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

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

MONIQUE C., Appellant, v. ARIZONA DEPARTMENT OF ECONOMIC SECURITY and KYLE W., Appellees.	2 CA-JV 2010-0060 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. J162786

Honorable Javier Chon-Lopez, Judge

AFFIRMED

Suzanne Laursen
Tucson
Attorney for Appellant

Terry Goddard, Arizona Attorney General
By Jane A. Butler
Tucson
Attorneys for Appellee Arizona
Department of Economic Security

E S P I N O S A, Judge.

¶1 After a contested severance hearing, the juvenile court terminated Monique C.'s parental rights to her son, Kyle W., on the grounds that Monique suffered from disabling mental illness or chronic substance abuse, *see* A.R.S. § 8-533(B)(3), and had substantially neglected or willfully refused to remedy the circumstances causing Kyle to remain in a court-ordered, out-of-home placement for more than nine months, *see* § 8-533(B)(8)(a).[1] On appeal, Monique maintains the Arizona Department of Economic Security (ADES) failed to prove either ground for termination and also failed to prove it had made a diligent effort to provide her with appropriate reunification services, as required by § 8-533(B)(8) and *Mary Ellen C. v. Arizona Department of Economic Security*, 193 Ariz. 185 ¶ 34, 971 P.2d 1046, 1053 (App. 1999).

¶2 In an appeal from an order terminating parental rights, we view the evidence in the light most favorable to sustaining the juvenile court's ruling, *Lashonda M. v. Ariz. Dep't of Econ. Sec.*, 210 Ariz. 77, ¶ 13, 107 P.3d 923, 928 (App. 2005), and accept the court's findings of fact as long as there is reasonable evidence to support them, *Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, ¶ 4, 210 P.3d 1263, 1264-65 (App. 2009). As the trier of fact, that court "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, 100 P.3d 943, 945 (App.2004). We

[1]Kyle was born with a medical condition that required him to remain hospitalized until he was almost seven weeks old. Child Protective Services took Kyle into protective custody when he was discharged from the hospital, based on concerns about Monique's ability to provide Kyle with appropriate care and reports that she had interfered with his medical treatment. Kyle is now two years old. Kyle's father, Kyle W., Sr., has relinquished his parental rights and is not a party to this appeal.

do not reweigh the evidence. *See Lashonda M.*, 210 Ariz. 77, ¶ 13, 107 P.3d at 927. Rather, we affirm the court's order "'unless we [can] say as a matter of law that no one could reasonably find the evidence [supporting statutory grounds for termination] to be clear and convincing.'" *Denise R.*, 221 Ariz. 92, ¶ 10, 210 P.3d at 1266, *quoting Murillo v. Hernandez*, 79 Ariz. 1, 9, 281 P.2d 786, 791 (1955) (second alteration in *Denise R.*). "If clear and convincing evidence supports any one of the statutory grounds on which the juvenile court ordered severance, we need not address claims pertaining to the other grounds." *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 3, 53 P.3d 203, 205 (App. 2002).

¶3 The juvenile court's termination order includes a thorough examination of the evidence and we need not repeat the court's extensive analysis here. *See id.*, ¶ 16. Because reasonable evidence supports the termination of Monique's parental rights based on the length of time Kyle has spent in court-ordered care, we limit our discussion accordingly.

¶4 We first address Monique's challenge to the juvenile court's finding that ADES made a diligent effort to provide her with appropriate reunification services. Specifically, the court found Monique "was provided numerous services in an attempt to help her overcome her mental health, domestic violence, parenting and substance abuse issues, all circumstances that caused ADES to place Kyle out-of-home." The court also noted, "ADES was aware that [Monique] had cognitive difficulties that impacted not only her parenting, but also her ability to learn," and "provided hands[-]on parenting classes for [her], because of [her] identified mental difficulties."

¶5 Without addressing other services ADES had offered—including a psychological evaluation, a psychiatric evaluation, substance-abuse testing and treatment, individual therapy, supervised visitation, and a bonding and attachment evaluation—Monique maintains ADES failed to provide appropriate reunification services because her parenting instruction with an agency that "specialized in working with parents of a lower intellectual capacity" was discontinued due to state budget cuts. But psychologist Jill Plevell, who had conducted Monique's psychological evaluation, testified the services offered by Child Protective Services (CPS) were appropriate to Monique's intellectual level and opined Monique was struggling with either intoxication or mental illness, not a learning disorder. Additionally, as ADES points out, although one agency's services were eliminated for budgetary reasons, Monique was already "on the verge" of having her enrollment discontinued by that agency because she was "extremely resistant to services and [did] not follow any directions."[2] We conclude the evidence was sufficient for the juvenile court to find ADES had made a diligent effort to provide appropriate reunification services, and we will not disturb that finding.

¶6 Similarly, as detailed in the juvenile court's order, reasonable evidence supported the court's finding that Monique had substantially neglected or willfully refused to remedy the circumstances that caused Kyle's out-of-home placement.

[2]This was the second referral ADES had provided for hands-on parenting instruction; according to her CPS case manager, Monique's behavior at the previous agency "was so inappropriate she was banned from the facility." Monique completed her parenting instruction with a third agency, but she did not appear to benefit from the instruction; she reportedly remained unable to respond consistently to basic cues for feeding Kyle or changing his diaper.

Monique argues on appeal that this finding is erroneous and asserts she participated, to some extent, in "most" of her case plan tasks. But termination of a parent's rights pursuant to § 8-533(B)(8)(a), "is not limited to those who have completely neglected or willfully refused to remedy [the] circumstances [causing their child's out-of-home placement]." *Maricopa County Juv. Action No. JS-501568*, 177 Ariz. 571, 576, 869 P.2d 1224, 1229 (App. 1994). Here, the court considered Monique's "attempt to work her case plan" and found her efforts insufficient. As the court explained, "it is clear [Monique] was aware" that questions about her sobriety and her mental health caused Kyle to be removed from her care, but she nonetheless did not comply with substance abuse testing and treatment, did not attend individual therapy, and offered no explanation for her failure to engage in these services. The court found participation in substance abuse and mental health services comprised "the two main case plan tasks" designed to enable Monique to parent effectively; because she failed to engage in these services, "the two main circumstances that led to Kyle's out-of-home placement remained unaddressed" at the time of severance. Ample evidence thus supported the court's finding that Monique had substantially neglected or willfully refused to remedy the circumstances that caused Kyle to be placed in out-of-home care.

¶7 In its termination order, the juvenile court clearly identified the factual basis for its ruling and correctly applied the law, and its findings are well-supported by the record. "[L]ittle would be gained by our further 'rehashing the trial court's correct ruling' in our decision," and we decline to do so. *Jesus M*, 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). The court's May 21, 2010 order terminating Monique's parental rights is affirmed.

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge