

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

KATIE H.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY AND B.H.,  
*Appellees.*

No. 2 CA-JV 2020-0065  
Filed April 6, 2021

---

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NOT FOR PUBLICATION  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. S1100JD201700262  
The Honorable Christopher J. O'Neil, Judge

**AFFIRMED**

---

COUNSEL

Katie H., San Tan Valley  
*In Propria Persona*

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

KATIE H. v. DEP'T OF CHILD SAFETY  
Decision of the Court

---

**MEMORANDUM DECISION**

Presiding Judge Espinosa authored the decision of the Court, in which Vice Chief Judge Staring and Judge Eckerstrom concurred.

---

ESPINOSA, Presiding Judge:

¶1 Katie H. appeals from the juvenile court's order terminating her parental rights to her son, B.H., born November 2019, based on chronic substance abuse and the termination of parental rights to another child for the same reason within the previous two years. *See* A.R.S. § 8-533(B)(3), (10). We affirm.

¶2 To sever a parent's rights, the juvenile court must find clear and convincing evidence establishing at least one statutory ground for termination and a preponderance of the evidence that terminating the parent's rights is in the child's best interests. *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶¶ 32, 41 (2005); *see also* A.R.S. § 8-863(B). We do not reweigh the evidence on appeal; rather, we defer to the juvenile court with respect to its factual findings because it "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, 14 (App. 2004). We will affirm the order if the findings upon which it is based are supported by reasonable evidence. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4 (App. 2002). We view that evidence in the light most favorable to upholding the ruling. *See Christy C. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 445, ¶ 12 (App. 2007).

¶3 B.H. was removed from Katie's care following his birth after both she and B.H. tested positive for methamphetamine. DCS subsequently filed a dependency petition. Katie's parental rights to three other children had been terminated in March 2018 on the ground of chronic substance abuse, and we affirmed that termination on appeal. *Katie H. v. Dep't of Child Safety*, No. 2 CA-JV 2019-0065 (Ariz. App. Sept. 13, 2019) (mem. decision). Despite being offered services, Katie agreed only to visits, did not initially participate in drug testing, and did not appear at several scheduled meetings to discuss the case plan.

KATIE H. v. DEP'T OF CHILD SAFETY  
Decision of the Court

¶4 After meeting for the first time with her case manager in February 2020, Katie agreed to participate in drug testing and a substance-abuse assessment. Later that month, DCS moved to terminate her parental rights to B.H. on the grounds of chronic substance abuse and the termination of her rights to other children on that basis within the preceding two years. Katie's participation in drug testing was sporadic and included several unexplained refusals to test, she did not complete treatment, and she continued to minimize her substance abuse issues. Additionally, she did not obtain stable employment or stable, independent housing.<sup>1</sup> After a hearing, the juvenile court terminated her parental rights on the grounds alleged.<sup>2</sup> This appeal followed.

¶5 In her pro se opening brief, Katie asserts the Department of Child Safety (DCS) made no reunification efforts, falsely made it appear she had "refused to participate in a case plan that never existed," and destroyed exhibits from her previous severance trial. She also asserts the juvenile court could not conclude she suffered from chronic substance abuse because all her drug tests "came back negative."<sup>3</sup>

¶6 Katie's first argument—that DCS failed to provide reunification services—is unsupported by the record. In December 2019, the case manager emailed Katie explaining available services, the majority of which she initially refused, although she later agreed to participate in the case plan. And Katie has cited nothing to support her claim that DCS presented false evidence that she had not complied with that case plan; thus, the argument is waived. See Ariz. R. Civ. App. P. 13(a)(5), (7) (requiring citation to record and legal authorities); Ariz. R. P. Juv. Ct. 106(A) (applying Rule 13, Ariz. R. Civ. App. P., to juvenile appeals); *Ritchie v.*

---

<sup>1</sup> At the time of the hearing, Katie lived with B.H.'s paternal grandparents, but the case manager noted she "could be asked to leave at any time" and Katie had "no family resources" to turn to "if she would be asked to leave."

<sup>2</sup> The juvenile court also terminated the parental rights of B.H.'s putative father. He is not a party to this appeal.

<sup>3</sup> In her reply brief, Katie additionally argues that there had been no domestic violence and that DCS acted prematurely in seeking severance. As a general rule, we do not address arguments first raised in reply. See *Marco C. v. Sean C.*, 218 Ariz. 216, n.1 (App. 2008).

KATIE H. v. DEP'T OF CHILD SAFETY  
Decision of the Court

*Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (failure to comply with Rule 13, Ariz. R. Civ. App. P., waives argument on appeal).

¶7 Although Katie is correct that she had no positive drug tests for methamphetamine after February 2020,<sup>4</sup> that does not preclude the juvenile court's finding that she has a chronic drug addiction given her testing avoidance, her previous drug use – including during her pregnancy with B.H. – and relapses, and her failure to complete drug treatment. And, regarding Katie's argument that DCS destroyed exhibits from her previous severance trial, even had she demonstrated that was somehow improper, she has not explained how those ostensive documents could have supported her case. Accordingly, she has waived this argument as well. *See Christina G. v. Ariz. Dep't of Econ. Sec.*, 227 Ariz. 231, n.6 (App. 2011) (failure to develop argument on appeal results in abandonment and waiver of issue).

¶8 The trial court's order terminating Katie's parental rights to B.H. is affirmed.

---

<sup>4</sup>Katie once tested positive for opiates, but she provided DCS with a doctor's prescription.