

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

TINA R.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY AND W.R.,
Appellees.

No. 2 CA-JV 2014-0164
Filed August 3, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);
Ariz. R. P. Juv. Ct. 103(G).

Appeal from the Superior Court in Cochise County
No. JD201400001
The Honorable Terry Bannon, Judge

AFFIRMED

COUNSEL

Joel A. Larson, Cochise County Legal Defender
By Benna R. Troup, Assistant Legal Defender, Bisbee
Counsel for Appellant

Mark Brnovich, Arizona Attorney General
By Cathleen E. Fuller, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

TINA R. v. DEP'T OF CHILD SAFETY
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Miller concurred.

V Á S Q U E Z, Presiding Judge:

¶1 Appellant Tina R. challenges the juvenile court's November 2014 order terminating her parental rights to her son, W.R., on the ground that W.R. had been in a court-ordered, out-of-home placement for six months or longer. See A.R.S. § 8-533(B)(8)(b). She maintains her rights were "improperly terminated because [she] was ineffectively represented by her attorney" and because the Department of Child Safety (DCS)¹ "did not make diligent efforts to provide reunification services." Finding no error, we affirm.

¶2 We view the evidence in the light most favorable to sustaining the juvenile court's ruling, see *Lashonda M. v. Ariz. Dep't of Econ. Sec.*, 210 Ariz. 77, ¶ 13, 107 P.3d 923, 928 (App. 2005), and "we will accept the juvenile court's findings of fact unless no reasonable evidence supports those findings," *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4, 53 P.3d 203, 205 (App. 2002). W.R. was born substance exposed in March 2013. DCS had received a number of reports relating to Tina's older child before W.R.'s birth. And during her pregnancy with W.R., Tina tested positive for marijuana, codeine, and morphine and reported having used methamphetamine during the pregnancy.

¹The Department of Child Safety is substituted for the Arizona Department of Economic Security (ADES) in this decision. See 2014 Ariz. Sess. Laws 2nd Spec. Sess., ch. 1, § 20. For simplicity, our references to DCS in this decision encompass ADES, which formerly administered child welfare and placement services under title 8, and Child Protective Services, formerly a division of ADES.

TINA R. v. DEPT OF CHILD SAFETY
Decision of the Court

¶3 In September 2013, drug paraphernalia was found in Tina’s home, in a place accessible to her older child. Tina also lived with a boyfriend who was arrested for felony drug offenses and who engaged in domestic violence with her, including threatening to set fire to a residence with Tina, W.R., and Tina’s older child inside. In January 2014, W.R. was removed from the home.

¶4 In February 2014, the juvenile court adjudicated W.R. dependent after Tina pled “no contest” to the allegations in a dependency petition filed by DCS in January. The case initially proceeded with concurrent plans for reunification and severance, but in July 2014, after concluding Tina was not in compliance with the case plan, the court ordered the plan for W.R. to be changed to severance and ordered DCS to file a motion to terminate Tina’s parental rights.

¶5 At the termination hearing, Tina’s case manager testified that DCS had provided Tina with services including “Arizona Families First, drug testing, substance abuse, urinalysis testing, parenting classes, individual counseling, anger management, psychiatric evaluation, supervised visitation, transportation, child and family team meetings, [and a] case manager.” The case manager stated Tina had “not completed the services to date.” She explained, however, that Tina had “attempt[ed] to re-engage” shortly before the severance hearing, contacting the case manager on September 8, 2014, to request a new referral for services. But after completing her intake, Tina was still not in full compliance, participating only minimally in services and continuing to test positive for drug use. She was ultimately “closed out of services” in October 2015.

¶6 Tina did not contest the motion, and her counsel stated at the hearing on the motion that Tina was “making a decision that she believes is in [W.R.’s] best interests to not contest the severance.” The juvenile court determined DCS had established the ground for severance and granted its motion to terminate Tina’s parental rights to W.R. This appeal followed.

TINA R. v. DEPT OF CHILD SAFETY
Decision of the Court

¶7 On appeal, Tina argued she received ineffective assistance of counsel and her “parental rights were improperly terminated because DCS did not make diligent efforts to provide reunification services.” This court stayed the appeal, noting that the record lacked evidence on which this court could adequately evaluate Tina’s claim of ineffective assistance of counsel and directing the juvenile court to hold a hearing and consider the issue in the first instance. The court held hearings in September and November 2015 and issued a detailed under-advisement ruling in which it concluded counsel’s performance had not been deficient, and that, in any event, it was “highly unlikely” that Tina could establish any prejudice resulting from counsel’s performance.

¶8 The juvenile court concluded that Tina had not established a claim of ineffective assistance. It did not abuse its discretion in so concluding. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984) (to establish ineffective assistance claimant must establish deficient performance and resulting prejudice). The court clearly identified the claims Tina raised and resolved them correctly in a thorough, well-reasoned minute entry. Because we do not reweigh the evidence presented at the hearing, and because the court identified and rejected Tina’s claims “in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court’s correct ruling.” *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶9 We therefore adopt the juvenile court’s ruling on Tina’s claims of ineffective assistance of counsel and affirm its order terminating her parental rights to W.R.