IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

MARJOLAINE D.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY AND M.D.,
Appellees.

No. 2 CA-JV 2015-0230
Filed April 28, 2016

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NOT FOR PUBLICATION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 Pima County
No. JD20150477
The Honorable Joan Wagener, Judge

AFFIRMED

COUNSEL

Domingo DeGrazia, Tucson
Counsel for Appellant

Mark Brnovich, Arizona Attorney General
By Laura J. Huff, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Judge Miller authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Eckerstrom concurred.

M I L L E R, Judge:

¶1 Marjolaine D. appeals from the juvenile court's December 2015 order finding she had neglected her seventeen-year-old daughter, M.D., and adjudicating M.D. a dependent child.[1] For the following reasons, we affirm the court's order.

¶2 Relevant to this appeal, a dependent child is one "whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent," A.R.S. § 8-201(14)(a)(iii), and neglect is defined as "[t]he inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes unreasonable risk of harm to the child's health or welfare," § 8-201(24)(a). A determination of dependency requires proof by a preponderance of the evidence. A.R.S. § 8-844(C)(l). We review a dependency adjudication for an abuse of discretion, deferring to the juvenile court's ability to weigh and analyze the evidence. *Louis C. v. Dep't of Child Safety*, 237 Ariz. 484, ¶ 12, 353 P.3d 364, 368 (App. 2015). Thus, "we view the evidence in the light most favorable to sustaining the juvenile court's findings." *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, ¶ 21, 119 P.3d 1034, 1038 (App. 2005).

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[1]M.D. is now eighteen. Her father's parental rights were terminated in 2012.

Background

¶3 In July 2015, Marjolaine left M.D. at a crisis intervention clinic just before leaving the state for a family funeral. She informed clinic staff that she would be unavailable for the next ten days and told them to call the Department of Child Safety (DCS) when M.D. was ready to be released. Because Marjolaine was indeed unavailable when M.D. was discharged from the clinic, DCS took her into temporary custody and arranged for her transfer to an inpatient facility. DCS then filed a dependency petition alleging M.D. was dependent due to abuse or neglect.

¶4 After a contested dependency adjudication hearing, the juvenile court found M.D. dependent "as a result of neglect based on the failure of [Marjolaine] to appropriately and adequately meet the child's behavioral health needs." As detailed in the court's thorough order, Marjolaine had taken M.D. to a crisis intervention clinic three times between December 2014 and July 2015. On the first occasion, she was asked to do so by M.D.'s school. M.D. reported her history of suicidal thoughts and self-harming behaviors and was diagnosed as having an "adjustment disorder with depressed mood." The clinic released M.D. to Marjolaine's care with the direction to "follow up with a counselor through a youth network," and Marjolaine said she would do so. But evidence was presented that she had never sought individual counselling for M.D.

¶5 After the second crisis intervention assessment in May 2015, M.D. was transferred to a "Level 1" inpatient facility for further treatment, but Marjolaine refused to consent to the medication recommended by M.D.'s psychiatrist there, in part because it was reported to cause rapid weight gain, and Marjolaine was concerned about M.D.'s excess weight. After M.D. was released in June, Marjolaine again failed to provide her with recommended counselling.

Discussion

¶6 On appeal, Marjolaine does not dispute that M.D. was correctly adjudicated a dependent child, but argues the basis for that determination—the juvenile court's finding that Marjolaine had neglected M.D.'s medical needs—"is not sufficiently supported by the record given the volume of contradictory testimony." Thus, Marjolaine challenges the court's resolution of disputed facts, citing her own testimony and that of the witnesses she called to testify.

¶7 We will not reverse a juvenile court's order for insufficient evidence unless, as a matter of law, no reasonable fact-finder could have found the evidence satisfied the applicable burden of proof. *See Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, ¶ 10, 210 P.3d 1263, 1266 (App. 2009). The juvenile court, as the trier of fact, "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). We do not reweigh the evidence on review. *Id.* ¶ 14.

¶8 In its adjudication order, the juvenile court acknowledged Marjolaine's testimony that M.D. had refused to participate in sessions scheduled with two different agencies. But the court also considered the testimony of DCS employees who had conducted "records check[s]" with the agencies Marjolaine identified, as well as others, and had concluded that no intake or other counselling appointments had ever been made for M.D. The court also cited M.D.'s own testimony that she would have been willing to participate in counselling and had said so when asked by one of her mother's friends. The court found that, although Marjolaine was "well aware" of M.D.'s family history of mental illness, she had "failed to take affirmative, necessary and appropriate steps to obtain needed services to address her daughter's mental health issues."

¶9 The juvenile court's ruling includes its well-reasoned analysis of the evidence received, and its findings are supported by the record. We find no abuse of discretion, and we see no need to

restate the court's analysis in full detail here. *See Jesus M. v. Ariz. Dep't of Econ Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002), *citing State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Accordingly, we affirm the court's dependency adjudication order.