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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

CRYSTAL G., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, J.F., *Appellees*.

No. 1 CA-JV 20-0211
FILED 4-29-2021

Appeal from the Superior Court in Maricopa County
No. JD36373
The Honorable David O. Cunanan, Judge

AFFIRMED

COUNSEL

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

Arizona Attorney General's Office, Tucson
By Jennifer R. Blum
Counsel for Appellee

MEMORANDUM DECISION

Presiding Judge Jennifer M. Perkins delivered the decision of the Court, in which Judge Randall M. Howe and Judge Maria Elena Cruz joined.

P E R K I N S, Judge:

¶1 Crystal G. (“Mother”) appeals the juvenile court’s decision to terminate her parental rights to J.F. Father is not a party to this appeal. For the following reasons, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 In August 2018, police arrested Mother for drug possession and theft of means of transportation. Her four-year old son, J.F., was unrestrained at the time of the stop.

¶3 Mother tested positive for cocaine and marijuana after the arrest, so the Department of Child Safety (“DCS”) took temporary custody of J.F. DCS then filed a dependency petition, alleging Mother’s inability to parent due to substance abuse and failure to provide for J.F.’s basic needs. In September 2018, the juvenile court found J.F. dependent and approved DCS’s case plan of family reunification.

¶4 DCS offered numerous services to Mother, including drug testing, substance abuse treatment, supervised visitation, and parent aide services. Mother failed to consistently participate in these services. Between October 2018 and July 2019, Mother reported for only four of her sixty-nine scheduled urinalysis tests. The testing center rejected all four of Mother’s urinalysis samples because it suspected Mother tampered with or manufactured the samples.

¶5 Mother’s first attempt at substance abuse treatment ended unsuccessfully due to her lack of participation and DCS referred her for a second round. Her first attempt at parent aide trended towards a similar outcome until DCS renewed her parent aide referral.

¶6 DCS moved to terminate Mother’s parental rights to J.F. in August 2019, citing grounds of chronic substance abuse and nine-months’ time in care. The juvenile court held a termination hearing in November 2019.

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¶7 At the hearing, a DCS case manager testified that Mother failed to comply with urinalysis testing or successfully complete substance abuse treatment, despite multiple referrals. The case manager also expressed concern that Mother attempted to alter her hair follicle samples by using Folli-Kleen shampoo.

¶8 The juvenile court found DCS proved the nine-months' time in care ground by clear and convincing evidence but failed to demonstrate that severance was in J.F.'s best interests. The court then granted Mother additional time to demonstrate her ability to parent J.F.

¶9 Mother's participation in services remained inconsistent. Between August 2019, when DCS initially moved for termination, and February 2020, Mother provided less than half of her required urinalysis samples. Mother's second and third attempts at substance abuse treatment ended unsuccessfully due to her lack of participation. Mother also failed to complete her parent aide services despite the time extension.

¶10 DCS moved to terminate Mother's parental rights for a second time in February 2020, citing grounds of chronic substance abuse and fifteen-months' time in care. The juvenile court held a two-day termination hearing in May 2020.

¶11 At this hearing, the case manager testified about Mother's inconsistent participation in services. The case manager explained that DCS ceased offering Mother parent aide services at her home, after the parent aide found drug-paraphernalia and expressed concern that Mother was under the influence during visits. The case manager also testified that Mother tested positive for fentanyl one week before the hearings.

¶12 The court terminated Mother's parental rights on chronic substance abuse and fifteen-months' grounds. Mother timely appealed. We have jurisdiction under Article 6, Section 9 of the Arizona Constitution, A.R.S. §§ 8-235(A) and 12-120.21(A)(1), and Arizona Rule of Procedure for Juvenile Court 103(A).

DISCUSSION

¶13 We review the termination of parental rights for an abuse of discretion. *Titus S. v. Dep't of Child Safety*, 244 Ariz. 365, 369, ¶ 15 (App. 2018). This court will uphold the juvenile court's findings of fact "if supported by adequate evidence in the record." *Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, 452, ¶ 19 (App. 2007) (quoting *State v. Smith*, 123 Ariz. 243, 247 (1979)). "The juvenile court, as the trier of fact in a termination

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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).

¶14 “Before a State may sever completely and irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by at least clear and convincing evidence.” *Santosky v. Kramer*, 455 U.S. 745, 747–48 (1982). “[S]uch a standard adequately conveys to the factfinder the level of subjective certainty about his factual conclusions necessary to satisfy due process.” *Id.* at 769.

¶15 Mother challenges both grounds of chronic substance abuse and fifteen-months’ time in care, the court’s finding that termination was in J. F.’s best interests, and the validity of the court’s termination order.

