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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

ROSEMARY R., DAVID R., *Appellants,*

v.

DEPARTMENT OF CHILD SAFETY, A.R., *Appellees.*

No. 1 CA-JV 20-0213
FILED 11-24-2020

Appeal from the Superior Court in Maricopa County
No. JD 36879
The Honorable Pamela Hearn Svoboda, Judge

AFFIRMED

COUNSEL

The Stavris Law Firm PLLC, Scottsdale
By Alison Stavris
Counsel for Appellant, Mother

Law Office of H. Clark Jones LLC, Mesa
By H. Clark Jones
Counsel for Appellant, Father

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

MEMORANDUM DECISION

Judge Michael J. Brown delivered the decision of the Court, in which Presiding Judge Jennifer M. Perkins and Judge David B. Gass joined.

B R O W N, Judge:

¶1 Rosemary R. (“Mother”) and David R. (“Father”) appeal the juvenile court’s order finding their daughter, A.R., dependent based on neglect. For the following reasons, we affirm.

BACKGROUND

¶2 In January 2018, A.R. (born in 2003) was arrested for bringing marijuana to school. She was placed in detention and later enrolled in Mingus Mountain, a residential treatment center, until July 2019. A.R. then returned to live with her parents while continuing her probation, which required in part that she submit to drug testing and attend intensive outpatient substance abuse treatment. In September, October, and November, A.R. tested positive for THC. Also in November, A.R. ran away. She was located when police stopped the car she was riding in, along with three adult males. The officers found methamphetamine and alcohol in the car, which was registered in Mother’s name. Following that incident, A.R. tested positive for methamphetamine twice.

¶3 Although the probation officer had spoken with Mother about the importance of A.R. staying sober while on probation, Mother provided smoothies containing alcohol to A.R. on two occasions, later claiming she did not know the drinks contained alcohol. Mother also gave A.R. Cannabidiol (CBD) oil with a 26 percent THC content but said she did not know it contained THC. According to the probation officer, however, the one smoothie container she observed and the CBD oil were clearly marked as containing alcohol and THC, respectively.

¶4 In December 2019, the Department of Child Safety (“DCS”) removed A.R. from her home and took temporary custody of her pursuant to a removal order. DCS then promptly filed a dependency petition alleging that parents neglected A.R. by, among other things, (1) failing to provide care and control; (2) failing to ensure she receives substance abuse,

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mental health, and behavioral health services; and (3) allowing her to ingest THC and alcohol.

¶5 In January 2020, A.R. was placed at Desert Lily, another residential treatment center. A.R. remained at Desert Lily until the end of May. A.R. performed well during the first few months at Desert Lily. Her parents visited her there, and A.R. was allowed weekend visits in their home. She became a peer mentor and was one test away from receiving her GED. And until the COVID-19 pandemic began, A.R. was employed. On May 30, however, she ran away from Desert Lily.

¶6 On June 15, 2020, the juvenile court held a dependency adjudication hearing. A.R. did not attend the dependency hearing because she was still missing. Neither Mother nor Father testified at the hearing. After considering testimony from the probation officer and the DCS case manager, and exhibits presented by DCS, the court found DCS proved A.R. dependent by a preponderance of the evidence. Both Mother and Father timely appealed the dependency order.

DISCUSSION

¶7 We will affirm the juvenile court's dependency order unless it is clearly erroneous. *Andrew R. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 453, 456, ¶ 15 (App. 2010). A finding is only clearly erroneous if it is not supported by reasonable evidence. *Id.* We do not reweigh the evidence because the "juvenile court as the trier of fact . . . is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 4 (App. 2004); see *Pima Cnty. Dependency Action No. 93511*, 154 Ariz. 543, 545 (App. 1987) (noting that in a dependency appeal, "[w]e cannot substitute our opinion for that of the juvenile court").

¶8 The allegations in a dependency petition must be proven by a preponderance of the evidence, A.R.S. § 8-844(C), and, because the primary concern in a dependency proceeding is the best interest of the child, "the juvenile court is vested with a great deal of discretion." *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, 235, ¶ 21 (App. 2005) (quotation omitted).

