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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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ADRIAN G., *Appellant*,

*v.*

DEPARTMENT OF CHILD SAFETY, Z.G., *Appellees*.

No. 1 CA-JV 20-0156  
FILED 10-20-2020

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Appeal from the Superior Court in Maricopa County  
No. JD531990  
The Honorable Kristin Culbertson, Judge

**AFFIRMED**

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COUNSEL

Denise L. Carroll, Esq., Scottsdale  
By Denise L. Carroll  
*Counsel for Appellant*

Arizona Attorney General's Office, Phoenix  
By Emily M. Stokes  
*Counsel for Appellee Department of Child Safety*

**MEMORANDUM DECISION**

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge Cynthia J. Bailey joined.

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**CATTANI**, Judge:

¶1 Adrian G. (“Father”) appeals from the superior court’s order terminating his parental rights as to his daughter Z.G. For reasons that follow, we affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 Z.G. was born to Father and Samantha T. (“Mother”) in September 2018.<sup>1</sup> Father has four older children, but his parental rights to two have been terminated, and the other two are subject to guardianships. Both Mother and Z.G. tested positive for amphetamines when Z.G. was born. At the request of the Department of Child Safety (“DCS”), Father underwent drug testing a few days later, and he tested positive for methamphetamine. DCS took Z.G. into care, and the superior court found her dependent as to both Father and Mother.

¶3 DCS offered Father an array of services, including visitation and substance abuse testing and treatment. Father initially engaged in substance abuse treatment. He disclosed that he had first used methamphetamine about 10 years earlier and had gone through two previous rounds of substance abuse treatment, and he admitted using methamphetamine around the time of Z.G.’s birth, as well as six months before that. Over the following months, he participated in and, as of February 2019, graduated from standard outpatient treatment for amphetamine-type-use disorder. And from October through December 2018, Father completed all 28 required drug tests, all of which were negative.

¶4 But Father’s progress soon stalled. Upon completion of outpatient treatment, Father’s treatment provider recommended Father participate in a recovery-maintenance program to prevent relapse, but

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<sup>1</sup> Mother’s parental rights have also been terminated, and she is not a party to this appeal.

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Father declined to do so. And Father stopped submitting to drug testing as of January 2019. Thereafter, despite repeated communications from the DCS case manager as well as the treatment provider, Father missed the next 50 scheduled drug tests.

¶5 DCS moved to terminate Father’s parental rights on the statutory ground of chronic substance abuse. See A.R.S. § 8-533(B)(3). Father testified at the February 2020 termination adjudication hearing. He denied that he had a drug problem, claiming that he had not used methamphetamine in six years. Father swore that he would not test positive for methamphetamine if tested that day and expressed disbelief that he had tested positive for (and had even acknowledged using) methamphetamine 18 months earlier.

¶6 At the end of the hearing, the superior court ordered Father to submit to a hair follicle drug test by the next day. The test came back positive for amphetamine and methamphetamine. The court then made an express finding that Father’s testimony regarding his drug use was not credible, found statutory grounds for severance based on Father’s chronic substance abuse, determined that severance was in Z.G.’s best interests, and terminated Father’s parental rights as to Z.G. Father timely appealed, and we have jurisdiction under A.R.S. § 8-235(A).

**DISCUSSION**

¶7 The superior court is authorized to terminate a parent–child relationship if it finds that clear and convincing evidence establishes at least one statutory ground for severance and a preponderance of the evidence shows severance to be in the child’s best interests. A.R.S. § 8-533(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005). We review a severance ruling for an abuse of discretion, deferring to the superior court’s credibility determinations and factual findings. See *Ariz. Dep’t of Econ. Sec. v. Matthew L.*, 223 Ariz. 547, 549, ¶ 7 (App. 2010); *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002). Here, Father challenges the court’s findings as to grounds for severance and best interests.

