

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

In the interest of G.M. and S.D.M., persons under eighteen years of age.	)	MEMORANDUM DECISION	
_____	)	(Not For Official Publication)	
	)	Case No. 20070807-CA	
N.G.,	)		
Appellant,	)	F I L E D	
	)	(December 28, 2007)	
v.	)	<table border="1"><tr><td>2007 UT App 411</td></tr></table>	2007 UT App 411
2007 UT App 411			
S.M. and S.M.,	)		
Appellees.	)		

-----

Third District Juvenile, Tooele Department, 842616  
The Honorable Mark W. May

Attorneys: David J. Angerhofer, Sandy, for Appellant  
Martha Pierce, Salt Lake City, Guardian Ad Litem

-----

Before Judges McHugh, Orme, and Thorne.

PER CURIAM:

N.G. (Mother) appeals the termination of her parental rights in G.M. and S.M. We affirm.

Mother asserts on appeal that her due process rights were violated because she received ambiguous notice of her termination trial date and, therefore, missed her trial. Parental rights termination proceedings must "comport with the requirements of Due Process." In re M.A.V., 736 P.2d 1031, 1033 n.2 (Utah Ct. App. 1987). However, parents do not have an absolute right to attend the termination hearing, but only to receive proper notice of the hearing. See id. at 1033.

Mother received notice of the termination trial when she appeared at the pretrial hearing on June 28, 2007. Mother received both oral and written notice of the date and acknowledges that the notice was adequate and unambiguous. Mother asserts that subsequently, however, the notice became ambiguous because of notice she received in the separate juvenile

delinquency proceeding against S.M. Mother contends that she misconstrued the notice received at a delinquency hearing and a later postponement notice to be applicable to her termination trial. Mother's argument fails for two reasons.

First, the affidavit presenting her case is not in the record on appeal and thus is not properly before this court. See Utah R. App. P. 11(a) (identifying the record on appeal). "An appellate court's 'review is . . . limited to the evidence contained in the record on appeal.'" State v. Pliego, 1999 UT 8, ¶ 7, 974 P.2d 279 (citation omitted). Because the affidavit is not in the record on appeal, this court cannot consider it.

Second, although Mother asserts that the alleged error was created by the use of the same case number in two juvenile court proceedings involving S.M., the notice of the termination trial was clearly separate from the juvenile delinquency proceeding and sufficient to give notice of the termination proceeding. The juvenile court gave explicit notice of the trial date at the pretrial for the termination proceeding. Matters regarding the termination were captioned with both children identified. Mother knew that two separate proceedings were ongoing. There is no indication that termination proceedings and delinquency proceedings were ever addressed at the same hearing. On the contrary, S.M. was purposefully kept out of termination matters. There is nothing in the record to support that the termination and juvenile delinquency matters were confusing or overlapping in any sense. Overall, there is nothing to support Mother's assertion that the notice of the termination trial was ambiguous or confusing. Therefore, the notice of trial received by Mother was sufficient to comport with due process requirements.

Accordingly, the termination of Mother's parental rights is affirmed.

---

Carolyn B. McHugh, Judge

---

Gregory K. Orme, Judge

---

William A. Thorne Jr., Judge