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FEB 13 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

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| JUAN P., Appellant, v. ARIZONA DEPARTMENT OF ECONOMIC SECURITY, JUAN M.-P., and REINA O., Appellees. | 2 CA-JV 2008-0113<br>DEPARTMENT B<br><br>MEMORANDUM DECISION<br>Not for Publication<br>Rule 28, Rules of Civil Appellate Procedure |

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 18051400

Honorable Jane L. Eikleberry, Judge

AFFIRMED

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V Á S Q U E Z, Judge.

**¶1** Juan P. appeals from the juvenile court's October 2008 order terminating his parental rights to his children Juan M.-P. (Juan, Jr.), born in January 2005, and Reina O., born in August 2006. As grounds for termination, the court found that Juan (1) was unable to discharge parental responsibilities because of a history of chronic abuse of dangerous drugs and alcohol, with reasonable grounds to believe the condition would continue for a prolonged, indeterminate period, A.R.S. § 8-533(B)(3), and (2) had been unable to remedy the circumstances that caused his children to be in court-ordered, out-of-home placement for more than fifteen months and would likely remain unable to effectively parent in the near future, § 8-533(B)(8)(c).[1] Juan contends the evidence presented at the termination hearing was insufficient to support the court's finding that there was reason to believe his substance abuse would continue for a prolonged, indeterminate period. He similarly challenges the court's finding that he would likely be unable to parent for the near future. We affirm.

**¶2** "We will not disturb the juvenile court's order severing parental rights unless its factual findings are clearly erroneous, that is, unless there is no reasonable evidence to support them," *Audra T. v. Ariz. Dep't of Econ. Sec.*, 194 Ariz. 376, ¶ 2, 982 P.2d 1290, 1291 (App. 1998), and we view the evidence in the light most favorable to affirming those findings, *Vanessa H. v. Ariz. Dep't of Econ. Sec.*, 215 Ariz. 252, ¶ 20, 159 P.3d 562, 566

[1]Juan, Jr. and Reina were removed from their parents' care in December 2006. They were adjudicated dependent in February 2007 after Juan and the children's mother, Estrella M., waived their rights to a hearing and submitted to a determination based on the dependency petition filed by the Arizona Department of Economic Security (ADES). In April 2008, the juvenile court approved a plan of severance and adoption, and ADES filed a motion to terminate both parents' rights. The court conducted a termination adjudication hearing on July 9, July 23, August 21, September 9, and September 23.

(App. 2007). In this case, the court's ruling sets forth its extensive factual findings and its legal reasoning in a fashion that has permitted this court and will allow any court in the future to understand its conclusions. We need not repeat that analysis here. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002), *citing State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

**¶3** Juan does not contest the sufficiency of the evidence to establish that he "had struggled with substance and alcohol abuse" but contends the Arizona Department of Economic Security (ADES) failed to prove that condition would continue for a "prolonged indeterminate period" as required by § 8-533(B)(3). Specifically, Juan contends the testimony of clinical psychologist Ralph Wetmore, who had performed Juan's psychological evaluation, did "not reach the level of determining" this issue. Citing *Mary Ellen C. v. Arizona Department of Economic Security*, 193 Ariz. 185, 971 P.2d 1046 (App. 1999), Juan argues other evidence suggested he had made progress in substance abuse treatment and was therefore "amen[]able to rehabilitative services" that could restore his ability to parent within a reasonable time.

**¶4** Thus, Juan does not challenge the juvenile court's finding that he admitted using cocaine on the night of Reina's birth and that, at the time, he was on probation for driving under the influence of an intoxicant or dangerous drug. Nor does he challenge the court's findings that before the dependency petition was filed, Juan had continued to drink alcohol in violation of his probation conditions and that after these proceedings were initiated, "[d]espite all the services provided . . . , [Juan has] yet to maintain sobriety for more

than three or four months at a time." The evidence supports these findings. Juan had failed to comply fully with drug testing protocols during ten of the twenty-one months this proceeding was pending and had tested positive for alcohol and marijuana in December 2007, for alcohol in January 2008, and for cocaine in June 2008.

**¶5** In his April 2007 evaluation, Wetmore diagnosed Juan with cocaine abuse and a narcissistic personality disorder, concluding, also, that "he most probably [was] or ha[d] been chemically dependent on alcohol" and required further testing to rule out alcohol dependency. Wetmore opined that Juan's "prognosis for change [was] guarded," noting Juan's self-report that he had been drinking since the age of thirteen. At trial, Wetmore testified that Juan's relapses raised "major concerns" about the prospect of future abuse and addiction and stated that "[w]ith the history of alcohol abuse that someone like Juan would have related, [he] would usually request a six to nine month period of . . . demonstrated sobriety from both drugs and alcohol" before unsupervised visitation or placement were even considered.

**¶6** Although Juan's substance abuse counselor opined that when she last saw Juan in January 2008, he had gained skills he would need to "stay on the road to recovery," she could offer no opinion about whether his June 2008 relapse affected his potential for rehabilitation. On the other hand, Juan's Child Protective Services case manager and his individual therapist both expressed concern that, because Juan had attributed his June 2008 relapse to "being stressed out," he could be expected to encounter other serious stress factors as a single parent if the children were returned to his care.

**¶7** ADES had an obligation to provide Juan with appropriate reunification services. *See Margaret H. v. Ariz. Dep't of Econ. Sec.*, 214 Ariz. 101, ¶ 8, 148 P.3d 1174, 1176-77 (App. 2006); *Mary Ellen C.*, 193 Ariz. 185, ¶ 33, 971 P.2d at 1053. But Juan does not suggest ADES failed to do so. Instead, he maintains the juvenile court erroneously found his substance abuse problems will continue for a prolonged, indeterminate period because he "had been clean for over three months" at the end of the termination hearing and continued to be amenable to further treatment. The court may certainly have considered Wetmore's opinion that a much longer period of sobriety would be required before placing a child with a parent who has a history of chronic substance abuse, as well as his guarded prognosis of Juan's ability to change, in determining it was reasonable to expect Juan's drug abuse to continue indefinitely. But the court was not limited to this evidence and, as ADES points out, could also have properly considered the history of Juan's problems with alcohol and dangerous drugs, his record of prior rehabilitative efforts that ended in relapse, and the potential effect of single parenthood as a trigger for future substance abuse.

**¶8** Additionally, the juvenile court properly considered the twenty-one months the children had already remained in out-of-home care. *Cf. Mary Ellen C.*, 193 Ariz. 185, ¶ 31, 971 P.2d at 1052 (§ 8-533(B)(3) requires state to provide rehabilitative services that could restore parenting ability "within a reasonable time"). The court was not required to "[l]eav[e] the window of opportunity for remediation open indefinitely," and doing so would not have been in the children's best interests. *Maricopa County Juv. Action No. JS-501568*, 177 Ariz. 571, 577, 869 P.2d 1224, 1231 (App. 1994).

**¶9** Because we conclude the juvenile court's findings warranted termination of Juan's parental rights pursuant to § 8-533(B)(3), we need not consider or address whether termination was also justified pursuant to § 8-533(B)(8)(c). *See Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, ¶ 27, 995 P.2d 682, 687 (2000); *see also* § 8-533(B) (one statutory ground sufficient to justify termination). The record in this case fully supports the court's findings of fact, which in turn support its conclusions of law. We therefore adopt the court's findings, approve its conclusions of law, and affirm the order terminating Juan's parental rights. *See Jesus M.*, 203 Ariz. 278, ¶ 16, 53 P.3d at 207-08.

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GARYE L. VÁSQUEZ, Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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J. WILLIAM BRAMMER, JR., Judge