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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JESSICA T., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, J.B., Z.B., *Appellees*.

No. 1 CA-JV 20-0297
FILED 5-11-2021

Appeal from the Superior Court in Mohave County
No. S8015JD201900071
The Honorable Megan A. McCoy, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Law Offices of Harriette P. Levitt, Tucson
By Harriette P. Levitt
Counsel for Appellant

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

MEMORANDUM DECISION

Presiding Judge D. Steven Williams delivered the decision of the Court, in which Judge Jennifer B. Campbell and Judge James B. Morse Jr. joined.

WILLIAMS, Judge:

¶1 Jessica T. (“Mother”) appeals the juvenile court’s order terminating her parental rights to her children. For reasons that follow, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2 Mother and Willis B. (“Father”)¹ are the parents of J.B. and Z.B. (collectively the “Children”), born in 2014 and 2015, respectively. Since Z.B.’s birth, the Children have been the subject of three separate dependency actions; the most recent dependency resulting in the termination of Mother’s parental rights and this appeal.

¶3 By way of background, the Department of Child Safety (“DCS”) first became involved in 2014 after J.B. sustained a head injury due to abuse. Mother informed DCS that she and Father had a volatile relationship and that Father mishandled J.B. Mother also admitted to a history of substance abuse. DCS referred Mother for services. After obtaining a protective order against Father, and completing services, the first dependency was dismissed.

¶4 In 2016, DCS received two separate reports that Mother was homeless and using drugs, specifically methamphetamines. One report also alleged Mother had thrown J.B. from a couch to the floor and shoved J.B. onto the ground near the family car. Additionally, Mother was observed driving under the influence, with the Children, unrestrained, in the family car. Later, Mother left the Children with a family member, who then brought them to a DCS office. Thereafter, DCS took temporary custody of the Children and filed a second dependency petition.

¶5 Mother confirmed she had been homeless and “couch surfing” after losing her job. DCS referred Mother for substance-abuse treatment and testing (hair follicle and random urinalysis), counseling,

¹ Father is not a party to this appeal.

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mental-health services, parenting classes, and supervised visitation, but Mother only minimally engaged in these services. Mother enrolled at Southwest Behavioral Health for treatment but did not engage in services and was removed from Angel's Manor, a sober living home, for failing to comply with the program. Thereafter, Mother was incarcerated for assaulting her father.

¶6 In June 2017, Mother was again referred for substance abuse treatment and moved back into a sober living home. Though Mother was asked to leave the sober living home in August after drinking alcohol, Mother stayed in contact with the treatment facility, Arizona Families First ("AFF"),² maintained sobriety, and engaged in all her services, including anger management, counseling, and supervised visitation. Mother also found housing and obtained employment. After successfully completing services, the Children moved back in with Mother and the second dependency was dismissed.

¶7 In June 2019, DCS received a report that Mother was using methamphetamines and engaging in domestic violence in the presence of the Children. Another caller made a report in September alleging that, while Mother was under the influence, she made suicidal and homicidal statements in front of the Children. Around that time, Mother left the Children at a relative's home, admitted that she was using drugs, but then refused assistance when offered by DCS. DCS requested Mother submit to a drug test, which came back positive for methamphetamines. Thereafter, DCS took temporary custody of the children, again referred Mother for services, and submitted its third dependency petition concurrently with a motion to terminate Mother's parental rights.

¶8 Initial dependency and severance hearings were held together. When Mother failed to appear for the joint hearing, the juvenile court adjudicated the Children dependent and terminated Mother's parental rights. Mother timely appealed.

¶9 On appeal, DCS conceded error. This court vacated the juvenile court's order and remanded the case after concluding that Mother was given insufficient notice of the initial severance hearing. *Jessica T. v. Dep't of Child Safety*, No. 1 CA-JV 19-0333 (Ariz. App. Apr. 1, 2020) (order accepting DCS's concession of error and vacating termination order).

² AFF is a program to help parents address substance abuse issues affecting their ability to appropriately care for their children.

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¶10 On remand, DCS filed a motion requesting the suspension of reunification services and visitation. Following a hearing, the juvenile court suspended visits between Mother and the Children, but ordered DCS to continue providing services, specifically, drug testing. DCS referred Mother for random drug testing. Although Mother tested negative a handful of times, she was inconsistent with testing and ultimately tested positive for methamphetamines at the end of June 2020. Mother was unemployed and lacked stable housing by the time of trial in August 2020.

