

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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CHARMAINE K.,  
*Appellant,*

*v.*

DEPARTMENT OF CHILD SAFETY AND F.K.,  
*Appellees.*

No. 2 CA-JV 2016-0144  
Filed October 24, 2016

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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NOT FOR PUBLICATION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).

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Appeal from the Superior Court in Pinal County  
No. S1100JD201200231  
The Honorable Brenda E. Oldham, Judge

**AFFIRMED**

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COUNSEL

The Stavris Law Firm, PLLC, Scottsdale  
By Christopher Stavris  
*Counsel for Appellant*

Mark Brnovich, Arizona Attorney General  
By Laura J. Huff, Assistant Attorney General, Tucson  
*Counsel for Appellee Department of Child Safety*

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**MEMORANDUM DECISION**

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

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M I L L E R, Judge:

¶1 Charmaine K. appeals from the juvenile court's July 2016 order terminating her parental rights to her fifteen-year-old daughter F.K. She argues there was insufficient evidence to support termination on grounds of her inability to discharge her parental responsibilities because of mental illness, *see* A.R.S. § 8-533(B)(3), or her inability to remedy circumstances causing F.K.'s placement in court-ordered, out-of-home placement for fifteen months or longer, *see* § 8-533(B)(8)(c). For the following reasons, we affirm the termination order.

¶2 In December 2012, the Department of Child Safety (DCS)<sup>1</sup> filed a dependency petition alleging Charmaine had neglected F.K. and, due to her history of mental illness and substance abuse, was unable to "properly parent, supervise and protect" F.K. The juvenile court adjudicated F.K. dependent in April 2013. During the three years that followed, DCS provided Charmaine with reunification services that included case management services; individual and group counseling; parent-aide services and parenting classes; living skills education; psychological and psychiatric evaluations; substance abuse assessment, treatment, and urinalysis testing; and supervised and therapeutic visitation.

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<sup>1</sup>DCS has replaced the Arizona Department of Economic Security (ADES) as the agency responsible for administering child welfare and placement services under title 8, A.R.S. *See* 2014 Ariz. Sess. Laws, 2d Spec. Sess., ch. 1, § 20. For simplicity, our references to DCS in this decision encompass both ADES and Child Protective Services, formerly a division of ADES.

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¶3 Charmaine participated in all of these services, but her therapeutic visits with F.K. were “strained at times.” In September 2015, DCS reported that Charmaine was homeless and had been exhibiting erratic behavior that caused her admission to a hospital in August, where she acknowledged that she had not been taking her medication regularly. She had stopped attending Alcoholics Anonymous meetings in June, and a therapeutic visit in August had to be discontinued due to Charmaine’s anger and hurtful statements to F.K. The juvenile court granted DCS’s request to change the case plan to severance and adoption, and DCS filed a motion to terminate Charmaine’s parental rights pursuant to § 8-533(B)(3) and (B)(8)(c). After a contested hearing, the juvenile court found DCS had established these grounds for termination by clear and convincing evidence. As required by § 8-533(B), the court also found, by a preponderance of evidence, that termination is in F.K.’s best interests.<sup>2</sup> See *Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 41, 110 P.3d 1013, 1022 (2005) (preponderance of evidence sufficient to establish child’s best interests in termination proceeding). This appeal followed.

¶4 We view the evidence in the light most favorable to upholding the juvenile court’s order, and we will affirm an order terminating parental rights unless we can say as a matter of law that no reasonable person could find the essential elements proven by the applicable evidentiary standard. See *Denise R. v. Ariz. Dep’t of Econ. Sec.*, 221 Ariz. 92, ¶¶ 9-10, 210 P.3d 1263, 1265-66 (App. 2009). If sufficient evidence supports any one of the statutory grounds found, “we need not address claims pertaining to the other grounds.” *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, ¶ 3, 53 P.3d 203, 205 (App. 2002). Because we find clear and convincing evidence supports the court’s order on time-in-care grounds, see § 8-533(B)(8)(c), we do not address the alternative ground of a disabling mental illness, see § 8-533(B)(3).

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<sup>2</sup> Charmaine does not challenge the court’s best interests finding on appeal and, accordingly, we do not address it. See *Michael J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 246, ¶ 13, 995 P.2d 682, 685 (2000).

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¶5 To terminate Charmaine's parental rights pursuant to § 8-533(B)(8)(c), the juvenile court was required to find that (1) F.K. had been in court-ordered, out-of-home care for more than fifteen months; (2) despite DCS's diligent effort to provide appropriate reunification services, Charmaine had failed to remedy the circumstances causing that placement; and (3) there was a substantial likelihood that Charmaine would be unable to parent effectively in the near future. On appeal, Charmaine does not dispute that F.K. has remained in out-of-home care for more than three years, that DCS has made sufficient efforts to provide reunification services, or that she is presently unable to have F.K. returned to her care. But she contends the juvenile court erred in finding a substantial likelihood that she will not be able to parent F.K. effectively in the near future, citing her "efforts [and] participation in services" and a letter from the manager of her transitional housing program reporting Charmaine's personal growth and continuing progress in learning new skills.<sup>3</sup>

¶6 Charmaine is essentially asking this court to reweigh the evidence and substitute its judgment for the considered judgment of the juvenile court, which we will not do. *See Benigno R. v. Ariz. Dep't of Econ. Sec.*, 233 Ariz. 345, ¶ 31, 312 P.3d 861, 867-68 (App. 2013). The juvenile court acknowledged that Charmaine "has worked very hard," but it found "she has been unable to remedy the circumstances that brought the child into care" and had not sufficiently "progressed with her mental health issues to safe[l]ly and permanently provide a safe environment for her child." Reasonable evidence supported that determination,<sup>4</sup> as well as the court's finding of a substantial likelihood that Charmaine would be unable to parent F.K. effectively in the near future.

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<sup>3</sup>In his letter, the manager stated, "I think she is ready to have another chance at raising her child even if it is supervised at first."

<sup>4</sup>We consider all of the evidence, including the testimony regarding the severity and intractability of Charmaine's mental health issues, as well as the difficulty of maintaining recent progress.

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¶7 When questioned by the court, Charmaine's former counselor confirmed that Charmaine faced "challenges with communication and understanding of her role as a parent; for example, providing housing, meals, and [a] safe environment for a child," issues that caused concern with respect to "how she might parent a child."<sup>5</sup> The counselor testified that, due to Charmaine's cognitive impairments or developmental delays, "she would have a very difficult time locating and maintaining a job" and managing household expenses within a budget. According to the counselor, Charmaine was working on identifying her emotional "triggers" and on coping skills, but there had been "a lack of progress" in achieving stability on her medications.

¶8 The counselor emphasized Charmaine's diligence in seeking employment and said she had been engaged in a "meet-and-greet class" to develop needed communication and interviewing skills. When asked about the "best case scenario," the counselor suggested that, if Charmaine were to spend "at least" another six to eight months in the program, she would "hopefully be able to gather some skills" needed to achieve her goals of independent housing and a stable income. But the counselor could not predict whether Charmaine would actually achieve those goals within that time frame.

¶9 The juvenile court's ruling that termination was warranted under § 8-533(B)(8)(c) is well-supported by the record. Accordingly, we affirm the termination order.

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<sup>5</sup>The counselor had worked with Charmaine between October 2015 and April or May 2016, while Charmaine was enrolled in an intensive outpatient treatment program that provided multiple services.