

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

AUG 12 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

CHANETTE B.,)	2 CA-JV 2010-0051
)	DEPARTMENT B
Appellant,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 28, Rules of Civil
ARIZONA DEPARTMENT OF ECONOMIC)	Appellate Procedure
SECURITY, JORDAN T., and JABRIEL T.,)	
)	
Appellees.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 18755300

Honorable Peter W. Hochuli, Judge Pro Tempore

AFFIRMED

Law Office of John C. Gilmore, Jr., P.C.
By John C. Gilmore, Jr.

Tucson
Attorney for Appellant

Terry Goddard, Arizona Attorney General
By Pennie J. Wamboldt

Prescott
Attorneys for Appellee Arizona
Department of Economic Security

ECKERSTROM, Judge.

¶1 Appellant Chanette B. challenges the juvenile court's order of April 16, 2010, terminating her parental rights to two of her children, Jordan T. and Jabriel T., on grounds of abandonment and Chanette's inability to remedy the circumstances causing the children to remain in a court-ordered, out-of-home placement for longer than fifteen months. See A.R.S. § 8-533(B)(1), (B)(8)(c). On appeal, Chanette challenges the sufficiency of the evidence to sustain either of those statutory grounds for severance or to establish that terminating her parental rights was in the children's best interests.

¶2 Before it may terminate a parent's rights, a juvenile court must find by clear and convincing evidence that at least one statutory ground for severance exists and must find by a preponderance of the evidence that terminating the parent's rights is in the best interests of the child. See A.R.S. §§ 8-533(B), 8-537(B); *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005). We will affirm an order terminating parental rights unless we must say as a matter of law that no reasonable person could find those essential elements proven by the applicable evidentiary standard. *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, ¶ 10, 210 P.3d 1263, 1266 (App. 2009). We view the evidence in the light most favorable to upholding the court's order. *Manuel M. v. Ariz. Dep't of Econ. Sec.*, 218 Ariz. 205, ¶ 2, 181 P.3d 1126, 1128 (App. 2008).

¶3 In August 2007, Chanette left Arizona and moved to Florida with her two younger children, leaving six-year-old Jordan and three-year-old Jabriel in Arizona with Chanette's aunt Josephine. On July 29, 2008, Child Protective Services took Jordan and Jabriel into protective custody after witnesses saw Josephine assaulting Jabriel outside a local homeless shelter.¹ The children were placed in foster care and were subsequently adjudicated dependent in September 2008. At no time after her departure in 2007 did

¹Josephine was arrested as a result of the incident. She later pled guilty to one count of child abuse and was placed on two years' probation.

Chanette return to Arizona, and in October 2009 the juvenile court changed the case plan goal to severance and adoption.

¶4 By the time the contested termination hearing was held in January and February 2010, Chanette had not seen Jordan or Jabriel for approximately two and one-half years. She had not contributed financially to their support; had not sent them any cards, letters, or gifts; and rarely if ever inquired how they were or how their therapy was progressing. The evidence convincingly established that Chanette had abandoned Jordan and Jabriel by failing to maintain regular contact or any semblance of a normal parental relationship with them, by failing to provide normal supervision or reasonable support, and by making “only minimal efforts to support and communicate with the[m]” for over two years. A.R.S. § 8-201(1).

¶5 The juvenile court thus properly found termination of Chanette’s parental rights warranted on the ground of abandonment pursuant to § 8-533(B)(1). In challenging the sufficiency of the evidence to sustain that finding, Chanette acknowledges her contact with Jordan and Jabriel “was minimal” but accepts no personal responsibility for that fact. She contends the “lack of efforts [by Arizona Department of Economic Security (ADES)] to place the children in the State [she] resided was the contributing factor that led to her inability to maintain a normal parental relationship.” But Chanette cites no legal authority suggesting ADES has any duty to find out-of-state placements for dependent children whose parents have voluntarily moved away from Arizona and left their children behind.

¶6 In granting the motion to terminate Chanette’s parental rights, the juvenile court prepared a thorough minute entry setting out its factual findings and legal conclusions. We have determined that the record contains reasonable evidence to support

the court's factual findings with respect to both the statutory grounds for termination and the children's best interests. *See Denise R.*, 221 Ariz. 92, ¶ 4, 210 P.3d at 1264-65 (factual findings upheld if supported by reasonable evidence). The court's factual findings, in turn, support its legal conclusion that severing Chanette's rights was warranted under both subsections (B)(1) and (B)(8)(c) of § 8-533. We therefore adopt the court's findings of fact and approve its conclusions of law. *See Jesus M. v. Ariz. Dep't 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 believe the court's minute entry also adequately addresses Chanette's brief argument that the court erred in finding the children's best interests favored severance. Because the court's factual findings are clearly stated and supported by reasonable evidence, we have no basis on which to disturb its conclusion that severance will serve the best interests of Jordan and Jabriel. *See id.*

¶7 Accordingly, we affirm the juvenile court's order terminating Chanette's parental rights.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge