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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JENNIFER W. *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, J.T., J.T.,
Appellees.

No. 1 CA-JV 19-0261
FILED 3-19-2020

Appeal from the Superior Court in Yavapai County
No. V1300JD201880005
The Honorable Anna C. Young, Judge

AFFIRMED

COUNSEL

Law Office of Florence W. Bruemmer, PC, Anthem
By Florence M. Bruemmer
Counsel for Appellant

Arizona Attorney General's Office, Tucson
By Autumn Spritzer
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge James B. Morse Jr. delivered the decision of the Court, in which Presiding Judge David D. Weinzwieg and Judge Jennifer M. Perkins joined.

M O R S E, Judge:

¶1 Jennifer W. ("Mother") appeals the juvenile court's order terminating her parental rights to her children. For the following reasons, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 This case concerns two children ("Children") of Mother and Ashley T. ("Father").¹ Mother and Father suffered from long-standing substance abuse issues, particularly the use of methamphetamine. At one point, Mother claimed to have achieved a decade of sobriety, but she relapsed and was using methamphetamine for at least a year before the older child's conception. Father's struggle with substance abuse caused him to suffer from psychosis. Mother recognized that Father's psychosis meant the child needed to be protected from Father.

¶3 In late 2017, police found Father wandering down a street, covered in his own blood, with the older child in his arms. The Department of Child Safety ("DCS") thereafter imposed an in-home safety plan that prevented the child from being left alone with Father. DCS also referred Mother and Father to intensive in-home family-preservation services. Despite the safety plan, Mother often left Father alone with the child. Mother missed many mandatory drug tests and often tested positive for methamphetamine when she participated in testing. In February 2018, Father threw Mother and the older child out of the home during one of his psychotic episodes, forcing them to take refuge in a house with no electricity or running water. This prompted a dependency proceeding for the older child, who was removed from the home on February 21, 2018.

¹ The juvenile court terminated Father's parental rights, and he is not a party to this appeal.

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¶4 At that time, Mother knew she was pregnant with her younger child, but continued to use drugs. The younger child was born substance exposed. Mother also allowed visitors to smoke marijuana and tobacco in the home, which caused the younger child to have trouble breathing. On November 7, 2018, DCS started dependency proceedings for the younger child. She was removed from the home and placed with the same caretakers as her older sibling.

¶5 Mother could not maintain sobriety and, on April 5, 2019, DCS initiated termination proceedings on grounds of neglect and chronic substance abuse. After a one-day hearing, the juvenile court found that DCS had established the statutory grounds for termination. The court pointed to Mother's continued struggles with methamphetamine and her inability to maintain sobriety as evidence showing that Mother would be unable to parent the children safely for a "prolonged indeterminate period." At the time of the hearing, Mother was pregnant with another child and had tested positive for methamphetamine during that pregnancy.

¶6 The juvenile court also found that termination would be in the Children's best interests as "it would further the plan of adoption, which would provide the [C]hildren with permanency and stability." Moreover, the court found the Children's best interests would be harmed if the parental relationship "remained intact" because they would "linger in foster care for an indeterminate period because neither parent has been able to get to a point where the [C]hildren would be safe in their care." Therefore, the court ordered the termination of Mother's parental rights.

¶7 Mother timely appealed, and we have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and A.R.S. §§ 8-235(A), 12-120.21(A)(1), and -2101(A).

DISCUSSION

¶8 On appeal, Mother challenges only the juvenile court's finding that severance was in the Children's best interests and does not contest the statutory grounds for termination. *See Alma S. v. Dep't of Child Safety*, 245 Ariz. 146, 151, ¶ 17 (2018).

¶9 We will not reverse the juvenile court's termination order "unless no reasonable evidence supports its factual findings." *Jennifer S. v. Dep't of Child Safety*, 240 Ariz. 282, 287, ¶ 16 (App. 2016). The juvenile court sits as the trier of fact, and this Court views the evidence and reasonable inferences drawn from it in the light most favorable to sustaining the juvenile court's decision. *Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86,

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93, ¶ 18 (App. 2009). "The appellate court's role is not to weigh the evidence." *Alma S.*, 245 Ariz. at 151, ¶ 18 (citation omitted).

¶10 Terminating a parent-child relationship is in a child's best interests if the child will benefit from the termination or will be harmed if the relationship continues. *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 4, ¶ 16 (2016); *Maricopa Cty. Juv. Action No. JS-500274*, 167 Ariz. 1, 5 (1990). Relevant factors in this determination include whether: (1) the current placement is meeting the child's needs, (2) an adoption plan is in place, and (3) the child is adoptable. *Demetrius L.*, 239 Ariz. at 3-4, ¶ 12. Courts "must consider the totality of the circumstances existing at the time of the severance determination, including the child's adoptability and the parent's rehabilitation." *Alma S.*, 245 Ariz. at 148, ¶ 1. "[T]he existence and effect of a bonded relationship between a biological parent and a child, although a factor to consider, is not dispositive in addressing best interests." *Dominique M. v. Dep't of Child Safety*, 240 Ariz. 96, 98, ¶ 12 (App. 2016).

¶11 Moreover, "[i]n a best interests inquiry, . . . we can presume that the interests of the parent and child diverge because the court has already found the existence of one of the statutory grounds for termination by clear and convincing evidence." *Kent K. v. Bobby M.*, 210 Ariz. 279, 286, ¶ 35 (2005); *see also Demetrius L.*, 239 Ariz. at 4, ¶ 15 (2016) ("In most cases, the presence of a statutory ground will have a negative effect on the children[,] which supports a best-interests finding.") (citation omitted). Once a juvenile court finds that a parent is unfit, the focus shifts to the child's interests. *Kent K.*, 210 Ariz. at 285, 287, ¶¶ 31, 37. Thus, in considering best interests, the court must balance the unfit parent's "diluted" interest "against the independent and often adverse interests of the child in a safe and stable home life." *Id.* at 286, ¶ 35. Of foremost concern in that regard is "protect[ing] a child's interest in stability and security." *Id.* at ¶ 34 (citing *Pima Cty. Juv. Severance Action No. S-114487*, 179 Ariz. 86, 101 (1994)).

¶12 Mother argues that termination is not in the Children's best interests because she has a strong bond with them, despite her struggles with drug addiction. She also emphasizes that she has been one of the Children's primary caregivers for most of their lives. The familial bonds cited by Mother, however, are not dispositive to the Children's best interests, and do not diminish or rebut the reasonable evidence relied on by the juvenile court. *See supra* ¶¶ 5-6; *see also Dominique M.*, 240 Ariz. at 98, ¶ 12.

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¶13 Mother also argues that there was no need for a "quick severance" and, therefore, Mother should have been given the chance to utilize additional services to address her drug addiction. But there is no indication that the severance proceedings were abnormally "quick" or procedurally defective. More to the point, the juvenile court expressly found that there were reasonable grounds to believe that Mother's drug use would continue "for a prolonged indeterminate period." This was well supported, given that Mother had missed many drug tests, had tested positive for methamphetamine many times, and had exposed the Children and her unborn child to methamphetamine. Mother essentially points to evidence she deems as more favorable to her position, but we do not reweigh the evidence on appeal and the record contains reasonable evidence to support the superior court's decision. *See Joelle M. v. Dep't of Child Safety*, 245 Ariz. 525, 528, ¶ 18 (App. 2018).

CONCLUSION

¶14 For all these reasons, we affirm the juvenile court's order terminating Mother's parental relationship with the Children.



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