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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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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LAURA C., *Appellant,*

*v.*

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

No. 1 CA-JV 21-0058  
FILED 6-15-2021

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Appeal from the Superior Court in Maricopa County  
No. JD531038  
The Honorable Jeffrey A. Rueter, Judge

**AFFIRMED**

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COUNSEL

Maricopa County Public Advocate's Office, Mesa  
By Suzanne Sanchez  
*Counsel for Appellant*

Arizona Attorney General's Office, Mesa  
By Tom Jose  
*Counsel for Appellee Department of Child Safety*

**MEMORANDUM DECISION**

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

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**M c M U R D I E**, Judge:

¶1 Laura C. (“Mother”) pled no contest to terminating her parental rights to her children, Grace (age 13), Michael (age 9), and twins Renée and Rayna (age 7) (collectively, the “Children”)<sup>1</sup> and now appeals from the termination order. She argues the order lacked a valid factual basis because the Department of Child Safety (“DCS”) failed to provide a reunification service that she alleges DCS’s consulting expert recommended. We conclude that a factual basis supported the juvenile court’s order and therefore affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 In July 2017, DCS filed for an out-of-home dependency alleging *inter alia* that Mother was not providing the Children with stable housing, was exposing the Children to domestic violence, and was abusing alcohol. In November 2017, the juvenile court adjudicated the Children dependent as to Mother and approved a case plan for family reunification.

¶3 DCS offered Mother family-reunification services, including individual counseling, parent-aide services, a psychological evaluation, substance abuse assessment, substance abuse treatment, substance testing, and visitation. The psychological assessment concluded that Mother was responding positively to services, and with continued reunification services, she may eventually be able to parent the Children adequately.

¶4 In March 2019, DCS moved for the termination of Mother’s parental rights under the fifteen-months’ time-in-care ground, A.R.S. § 8-533(B)(8)(c), arguing Mother had failed to remedy the circumstances that caused the Children to be in an out-of-home placement. DCS alleged that it was substantially unlikely that Mother would be able to exercise proper and effective parental care and control in the near future because

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<sup>1</sup> We use pseudonyms to protect the identities of the Children.

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she (1) continued to reside in a home where domestic violence was occurring and with individuals who had failed to demonstrate that they were safe and appropriate, (2) had failed to attend the Children's behavioral health meetings, (3) had not demonstrated an understanding of the Children's needs by completing parent-aide services, (4) was not employed and failed to demonstrate that she could provide for the Children's basic needs, and (5) attended only one individual counseling session during the eight-month period it was offered.

¶5 Mother denied the allegations and requested mediation. The juvenile court set the matter for mediation in May 2019 and for a hearing in September 2019.

¶6 After mediation, DCS agreed to re-refer Mother for individual counseling and another psychological evaluation and reconsider the necessity of termination if Mother participated in the Children's behavioral health meetings, consistently provided clean drug tests, and provided proof of stable income and housing.

¶7 In early September 2019, the court granted DCS's motion to vacate the scheduled termination hearing after DCS asserted that Mother had made enough progress toward reunification and that Mother should be allowed more time to make additional behavioral changes.

¶8 In December 2019, the court ordered DCS to refer Mother for a bonding-and-best-interests assessment. At a hearing in May 2020, DCS informed the court that the bonding-and-best-interests interviews had been completed but that the assessment had not been finalized. DCS requested a finding that it had made reasonable efforts to finalize the permanency plan. Mother objected, arguing that DCS had failed to provide Mother with relationship counseling and parenting time. The court made the requested finding over Mother's objection and set the matter for trial.

¶9 At a hearing in September 2020, DCS again requested that the court make a reasonable-efforts finding. Mother objected to the determination and argued that DCS's efforts had been inadequate in several respects, including that DCS had failed to refer her to a neurologist recommended in the bonding-and-best-interests assessment. The court asked whether DCS planned to make a referral based on the recommendation in the evaluation. Counsel for DCS responded that it was not feasible to make, assign, and schedule the referral before the trial. Over Mother's objection, the court again found that DCS made reasonable efforts to finalize the permanency plan.

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¶10 By January 4, 2021, Mother had reached a settlement agreement to enter a no-contest plea regarding DCS’s motion for termination concerning her parental rights over the Children. At the January 7 termination hearing, Mother did not contest the allegations in the termination motion concerning the Children and waived her right to a trial. DCS presented evidence that it provided Mother with reunification services including substance testing, psychological evaluations, parent-aide services, therapeutic visits, a bonding-and-best-interests assessment, transportation, counseling, and case management. In addition, DCS presented evidence that Mother inconsistently participated in substance testing and individual counseling and that domestic violence acts occurred in Mother’s residence during the case.

¶11 The juvenile court found that Mother was unable to remedy the circumstances that caused the Children to be in an out-of-home placement, the Children had been in an out-of-home placement for more than 15 months, and there was a substantial likelihood that Mother would not be capable of exercising proper and effective parental care and control in the near future. The court terminated Mother’s parental rights to the Children. Mother appealed, and we have jurisdiction under A.R.S. §§ 8-235(A) and 12-120.21(A)(1).

### DISCUSSION

¶12 A.R.S. § 8-533(B)(8)(c) provides for the termination of parental rights when (1) a child has been in court-ordered out-of-home placement for at least fifteen months, (2) the State has made a diligent effort to provide appropriate reunification services, (3) the parent has been unable to remedy the circumstances causing the child to be placed out of home, and (4) there is a substantial likelihood that the parent would not be capable of exercising proper and effective parental care and control in the near future. *Donald W. v. DCS*, 247 Ariz. 9, 17, ¶ 25 (App. 2019).

¶13 A parent who does not contest the termination of her parental rights is entitled only to a review of whether a factual basis supported termination. Ariz. R.P. Juv. Ct. 66(D)(1)(c). “On appeal, our task is to discern whether the juvenile court record includes evidence that, if believed, would establish the statutory grounds for termination of Mother’s parental rights.” *Tina T. v. DCS*, 236 Ariz. 295, 299, ¶ 16 (App. 2014), *abrogated on other grounds by Sandra R. v. DCS*, 248 Ariz. 224 (2020).

¶14 Mother cites *Mary Ellen C. v. ADES*, 193 Ariz. 185, 192, ¶ 37 (App. 1999), and argues the juvenile court’s order lacked a valid factual

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basis to support the termination of her parental rights because DCS did not refer her for the neurological evaluation recommended in her bonding-and-best-interests assessment. In *Mary Ellen C.*, we concluded that the State presented insufficient evidence to show it had made a reasonable effort to provide a parent with rehabilitative services when the juvenile court record showed that DCS had failed to offer a service recommended by its expert. 139 Ariz. at 190, ¶ 24, 192–93, ¶¶ 35–42.

¶15 But, here, there was no evidence before the juvenile court that DCS had failed to offer a service recommended by its expert because the bonding-and-best-interests assessment was not introduced as evidence. In addition, because Mother pled no contest in this case, she is not permitted “to assert a broad attack on the sufficiency of the evidence.” *Tina T.*, 236 Ariz. at 298, ¶ 14. Mother had the opportunity to challenge the sufficiency of DCS’s reunification efforts by contesting termination, introducing evidence of the recommendation she asserts was made in the bonding-and-best-interests assessment, and arguing before the juvenile court that DCS failed to meet its burden. She voluntarily waived her right to make that challenge and may now challenge only whether the juvenile court record included evidence that established the statutory ground for termination.

¶16 Mother challenges only the factual basis supporting DCS’s reunification efforts, so our review is limited to the evidence supporting that element. DCS presented evidence that Mother was offered substance abuse treatment, substance testing, psychological evaluations, parent-aide services, therapeutic visits, a bonding-and-best-interests assessment, transportation, counseling, and case management and that Mother failed to attend parent-aide sessions and visitations with the Children and had been inconsistently engaging in substance testing and individual counseling. On this record, the juvenile court’s finding that DCS made a diligent effort to provide appropriate reunification services to Mother was supported by the evidence.

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**CONCLUSION**

¶17 We affirm the juvenile court's order terminating Mother's parental rights.



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