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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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EDWARD W., AISHA T., *Appellants,*

*v.*

DEPARTMENT OF CHILD SAFETY, Q.W., K.W., *Appellees.*

No. 1 CA-JV 15-0342  
FILED 7-12-2016

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Appeal from the Superior Court in Maricopa County  
No. JD510662  
The Honorable Shellie Smith, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

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

David W. Bell, Attorney at Law, Mesa  
By David W. Bell  
*Counsel for Appellant Father*

Arizona Attorney General's Office, Mesa  
By Nicholas Chapman-Hushek  
*Counsel for Appellee DCS*

**MEMORANDUM DECISION**

Judge Andrew W. Gould delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge Kent E. Cattani joined.

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**G O U L D**, Judge:

¶1 Aisha T. (“Mother”) and Edward W. (“Father”) appeal from the juvenile court’s order terminating their parental rights. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 Mother and Father are the parents of Q.W., who was born in 2010, and K.W., who was born in 2012. When Mother gave birth to K.W., DCS received a report that Mother, who had a history of abusing alcohol, had been warned by her physician to stop drinking alcohol during her pregnancy. The report indicated that despite these admonitions from her physician, Mother continued drinking alcohol during her pregnancy. Based on this report, DCS contacted Father at the hospital. Father assured DCS that Mother was not drinking, and that he would not stay in a relationship with her if she continued to drink and place the children at risk.

¶3 A few months later, in November 2012, DCS received a report that Mother had been hospitalized after attempting to overdose on Vicodin and alcohol. When Mother was admitted, her BAC was .151. The report stated that Mother had been diagnosed with several mental illnesses and she reported a history of self-medicating with alcohol on a daily basis, in addition to taking psychotropic medications and methamphetamine. Father advised the hospital social worker that Mother was intoxicated every day and that he feared for his children’s safety while in her care. He also reported that Mother was physically aggressive toward him and that the police had been called to their residence four times in the previous month.

¶4 Based on the November 2012 report, DCS put a safety plan in place to protect the children from Mother. Under the safety plan, Father agreed that Mother would not be allowed to live in the home. However, DCS subsequently learned that Father had allowed Mother to return to the home.

¶5 In December 2012, the police again responded to the residence based on a report of domestic violence; Mother was arrested for kicking

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Father and threatening to kill him. DCS removed the children from the home and filed a petition alleging the children were dependent as to Mother because of substance abuse, mental illness and domestic violence. The petition also alleged the children were dependent as to Father based on his failure to protect them from Mother.

¶6 In May 2013, the juvenile court found both children dependent as to Mother and Father, and the court ordered a case plan of family reunification. DCS provided reunification services to both parents. These services continued until May 2014, when DCS received a report that the children may have been sexually abused. As a result, DCS suspended the parents' weekend visits while the allegations were investigated until October 2014, when the abuse allegations were found to be unsubstantiated.

¶7 In August 2014, while the sexual abuse investigation was still pending, DCS filed a petition to terminate Mother's and Father's rights based on fifteen months' time-in-care. *See* Ariz. Rev. Stat. ("A.R.S.") § 8-533(B)(8)(c) (2014). Additionally, the petition alleged Mother's rights should be terminated based on chronic substance abuse, and that termination of both parents' rights was in the best interests of the children. In April, May and June 2015, the court held a contested severance hearing. Following the hearing, the court issued an order terminating Mother's and Father's parental rights on all grounds alleged. Both Mother and Father timely appealed.

## DISCUSSION

¶8 Mother and Father both argue there was insufficient evidence to support the statutory grounds for termination. Father also asserts the court erred in its best interests finding; Mother has not challenged this finding. For the following reasons, we affirm as to both parents.

¶9 In terminating a parent-child relationship, the juvenile court must determine that there is clear and convincing evidence supporting the statutory grounds for termination. A.R.S. § 8-537(B) (2014); *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002). "[W]e will accept the juvenile court's findings of fact unless no reasonable evidence supports those findings, and we will affirm a severance order unless it is clearly erroneous." *Jesus M.*, 203 Ariz. at 280, ¶ 4. As the trier of fact in a termination proceeding, the juvenile court "is in the best position to weigh the evidence, observe the parties, judge the credibility of witnesses, and make appropriate findings." *Id.* If clear and convincing evidence supports

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termination on any one statutory ground, we need not consider challenges pertaining to other grounds. *Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, 251, ¶ 27 (2000).

I. Mother

¶10 To terminate Mother's parental rights based on chronic substance abuse, the court was required to find that Mother: (1) had a history of chronic abuse of controlled substances or alcohol; (2) she was unable to discharge her parental responsibilities because of her chronic alcohol/substance abuse; and (3) there were reasonable grounds to believe that her condition would continue for a prolonged and indeterminate period. A.R.S. § 8-533(B)(3); *Raymond F. v. Ariz. Dep't of Econ. Sec.*, 224 Ariz. 373, 377, ¶ 15 (App. 2010).

¶11 There is no dispute that Mother has a history of chronic substance abuse; Mother admitted during the termination hearing that she has struggled with alcohol and substance abuse for more than twenty years. Mother argues, however, that DCS failed to establish that her alcohol and drug abuse rendered her unable to discharge her parental responsibilities. Mother also argues that DCS failed to show that her alcohol and substance abuse was likely to continue into the future.

¶12 The record shows that Mother was unable to safely and effectively parent the children due to her alcohol and substance abuse. Mother has a history of engaging in violent and aggressive behavior, including domestic violence, when she abuses drugs and alcohol. Mother testified that her alcohol use has affected her judgment and put her children at risk. Similarly, Father testified that Mother becomes aggressive and violent when intoxicated, and that the children are not safe with Mother while she is drinking. Dr. Novie, the psychologist who examined Mother, testified that due to Mother's high risk of relapse, the children would be in danger in her care.

¶13 The record also shows there were reasonable grounds to believe Mother's alcohol and substance abuse would continue for a prolonged and indeterminate period. Despite short periods of sobriety, Mother has never demonstrated that she can maintain a clean and sober lifestyle. Between January and August 2013, Mother engaged in inpatient and outpatient treatment. However, after completing treatment, Mother tested positive for alcohol seven times between September 2013 to April 2014. She also missed ten urinalysis tests during this period, despite being warned that a missed test would be deemed a positive test. Father testified

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that Mother was drinking during this time while he was at work and she was home with the children.

¶14 At the termination hearing Mother admitted that she relapsed in March 2014 and had been drinking two to three times per week before she reengaged in treatment in July 2014. Nonetheless, even though Mother returned to and completed inpatient treatment a second time, she tested positive for opiates in January 2015 and missed five urinalysis tests in the months leading up to the severance hearing.

¶15 Accordingly, the evidence supports the juvenile court's finding that Mother's chronic alcohol and substance abuse provide a basis for severance.

II. Father

A. Grounds for Termination

¶16 The juvenile court terminated Father's rights on the grounds of fifteen months' time-in-care. *See* A.R.S. § 8-533(B)(8)(c). Termination based on this ground requires that DCS prove: (1) the children have been in an out-of-home placement for fifteen months; (2) DCS has made diligent efforts to provide appropriate reunification services; (3) the parent has been unable to remedy the circumstances causing the placement; and (4) there is a substantial likelihood that the parent will be unable to exercise proper and effective parental care and control in the near future. A.R.S. § 8-533(B)(8)(c).

¶17 Father does not challenge the juvenile court's finding that the children had been in an out-of-home placement for fifteen months, nor does he challenge that DCS made a diligent effort to provide appropriate reunification services. Rather, Father asserts he has remedied the circumstances that caused the children to be dependent, and that DCS has failed to prove he is "unfit to be a parent."

¶18 At the outset of this case, the primary circumstance causing the children to be dependent as to Father was his failure to protect the children from Mother. Nonetheless, the record shows that Father consistently placed the children at risk, prioritizing his relationship with Mother above the safety of his children. Father's parent aide services were closed, in part, because he was not setting proper boundaries with Mother and the children. Father testified that he did not want to leave Mother because he did not want to be alone; as a result, he continued his relationship with Mother throughout the dependency. Although Father told a DCS caseworker that he would do "whatever it takes" to keep his

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children, he denied that separating from Mother was necessary, and asserted it was “not right” for a mother not to see her children. Indeed, Mother continued to live with Father throughout the dependency, even after she relapsed.

¶19 Father also repeatedly made excuses for Mother, minimizing and defending her conduct. Father testified that he did not believe Mother ever was or will be a danger to the children, and that her alcoholism only affects the children because DCS has made it an issue. He further testified that he trusts Mother with the children and believes she poses no risk at all to them. Father also testified that he did not believe the children were at risk during the December 2012 domestic violence incident and explained Mother’s statement “I’m going to kill you” to their three-year-old daughter during a parent aide visit as just “playing.”

¶20 In sum, although Father received parenting classes, parent aide services, and counseling for more than two years, he failed to show that he would protect the children from Mother. We find no error.

B. Best Interests

¶21 Father also challenges the court’s best interests finding. “To prove that the termination of parental rights would be in a child’s best interests, [DCS] must present credible evidence demonstrating ‘how the child would benefit from a severance or be harmed by the continuation of the relationship.’” *Lawrence R. v. Ariz. Dep’t of Econ. Sec.*, 217 Ariz. 585, 587, ¶ 8 (App. 2008) (quoting *Mary Lou C. v. Ariz. Dep’t of Econ. Sec.*, 207 Ariz. 43, 50, ¶ 19 (App. 2004)). Evidence showing a child is adoptable is sufficient to support a finding that the child would benefit from the termination of parental rights. *Maricopa Cty. Juv. Action No. JS-501904*, 180 Ariz. 348, 352 (App. 1994). In addition, the juvenile court may also consider whether the child’s existing placement is meeting the child’s needs. *Audra T. v. Ariz. Dep’t of Econ. Sec.*, 194 Ariz. 376, 377, ¶ 5 (App. 1998).

¶22 Here, the record supports the court’s best interests finding. The children were being cared for by their maternal aunt, who met their needs, kept them safe, and was willing to adopt them. Also, the DCS caseworker testified at the hearing that the children were adoptable, even if their maternal aunt did not adopt them. Further, as discussed above, there is evidence in the record that the children could be harmed by continuing the parental relationship, as Father’s actions indicated he was unwilling to sacrifice his relationship with Mother to protect the children.

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¶23 We therefore conclude the record supports the juvenile court's best interests finding.

**CONCLUSION**

¶24 For the reasons above, we affirm the juvenile court's termination of Mother's and Father's parental rights to the children.



Ruth A. Willingham - Clerk of the Court  
FILED : AA