

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



DIVISION ONE
FILED: 11/22/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

ELIZABETH C.,) No. 1 CA-JV 11-0130
)
Appellant,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
)
ARIZONA DEPARTMENT OF ECONOMIC) (Not for Publication -
SECURITY, MARINA D.,) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
Appellees.)
)

Appeal from the Superior Court in Maricopa County

Cause No. JD18760

The Honorable Bethany G. Hicks, Judge

AFFIRMED

Robert D. Rosanelli, Attorney at Law Phoenix
By Robert D. Rosanelli
Attorney for Appellant

Thomas C. Horne, Attorney General Phoenix
By David M. Osterfeld, Assistant Attorney General
Attorneys for Appellees

T I M M E R, Judge

¶1 Elizabeth C. ("Mother") appeals the juvenile court's
order terminating her parental rights to Marina D. Mother

argues the court erred because the evidence did not support its finding that three statutory grounds listed in Arizona Revised Statutes ("A.R.S.") section 8-533(B) (Supp. 2010) exist to justify severance. For the following reasons, we disagree and therefore affirm.

BACKGROUND

¶12 Marina was born on November 8, 2009. Mother is a resident of California but in January 2010 fled to Arizona to get away from her allegedly abusive boyfriend, Marina's father. Mother left two-month-old Marina at a domestic violence shelter when Mother was hospitalized for mental health issues. With no other caretaker, the Arizona Department of Economic Security ("ADES") took custody of Marina. Later that month, Mother returned to California.

¶13 ADES filed a dependency petition, alleging Mother had neglected Marina due to mental illness and Mother did not have stable housing or employment. The juvenile court found Marina was dependent as to Mother and adopted a case plan of family reunification. To facilitate reunification, ADES offered Mother services including supervised visitation, parenting classes, psychological evaluation, domestic violence counseling, and substance abuse treatment. Mother was also ordered to continue mental health services.

¶4 On December 27, 2010, ADES filed a motion to sever Mother's parental rights. Mother initially contested the motion, but at trial on May 25, 2011, decided to not contest severance. ADES presented testimony from a Child Protective Services ("CPS") unit supervisor and offered three exhibits as evidence. The court terminated Mother's parental rights to Marina, finding severance was warranted on the grounds of abandonment, A.R.S. § 8-533(B)(1), inability to discharge parental responsibilities due to history of chronic drug and alcohol abuse, A.R.S. § 8-533(B)(3), and out-of-home placement for nine months or longer, A.R.S. § 8-533(B)(8)(a). Additionally, the court ruled severance was in Marina's best interests. See A.R.S. § 8-533(B). Mother timely appealed.

DISCUSSION

¶5 The juvenile court may terminate the parent-child relationship only upon finding that clear and convincing evidence demonstrates a statutory ground for severance and that a preponderance of the evidence shows severance is in the child's best interests. A.R.S. § 8-533(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22, 110 P.3d 1013, 1018 (2005). We will accept the juvenile court's findings unless those findings are clearly erroneous, *Mary Ellen C. v. Ariz. Dep't of Econ. Sec.*, 193 Ariz. 185, 190, ¶ 25, 971 P.2d 1046, 1051 (App. 1999), and will affirm a severance order if reasonable evidence supports

the court's factual findings. *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 2, 982 P.2d 1290, 1291 (App. 1998). Further, we view the evidence in the light most favorable to affirming the judgment. *Maricopa County Juv. Action No. JS-8490*, 179 Ariz. 102, 106, 876 P.2d 1137, 1141 (1994).

¶6 Mother does not dispute the court's finding that severance was in Marina's best interests. Rather, Mother argues the court improperly terminated her parental rights because the evidence was insufficient to support the findings that she had abandoned Marina, that she had a history of chronic abuse of drugs or alcohol that would likely continue for a prolonged indeterminate period, or that she had substantially neglected or willfully refused to remedy the circumstances that brought Marina into care. If the evidence supports any one of the statutory grounds, we need not address contentions relevant to the other grounds. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 251, ¶ 27, 995 P.2d 682, 687 (2000); *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 3, 53 P.3d 203, 205 (App. 2002). Thus, we only discuss the ground of Marina being in out-of-home placement for nine months or longer and Mother substantially neglecting or willfully refusing to remedy the circumstances that brought Marina into ADES's care, see A.R.S. § 8-533(B)(8)(a), because resolution of the challenge to the existence of that ground is dispositive of this appeal.

¶17 Pursuant to § 8-533(B)(8)(a), the court was permitted to sever Mother's parental rights to Marina if (1) ADES had made a diligent effort to provide appropriate reunification services, (2) Marina had been in an out-of-home placement for nine months or longer pursuant to court order, and (3) Mother had substantially neglected or willfully refused to remedy the circumstances causing the placement. Mother does not dispute the court's findings that Marina had been in an out-of-home placement for more than nine months or that ADES had made a diligent effort to provide appropriate reunification services to Mother. Rather, Mother argues the court improperly severed her parental rights because the evidence was insufficient to support the finding that she had substantially neglected or willfully refused to remedy the circumstances that brought Marina into care. We disagree.

¶18 Our review of the record reveals Mother's participation in the services offered by ADES was minimal. During the month of September 2010, she returned to Arizona and submitted to a psychological evaluation with Dr. James Thal, who recommended urinalysis testing ("UA").¹ She subsequently submitted to three UAs while in Arizona, all of which came back

¹ Dr. Thal diagnosed mother with alcohol abuse, methamphetamine abuse, bipolar disorder, and borderline personality disorder and recommended intensive outpatient treatment, therapy, and other services.

negative. She also had one supervised visit with Marina,² and then returned to California.

¶19 According to CPS case worker Bernadette Rodriguez and unit supervisor John Hicks, Mother failed to participate in the other services offered to her by ADES. Mother contends she was unable to participate in these services because she was living in California, but ADES ensured services were available for her there. She was referred to "Options Recovery" in California for a substance-abuse-treatment program but did not attend. She was referred to "First 5 Contra Costa" in California for parenting classes but failed to participate. She failed to submit to further UAs. She failed to complete a psychiatric evaluation consultation requested by Dr. Thal. She failed to visit Marina more than twice during the sixteen-month period between initial custody and severance, though regular visitation was recommended by Dr. Thal and required by ADES. Finally, she failed to obtain stable employment and housing.

¶10 Given this record, we cannot say the juvenile court erred in finding that Mother had substantially neglected or willfully refused to remedy the circumstances that brought Marina into care. See *Maricopa County Juv. Action No. JS-501568*, 177 Ariz. 571, 576 n.1, 869 P.2d 1224, 1229 n.1 (App.

² Mother may have had another supervised visit with Marina sometime between May 2010 and December 2010; the record is unclear on this point.

1994) (explaining that more than trivial or minimal efforts at remediation is required to avoid severance pursuant to former version of A.R.S. § 8-533(B)(8)(a)).

¶11 In summary, sufficient, reasonable evidence supported the juvenile court's ruling that severance was warranted under A.R.S. § 8-533(B)(8)(a).

CONCLUSION

¶12 For the foregoing reasons, we affirm.

/s/

Ann A. Scott Timmer, Judge

CONCURRING:

/s/

Michael J. Brown, Presiding Judge

/s/

Philip Hall, Judge