¶11 Following the severance trial, the juvenile court terminated Mother's parental rights based upon her neglect of the Children, her inability to discharge parental responsibilities due to chronic substance abuse, and the Children's out-of-home placement within eighteen months after the prior dependency was closed out. A.R.S. § 8-533(B)(2), (3), (11). The court also found that termination of parental rights was in the Children's best interests.

¶12 Mother timely appealed. We have jurisdiction under Article 6, Section 9, of the Arizona Constitution, 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).

DISCUSSION

¶13 We review a severance ruling for an abuse of discretion, accepting the court's factual findings unless clearly erroneous, *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 47, ¶ 8 (App. 2004), and view the evidence in the light most favorable to sustaining the court's ruling, *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, 207, ¶ 2 (App. 2008). Because the juvenile court "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts," we will affirm an order terminating parental rights if reasonable evidence supports the order. *Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, 93, ¶ 18 (App. 2009) (quoting *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 4 (App. 2004)).

¶14 "To justify termination of the parent-child relationship, the [juvenile] court must find, by clear and convincing evidence, at least one of the statutory grounds set out in [A.R.S. §] 8-533," *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249, ¶ 12 (2000), and find, by a preponderance of the evidence, that termination is in the best interests of the children, *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22 (2005).

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¶15 Mother does not challenge the juvenile court’s statutory findings, or that termination of the parent-child relationship was in the Children’s best interests. Consequently, we do not address those issues. See ARCAP 13(a) (requiring appellant’s brief to contain a statement of issues for review, supporting legal authority, references to the record, and reasons for each contention); *Crystal E. v. Dep’t of Child Safety*, 241 Ariz. 576, 578, ¶ 6 (App. 2017) (“[W]e adhere to the policy that it is generally not our role to *sua sponte* address issues not raised by the appellant.”); *Christina G. v. Ariz. Dep’t of Econ. Sec.*, 227 Ariz. 231, 234, ¶ 14 n.6 (App. 2011) (recognizing that the failure to develop an argument on appeal usually results in abandonment and waiver of the issue).

¶16 Mother’s sole contention on appeal is that DCS did not fulfill its obligation to provide Mother with appropriate reunification services. Termination of parental rights on grounds of chronic substance abuse under A.R.S. § 8-533(B)(3) requires DCS to prove it has made reasonable and diligent efforts to provide appropriate reunification services. *Jennifer G. v. Ariz. Dep’t of Econ. Sec.*, 211 Ariz. 450, 453, ¶ 12 (App. 2005) (“To order severance on [chronic substance abuse] ground[s], the juvenile court must also have found that [DCS] had made reasonable efforts to reunify the family. . . .”). DCS fulfills its statutory mandate when it provides a parent with the time and opportunity to participate in programs designed to help him or her become a minimally adequate parent. *Maricopa Cnty. Juv. Action No. JS-501904*, 180 Ariz. 348, 353 (App. 1994).

¶17 A review of the record shows that DCS provided Mother with numerous reunification services over the past six years including: substance abuse treatment and testing, counseling, mental health services, parenting classes, and supervised visitation. More recently, after Mother relapsed in 2019, she was again referred to AFF, but she refused to participate. In 2020, after the juvenile court ordered DCS to continue providing necessary services, Mother was referred for drug testing. But Mother failed to drug test consistently and tested positive for methamphetamines less than two months before the severance hearing. Mother further claimed she was, on her own, engaging in substance-abuse aftercare services at a sober living facility, but failed to confirm this information.

¶18 As to reunification services, the juvenile court made the following findings and explanations:

This is not someone who did not know where to go and does not know how to navigate recovery and services. This is a

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person who has tested and then not tested . . . who sporadically engages and then disengages, who attempts to find recovery and then takes steps again away from recovery. . . . This is a Mother who continues to use and to avoid services.

¶19 While DCS is required to undertake measures with a reasonable prospect of success, reunification efforts do “not oblige the State to undertake rehabilitative measures that are futile,” *Mary Ellen C. v. Ariz. Dep’t of Econ. Sec.*, 193 Ariz. 185, 192, ¶ 34 (App. 1999), nor is DCS “required to provide every conceivable service or to ensure that a parent participates in each service it offers,” *Maricopa Cnty. Juv. Action No. JS-501904*, 180 Ariz. at 353. On this record, Mother has shown no error.

CONCLUSION

¶20 For the foregoing reasons, we affirm the juvenile court’s order terminating Mother’s parental rights to her children.



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