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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STEVEN M., *Appellant*,

v.

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

No. 1 CA-JV 20-0315
FILED 3-16-2021

Appeal from the Superior Court in Maricopa County
No. JD532254
The Honorable Kristin Culbertson, Judge

AFFIRMED

COUNSEL

Steven M., Phoenix
Appellant

Arizona Attorney General's Office, Mesa
By Eric Devany
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge Lawrence F. Winthrop delivered the decision of the Court, in which
Presiding Judge Paul J. McMurdie and Judge Cynthia J. Bailey joined.

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WINTHROP, Judge:

¶1 Steven M. (“Father”) appeals the juvenile court’s order adjudicating his child, G.M. (born March 3, 2020), dependent. Father argues the juvenile court did not have jurisdiction to adjudicate G.M. dependent. He also argues insufficient evidence supported the dependency finding. For the following reasons, we affirm.

FACTS¹ AND PROCEDURAL HISTORY

¶2 The Department of Child Safety (“DCS”) received a report that Brittany K. (“Mother”)² tested positive for marijuana and amphetamine at her last prenatal visit before G.M.’s birth. G.M. was born three weeks premature and was placed in the neonatal intensive care unit (“NICU”) because of tremors and respiratory distress resulting from substance exposure.

¶3 Based on the substance exposure, DCS took legal custody of G.M. shortly after birth. When a DCS caseworker came to the hospital, Father was aggressive and hostile toward the caseworker and other hospital staff. A hospital staff member eventually called security, and officers later escorted Father from the NICU. Father was also observed shaking and yelling, so DCS asked Father to complete a drug test. Father refused to participate in drug testing.

¶4 Several days later, police pulled over Father for driving recklessly; bloodwork revealed Father’s blood alcohol content was more than twice the legal limit. While detained, Father was uncooperative with police, had to be restrained during the blood draw, purposely banged his head on the holding cell wall, repeatedly kicked the cell door, urinated in the cell, and screamed profanity at the officers.

¹ “On review of an adjudication of dependency, we view the evidence in the light most favorable to sustaining the juvenile court’s findings.” *Willie G. v. Ariz. Dep’t of Econ. Sec.*, 211 Ariz. 231, 235, ¶ 21 (App. 2005).

² Mother is not a party to this appeal. Accordingly, we do not address Father’s arguments related to the court’s determinations adjudicating G.M. dependent as to Mother. See *Maricopa Cnty. Juv. Action No. JS-5894*, 145 Ariz. 405, 408 (App. 1985) (explaining a mother did not have standing to raise issues on appeal related to severance of a father’s parental rights to their child).

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¶5 DCS initiated services for Father, but Father did not meaningfully comply with the requested drug testing nor participate in individual counseling. Father did, however, participate in some parent aide services. The parent aide reported Father was “frequently not able to maintain emotional stability during daily routines,” often “[lost] control of his emotions,” and “had verbal outbreaks during visitation and skill sessions.” The aide also reported both parents “demonstrated minimal ability to raise children without the exposure to danger or maltreatment,” exhibited behavior that was “violent, bizarre, erratic, unpredictable, incoherent, or totally inappropriate and may cause serious or severe harm to the child,” and were “unable to perform essential parental responsibilities due to alcohol/substance use, mental health conditions, physical impairment, or cognitive limitations.”

¶6 The juvenile court held a dependency hearing in July 2020. During the hearing, the case manager testified that DCS was concerned about Father’s emotional stability, explaining why it wanted Father to participate in individual counseling with an anger management component and complete substance abuse testing and related services. The case manager also emphasized the need for Father to show he could be an adequate caregiver and provide G.M. with a safe home life. The court ordered Father to complete a hair follicle drug test the following day and continued the hearing.

¶7 When the court reconvened in September, Father had not completed the hair follicle drug test. In addition, Father had threatened G.M.’s foster placement, DCS counsel, and the juvenile court judge. The court adjudicated G.M. dependent as to Father in October 2020.

¶8 Father filed a timely notice of appeal. We have jurisdiction pursuant to Arizona Revised Statutes (“A.R.S.”) section 8-235(A) and Rule 103(A) of the Arizona Rules of Procedure for the Juvenile Court.

ANALYSIS

I. *Jurisdiction of the Juvenile Court*

¶9 As a primary matter, Father claims the juvenile court did not have jurisdiction over him or the case, arguing “that without a crime there is no claim.” We review *de novo* the juvenile court’s exercise of jurisdiction. See *Willie G.*, 211 Ariz. at 233, ¶ 8.

¶10 Here, DCS filed a petition in the juvenile court alleging G.M. was a dependent child, which petition is specifically authorized by A.R.S.

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§ 8-841(A) (stating DCS “may file a petition to commence proceedings in the juvenile court alleging that a child is dependent”). The filing of the dependency petition allowed the juvenile court to properly exercise jurisdiction over the matter. *See* A.R.S. § 8-202(B) (granting the juvenile court “exclusive original jurisdiction over all proceedings brought under the authority of” Title 8).³

¶11 Moreover, Father does not dispute that both he and Mother live in Arizona, nor dispute that G.M. was born in Arizona. Accordingly, an Arizona court had jurisdiction to make custody determinations, including a dependency determination. *See* A.R.S. §§ 25-1002(7) (defining “home state”), -1031(A)(1) (stating an Arizona court “has jurisdiction to make an initial child custody determination” if Arizona “is the home state of the child on the date of the commencement of the proceeding”); *see also Willie G.*, 211 Ariz. at 233-34, ¶¶ 8-12 (applying A.R.S. §§ 25-1002 and -1031 in the context of dependency proceedings). Therefore, we reject Father’s contention that the juvenile court lacked jurisdiction over him or the dependency proceeding.

II. *Dependency*

¶12 We will not disturb a dependency adjudication unless no reasonable evidence supports it, recognizing that “the juvenile court is vested with a great deal of discretion” because the primary consideration is the best interests of the child. *Willie G.*, 211 Ariz. at 235, ¶ 21 (quoting *Ariz. Dep’t of Econ. Sec. v. Superior Court*, 178 Ariz. 236, 239 (App. 1994)) (internal quotation marks omitted).

¶13 Here, Father argues insufficient evidence supported the dependency adjudication because the evidence presented by DCS was “lies, hearsay, false accusations, [and] perjury.” He also asserts that the juvenile

³ Father also contends the court did not have proper jurisdiction because the initial *ex parte* removal order and other documents refer to “Baby Boy [R.]” or “Not Named [R.]” with R. referring to Mother’s current last name. But the dependency petition, which granted the juvenile court exclusive, original jurisdiction over the matter, properly identified G.M. by name and date of birth. Father also argues jurisdiction was improper because the *ex parte* removal order was signed by a judge *pro tempore*, who Father claims “is not a Judge.” Judges *pro tempore* are authorized by the Arizona Constitution and “have all the judicial powers of a regular elected judge of the court.” Ariz. Const. art. 6, § 31. Accordingly, Father’s arguments fail.

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court erred in finding him not credible and ignoring his proffered evidence. Instead, Father contends the court should have found the allegations made by DCS to be not credible.

¶14 Father is mistaken regarding the role of an appellate court. We are not factfinders, nor do we weigh the credibility of the parties or witnesses. The juvenile court is “in the best position to weigh the evidence, judge the credibility of the parties, observe the parties, and make appropriate factual findings.” *Pima Cnty. Dependency Action No. 93511*, 154 Ariz. 543, 546 (App. 1987). As such, we must “defer to the trial court’s assessment of credibility of witnesses.” *Pima Cnty. Juv. Action No. S-139*, 27 Ariz. App. 424, 427 (1976). Further, “our function on review is not to reweigh the evidence before the juvenile court [n]or supersede its assessment of the evidence with our own.” *Ariz. Dep’t of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 336, ¶ 14 (App. 2004). Thus, Father’s arguments, which ask us to reweigh the evidence presented below and redetermine witnesses’ credibility, must fail.

¶15 Contrary to Father’s assertions, reasonable evidence in the record supports the dependency adjudication. *See Willie G.*, 211 Ariz. at 235, ¶ 21. As applicable here, a “[d]ependent child” is a child “[i]n need of proper and effective parental care and control . . . who has no parent or guardian willing to exercise or capable of exercising such care and control.” A.R.S. § 8-201(15)(a)(i). The DCS case manager testified Father has not yet demonstrated he can be an effective caregiver and emphasized that Father’s emotional instability presents ongoing safety concerns for G.M. Father has repeatedly demonstrated aggressive, hostile, or threatening behavior, including to hospital workers, DCS staff, G.M.’s foster placement, the juvenile court judge, and to police after he was detained for driving under the influence. Moreover, Father has refused to participate in individual counseling to address his anger management issues and has shown limited and insufficient engagement with substance abuse testing or counseling. On this record, Father has not established the court abused its discretion in adjudicating G.M. dependent as to Father.

III. *Other Arguments*

¶16 Father also makes general claims of fraud, conspiracy against rights, racketeering, kidnapping, treason, abuse of power, and organized crime. Even assuming Father has standing to raise such claims in an appeal of a dependency action, these claims are not adequately developed, nor supported by citations to appropriate legal authority, nor addressed with appropriate references to the record. Accordingly, these arguments are

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waived. See Ariz. R. Civ. App. Pro. (“ARCAP”) 13(a)(7)(A) (stating an “argument” must contain “contentions concerning each issue presented for review, with supporting reasons for each contention, and with citations of legal authorities and appropriate references to the portions of the record” relied upon); Ariz. R.P. Juv. Ct. 106(A) (applying ARCAP 13 to juvenile appeals); *Childress Buick Co. v. O’Connell*, 198 Ariz. 454, 459, ¶ 29 (App. 2000) (explaining “issues not clearly raised in appellate briefs are deemed waived” as a “wise policy of judicial restraint”).

¶17 Finally, Father alleges judicial misconduct or bias based on the juvenile court judge’s weighing of the evidence, decisions to admit or exclude certain evidence, and credibility determinations.⁴ But “[t]he trial court is granted discretion in deciding to admit or exclude evidence.” *Maxwell v. Aetna Life Ins. Co.*, 143 Ariz. 205, 213 (App. 1984). Moreover, as the trier of fact, the juvenile court is appropriately tasked with evaluating the evidence and determining the credibility of witnesses. *Dependency Action No. 93511*, 154 Ariz. at 546. A judge’s legitimate exercise of judicial discretion in making evidentiary decisions or determining the credibility of witnesses is not evidence of bias, prejudice, or misconduct. See, e.g., *Mervyn’s v. Superior Court*, 179 Ariz. 359, 362 (App. 1994).

CONCLUSION

¶18 For the foregoing reasons, we affirm the juvenile court’s order adjudicating G.M. dependent as to Father.



AMY M. WOOD • Clerk of the Court
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⁴ Father also asserts prosecutorial error and violations of his due process rights, arguing DCS’ reliance on representations made by the DCS caseworker who initially removed G.M. from the parents’ care was improper because that caseworker did not testify at the dependency hearing. But because a dependency proceeding “is a civil matter[,] we are not involved with Sixth Amendment confrontation problems” and Father’s argument fails. See *Maricopa Cnty. Juv. Action No. J-75482*, 111 Ariz. 588, 592 (1975).