

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

LUIS L.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY, Z.P., S.P., AND R.L.,  
*Appellees.*

No. 2 CA-JV 2014-0116  
Filed February 4, 2015

---

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See* Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);  
Ariz. R. P. Juv. Ct. 103(G).

---

Appeal from the Superior Court in Pinal County  
No. JD201200221  
The Honorable Brenda E. Oldham, Judge

**AFFIRMED**

---

COUNSEL

Harriette P. Levitt, Tucson  
*Counsel for Appellant*

LUIS L. v. DEP'T OF CHILD SAFETY  
Decision of the Court

Mark Brnovich, Arizona Attorney General  
By Erika Z. Alfred, Assistant Attorney General, Tucson  
*Counsel for Appellee Department of Child Safety*

---

**MEMORANDUM DECISION**

Presiding Judge Kelly authored the decision of the Court, in which Judge Howard and Judge Vásquez concurred.

---

K E L L Y, Presiding Judge:

¶1 Luis L. appeals from the juvenile court's order terminating his parental rights to Z.P., S.P., and R.L., born in 2009, 2010, and 2012, on the ground that the children had been in a court-ordered, out-of-home placement for fifteen months or more. Luis argues the juvenile court should not have severed his parental rights because the Department of Child Safety (DCS)<sup>1</sup> "did not make reasonable efforts at reunification." We affirm.

¶2 When reviewing an appeal from an order denying a motion to terminate a parent's rights, we view the evidence in the light most favorable to sustaining the juvenile court's ruling. *See Lashonda M. v. Ariz. Dep't of Econ. Sec.*, 210 Ariz. 77, ¶ 13, 107 P.3d 923, 928 (App. 2005). Thus, "we will accept the juvenile court's findings of fact unless no reasonable evidence supports those findings." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4, 53 P.3d 203, 205 (App. 2002).

¶3 The children were removed from their mother's home in December 2012 based on allegations of neglect and sexual and

---

<sup>1</sup>To the extent the Arizona Department of Economic Security (ADES) took actions in this case before the creation of DCS, DCS is substituted for ADES in this decision. *See* 2014 Ariz. Sess. Laws 2d Spec. Sess., ch. 1, §§ 6, 20, 54.

LUIS L. v. DEP'T OF CHILD SAFETY  
Decision of the Court

physical abuse.<sup>2</sup> The juvenile court adjudicated the children dependent later that month. Luis initially indicated to the DCS caseworker that he “was concerned he was not the father of all the children and he would like a paternity test before he goes through court proceedings.” The paternity testing was completed in February 2013, and Luis began counseling in November 2013 and completed a psychological evaluation in January 2014. In April 2014, the juvenile court changed the case plan to severance and adoption, and DCS filed a motion to terminate Luis’s parental rights. After a contested severance hearing, the court granted the motion and terminated Luis’s parental rights on the ground that the children had been in court-ordered, out-of-home care for more than fifteen months. *See* § 8-533(B)(8)(c).

¶4 On appeal, Luis argues the juvenile court erred “in finding that [DCS] had made reasonable efforts at reunification and that [he] would fail to benefit any further from services.” To sever a parent’s rights, the juvenile court must find there is clear and convincing evidence that at least one of the statutory grounds for termination exists, and that a preponderance of the evidence establishes that severing the parent’s rights is in the child’s best interests. *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶¶ 32, 41, 110 P.3d 1013, 1020, 1022 (2005). We do not reweigh the evidence on appeal; rather, we defer to the court’s factual findings because, as the trier of fact, that court “is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts.” *Ariz. Dep’t of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, ¶ 4, 100 P.3d 943, 945 (App. 2004). Consequently, we will affirm the order if reasonable evidence supports the factual findings upon which the order is based. *Jesus M.*, 203 Ariz. 278, ¶ 4, 53 P.3d at 205.

¶5 Luis argues that DCS delayed in providing him services and that he had spent insufficient time in counseling before the severance hearing to warrant severance based on the time-in-care ground. But testimony at the hearing established that Luis had been

---

<sup>2</sup>The mother’s rights also were terminated; she is not a party to this appeal.

LUIS L. v. DEP'T OF CHILD SAFETY  
Decision of the Court

given visitation services from the beginning of the case and also had been provided with parenting classes. And, although his psychological evaluation was completed on January 20, 2014, he began counseling in November 2013. Thus, by the time of the hearing he had been in counseling for at least eight months. His therapist testified that during that time he had not made any appreciable gains, that he still was unable to parent the children, and that no amount of "time in therapy however long would change his opinion of what has happened to his children." She also stated she did not believe that "he could make sufficient changes in his ability to parent the children to meet their needs." Indeed, at the hearing, Luis continued to deny that his children had been abused by their mother.

¶6 Luis's argument on appeal is essentially a request for this court to reweigh the evidence presented at the severance hearing. Luis relies on favorable testimony but does not address the above contrary evidence, which was relied on by the juvenile court. But we do not reweigh the evidence, *Jesus M.*, 203 Ariz. 278, ¶ 12, 53 P.3d at 207, and we will defer to the court's resolution of conflicting inferences if supported by the record, *see In re Pima Cnty Adoption of B-6355 & H-533*, 118 Ariz. 111, 115-16, 575 P.2d 310, 314-15 (1978). Reasonable evidence supports the court's conclusions that DCS had made a "diligent effort" to provide services but that Luis had "failed to benefit from the services provided to him" or to "make necessary behavioral changes that would allow his children to be returned to him safely."

¶7 The juvenile court's order terminating Luis's parental rights is therefore affirmed.