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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STEPHANIE S., *Appellant,*

v.

DEPARTMENT OF CHILD SAFETY, T.S., S.S., *Appellees.*

No. 1 CA-JV 19-0263
FILED 2-27-2020

Appeal from the Superior Court in Maricopa County
No. JD531887
The Honorable David King Udall, Judge

AFFIRMED

COUNSEL

Czop Law Firm, PLLC, Higley
By Steven Czop
Counsel for Appellant

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

MEMORANDUM DECISION

Presiding Judge Samuel A. Thumma delivered the decision of the Court, in which Judge Randall M. Howe and Judge Diane M. Johnsen joined.

T H U M M A, Judge:

¶1 Stephanie S. (Mother) challenges the superior court’s order terminating her parental rights to her child T.S. Mother argues the court erred in finding termination was in the child’s best interests. Because reasonable evidence supports the finding, the order is affirmed.

FACTS AND PROCEDURAL HISTORY

¶2 Mother’s two sons, S.S., born in 2005, and T.S., born in 2007, lived with Mother until 2011. Then, because Mother had trouble securing stable housing, the boys lived with their maternal grandparents (Grandparents) for the next six years. In 2017, the boys moved back in with Mother. In the summer of 2018, after Mother was evicted from her home, the boys returned to their Grandparents.

¶3 In early August 2018, the Department of Child Safety (DCS) received a report that Mother and her husband Gary H. had physically abused the boys, forced them to use marijuana and engaged in sexual conduct in their presence. The report also alleged that Mother lacked stable housing and income and had forced T.S. to shoplift. After investigating, DCS took the children into care and filed a dependency petition alleging, as to Mother, abuse, neglect and failure to protect.

¶4 The court found the children dependent as to Mother in September 2018, after she elected not to contest the dependency allegations. The court deferred disposition (where a case plan would be adopted) until a later hearing, ultimately held in January 2019. In the meantime, DCS offered Mother services and she participated in some of them. Mother had supervised visits with the boys, passed a drug test and completed a psychological evaluation. However, Mother did not participate in any counseling or a psychiatric evaluation she was offered. She participated in a psychological evaluation, which found she had a poor prognosis for parenting and “poor insight and judgment and has not taken accountability for the reasons her children have come into care.” The psychological

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evaluation also found that Mother “meets the criteria for . . . Schizoaffective Disorder, Bipolar Type[,] Unspecified Anxiety Disorder[,] Unspecified Personality Disorder [and] History of Polysubstance Use Disorder.”

¶5 In January 2019, the children were moved from their Grandparents to their maternal aunt. At the January 2019 disposition hearing, the court adopted a severance and adoption case plan. DCS’ motion to terminate, filed in early February 2019, alleged as to Mother neglect, abuse and failure to protect. *See* Ariz. Rev. Stat. (A.R.S.) § 8-533(B)(2) (2020).¹ At the one-day severance adjudication in August 2019, Mother, aunt, one of Mother’s friends, the DCS case aide and the DCS case manager testified. After taking the matter under advisement, the court granted the motion to terminate based on the statutory ground asserted, also finding that severance was in the children’s best interests.

¶6 This court has jurisdiction over Mother’s timely appeal, which only challenges the termination order as to T.S., pursuant to A.R.S. §§ 8-235(A), 12-120.21(A)(1), -2101(A)(1) and Arizona Rule of Procedure for the Juvenile Court 103(A).²

DISCUSSION

¶7 As applicable here, to terminate parental rights, a court must find by clear and convincing evidence that at least one statutory ground articulated in A.R.S. § 8-533(B) has been proven and must find by a preponderance of the evidence that termination is in the best interests of the child. *See Kent K. v. Bobby M.*, 210 Ariz. 279, 288 ¶ 41 (2005); *Michael J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 246, 249 ¶ 12 (2000). Because the superior court “is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts,” this court will affirm an order terminating parental rights as long as it is supported by reasonable evidence. *Jordan C. v. Ariz. Dep’t of Econ. Sec.*, 223 Ariz. 86, 93 ¶ 18 (App. 2009) (citations omitted).

¹ Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

² Paternal parental rights also were terminated but are not part of this appeal.

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¶8 Mother does not challenge termination of her parental rights to S.S. or that DCS proved a statutory ground to terminate her parental rights to T.S. Instead, she argues that insufficient evidence supports the finding that termination was in T.S.'s best interests. This court will affirm a best interests finding if the child either will benefit from severance or be harmed if the parent-child relationship continues. *See Matter of Appeal in Maricopa Cty. Juvenile Action No. JS-500274*, 167 Ariz. 1, 5 (1990) (citations omitted).

¶9 Reasonable evidence supports the superior court's finding that T.S. would be harmed if the parent-child relationship continued. At trial, the DCS case manager recounted credible reports that, while in Mother's care, the children were "being hit with all kinds of objects." Aunt's testimony confirmed these reports, including that the boys were "afraid of Mom not protecting them" from the abuse. The DCS case manager also confirmed that the boys were given and either forced to use, or used, marijuana while Mother was present and that the boys were regularly exposed to Mother and her husband engaged in sexual activity. Again, aunt's testimony confirmed this evidence. Trial evidence also showed that Mother forced T.S. to steal and that, while staying with Mother in the summer of 2018, the boys slept in a closet in an unkempt home and that there was not enough to eat.

¶10 Mother argues there is no trial evidence showing she "did something during [her supervised] visits that caused T.S. to have mental instability or cause him harm." The best interests inquiry, however, does not turn solely on a parent's conduct during supervised visits. *Cf. Matter of Appeal in Maricopa Cty. Juvenile Action No. JS-501568*, 177 Ariz. 571, 577 (App. 1994) ("Leaving the window of opportunity for remediation open indefinitely is not necessary, nor do we think that it is in the child's or the parent's best interests."). Moreover, the record does not show that Mother's behavior during her supervised visits undermines the court's finding that T.S. would suffer a detriment if the parental relationship continued. Accordingly, the court did not err in its best interests findings. *See JS-500274*, 167 Ariz. at 5 (noting severance can be affirmed if the superior court properly found *either* that the child will benefit from severance or will be harmed if the parent-child relationship continues).

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CONCLUSION

¶11 Because Mother has shown no error, the superior court's order terminating her parental rights to T.S. is affirmed.



AMY M. WOOD • Clerk of the Court
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