

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

ELIZABETH B., *Appellant,*

v.

DEPARTMENT OF CHILD SAFETY, C.V., *Appellees.*

No. 1 CA-JV 22-0042
FILED 7-21-2022

Appeal from the Superior Court in Maricopa County
No. JD38844
The Honorable Suzanne Scheiner Marwil, Judge

AFFIRMED

COUNSEL

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

Arizona Attorney General's Office, Tucson
By James W. Rappaport
Counsel for Appellees Department of Child Safety

MEMORANDUM DECISION

Judge D. Steven Williams delivered the decision of the court, in which Presiding Judge David D. Weinzweig and Judge Randall M. Howe joined.

WILLIAMS, Judge:

¶1 Elizabeth B. (“Mother”) appeals the superior court’s order terminating her parental rights. For the following reasons, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2 Mother has a long history of substance abuse. She reported using methamphetamine while pregnant, and her child was born substance-exposed to amphetamine. Within days of the child’s birth, the Department of Child Safety (“DCS”) initiated an out-of-home dependency and placed the child with a relative. DCS alleged the child was dependent due to Mother’s abuse and/or neglect.

¶3 DCS provided Mother with a variety of services, including substance-abuse assessment/treatment, drug-testing, supervised visitation, parent-aide services, psychiatric evaluation, and individual counseling. Mother initially engaged in services, completed outpatient substance-abuse treatment, and was allowed to live with the child and placement. However, after Mother tested positive for methamphetamine and amphetamine, DCS asked Mother to move out of the placement’s home.

¶4 Over the next six months, Mother sporadically participated in substance-abuse services and continued to test positive for methamphetamine. To her credit, Mother then completed a thirty-day residential treatment program. However, upon discharge, Mother failed to enter a sober living facility and failed to submit to drug testing.

¶5 DCS continued to offer Mother services, but her participation was inconsistent. At some point, DCS became aware that Mother did not have stable housing. DCS provided her with community resources for shelters and assigned her a family support partner to address her housing instability. Mother later reported that she was living in an apartment with a friend. Nevertheless, Mother continued to test positive for substances.

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¶6 DCS moved to terminate Mother's parental rights on the grounds of chronic substance-abuse and six, nine, and fifteen months' time in an out-of-home placement. *See* A.R.S. § 8-533(B)(3), (B)(8).

¶7 At the termination trial, Mother moved to continue the trial so that she could enroll in an inpatient treatment program. The superior court denied Mother's motion noting that Mother had ample time and opportunity to enter an inpatient program before trial.

¶8 The court terminated Mother's parental rights on each of the grounds alleged. *See* A.R.S. § 8-533(B)(3), (B)(8). Mother timely appealed.

¶9 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 601(a).

DISCUSSION

¶10 Parental rights are fundamental, but not absolute. *Dominique M. v. Dep't of Child Safety*, 240 Ariz. 96, 97, ¶ 7 (App. 2016). A court may terminate a parent's right in the care, custody, and management of their children "if it finds clear and convincing evidence of one of the statutory grounds for severance, and also finds by a preponderance of the evidence that severance is in the best interests of the children." *Id.* at 97-98, ¶ 7.

¶11 We review a termination order for 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 superior 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)).

¶12 The superior court may terminate a parent-child relationship on the statutory grounds of chronic substance-abuse or six, nine, or fifteen months' time in an out-of-home placement only if it finds DCS has made diligent efforts to reunify the family. *See Jennifer G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 450, 453, ¶ 12 (App. 2005) (substance abuse); A.R.S. § 8-533(B)(8) (out-of-home placement).

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¶13 Mother does not challenge the superior court's statutory findings, or that termination of the parent-child relationship was in the child's best interests. *Christina G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 231, 234, ¶ 14 n.6 (App. 2011) (recognizing the failure to develop an argument on appeal usually results in abandonment and waiver of the issue). Instead, Mother challenges whether DCS made diligent reunification efforts.

¶14 According to Mother, DCS's efforts were insufficient because "DCS failed to meaningfully assist Mother [to] overcome her homelessness." Mother argues DCS should have provided her with a housing subsidy because "homelessness hampered Mother's ability to achieve and maintain sobriety."

¶15 Mother's case manager testified that while DCS offers a housing subsidy, the subsidy is reserved for parents for whom homelessness is the only barrier to reunification. She further testified that because Mother's substance abuse posed an additional barrier to reunification, DCS was unable to offer her a subsidy, but that DCS provided Mother with community resources to identify shelters and a family support partner to assist her. Additionally, the record shows that Mother abused substances while in the placement's home with the child and in other periods of stable housing. The superior court did not err in finding DCS made diligent efforts to provide Mother appropriate reunification services.

¶16 Mother also contends the superior court abused its discretion when it denied her motion to continue.

¶17 A motion to continue may be granted only upon a showing of good cause. *See Ariz. R.P. Juv. Ct. 318(a)*. We review the denial of a motion to continue for a clear abuse of discretion. *Yavapai Cnty. Juv. Action No. J-9365*, 157 Ariz. 497, 499 (App. 1988), *holding modified on other grounds by Maricopa Cnty. Juv. Action No. JS-7499*, 163 Ariz. 153, 157-58 (App. 1989). A motion to continue will not be reversed absent a showing of prejudice. *State v. Mauro*, 159 Ariz. 186, 200 (1988).

¶18 The record supports the superior court's finding that no good cause existed to continue the trial. By the time of the termination trial, the child had been with placement for over two years. Nevertheless, Mother's case manager testified that Mother was still at the beginning stages of addressing her sobriety. Moreover, Mother had five months between the filing of the termination motion and trial to enter an inpatient treatment program but failed to do so.

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CONCLUSION

¶19 For the foregoing reasons, we affirm the superior court's termination order.



AMY M. WOOD • Clerk of the Court
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