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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

YVETTE S., Appellant, v. ARIZONA DEPARTMENT OF ECONOMIC SECURITY and JAQUISE S., Appellees.	2 CA-JV 2008-0131 DEPARTMENT B MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 10610100

Honorable Theodore J. Knuck, Judge Pro Tempore

AFFIRMED

Joan Spurney Caplan
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B R A M M E R, Judge.

¶1 Yvette S. appeals from the juvenile court's order terminating her parental rights to her son, Jaquise, on grounds of Yvette's chronic substance abuse and the fact that her parental rights to one of her other children had been terminated for the same reason within the previous two years.[1] *See* A.R.S. § 8-533(B)(3), (10). She contends that insufficient evidence supported the court's order and that § 8-533(B)(10) is unconstitutional on its face. She does not challenge the court's finding that terminating her rights was in Jaquise's best interests.

¶2 We will not disturb the juvenile court's order "unless it is clearly erroneous," that is, unless "no reasonable evidence" supports the findings of fact upon which the order is based. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4, 53 P.3d 203, 205 (App. 2002). A parent's rights can only be terminated if at least one of the grounds set forth in § 8-533(B) is proven by clear and convincing evidence. A.R.S. § 8-537(B). On appeal, we view the evidence in the light most favorable to upholding the court's factual findings. *Jesus M.*, 203 Ariz. 278, ¶ 13, 53 P.3d at 207.

¶3 As the Arizona Department of Economic Security (ADES) correctly points out, it presented evidence at the termination hearing that Yvette "had a twenty-year history of cocaine abuse, had never completed a substance-abuse treatment program, had used cocaine

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[1]Jaquise is Yvette's eighteenth child. None of her older children remain in her care. It is uncontested that Yvette's parental rights to her seventeenth child had been terminated in April 2007 on grounds of abandonment and chronic substance abuse. Jaquise was born in September 2007.

while pregnant with Jaquise, and had tested positive for illegal substances throughout the dependency." Evidence was also presented that ADES had received numerous, substantiated reports alleging Yvette had neglected some of her other children; four of the reports alleged Yvette had either admitted using drugs while she was pregnant or the child had tested positive for cocaine. Jaquise had been placed in the neonatal intensive care unit because of his low birth weight, respiratory distress, and failure to feed well. Yet, Yvette had attempted to remove him from the hospital against medical advice.

¶4 Based on the above, we disagree with Yvette's contention that evidence "was almost entirely lacking" to support the juvenile court's finding under § 8-533(B)(3) that Yvette's substance abuse is likely to continue for a prolonged, indeterminate period. The evidence described above was more than sufficient to support the court's determination and, contrary to Yvette's contention, no "impermissible leap of logic" was required. Yvette has cited no authority for her contention that "expert testimony was required" to support the court's finding on this issue. Nonetheless, the psychologist who evaluated Yvette concluded Yvette's prognosis was "obvious[ly] . . . extremely guarded" because "[s]he continue[d] to be an active substance abuser, [was] not presently meaningfully in treatment, and [had] been unsuccessful in posturing herself to be an adequate parent across the eighteen children she has had." He also opined that Yvette's "progress[,] were it to be made, [would] not be determinable within the short run, and likely not within the intermediate term." Thus, sufficient evidence was presented that Yvette's cocaine abuse and dependence was likely to continue for a prolonged, indeterminate period of time.

¶5 Sufficient evidence was also presented that Yvette's substance abuse rendered her "unable to discharge [her] parental responsibilities." § 8-533(B)(3). Besides the evidence mentioned above, ADES also presented evidence that Yvette had failed to comply with her case plan or benefit from services offered to her, including parenting classes and drug treatment. Thus, we conclude the juvenile court did not abuse its discretion by terminating Yvette's parental rights to Jaquise on the ground of her chronic substance abuse.

¶6 Because this ground was proven by clear and convincing evidence, we need not address Yvette's arguments regarding the second statutory ground for termination found by the juvenile court. *See Jesus M.*, 203 Ariz. 278, ¶ 3, 53 P.3d at 205 ("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."). The order terminating Yvette's parental rights to Jaquise is affirmed.

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J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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GARYE L. VÁSQUEZ, Judge