

IN THE UTAH COURT OF APPEALS

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In the interest of I.B., a)	MEMORANDUM DECISION
person under eighteen years of)	(Not For Official Publication)
age.)	
_____)	Case No. 20070222-CA
)	
K.N.,)	F I L E D
)	(May 24, 2007)
Appellant,)	
)	2007 UT App 177
v.)	
)	
C.B.,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 503995
The Honorable Kimberly K. Hornak

Attorneys: Summer D. Shelton, Salt Lake City, for Appellant
Todd D. Weiler, Salt Lake City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Davis, and Thorne.

PER CURIAM:

K.N. (Father) appeals the termination of his parental rights in I.B. Father challenges the sufficiency of the evidence supporting the juvenile court's findings.

In reviewing an order terminating parental rights, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re R.A.J., 1999 UT App 329, ¶6, 991 P.2d 1118 (quotations and citation omitted). A juvenile court's findings of fact will not be overturned unless they are clearly erroneous. See In re E.R., 2001 UT App 66, ¶11, 21 P.3d 680. A finding of fact is clearly erroneous only when in light of the evidence supporting the finding, it is against the clear weight of the evidence. See id. Further, we give the juvenile court a "'wide latitude of discretion as to the judgments arrived at' based upon not only the court's opportunity to judge credibility firsthand, but also

based on the juvenile court judges' 'special training, experience and interest in this field.'" Id. (citation omitted).

Father argues that there was insubstantial evidence to support terminating his parental rights. The juvenile court found that Father's parental rights should be terminated for several reasons, including abandonment, neglect, unfitness, and token efforts. See Utah Code Ann. § 78-3a-407(1)(a)-(c), (f) (Supp. 2006). Under Utah Code section 78-3a-407(1), the finding of any single ground is sufficient to warrant termination of parental rights. See id. § 78-3a-407(1) (providing that the court may terminate all parental rights if it finds any one of grounds listed); see also In re F.C. III, 2003 UT App 397, ¶6, 81 P.3d 790 (noting that any single ground is sufficient to terminate parental rights). Accordingly, if any one of the grounds found by the juvenile court to terminate Father's parental rights is supported by the record, such ground is sufficient to warrant termination of Father's parental rights.

Under Utah Code section 78-3a-408(1), "it is prima facie evidence of abandonment that the parent or parents . . . have failed to communicate with the child by mail, telephone, or otherwise for six months[, or] failed to have shown the normal interest of a natural parent, without just cause." Utah Code Ann. § 78-3a-408(1)(b)-(c) (Supp. 2006). The record reveals that Father went approximately two years, between May of 2004 and June of 2006, without communicating with I.B. Furthermore, the record supports the juvenile court's determination that Father failed to show the normal interest of a natural parent. Father visited with I.B. only eight to twelve times since her birth in 2003. He failed to pay child support. Father did not provide I.B. with presents or cards for her birthday or other holidays. Further, in a presentence report he completed as a result of a criminal conviction, he did not list I.B. as a relative, or otherwise indicate that he had children. Thus, a prima facie case was made that Father had abandoned I.B.

"[O]nce a prima facie case of abandonment is shown, the burden shifts to the parent to rebut abandonment." In re M.S., 815 P.2d 1325, 1329 (Utah Ct. App. 1991). Father failed to present any adequate reason for his failure to contact I.B. for over six months or his failure to take a normal interest in I.B.'s life. Father claims that I.B.'s mother prevented Father from seeing I.B. by obtaining a protective order against him. However, Father presented no credible evidence that he ever attempted to resolve that dispute so that he could see I.B., or that he even requested the opportunity to see I.B. Further, the record demonstrates that even when Father had the opportunity to visit I.B. during the course of this proceeding, he cancelled several of these visits, thereby demonstrating that spending time

with his daughter was not among his highest priorities. Thus, Father failed to rebut the prima facie case of abandonment. As such, the juvenile court appropriately terminated Father's parental rights on this ground.

The record supports the juvenile court's determination that it was in I.B.'s best interest for Father's parental rights to be terminated. See Utah Code Ann. § 78-3a-406(3) (Supp. 2006) (stating that prior to terminating a person's parental rights, the court must determine if it is in the best interest of the child). Father had only been a minor presence in I.B.'s life. Unfortunately, that limited presence was littered with domestic disturbances with I.B.'s mother, including an episode in which Father punched and kicked the mother, then physically threw I.B. onto the front seat of his car and drove off without securing her into a car seat. Because Father failed to visit I.B., he failed to establish a parent-child bond with her, and I.B. views him as a stranger rather than as her parent. He also never provided I.B. with child support. Further, there was no evidence that Father was adjusting his behavior to become a better parent to I.B. For example, during this proceeding, Father was granted visitation with I.B. However, Father missed several scheduled visits with I.B., to the point that he was terminated from the program that supervised those visits. In sum, there was no evidence that Father contributed physically, financially, or emotionally to the upbringing of I.B., all of such needs were being met by I.B.'s mother and her family. Under these circumstances, the juvenile court did not abuse its discretion in determining that it was in I.B.'s best interest to terminate Father's parental rights.

Affirmed.

Russell W. Bench,
Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge