

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of E.A., Z.A., R.W., and P.W.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20070275-CA
_____)	
K.A.,)	F I L E D
)	(May 24, 2007)
Appellant,)	
)	2007 UT App 181
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 507820
The Honorable Kimberly K. Hornak

Attorneys: Summer D. Shelton, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee

Before Judges Bench, Orme, and Thorne.

PER CURIAM:

K.A. (Mother) appeals the termination of her parental rights. "Under Utah law, a court may terminate an individual's parental rights if it concludes that the party seeking termination has demonstrated by 'clear and convincing evidence' that (1) the parent is unfit or incompetent and (2) termination is in the child's best interests." In re T.M., 2006 UT App 435, ¶16, 147 P.2d 529. "In adherence to Utah Code section 78-3a-406, if there are sufficient grounds to terminate parental rights, the court must then find that the best interests and welfare of the child are served by terminating the parents' parental rights." Id. at ¶21; see also Utah Code Ann. § 78-3a-406(3) (Supp. 2006). Mother does not challenge the juvenile court's determination of parental unfitness, but contends that the children's best interests do not support termination of parental rights. "This court will overturn a juvenile court's factual findings in a parental rights termination proceeding only if the findings are

clearly erroneous." In re T.M., 2006 UT App 435 at ¶14. We defer to the juvenile court "because of its superior position to judge parties' and witnesses' credibility and personalities and because of juvenile court judges' special training, experience and interest in this field, and devoted attention to such matters." Id. (quotations and citations omitted).

Mother's contention that the juvenile court did not adequately consider the wishes of the children is without merit. The testimony reflected that only five-year-old R.W. expressed a desire to return home; however, the court also found that all the children were very bonded to their biological parents and the biological parents were very bonded to the children. Under the circumstances, the court adequately considered any evidence that might be construed as an expression of the children's preference to return home.

The juvenile court's findings of fact underlying the best interests determination are amply supported by the evidence. The three older children entered foster care with significant developmental delays, which are being addressed in the foster placement. Mother failed to acknowledge any developmental delays, as well as other needs of the children. The court rejected Mother's contentions that the children were clean, well-loved, and not abused or neglected, noting that two of the children tested positive for methamphetamine exposure. Mother failed to address her drug use and consistently denied any need for drug treatment, also supporting a determination that it is in the children's best interests that parental rights be terminated. Given the juvenile court's findings of fact, which are amply supported by the evidence, there is no basis on which to disturb its determination regarding the best interests of the children.

We affirm the termination of Mother's parental rights.

Russell W. Bench,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge