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See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 12/29/2011  
RUTH A. WILLINGHAM,  
CLERK  
BY: GH

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

DAQUIN H. , ) No. 1 CA-JV 11-0135  
)  
) DEPARTMENT E  
)  
Appellant, ) **MEMORANDUM DECISION**  
)  
v. ) (Not for Publication -  
) Ariz. R.P. Juv. Ct. 103(G);  
ARIZONA DEPARTMENT OF ECONOMIC ) ARCAP 28)  
SECURITY, QUANTASIA M. , )  
)  
Appellees. )  
)

Appeal from the Superior Court in Maricopa County

Cause No. JD 17554

The Honorable Bethany G. Hicks, Judge

**AFFIRMED**

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Denise L. Carroll  
Attorney for Appellant

Scottsdale

Thomas C. Horne, Arizona Attorney General Phoenix  
By Michael F. Valenzuela, Assistant Attorney General  
Attorneys for Appellees

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H A L L, Judge

¶1 Daquin H. (Father) appeals<sup>1</sup> from the juvenile court's order terminating his parental rights to Quantasia.<sup>2</sup> Father urges this court to reverse the order. For the following reasons, we affirm.

### FACTS<sup>3</sup> AND PROCEDURAL BACKGROUND

¶2 Father is the biological parent of Quantasia, born on February 8, 2000. In December 2008, Child Protective Services (CPS) received a report that Mother had been physically abusing her children as well as abusing drugs and alcohol. Mother disclosed to CPS that she had been "smoking marijuana, snorting cocaine and using a glass pipe with crack cocaine." Quantasia and her siblings were removed from Mother's care and placed in custody.

¶3 Arizona Department of Economic Security (ADES) alleged that Father was unable to parent due to neglect and abandonment. ADES was unable to locate Father for the initial proceedings in the juvenile court. Father failed to appear at the publication hearing and the juvenile court found Quantasia dependent as to

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<sup>1</sup> Tamika M.'s (Mother) parental rights have also been terminated, but she is not a party to this appeal. Mother has other children not involved in this case.

<sup>2</sup> Father's rights to his other child, Jeronamo M., have not been severed, and Jeronamo is not a party to this appeal.

<sup>3</sup> We review the evidence and draw all reasonable inferences in the light most favorable to upholding the juvenile court's factual findings. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 282, ¶ 13, 53 P.3d 203, 207 (App. 2002).

Father, made her a temporary ward of the court, and committed her to the temporary care, custody and control of ADES.

¶4 In November 2010, ADES moved for termination of the parent-child relationship, arguing that Father abandoned Quantasia and Quantasia had been in an out-of-home placement for fifteen months or longer. The juvenile court granted the motion and changed the permanent case plan to severance and adoption.

¶5 In December 2010, after Quantasia had been in an out-of-home placement for two years, the juvenile court was notified that Father had been residing in the Michigan Reformatory Prison since 2004. Father was released on March 8, 2011, and remained in Michigan. He appeared telephonically for an initial severance hearing, which the court continued, and he contested severing his parental rights to Quantasia.

¶6 The Foster Care Review Board (FCRB) issued findings and recommendations in May 2009, November 2009, November 2010, and May 2011. In its May 2011 report, the FCRB stated that Father had recently been released from an out-of-state incarceration and had not been involved in Quantasia's life. The FCRB found that based on both the length of time Quantasia had been in an out-of-home care and Father's lack of involvement in her life, it was in Quantasia's best interests for her to be adopted.

¶7 The juvenile court held the contested severance hearing in July 2011. Father testified that he had been incarcerated from 1999 to 2004 for receiving and concealing stolen vehicles and incarcerated from 2004 to 2011 for armed robbery and had therefore been incarcerated his entire adult life. Father stated he was unemployed. He conceded that he had been required to register as a sex offender from 1994 until July 1, 2011. Father admitted he had not seen Quantasia in seven years. Father stated he attempted to write letters to Mother during his incarceration, but she did not respond. Father admitted he failed to send financial support, letters, cards, or gifts to Quantasia since she was placed in CPS's care in December 2008. Father received a letter from CPS around March 2011 notifying him of Quantasia's removal from Mother, but ADES did not offer to provide him with reunification services. Father stated that it was not his intention to abandon Quantasia.

¶8 CPS caseworker Tarina Wood testified that Quantasia had special needs and she was receiving special attachment therapy, behavioral health services, and medication to manage her behavior. Wood further testified that it was in Quantasia's best interests to terminate Father's parental rights because she did not "have any bond with [Father]. [She does not] have an attachment. [Quantasia and Father do not] have a relationship.

He hasn't been involved in [her] life. [Quantasia is] not familiar with him in any way." Wood also stated that Quantasia had been residing in an adoptive placement with her sibling<sup>4</sup> for an extended period of time. Wood testified that Father "has additional work that he needs to do on himself before he will be in a position to be able to parent [a child] with special needs." Wood explained that Father was not provided with reunification services because ADES did not find Father until December 2010, and the case plan was already severance and adoption. Wood stated that Quantasia's best interests "outweigh[ed] the need for Father to do services" and Quantasia's best interests "would be served by severance and adoption."

¶9 The juvenile court found that ADES proved by clear and convincing evidence that Father abandoned Quantasia "by reason of his lengthy incarceration." The juvenile court further found that termination of Father's parental rights was in Quantasia's best interests because it would allow her "to achieve permanency and stability in an adoptive home with her sibling." Thus, the juvenile court terminated Father's parental rights to Quantasia.