¶9 DCS's petition alleged that Mother and Father "neglected the child by failing to provide her with proper and effective parental care and control." As pertinent here, a dependent child is one "[i]n need of proper and effective parental care and control . . . who has no parent . . . willing to exercise or capable of exercising such care and control," A.R.S. § 8-201(15)(a)(i), or a child "whose home is unfit by reason of abuse, neglect,

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cruelty or depravity by a parent,” A.R.S. § 8-201(15)(a)(iii). “Neglect” means the “[t]he inability or unwillingness of a parent . . . of a child to provide that child with supervision . . . if that inability or unwillingness causes unreasonable risk of harm to the child’s health or welfare.” A.R.S. § 8-201(25)(a).

¶10 The juvenile court found a dependency existed as to both parents based on neglect. In making that determination, the court relied on A.R.’s several positive drug tests, for both marijuana and methamphetamine, the parents’ failure to report when A.R. had police contact, and the parents’ general lack of concern with A.R.’s drug use and performance on probation. The court also agreed with the probation officer’s observation that “the family was more interested in blaming probation than acknowledging that [A.R.] has a substance abuse problem that needs to be addressed.”

¶11 Father contends no reasonable evidence supports the dependency finding against him. The lack of specific references addressing Father’s involvement, however, does not necessarily mean the record lacks any reasonable evidence of his failure to ensure A.R.’s needs were being met. While most of the testimony at the dependency hearing centered around what Mother did, sufficient evidence supports the dependency finding as to Father. Neither parent reported to probation when the child had police contact or ran away. Similarly, neither parent made sure that A.R. was attending school and her probation-related appointments. And Mother explained that even though she has more influence in the decision-making process, she expected Father to provide input and that they ultimately made decisions together. Thus, Mother’s neglect is attributable to Father.

¶12 Father also argues that if a dependency was justified, A.R.’s behaviors are the cause, not parental neglect. The record shows otherwise. The juvenile court found “that this case is easily distinguished from a child’s behaviors case based on the parents’ actions or inaction,” referencing the parents’ (1) failure to report when A.R. ran away, (2) cavalier attitude toward A.R.’s drug use, (3) desire to stop substance abuse counseling, and (4) disregard for the dangers of A.R. running away. The court found these “facts [were] far different than a dependency based on child’s behaviors where parents actively pursue services for the child and impose consequences To the contrary, the parents here . . . failed to exercise proper parental care and control” We do not reweigh the evidence and will defer to the court’s resolution when supported by the record. *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, 282, ¶ 12 (App.

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2002). A.R.'s continuing substance abuse problem and her unlawful behavior support the juvenile court's finding that the parents did not provide effective care and control for their daughter. See A.R.S. § 8-201(15)(a)(i). Reasonable evidence also shows the parents were unwilling or unable to provide supervision of A.R., which led to an unreasonable risk of harm to her health and welfare.

¶13 Mother and Father both argue the juvenile court failed to consider the circumstances as they existed at the time of the dependency adjudication. See *Shella H. v. Dep't of Child Safety*, 239 Ariz. 47, 50, ¶ 12 (App. 2016) (recognizing the juvenile court "must determine whether a child is dependent based upon the circumstances existing at the time of the adjudication hearing"). They contend the court failed to consider Mother's participation in the CFT meetings and parent aid service, the parents' visits with A.R., or that when A.R. returned to Desert Lily from weekend visits she had negative drug screens. Although the court did not specifically mention these facts in its ruling, nothing indicates the court did not consider them. And the juvenile court is not required to detail each fact supporting its decision. *Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, 45-52, ¶ 19 (App. 2007); see also *Ruben M. v. Ariz. Dep't of Econ. Sec.*, 230 Ariz. 236, 241, ¶ 25 ("Findings must include . . . [the] facts . . . necessary to resolve the disputed issues.") Here, the court's five-page ruling contains sufficient findings addressing the dependency petition.

CONCLUSION

¶14 We affirm the juvenile court's order adjudicating A.R. dependent as to both Mother and Father.



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