 Mother timely appealed the order, arguing only that the court failed to make the required factual findings pursuant to Arizona Rules of Procedure for the Juvenile Court 66(F)(2)(a). Upon the Department’s request, this Court stayed the appeal and remanded the matter to the juvenile court. That court then issued a *nunc pro tunc* order including findings of fact supporting the grounds for termination and additional findings supporting its best-interest determination.

¶6 Under the chronic substance-abuse ground, the court found that Mother was unable to discharge her parental responsibilities because of her chronic substance abuse and that reasonable grounds existed to show that the condition would continue for a prolonged, indeterminate period. The court noted that the children had come into care because Mother was homeless, and the children were dirty, hungry, and had come to daycare in diapers unchanged from the day before. The court also noted that Mother had not yet begun the process of recovery from substance abuse.¹

¶7 The court found that terminating Mother’s parental rights was in the best interests of the children because they were each placed in a kinship placement willing to adopt them, which would ensure sibling visits. Also, the court found that the children would be harmed if Mother’s parental rights were not terminated because she has been unable to remedy her substance abuse for a significant time. Thereafter, Mother informed this Court that she would not file a reply brief.

DISCUSSION

¶8 The only claim that Mother raises on appeal is that the court made insufficient factual findings in its initial termination order. The juvenile court’s *nunc pro tunc* order, however, remedied any insufficiency in its original termination order. We have reviewed the findings in the *nunc pro tunc* order, and they meet the requirements of Rule 66(F)(2)(a). *See Ruben M. v. Ariz. Dep’t of Econ. Sec.*, 230 Ariz. 236, 240-41 ¶¶ 24-25 (App. 2012) (factual findings must be sufficiently specific to allow this Court “to determine exactly which issues were decided and whether the lower court

¹ Because this Court only needs one statutory ground to affirm the termination of Mother’s parental rights, we need not discuss the juvenile court’s findings related to the other statutory grounds. *See Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, 280 ¶ 3 (App. 2002).

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correctly applied the law"); *State v. Pyeatt*, 135 Ariz. 141, 143 (App. 1982) (court may issue a *nunc pro tunc* order to make the record reflect the intention of the parties or the court at the time the record was made). We therefore find no error.

CONCLUSION

¶9 For the foregoing reasons, we affirm.



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