

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

FAWN F.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY AND S.F.,
Appellees.

No. 2 CA-JV 2015-0035
Filed April 24, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED FOR PERSUASIVE AUTHORITY.
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 Pima County
No. JD20150022
The Honorable Brenden J. Griffin, Judge

ORDER VACATED

COUNSEL

Sarah Michèle Martin, Tucson
Counsel for Appellant

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Mark Brnovich, Arizona Attorney General
By Dawn R. Williams, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

DECISION ORDER

DEPARTMENT B PER CURIAM

¶1 In January 2015, the Department of Child Safety (DCS) filed a dependency petition asserting that S.F., born December 19, 2014, is dependent as to his parents, Fawn F. and Richard I.¹ The petition stated that S.F. is “medically fragile” with “an extensive list of medical disabilities.” After the preliminary protective hearing, DCS filed a motion for an “emergency hearing” for the juvenile court to consider a request by S.F.’s medical provider that he be placed on “‘No Code’ status.” The motion included a letter from a medical doctor stating that S.F. suffered from a chromosomal anomaly with characteristics suggesting he would not survive infancy. The doctor further explained S.F. had choked while feeding, causing “a prolonged (at least 30 minutes documented) resuscitation.” The doctor opined that, as a result of this event, S.F. had suffered brain damage and “will not ever be able to breathe on his own or eat on his own.” In the letter, the doctor recommended that S.F. “not receive resuscitative efforts if he deteriorates” and that an ethics committee make a recommendation whether to withdraw life support.

¶2 At the subsequent hearing, the doctor testified regarding S.F.’s condition and stated the ethics committee had recommended that life support be withdrawn. The juvenile court declined DCS’s request that S.F.’s medical providers be authorized

¹ The dependency petition alternatively alleged that an unknown person may be S.F.’s father. Richard was appointed counsel and appeared at proceedings as S.F.’s father. He is not a party to this appeal.

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to decide to withdraw life support. However, over Fawn's objection, the court ordered that S.F.'s medical providers were authorized to enter a "No Code" order providing that, if S.F. "experiences pulmonary or cardiac arrest, no extraordinary or aggressive medical procedures need to be used to resuscitate [him]."² This appeal followed.

¶3 On appeal, Fawn argues the emergency hearing was held in violation of her due process rights. We need not address the merits of this argument, however, because DCS has confessed error and asks that we reverse the juvenile court's order. In light of DCS's confession of error, the juvenile court's order authorizing the "Do Not Resuscitate" order is vacated. *Cf. State v. Greenlee Cnty. Justice Ct.*, 157 Ariz. 270, 271, 756 P.2d 939, 940 (App. 1988) (court may accept implied confession of error if appellant presents "debatable issues" on appeal).

²The juvenile court later amended the order to use the term "Do Not Resuscitate" rather than "No Code."