I. Statutory Ground

¶16 To terminate the parent-child relationship, the juvenile court must find parental unfitness based on at least one statutory ground under A.R.S. § 8-533(B) by clear and convincing evidence. *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005).

¶17 The juvenile court may terminate parental rights based on chronic substance abuse when “the parent is unable to discharge parental responsibilities because of . . . a history of chronic abuse of dangerous drugs, controlled substances, or alcohol and there are reasonable grounds to believe that the condition will continue for a prolonged indefinite period.” A.R.S. § 8-533(B)(3). The superior court may find a parent’s substance abuse issue will continue based upon such evidence as the parent’s history of drug use and the parent’s failure to complete or engage in offered services. *See Raymond F. v. Ariz. Dep’t of Econ. Sec.*, 224 Ariz. 373, 378–79, ¶¶ 26–28 (App. 2010). A parent’s failure to abstain from substances despite a pending severance is “evidence [the parent] has not overcome [the] dependence on drugs and alcohol.” *See id.* at 379, ¶ 29.

¶18 Reasonable evidence supports the juvenile court’s finding that Mother was unable to discharge her parental responsibilities due to chronic substance abuse. The court found that Mother has a history of substance abuse and that “Mother’s substance abuse will likely continue due to her failure to engage in services.” Mother failed to submit an adequate drug test over a ten-month period during the dependency. *See, e.g., id.* at ¶ 27 (a two-month period in which the parent did not submit to drug testing sufficiently indicates that drug abuse would continue). Even after the court denied DCS’s first petition, Mother failed to consistently

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report for drug tests or meaningfully participate in any services offered to her.

¶19 The record contains sufficient evidence to support the juvenile court's findings on the chronic substance abuse ground. We will not reweigh this evidence. *See Jesus M.*, 203 Ariz. at 280, ¶ 4. Because we affirm on the chronic substance abuse ground, we "need not address [Mother's] claims pertaining to the other grounds" for severance. *Id.* at ¶ 3.

II. Best Interests

¶20 The court must also find by a preponderance of the evidence that severance would be in the best interests of the child. A.R.S. § 8-533(B); *see also Alma S. v. Dep't of Child Safety*, 245 Ariz. 146, 149-50, ¶ 8 (2018). Once a court has found at least one statutory ground to terminate, it may "presume that the interests of the parent and child diverge." *Kent K.*, 210 Ariz. at 286, ¶ 35. We thus focus our inquiry at the best interests stage on "the interests of the child as distinct from those of the parent." *See id.* at 285, ¶ 31. The "child's interest in stability and security" is the touchstone of our inquiry. *Id.* at 286, ¶ 34. Termination of parental rights is in the child's best interests "if either: (1) the child will benefit from severance; or (2) the child will be harmed if severance is denied." *Alma S.*, 245 Ariz. at 150, ¶ 13. A child benefits from termination when the child is adoptable or a current adoption plan is in place. *Demetrius L. v. Joshlynn F.*, 239 Ariz. 1, 3-4, ¶ 12 (2016). The juvenile court must consider the totality of the circumstances existing at the time of the severance. *Alma S.*, 245 Ariz. at 150-51, ¶ 13.

¶21 Here, the juvenile court found that J.F. is living with his maternal grandmother and that severance would make him adoptable. It would also provide J.F. with stability. J.F. has been in an out-of-home placement since September 2018. According to the DCS case manager, J.F. has assimilated into his current placement and maternal grandmother "intends to allow [J.F. and Mother] to maintain contact as long as it is safe and appropriate." The case manager also opined that failing to terminate Mother's rights would be a detriment to J.F. because it would delay permanency. The juvenile court did not abuse its discretion in finding termination to be in J.F.'s best interests.

III. Termination Order

¶22 Mother argues the juvenile court's termination order is invalid because the order contained insufficient factual findings. We disagree.

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¶23 When the superior court finds that a petitioner has met its burden of proof for severance, the court must “[m]ake specific findings of fact in support of the termination of parental rights,” which must be “in the form of a signed order or set forth in a signed minute entry.” Ariz. R.P. Juv. Ct. 66(F)(2)(A); *see also* A.R.S. § 8-538(A) (“Every order of the court terminating the parent-child relationship . . . shall be in writing and shall recite the findings on which the order is based . . .”). The court must specify at least one factual finding to support each of its conclusions of law. *Ruben M. v. Ariz. Dep't of Econ. Sec.*, 230 Ariz. 236, 240, ¶ 22 (App. 2012).

¶24 The findings in the termination order meet the requirements of Rule 66(F)(2)(a). *See id.* at 240–41, ¶¶ 24–25. The juvenile court made written findings supported by reasonable evidence that established the required elements of the chronic substance abuse ground. We therefore find no error.

CONCLUSION

¶25 We affirm.



AMY M. WOOD • Clerk of the Court
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