

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



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FILED: 07-15-2010  
PHILIP G. URRY, CLERK  
BY: GH

DANIEL F., ) 1 CA-JV 09-0191  
Appellant, ) 1 CA-JV 09-0201  
) (Consolidated)  
)  
v. ) DEPARTMENT B  
)  
ARIZONA DEPARTMENT OF ECONOMIC ) **MEMORANDUM DECISION**  
SECURITY, D.F., J.F., ) (Not for Publication -  
) Ariz. R.P. Juv. Ct. 103(G);  
Appellees. ) ARCAP 28)  
)  
)  
)

Appeal from the Superior Court in Maricopa County

Cause Nos. JD17052, JS11317

The Honorable Cathy M. Holt, Retired Judge

**AFFIRMED**

Popilek & Jones PA  
By John L. Popilek  
Attorneys for Appellant

Scottsdale

Terry Goddard, Attorney General  
By Carol A. Salvati, Assistant Attorney General  
Attorneys for Appellees

Phoenix

**N O R R I S**, Judge

¶1 Daniel F. ("Father") timely appeals the juvenile court's order terminating his parental relationship with his daughters, D.F. and J.F. On appeal, Father challenges the

sufficiency and reliability of the evidence to terminate his parental rights.<sup>1</sup> Because the factual findings made by the juvenile court were supported by substantial evidence, we affirm the court's termination order.

#### **FACTS AND PROCEDURAL BACKGROUND**

¶2 On July 29, 2008, police came to Father's home to investigate allegations he was sexually abusing D.F. In a patrol car parked across the street from the home, D.F. described the abuse to a female officer and the girls were taken into temporary physical custody. The Arizona Department of Economic Security ("ADES") filed a dependency petition on August 4, 2008, and a petition for termination on April 8, 2009, alleging Father "ha[d] not addressed his sexual abuse problem." An 11 day adjudication hearing on both petitions began July 8, 2009, and ended on September 22, 2009.

¶3 At trial, the juvenile court heard testimony from the female officer, Father, two of the girls' therapists, the woman who worked in their home who was largely responsible for

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<sup>1</sup>Father also appeals the juvenile court's order finding D.F. and J.F. dependent as to him under Arizona Revised Statutes ("A.R.S.") section 8-201(13)(iii) (Supp. 2009). Because the basis for the court's termination of Father's parental rights was the same for finding his daughters dependent, and because we affirm the juvenile court's termination order, the dependency appeal is moot. And, even if not moot, the evidence presented amply supported the juvenile court's dependency order, the reasoning of which was virtually identical to the court's termination order.

reporting the abuse, a family nurse practitioner who conducted a medical examination of D.F., the detective assigned to the case, a nurse practitioner who diagnosed D.F. with post-traumatic stress disorder, the Child Protective Services case manager, and 11 witnesses for Father. Based on the evidence presented, the court found ADES had shown by clear and convincing evidence Father sexually abused D.F. and physically abused both girls, constituting grounds for termination of his parental rights under A.R.S. § 8-533(B)(2) (Supp. 2009). The court also found by a preponderance of the evidence that termination of Father's parental rights was in the best interests of D.F. and J.F.

#### **DISCUSSION**

¶4 We will not disturb the juvenile court's decision to terminate parental rights unless the court abused its discretion or its findings were clearly erroneous. *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, 47, ¶ 8, 83 P.3d 43, 47 (App. 2004) (quoting *Maricopa County Juv. Action No. JV-132905*, 186 Ariz. 607, 609, 925 P.2d 748, 750 (App. 1996)). We view the evidence in the light most favorable to affirming the judgment, *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, 95, ¶ 10, 210 P.3d 1263, 1266 (App. 2009), and as the trier of fact in a termination proceeding, the juvenile court "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Jordan*

*C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, \_\_, ¶ 18, 219 P.3d 296, 303 (App. 2009) (quoting *Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, 334, ¶ 4, 100 P.3d 943, 945 (App. 2004)).

¶15 The juvenile court may sever the parent-child relationship upon finding that clear and convincing evidence demonstrates a statutory ground for severance, and a preponderance of the evidence demonstrates severance is in the best interests of the child. *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, \_\_, ¶ 15, 231 P.3d 377, 381 (App. 2010); see A.R.S. § 8-533(B). Under A.R.S. § 8-533(B)(2), the juvenile court is authorized to terminate parental rights if a parent "has neglected or wilfully abused a child. This abuse includes serious physical or emotional injury."

¶16 Father contends the court's findings of abuse were "not supported by significant or reliable evidence."<sup>2</sup> We disagree; the record supports the juvenile court's detailed findings of Father's physical and sexual abuse of D.F. and physical abuse of J.F. The court found the girls' accounts of abuse by Father were, as presented through ADES's witnesses,

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<sup>2</sup>Father also contends he was denied due process because ADES did not provide notice it would argue Father had emotionally abused the girls. We decline to address this argument because the record contains ample evidence supporting the juvenile court's factual findings of physical and sexual abuse.

"detailed, substantially consistent, and extremely credible." The court noted Father's arguments were without substantive evidence or simply not credible. Thus, the juvenile court did not abuse its discretion when it found Father had abused the girls and severance was in their best interests.

**CONCLUSION**

¶7 For the foregoing reasons, we affirm the juvenile court's termination order.

/s/

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PATRICIA K. NORRIS, Judge

CONCURRING:

/s/

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JON W. THOMPSON, Presiding Judge

/s/

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ANN A. SCOTT TIMMER, Chief Judge