

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

LISA C.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY, E.R., AND A.C.,
Appellees.

No. 2 CA-JV 2019-0146
Filed March 18, 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NOT FOR PUBLICATION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. JD20160677
The Honorable Alyce L. Pennington, Judge Pro Tempore

VACATED

COUNSEL

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MEMORANDUM DECISION

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

STARING, Presiding Judge:

¶1 Lisa C. appeals from the juvenile court's order concluding her daughters, E.R. and A.C., are dependent as to her. Because the court did not make findings required by A.R.S. § 8-844(C)(1)(a)(ii) and Rule 55(E)(3), Ariz. R. P. Juv. Ct., we vacate the order.

¶2 In May 2019, the Department of Child Safety (DCS) filed a dependency petition asserting the children were dependent as to Lisa based on neglect. After a three-day contested hearing, the juvenile court took the matter under advisement and issued, on October 9, a ruling adjudicating the children dependent.¹ In that order, the court found that the Indian Child Welfare Act (ICWA) does not apply, that the court had jurisdiction, and stated that it had given "careful consideration to all of the evidence, including the testimony of the witnesses, their credibility and demeanor while testifying, the legal file and the exhibits and assigned the weight deemed appropriate to the evidence." It concluded DCS "has proven the allegations in the dependency petition of August 20, 2019 by a preponderance of the evidence."

¶3 Lisa appealed that ruling, but also filed a motion requesting the juvenile court make written factual findings as required by § 8-844(C)(1)(a)(ii) and Rule 55(E)(3). Without addressing that request, the court entered two amended rulings. The first included a statement noting E.R. had been found dependent as to her father on August 5. The second amended order, entered October 31, additionally found that ICWA applied to E.R. but not A.C. Both orders were otherwise identical to the October 9 ruling. This appeal followed.

¶4 Section 8-844(C)(1)(a)(ii) states that, if the court "[f]inds by a preponderance of the evidence that the allegations contained in the

¹The court also found the children dependent as to their fathers, who are not parties to this appeal.

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[dependency] petition are true,” it must make findings regarding “[t]he factual basis for the dependency.” Rule 55(E)(3) similarly requires the court to include with any dependency finding “specific findings of fact in support.” The parties agree the juvenile court’s final order does not comply with § 8-844(C)(1)(a)(ii) or Rule 55(E)(3).

¶5 DCS, however, asserts the error was harmless because it “could not have affected the result.” “Failure to comply with the Arizona Rules of Procedure for Juvenile Court does not necessarily require a reversal” and thus may be reviewed for harmless error. *Monica C. v. Ariz. Dep’t of Econ. Sec.*, 211 Ariz. 89, ¶ 22 (App. 2005). Error is harmless when “the reviewing court can say beyond a reasonable doubt that the error did not contribute to the verdict.” *State v. Davolt*, 207 Ariz. 191, ¶ 39 (2004); see also *Alice M. v. Dep’t of Child Safety*, 237 Ariz. 70, ¶ 12 (App. 2015) (citing *Davolt* for harmless error standard).

¶6 The primary purpose of the findings requirements is to “allow the appellate court to determine exactly which issues were decided and whether the lower court correctly applied the law.” *Ruben M. v. Ariz. Dep’t of Econ. Sec.*, 230 Ariz. 236, ¶ 24 (App. 2012). Thus, DCS reasons, because the juvenile court referred to the allegations in the dependency petition, we can turn to the petition to determine the basis for the court’s reasoning.

¶7 We disagree. First, even if we agreed that a juvenile court’s mere reference to or adoption of the facts alleged in the petition was otherwise sufficient, that conclusion would effectively nullify the plainly stated findings requirements. Given that we may not interpret statutes and rules in a way that renders them superfluous, see *Logan B. v. Dep’t of Child Safety*, 244 Ariz. 532, ¶ 17 (App. 2018), we decline to nullify them under the doctrine of harmless error.

¶8 Moreover, finding harmless error here ignores other “important purposes” of the findings requirements, such as to ensure the juvenile court has carefully considered the issues because it is required to fully explain its reasoning. *Id.* ¶ 18. Additionally, specific findings in a dependency proceeding aid the parent by establishing a baseline against which the court may measure the parent’s progress. See, e.g., A.R.S. § 8-533(B)(8)(c) (describing as ground for termination that “the parent has been unable to remedy the circumstances that cause the child to be in an out-of-home placement”). Finally, detailed findings aid the parent in narrowing the issues to be raised on appeal. In sum, we cannot say beyond

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a reasonable doubt that the result of the proceeding would be the same absent the required findings.

¶9 Because the juvenile court did not make the findings required by § 8-844(C)(1)(a)(ii) and Rule 55(E)(3), we vacate the order adjudicating E.R. and A.C. dependent as to Lisa.²

²We therefore need not reach the other arguments Lisa raises on appeal.