

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of M.A., E.D., T.D., and I.R.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20070775-CA
_____)	
)	
T.R.,)	F I L E D
)	(November 23, 2007)
Appellant,)	
)	2007 UT App 380
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Fourth District Juvenile, Orem Department, 137961
The Honorable Suchada P. Bazzelle

Attorneys: Mandy S. Jensen, Orem, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Appellant T.R. (Mother) appeals the termination of her parental rights. Mother claimed at trial--and the district court so found--that she had attained stability in the four months preceding the May 2007 termination trial, which she contended was sufficient to defeat the petition to terminate her parental rights. Mother does not challenge any specific finding of fact. Instead, she challenges the sufficiency of the evidence to support the juvenile court's conclusion that Mother made only token efforts to support and communicate with the children, avoid being an unfit parent, or prevent neglect. See Utah Code Ann. § 78-3a-407(1)(f) (Supp. 2007). Mother also claims the evidence was insufficient to support the conclusions that her actions constituted failure of parental adjustment, that she failed to comply with a treatment plan, or that the Division of Child and Family Services (DCFS) made reasonable efforts to provide services. Mother contended at trial that she had achieved

stability in employment and housing, was committed to continue mental health counseling, and had established a foundation that would enable her to be an adequate parent.

"Because of the factually intense nature of . . . an inquiry [into parental fitness], the juvenile court's decision should be afforded a high degree of deference." In re B.R., 2007 UT 82, ¶ 12. We overturn the juvenile court's decision "only if it either failed to consider all of the facts or considered all of the facts and its decision was nonetheless against the clear weight of the evidence." Id. "When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence." Id.

The juvenile court carefully considered the totality of the evidence regarding Mother's conduct up to the time of the termination trial. After a lengthy period during which DCFS provided voluntary services, the children were removed with Mother's consent in July 2005. The juvenile court adjudicated the children to be neglected after Mother admitted the allegations of the State's petition. Based upon her subsequent failure to substantially comply with the service plan, the court terminated reunification services as to I.R. in March 2006 and as to M.A., E.D., and T.D. in June 2006. There is no credible basis on which to dispute that Mother did not substantially comply with her service plan during the reunification period. The juvenile court found that "since approximately late December 2006 or early January 2007, the mother has made significant progress in improving herself." Following the termination trial, the court found:

[Mother] has a steady job and makes an income that is enough to provide for the basic needs of herself and her children. She has a clear and safe living environment. She has participated in therapy and begun addressing her mental needs, she has begun paying a nominal amount of child support and attempted to get caught up on the arrearage owed to the State. She has obtained health insurance for her children, and she has developed a support network through her church community.

Nevertheless, when the juvenile court engaged in the required balancing of present ability with past history, the court found:

[W]hen you balance all this history and prognosis that I've outlined in extensive detail up to this point against the four months of sobriety, stability and child support and therapy and the absence of

domestic violence demonstrated by the mother at this point, it is clear that the prior neglect, abuse, failure of parental adjustment and failure to comply with the court-ordered service plans and the ongoing unfitness and incompetence in parenting these particular children, all vastly outweigh what the mother has managed to accomplish in the past few months. . . . [T]he past conduct of [Mother] has established a history of chaos, instability, abuse and neglect that has extensively and permanently damaged these children and has had a negative and pervasive impact on her relationship with her children and their relationship with her.

The court found that Mother was "extremely dilatory" in her efforts to become an adequate parent. Her recent efforts had "been directed single mindedly at putting her own personal life in order." Although she made significant changes in her personal life shortly before the termination trial, the juvenile court expressed "grave concerns regarding [her] long-term stability and ability to appropriately parent her children," finding that "[s]he ha[d] made only minimal changes to her parenting skills" and a "four-month span of improvement [was] insufficient time to establish [a] level of demonstrated and permanent stability." The court "noted a remarkable lack of evidence suggesting that [Mother] has any understanding of what special skills will be required to raise her children in a way that will meet their special and extensive mental health needs."

The court's detailed findings and conclusions regarding parental unfitness are amply supported by the evidence. Mother's additional assertion that the court erred in finding that DCFS provided reasonable and adequate services to assist Mother is without merit. The juvenile court acted within its considerable discretion in terminating Mother's rights.

Affirmed.

James Z. Davis, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge