

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

ROXANNE C.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY and J.M.,
Appellees.

No. 2 CA-JV 2017-0138
Filed November 22, 2017

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NOT FOR PUBLICATION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. S1100JD200500012
The Honorable Daniel A. Washburn, Judge

AFFIRMED

COUNSEL

Rosemary Gordon Pánuco, Tucson
Counsel for Appellant

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

MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 Roxanne C. appeals from the juvenile court's order finding her daughter J.M., born in January 2017, a dependent child. She contends "the juvenile court abused its discretion when it found J.M. dependent . . . under the unique circumstances of this case." We affirm the court's adjudication of dependency.

Factual and Procedural Background

¶2 We view the evidence in the light most favorable to affirming the court's findings. *Willie G. v. Ariz. Dep't of Econ. Sec.*, 211 Ariz. 231, ¶ 21 (App. 2005). The Department of Child Safety (DCS) took temporary custody of J.M. in January 2017, shortly after she was born exposed to methamphetamine and amphetamines. In a dependency petition, it alleged Roxanne had neglected J.M. due to a history of substance abuse that impairs her ability to parent. According to the petition, another child was removed from her care due to her substance abuse and is presently in the care of a guardian appointed under title 8; Roxanne tested positive for methamphetamine and amphetamines in the week before J.M.'s birth; and, although she initially maintained she had not used illegal drugs for several years, she later admitted using drugs in December 2016, the month before J.M. was born.

¶3 After a contested dependency hearing, the juvenile court found DCS had proven these allegations. It also found Roxanne had not consistently engaged in substance-abuse services in the current dependency. The court noted that, apart from Roxanne's stated belief, no evidence had been presented to suggest her prescription drug use during childbirth had resulted in false positive results for methamphetamine.¹

¹In June 2017, the juvenile court granted Roxanne's motion for funds, not to exceed \$5,000, to retain an expert to review her medical records and

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And it found her denials of methamphetamine use near the time of J.M.'s birth belied by her apparent admissions to her therapist. The court "question[ed] [her] credibility" in general, and it rejected her argument that her missed drug tests should be excused because she was caring for her ailing father, finding her statements in that regard "vague and incomplete." Finally, the court cited evidence that even when Roxanne had the opportunity for parenting time with J.M., she was not "reaching the minimum parenting level that's needed."

Discussion

¶4 A dependent child includes one "[i]n need of proper and effective parental care and control . . . who has no parent . . . willing to exercise or capable of exercising such care and control," or one whose "home is unfit by reason of abuse, neglect, cruelty or depravity by a parent." A.R.S. § 8-201(15)(a)(i), (iii). Neglect includes "[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(25)(a), as well as "[a] determination by a health professional that a newborn infant was exposed prenatally to a drug or substance listed in § 13-3401," other than for medical treatment administered by a health professional, § 8-201(25)(c).

¶5 The allegations in a dependency petition must be proven by a preponderance of the evidence. A.R.S. § 8-844(C). We review a dependency adjudication for an abuse of discretion, deferring to the juvenile court's ability to weigh and analyze the evidence. *Shella H. v. Dep't of Child Safety*, 239 Ariz. 47, ¶ 13 (App. 2016). Accordingly, we will only disturb a dependency adjudication if no reasonable evidence supports it. *Id.*

¶6 On appeal, Roxanne seems to argue the juvenile court abused its discretion in finding her testimony lacked credibility and in relying on other evidence presented to find J.M. dependent. But "[t]he resolution of such conflicts in the evidence is uniquely the province of the juvenile court as the trier of fact," and "we do not re-weigh the evidence on review." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 12 (App. 2002).

express an opinion on this issue. No such expert was called to testify at the July dependency hearing.

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Disposition

¶7 Ample evidence supports the juvenile court's findings. Accordingly, its adjudication order is affirmed.