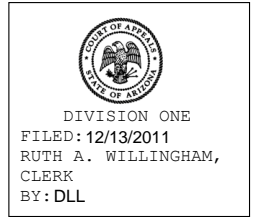


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

JOCY M., )  
 ) No. 1 CA-JV 11-0138  
 Appellant, )  
 ) DEPARTMENT D  
 v. )  
 ) **MEMORANDUM DECISION**  
 ARIZONA DEPARTMENT OF ECONOMIC )  
 SECURITY, ROBERTO M., REYNA M., ) (Not for Publication -  
 REY-FIDEL M., ) 103(G) Ariz.R.P. Juv. Ct.;  
 ) Rule 28 ARCAP  
 Appellees. )  
 )  
 )

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Appeal from the Superior Court in Maricopa County

Cause No. JD508733

The Honorable Brian K. Ishikawa, Judge

**AFFIRMED**

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Robert D. Rosanelli  
Attorney for Appellant

Phoenix

Thomas C. Horne, Attorney General  
By Amanda Holguin, Assistant Attorney General  
Attorney for Arizona Department of Economic Security

Mesa

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G E M M I L L, Judge

¶1 Jocy M. appeals the juvenile court's finding that termination of her parental rights was in the best interests of her three children. For the following reasons, we affirm.

## FACTS AND PROCEDURAL HISTORY

¶12 Jocy ("Mother") is the biological mother of three children: R.M., born in 2010, R.I.M., born in 2007, and R.J.M., born in 2003. Mother is currently incarcerated and serving a five-year sentence of imprisonment in the Arizona Department of Corrections for armed robbery. Mother's release date is in November 2014, and her earliest release is in February 2014.

¶13 Mother placed her children with her mother, the maternal grandmother, and gave her mother a power of attorney ("POA"). The POA expired and neither Mother nor her mother sought to replace it. Child Protective Services ("CPS") had concerns regarding whether the maternal grandmother could care financially for the children's needs, and CPS also had concerns that the maternal grandmother's home environment was unsafe. In September 2006, the maternal grandmother was cited for child neglect, her second citation for neglect (the first being in July 2006).

¶14 R.J.M. and R.I.M. were placed with their maternal great-grandparents, and R.M. was placed with maternal cousins. The children's maternal great-grandfather passed away, but R.J.M. and R.I.M. remained in the care of their maternal great-grandmother. The children visited Mother approximately once per month.

¶15 Arizona Department of Economic Security ("ADES") moved

to terminate Mother's parental rights in October 2010, on the grounds that Mother was "deprived of her civil liberties due to the conviction of a felony and [Mother]'s sentence is of such length that the children will be deprived of a normal home for a period of years." See Ariz. Rev. Stat. ("A.R.S.") § 8-533(B)(4) (Supp. 2010).

¶6 The juvenile court held a one-day contested severance hearing in July 2011. The court found, by clear and convincing evidence, that Mother was deprived of her civil liberties due to her felony conviction, and that Mother's sentence was of such a length that her children would be deprived of a normal home for a period of years. The court explained its finding regarding the children's best interests as follows:

The Court finds by a preponderance of the evidence that it is in each child's best interest for termination of the parent-child relationship to occur. Termination of the relationship would benefit the children because it would render the children free for adoption. Adoption will provide the children permanency and stability. Due to [M]other's long sentence . . . the children will be deprived of permanency for an extended period of time if the parents rights were not terminated. The children are residing with maternal relatives who are committed to adopting them. The children's current placements are the least restrictive placements available consistent with the needs of the children.

The court ordered the termination of Mother's parental rights to

her three children.<sup>1</sup>

¶17 Mother timely appealed, and we have jurisdiction pursuant to A.R.S. §§ 8-235 (2007) and 12-120.21 (2003).

#### DISCUSSION

¶18 On appeal, Mother argues only that the juvenile court erred in finding that termination of her parental rights was in the best interests of her children.

¶19 "We view the facts in the light most favorable to sustaining the juvenile court's findings, and if there is any evidence to support the order we must affirm it." *Maricopa County Juv. Action No. JD-5312*, 178 Ariz. 372, 376, 873 P.2d 710, 714 (App. 1994). An order of the juvenile court terminating parental rights must include a finding, by a preponderance of the evidence, that severance is in the child's best interests. A.R.S. § 8-533(B). When considering a child's best interests, the court must make "a finding as to how the child would benefit from a severance or be harmed by the continuation of the [parental] relationship." *Maricopa County Juv. Action No. JS-500274*, 167 Ariz. 1, 5, 804 P.2d 730, 734 (1990) (citations omitted). A current adoptive plan is evidence that a child would benefit from termination. *Id.* at 6, 804 P.2d

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<sup>1</sup> The parental rights of Ruben M., biological father of R.M., were also terminated in July 2011. The father of R.I.M. and R.J.M. had his parental rights terminated in a separate case. Neither father is a party in this appeal.

at 735. Evidence showing that a child is adoptable also supports a finding of termination of the parental relationship. *Maricopa County Juv. Action No. JS-501904*, 180 Ariz. 348, 352, 884 P.2d 234, 238 (App. 1994).

¶10 At the contested severance hearing, the CPS Case Manager testified that the current case plan for all three children was severance and adoption, and she opined that the case plan was in the children's best interests. She testified that the two oldest children, R.J.M. and R.I.M., were placed with their maternal great-grandmother, and she was willing to adopt them. The youngest child, R.M., was placed with a maternal cousin, and she was willing to adopt him. The placements were meeting all of the children's needs and were the least restrictive placements. The Case Manager testified that the children had bonded with their placements and were happy. She also opined that the children were adoptable, if for some reason the current placements were unable to adopt the children. The Case Manager further testified that, while the children did have monthly visits with Mother, and Mother wrote letters to the children, Mother was unable "to provide [the children] with any support, home, safe environment and with their needs." Determining the best interests of children requires consideration of multiple factors, and an appellate court must necessarily defer to a considerable extent to the judgment and

wisdom of our superior court judges. The evidence in this record supports the juvenile court's finding that termination of Mother's parental rights was in the children's best interests.

**CONCLUSION**

¶11 Having found no error, we affirm the juvenile court's severance of Mother's parental rights to these three children.

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
JON W. THOMPSON, Presiding Judge

\_\_\_\_\_/s/\_\_\_\_\_  
MAURICE PORTLEY, Judge