

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of J.M., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070406-CA
)	
R.M.,)	F I L E D
)	(July 6, 2007)
Appellant,)	
)	2007 UT App 241
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Fifth District Juvenile, St. George Department, 434169
The Honorable Thomas M. Higbee

Attorneys: R.M., Lisbon, Ohio, Appellant Pro Se

Before Judges Bench, Orme, and Thorne.

PER CURIAM:

R.M. (Father) appeals the juvenile court's order denying his motion to vacate the termination of his parental rights and other related motions for relief. We affirm.

Father's parental rights in J.M. were terminated by order in 2005. This court affirmed the termination of his parental rights in a decision issued April 20, 2006. See In re J.M., 2006 UT App 158 (per curiam), cert. denied, 150 P.3d 58 (Utah 2006). The termination of his parental rights is final.

Although the termination case is final and closed, in March 2007 Father filed a motion for a new trial pursuant to rules 59 and 60(b) of the Utah Rules of Civil Procedure. Under rule 59(b), a motion for a new trial must be served no later than ten days after the entry of judgment. See Utah R. Civ. P. 59(b). Under rule 60(b), a motion for a new trial based on newly discovered evidence must be made not more than three months after

the entry of judgment. See Utah R. Civ. P. 60(b). Clearly, Father's motion is untimely and was thus properly denied.

Furthermore, the juvenile court's note that it would not take any further action on the case does not deprive Father of any rights. Father received his full measure of process due by means of the termination trial and the appeal. The termination of his parental rights was fully litigated, and Father is now barred from re-litigating the issue. See, e.g., Brigham Young Univ. v. Tremco Consultants, Inc., 2005 UT 19, ¶27, 110 P.3d 678 (explaining res judicata principles). The case is closed.

Accordingly, the juvenile court's order is affirmed.¹

Russell W. Bench,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

¹Father also moved for a stay pending this appeal. The motion for stay is denied.