IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

MICHAEL P.,
Appellant,

v.

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

No. 2 CA-JV 2016-0071
Filed August 11, 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NOT FOR PUBLICATION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. JD202891
The Honorable Deborah Pratte, Judge Pro Tempore

AFFIRMED

COUNSEL

Scott W. Schlievert, Tucson
Counsel for Appellant

Mark Brnovich, Arizona Attorney General
By Cathleen E. Fuller, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

Child and Family Law Clinic,
By Paul D. Bennett, a clinical professor appearing
under Rule 38(d), Tucson
Counsel for Minor

MEMORANDUM DECISION

Presiding Judge Howard authored the decision of the Court, in which Judge Espinosa and Judge Staring concurred.

H O W A R D, Presiding Judge:

¶1 Michael P. appeals from the juvenile court's order terminating his parental rights to his daughter, M., on time-in-care grounds pursuant to A.R.S. § 8-533(B)(8)(b). He argues there was insufficient evidence supporting termination and the court's finding that termination was in M.'s best interests. Finding no error, we affirm.

¶2 "[W]e view the evidence and reasonable inferences to be drawn from it in the light most favorable to sustaining the [juvenile] court's decision." *Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, ¶ 18, 219 P.3d 296, 303 (App. 2009). M. was removed from her mother's custody immediately after her birth in February 2015. Shortly thereafter, the Department of Child Safety (DCS) filed a dependency petition asserting that Michael, who had admitted paternity, lacked stable income and housing and had a history of domestic violence and substance abuse, including substance-abuse related criminal convictions. Michael initially provided one urine sample, which tested negative for drugs, but refused to provide a hair follicle test. He also refused to participate in virtually all offered services while the dependency petition was pending. After a

contested hearing, the juvenile court found M. dependent as to both parents in April 2015. In May, Michael was advised that if he continued to refuse "to participate in the hair follicle test, [DCS] is permitted to assume that the test would be positive and [he] would be required to engage in services regarding substance abuse."

¶3 Michael still declined to participate in hair follicle testing, but began participating in services, including urinalysis testing, substance-abuse treatment, therapy, and parenting classes. However, he tested positive for methamphetamine and amphetamine three times in July 2015. Thereafter, he refused to participate in any services except visitation, despite being warned the case plan would be changed to severance and adoption if he failed to participate in services.

¶4 In December, pursuant to the juvenile court's order, DCS filed a motion to terminate both parents' rights, alleging that Michael's parental rights were subject to severance pursuant to § 8-533(B)(8)(b). After a contested severance hearing in February 2016, the court terminated Michael's parental rights, finding DCS had proven termination was warranted on time-in-care grounds and that termination was in M.'s best interests.[1] This appeal followed.

¶5 A juvenile court may terminate a parent's rights if it finds clear and convincing evidence of a statutory ground for severance and finds by a preponderance of the evidence that termination is in the child's best interests. A.R.S. §§ 8-533(B), 8-537(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005). "[W]e will affirm a termination order that is supported by reasonable evidence." *Jordan C.*, 223 Ariz. 86, ¶ 18, 219 P.3d at 303. That is, we will not reverse a termination 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). Pursuant to § 8-533(B)(8)(b), severance is

[1]The juvenile court also terminated the parental rights of M.'s mother. She is not a party to this appeal.

appropriate if a child under three years of age, like M., "has been in an out-of-home placement for a cumulative total period of six months or longer pursuant to court order and the parent has substantially neglected or wilfully refused to remedy the circumstances that cause the child to be in an out-of-home placement."

¶6 Michael argues the evidence did not support termination of his parental rights, reasoning that the juvenile court was required to accept his testimony that he had been drug-free because DCS did not "contradict [his] testimony" or demonstrate he "was using drugs at any time from the time of removal to the time of trial except one positive test which was disputed." Thus, he concludes, DCS did not demonstrate that he had failed to remedy the circumstances causing M. to be in an out-of-home placement. But the juvenile court was free to reject Michael's testimony, particularly in light of his positive drug tests and refusal to participate in drug testing. Michael's argument essentially asks us to reweigh the evidence, something we do not do. *See Ariz. Dep't of Econ. Sec. v. Oscar O.*, 209 Ariz. 332, ¶ 4, 100 P.3d 943, 945 (App. 2004). The juvenile court is "in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and resolve disputed facts." *Id.*

¶7 Michael seems to suggest he had a right to refuse to participate in services. But he does not develop this argument in any meaningful way and, in any event, ignores the provision in § 8-533(B)(8)(b) that "refusal to participate in reunification services offered by [DCS]" constitutes a willful refusal to remedy the circumstances causing the child to be in an out-of-home placement. Accordingly, we do not address this argument further. *See Christina G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 231, n.6, 256 P.3d 628, 631 n.6 (App. 2011) (failure to develop argument on appeal usually results in abandonment and waiver of issue).

¶8 Michael additionally asserts that DCS did not provide sufficient services. But, again, he does not adequately develop that argument and we thus decline to address it. *See id.* For the same

reason, we do not address his claim the court erred in finding termination was in M.'s best interests. *See id.*

¶9 We have reviewed the record and conclude it amply supports the juvenile court's thorough factual findings and legal conclusions. "[W]e believe little would be gained by our further 'rehashing the . . . court's correct ruling'" and therefore adopt it. *Jesus M. v. Ariz. Dept. of Econ. Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002), *quoting State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore affirm the juvenile court's order terminating Michael's parental rights.