IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

CANDICE F.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY, T.F., T.-F., S.F., AND R.F.,
Appellees.

No. 2 CA-JV 2019-0133
Filed January 7, 2020

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NOT FOR PUBLICATION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. JD20190002
The Honorable Wayne E. Yehling, Judge

AFFIRMED

COUNSEL

Sarah Michèle Martin, Tucson
Counsel for Appellant

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

Pima County Office of Children's Counsel, Tucson
By Christopher Lloyd
Counsel for Minors

MEMORANDUM DECISION

Presiding Judge Eppich authored the decision of the Court, in which Judge Espinosa and Judge Eckerstrom concurred.

E P P I C H, Presiding Judge:

¶1 Candice F. appeals from the juvenile court's order establishing a permanent guardianship for her children, T.F. (born May 2002), T.-F. (born August 2003), S.F. (born November 2004), and R.F. (born April 2006). We affirm.

¶2 The Department of Child Safety (DCS) removed the children from Candice's care in December 2018 and filed a dependency petition. The children were adjudicated dependent in February 2019. In July 2019, the children filed a motion requesting that their paternal aunt and uncle be made their permanent guardians. After a contested hearing, the juvenile court granted the motion. This appeal followed.

¶3 On appeal, Candice argues the juvenile court failed to "adhere to the mandatory requirements" of A.R.S. §§ 8-846(D) and 8-871(A)(3), and Rule 57, Ariz. R. P. Juv. Ct. A juvenile court may establish a guardianship for a dependent child only if DCS "has made reasonable efforts to reunite the parent and child and further efforts would be unproductive." § 8-871(A)(3). On appeal, Candice asserts that requirement is subject to § 8-846(D) which provides, in a dependency proceeding, that a court may only decline to order reunification services when an enumerated "aggravating circumstance[]" exists, or if the parent has been convicted of certain offenses involving a child. Relatedly, she asserts that Rule 57 also applies, requiring the court to "hear evidence concerning whether reunification services are required" under subsection (B) and to make express factual findings under subsection (C). She contends the court complied with neither § 8-846(D) nor Rule 57 and, thus, could not make the finding required by § 8-871(A)(3).

¶4 Candice did not make this argument below. "We generally do not consider objections raised for the first time on appeal." *Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, ¶ 21 (App. 2007). And even were this argument not waived, it is facially unavailing. Candice is correct that we must read the statutory scheme as a whole. *See City of Phoenix v. Orbitz*

Worldwide Inc., 247 Ariz. 234, ¶ 10 (2019). But that does not mean we are authorized (much less required) to apply the requirements for one type of proceeding to another type of proceeding absent any indication in the statutory text that this is what our legislature intended. *See State v. Christian*, 205 Ariz. 64, ¶ 6 (2003) (statutory text "best and most reliable index" of meaning). Candice has cited no such text, or any other authority suggesting the legislature intended that we apply dependency statutes to guardianship proceedings. The juvenile court found that DCS had made reasonable efforts to reunite the parent and children and further reunification services would be unproductive because the children were unwilling to participate in services, and "the Court and [DCS] are unwilling to force [them] to participate due to their age." This finding complies with § 8-871(A)(3).

¶5 We also reject Candice's argument that the guardianship was improper because the children had not been in the custody of the prospective guardian for at least nine months as required by § 8-871(A)(2) "and the court set forth no good cause to waive that requirement." On the contrary, the court did find good cause—it noted the children's lifelong relationship and bonding with their prospective guardians.

¶6 We affirm the juvenile court's order establishing a permanent guardianship.