

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

CANDICE B., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, J.B., T.G., J.G., J.B., *Appellees*.

No. 1 CA-JV 18-0252
FILED 12-18-2018

Appeal from the Superior Court in Maricopa County
No. JD33089
The Honorable M. Scott McCoy, Judge

AFFIRMED

COUNSEL

David W. Bell, Higley
Counsel for Appellant Candice B.

Arizona Attorney General's Office, Phoenix
By JoAnn Falgout
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Jennifer M. Perkins and Judge Lawrence F. Winthrop joined.

THOMPSON, Judge:

¶1 Candice B. (mother) appeals from the juvenile court's decision severing her parental rights to her children J.E.B., T.G., J.G., and J.R.B. (the children). For the following reasons, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2 The Department of Child Safety (DCS) removed the children from mother's home in August 2016 after DCS received a report that mother and three of the children had been physically assaulted by mother's significant other. Mother admitted to DCS that she used methamphetamine on a daily basis, and that domestic violence in the home was an ongoing issue. DCS filed a dependency petition and put services into place. Mother was closed out of multiple services, including drug treatment and parent aide services, because she failed to participate in the services. In March 2018, DCS filed a motion to terminate mother's parental rights to the children pursuant to Arizona Revised Statutes (A.R.S.) § 8-533(B)(3) (chronic abuse of dangerous drugs), (B)(8)(a) (out-of-home placement for nine months or longer), and (B)(8)(c) (out-of-home placement for fifteen months or longer).

¶3 After a two-day severance trial, the juvenile court terminated mother's parental rights, finding that DCS had proven all three statutory grounds for severance by clear and convincing evidence. The court further found that severance was in the best interests of the children. Mother timely appealed. We have jurisdiction pursuant to A.R.S. §§ 8-235(A) (2018), 12-120.21(A)(1) (2018), and 12-2101(A)(1) (2018).

DISCUSSION

¶4 Mother raises one issue on appeal: whether the trial court erred when it found that severance of her parental rights was in the children's best interests. She does not contest the trial court's findings that: she was unable to discharge her parental responsibilities due to her history

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of chronic abuse of dangerous drugs; that reasonable grounds existed to believe the condition would continue for a prolonged, indeterminate period; that the children had been in out-of-home placements for nine months or longer and mother substantially neglected or willfully refused to remedy the circumstances causing the children to be in out-of-home placements; and that the children had been in out-of-home placements for fifteen months or longer and mother had been unable to remedy the circumstances causing the children to remain in care. Nor does mother contest the trial court's determination that DCS made a diligent effort to provide appropriate reunification services.

¶5 “We will not disturb the juvenile court's order severing parental rights unless its factual findings are clearly erroneous, that is, unless there is no reasonable evidence to support them.” *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 2 (App. 1998) (citations omitted). We view the facts in the light most favorable to sustaining the juvenile court's ruling. *Lashonda M. v. Ariz. Dep't of Econ. Sec.*, 210 Ariz. 77, 82, ¶ 13 (App. 2005). We do not reweigh the evidence, because “[t]he juvenile court, as the trier of fact in a termination proceeding, is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and make appropriate findings.” *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002) (citation omitted). The juvenile court may terminate a parent-child relationship if DCS proves by clear and convincing evidence at least one of the statutory grounds set forth in A.R.S. § 8-533(B). *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12 (2000). The court must also find by a preponderance of the evidence that severance is in the child's best interests. *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005).

¶6 Severance is in a child's best interests if he or she would benefit from severance or be harmed by continuation of the parent-child relationship. *Maricopa Cty. Juvenile Action No. JS-500274*, 167 Ariz. 1, 5 (1990). Relevant factors may include whether the child's existing placement is meeting the child's needs and whether the child is adoptable. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 379, ¶ 30 (App. 2010). Courts must consider the totality of the circumstances existing at the time of the best interests inquiry. *Alma S. v. DCS*, 245 Ariz. 146, __, ¶ 13 (2018) (citation omitted).

¶7 Mother argues that severance was not in the children's best interests because the totality of the circumstances did not support a best interests determination. She argues that “at least as to the children T.B. and J.G., the absence of an identified adoptive placement renders the likelihood of adoption less likely to occur,” and that because J.E.B. had been in

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numerous placements and had expressed a desire to reunite with her there was “significant doubt as to whether any adoption [of J.E.B.] will occur.”

¶8 Here, the court found that severance was in the best interests of the children “because it would further the plan of adoption, which would provide the children with permanence, stability, and a home free of crime and substance abuse.” The court also found that continuing the parent-child relationship would be detrimental to the children because it would leave them “to linger in care for an indeterminate period since the children do not have parents who are able to care for them.”

¶9 Viewing the record in the light most favorable to upholding the court’s best interests finding, we conclude that sufficient evidence supports the finding. Two of the children’s DCS case managers (as well as mother) testified that all four of the children were adoptable. J.E.B. was in a licensed foster placement that wanted to adopt him, and he was willing to be adopted if going back to mother was not an option. T.G.’s foster placement was meeting her needs but was “on the fence” about committing to adoption prior to the severance hearing because mother’s parental rights were still intact. DCS was creating a “match making file” for T.G. to help with their efforts to identify an adoptive family for her should her foster family fall through as an adoptive placement. J.G. was in a group home but doing well there and DCS was creating a match making adoption file for him as well. J.R.B. was in a kinship foster placement that was meeting all of his needs and was willing to adopt him. The record reflects that all of the children would benefit from severance because it would further the case plan of adoption and provide the children with stability. Additionally, the fact that mother failed to remedy her methamphetamine problem and appeared unlikely to do so for a prolonged, indeterminate period of time supports the trial court’s conclusion that continuing the parent-child relationship would be detrimental to the children, who were neglected while in mother’s care. Because reasonable evidence supports the court’s best interests finding, we affirm.

CONCLUSION

¶10 For the foregoing reasons, we affirm the juvenile court’s

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decision severing mother's parental rights to the children.



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