NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE

ARIZONA COURT OF APPEALS

DIVISION ONE

KENNETH A., *Appellant*,

v.

DEPARTMENT OF CHILD SAFETY, K.A., *Appellees*.

No. 1 CA-JV 16-0099
FILED 9-20-2016

Appeal from the Superior Court in Maricopa County
No. JS517565
The Honorable Janice K. Crawford, Judge

AFFIRMED

COUNSEL

Czop Law Firm PLLC, Higley
By Steven Czop
Counsel for Appellant

Department of Child Safety, Phoenix
By Nicholas Chapman-Hushek
Counsel for Appellees

MEMORANDUM DECISION

Presiding Judge Patricia K. Norris delivered the decision of the Court, in which Judge Samuel A. Thumma and Judge Margaret H. Downie joined.

N O R R I S, Judge:

¶1 Kenneth A. appeals from the juvenile court's order terminating his parental rights to K.A. pursuant to Arizona Revised Statutes ("A.R.S.") section 8-533(B)(2) (Supp. 2015) (willful abuse of a child). On appeal, Kenneth argues, first, A.R.S. § 8-533(B)(2) does not authorize a juvenile court to terminate parental rights for only a "single bruise with multiple explanations" (the "single bruise argument"), and second, substantial evidence fails to support the juvenile court's finding he willfully abused K.A. ("sufficiency of the evidence argument"). We reject both arguments.

¶2 Kenneth's single bruise argument rests on a premise that termination under A.R.S. § 8-533(B)(2) requires proof of serious physical injury. Section 8-533(B)(2) does not, however, require such proof. The statute authorizes termination of parental rights when a parent "has . . . willfully abused a child." *Id.* Such "abuse includes serious physical or emotional injury." *Id.* As we explained in *E.R. v. Dep't of Child Safety*, 237 Ariz. 56, 59, ¶ 12, 344 P.3d 842, 845 (App. 2015), the Legislature's use of the word "includes" in the statue is a term of enlargement, and thus, conduct other than serious physical or emotional injury may constitute abuse under A.R.S. § 8-533(B)(2). And, as we noted in *E.R.*, "abuse" is further defined in A.R.S. § 8-201(2) (Supp. 2015) as "the infliction or allowing of physical injury, impairment of bodily function or disfigurement . . . ." *Id.*

¶3 Kenneth's single bruise argument rests on another premise—the physical injury K.A. sustained was a simple "single bruise." At the termination adjudication hearing, however, the physician who examined K.A. at the hospital a day after he was injured described his injuries as painful and significant, extending from the left side of his face, from the cheek, across the left eye, and onto the nasal bridge with swelling of the nasal bridge. Photographs of K.A. taken at the hospital showed significant deep purple bruising and swelling to the left side of K.A.'s face. After being injured, K.A.'s nose bled, and he vomited. Finally, K.A.'s injuries were sufficiently severe for him to spontaneously tell the DCS investigator who

met with him at the hospital that he did not want to die, did not want to go home, and did not want to go back to his father.

¶4 Finally, Kenneth's single bruise argument rests on a third premise that overlaps with his sufficiency of the evidence argument—the juvenile court should have accepted his explanations for K.A.'s injuries—which varied from K.A. falling out of bed to Kenneth falling on K.A. or Kenneth possibly hitting K.A. when he had a seizure. The juvenile court was not obligated to accept Kenneth's varying explanations, *see Jordan C. v. Ariz. Dep't of Econ. Sec.*, 223 Ariz. 86, 93, ¶ 18, 219 P.3d 296, 303 (App. 2009) (citation omitted) (juvenile court weighs the evidence, judges credibility, and resolves factual disputes), and DCS presented substantial evidence that Kenneth willfully abused K.A., *see Denise R. v. Ariz. Dep't of Econ. Sec.*, 221 Ariz. 92, 94, ¶ 7, 210 P.3d 1263, 1265 (App. 2009).

¶5 For example, the physician who examined K.A. at the hospital testified K.A.'s injuries were consistent with a blow—a punch in the face, but inconsistent with K.A. simply falling off his bed—which the initial DCS investigator explained was approximately two feet off of K.A.'s bedroom floor. The physician also testified that during her examination of K.A., he told her that Kenneth had hit him because he had failed to say his prayers. And Kenneth never told the police detective that investigated K.A.'s injuries, or K.A.'s grandmother who took K.A. to the hospital, or the DCS investigator who interviewed him two days after K.A. was injured, that he had injured K.A. while having a seizure. Nor did Kenneth present any evidence corroborating his testimony he had injured K.A. while having a seizure.

¶6 DCS presented the juvenile court with ample evidence that Kenneth willfully abused K.A. Accordingly, we affirm the juvenile court's order terminating Kenneth's parental rights to K.A.

AMY M. WOOD • Clerk of the Court
FILED: AA