¶8 The statutory severance ground of chronic substance abuse requires proof that the parent’s “history of chronic abuse of dangerous drugs [or] controlled substances” renders the parent “unable to discharge parental responsibilities” and that “reasonable grounds [exist] to believe that the condition will continue for a prolonged indeterminate period.” A.R.S. § 8-533(B)(3). Chronic substance abuse need not be constant, and prior periods of temporary abstinence followed by relapse may bear on

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whether grounds exist to suspect that the parent's drug abuse will continue. *Jennifer S. v. Dep't of Child Safety*, 240 Ariz. 282, 287, ¶¶ 17, 20 (App. 2016); *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 377, ¶ 16 (App. 2010).

¶9 Before severance may be justified on this basis, DCS must provide the parent with appropriate reunification services. *Jennifer G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 450, 453, ¶ 12 & n.3 (App. 2005). To fulfill this requirement, DCS must provide services with a "reasonable prospect of success" to afford the parent the time and opportunity to become, if possible, a safe and effective parent. *See Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, 192, ¶¶ 33-34, 37 (App. 1999); *Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353 (App. 1994). But DCS is not obligated to provide "every conceivable service" or those that would prove futile, and DCS is not responsible for ensuring that the parent in fact participates in the services provided. *See Mary Ellen C.*, 193 Ariz. at 192, ¶¶ 34, 37; *JS-501904*, 180 Ariz. at 353.

¶10 Father primarily challenges the adequacy of services, urging that DCS should have required additional substance abuse services "that could have maintained his sobriety" after he graduated from standard outpatient treatment. But, contrary to the premise on which Father's argument relies, DCS did so. DCS offered the substance abuse treatment in which Father initially engaged, and when Father completed the standard outpatient treatment program, the provider recommended and DCS encouraged Father's continued participation in a recovery maintenance program along with ongoing drug testing. Despite repeated communications from the DCS case manager and the treatment provider, Father declined to participate further and refused to comply with his ongoing drug testing requirement. Father's failure to engage in available services does not render the services themselves insufficient. *See JS-501904*, 180 Ariz. at 353.

¶11 Father also suggests that, because he graduated from standard outpatient treatment and tested negative for drugs for a three-month period at the beginning of the dependency, the superior court had no basis to find that his substance abuse would continue for a prolonged period. But as the trier of fact, the court properly considered evidence of Father's years-long history of drug use, his prior efforts at sobriety and prior relapses, and his testimony minimizing his substance abuse and disclaiming any drug problem – testimony the court expressly found not to be credible. *See Jennifer S.*, 240 Ariz. at 286-87, ¶¶ 16, 20; *see also Jesus M.*, 203 Ariz. at 280, ¶ 4. In sum, the superior court had ample basis to conclude that Father's substance abuse issue would continue for a prolonged and

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indeterminate period, particularly given Father's positive test for amphetamines and methamphetamine the day after the severance hearing. *See Raymond F.*, 224 Ariz. at 379, ¶ 29.

¶12 Finally, Father argues that the superior court erred by finding severance to be in Z.G.'s best interests. Termination of parental rights may be in a child's best interests if, based on the totality of the circumstances, the court concludes that the child would benefit from severance or be harmed by a denial of severance. *Alma S. v. Dep't of Child Safety*, 245 Ariz. 146, 150-51, ¶ 13 (2018). Evidence of an existing adoptive plan, of the child's adoptability, and that the existing placement is meeting the child's needs may all support a best-interests determination. *Id.* at 148, ¶ 1; *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 3-4, ¶ 12 (2016). Stability and security for the child are primary considerations. *Demetrius L.*, 239 Ariz. at 4, ¶ 15.

¶13 Father asserts that the court erred by failing to consider his ongoing efforts to be a parent to his other children (two children to whom his rights were previously terminated, and two who are subject to guardianships) and posits that severance offered no benefit to Z.G. because she was in a family placement, where Father continued to see her. But the superior court found—and the record supports—that Z.G.'s familial placement provided her a safe and stable home, met all her needs, and was willing to adopt. Father's contact with his older children notwithstanding, these facts gave the superior court a sufficient basis to find termination to be in Z.G.'s best interests.

CONCLUSION

¶14 We affirm.



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