¶10 Father timely appeals and argues the juvenile court erred by finding that Father's parental rights should be terminated due to abandonment and that severance was in

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<sup>4</sup> Father is not the parent of Quantasia's sibling.

Quantasia's best interests. We have jurisdiction under Arizona Revised Statutes (A.R.S.) sections 8-235 (2007) and 12-120.21 (2003) and Arizona Rule of Procedure for the Juvenile Court 103(A).

#### DISCUSSION

¶11 The juvenile court may terminate the parent-child relationship only upon finding that clear and convincing evidence demonstrates at least one statutory ground for severance and that a preponderance of the evidence shows severance is in the child's best interest. A.R.S. § 8-533(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, 284, ¶ 22, 110 P.3d 1013, 1018 (2005). We will affirm the judgment unless the juvenile court abused its discretion by making "factual findings [that] are clearly erroneous[;] that is, unless there is no reasonable evidence to support them." *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 2, 982 P.2d 1290, 1291 (App. 1998) (citations omitted). "[T]he juvenile court will be deemed to have made every finding necessary to support the judgment." *Maricopa County Juv. Action No. JS-8287*, 171 Ariz. 104, 111, 828 P.2d 1245, 1252 (App. 1991) (citations omitted).

¶12 Pursuant to A.R.S. § 8-533(B)(1), the juvenile court was authorized to terminate Father's rights upon a finding that Father abandoned the child. A.R.S. § 8-531(1) defines abandonment as:

[T]he failure of a parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandonment includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.

¶13 Abandonment is measured objectively by examining the parent's conduct, not subjective intent. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 249-50, ¶ 18, 995 P.2d 682, 685-86 (2000); *Anonymous v. Anonymous*, 25 Ariz.App. 10, 12, 540 P.2d 741, 743 (1975). Father failed to maintain a relationship with Quantasia without just cause for a period of time in excess of six months. A.R.S. § 8-531(1). Incarceration does not justify Father's failure to support or communicate with Quantasia, nor is it a legal defense to abandonment. *Michael J.*, 196 Ariz. at 250, ¶¶ 21-22, 995 P.2d at 686. Father admitted he had not seen Quantasia since 2004 and had not sent financial support, letters, cards, or gifts to Quantasia since she was placed in out-of-home care. Thus, Father's conduct of failing to support, stay in contact, or communicate with Quantasia while she was in an out-of-home placement constitutes abandonment. See *Id.* at 249-50, ¶ 18, 995 P.2d at 685-86 (abandonment is determined by the parent's conduct, including whether the parent has provided reasonable support, maintained

regular contact, made more than minimal efforts to support and communicate with the child, and maintained a normal parental relationship).

¶14 Further, although ADES did not locate Father until December 2010, ADES made a concerted effort to locate Father through a parent locate and held a publication dependent hearing and publication severance hearing in an effort to find him. ADES's failure to find Father earlier did not interfere or prevent Father from parenting Quantasia or developing a relationship with her. *See Id.* at 251, ¶ 25, 995 P.2d at 687. Even after Father became aware of Quantasia's out-of-home placement, Father failed to provide for Quantasia, communicate with her, or attempt to create a parent/child relationship with her.

¶15 Father also maintains that ADES failed to offer him reunification services. However, "neither § 8-533 nor federal law requires that a parent be provided reunification services before the court may terminate the parent's rights on the ground of abandonment." *See Bobby G. v. Ariz. Dep't Econ. Serv.*, 219 Ariz 506, 510, ¶ 11, 200 P.3d 1003, 1007 (App. 2008). Given Father's complete lack of involvement in Quantasia's life, his failure to demonstrate an interest in her well-being, communicate with her, or provide financial support, and the extended length of time Father was incarcerated, the juvenile



court was justified in terminating Father's parental rights to Quantasia without offering him reunification services. Thus, the juvenile court had a sufficient basis to conclude by clear and convincing evidence that Father abandoned Quantasia.

¶16 Father next argues the juvenile court erred in finding that it was in Quantasia's best interests to terminate the parent-child relationship. In support of this ruling, the court found that terminating Father's parental rights "would allow Quantasia to achieve permanency and stability in an adoptive home with her sibling."

¶17 In considering Quantasia's best interests, the juvenile court was required to determine how Quantasia would benefit from the severance or be harmed by the continuation of her relationship with Father. *Maricopa County Juv. Action No. JS-500274*, 167 Ariz. 1, 5, 804 P.2d 730, 734 (1990). Wood testified that Quantasia's current placement with her foster family was meeting her specialized needs, they are able to provide her with the appropriate support she requires, and that her foster parents expressed a strong interest in adopting her. Additionally, Wood opined that termination and adoption were in Quantasia's best interests. This evidence was sufficient to support the court's best-interests finding. *Audra T.*, 194 Ariz. at 377, ¶ 5, 982 P.2d at 1291. Thus, although Father expressed the desire to parent Quantasia, we cannot say the juvenile court

erred by finding that termination of his rights was in Quantasia's best interests.

**CONCLUSION**

¶18 For the foregoing reasons, we affirm the judgment terminating Father's parental rights to Quantasia.

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PHILIP HALL, Judge

CONCURRING:

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MICHAEL J. BROWN, Presiding Judge

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PATRICIA K. NORRIS, Judge