

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of M.H., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20070022-CA
	)	
E.H.,	)	F I L E D
	)	(March 1, 2007)
Appellant,	)	
	)	2007 UT App 69
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 504167  
The Honorable Charles D. Behrens

Attorneys: Julie George, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Kelly J. Ryan, Salt Lake City, Guardian Ad Litem

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Before Judges Greenwood, Billings, and Davis.

PER CURIAM:

E.H. (Mother) appeals the juvenile court's order terminating her parental rights in M.H. Mother alleges that the juvenile court erred when it conducted the termination trial in her absence. Mother appears to argue that holding the trial in absentia violated her right to due process.

Proceedings to terminate parental rights 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, we have previously concluded that "parents do not have an absolute right, by statute, to attend the [termination of parental rights] hearing, but only to receive proper notice and to be advised of their right to counsel." Id. at 1033; see also Utah Code Ann. § 78-3a-406(1)-(2) (Supp. 2006).

The juvenile court proceeded with the termination trial despite Mother's nonappearance. The juvenile court determined that Mother had actual notice of the termination trial for several reasons. First, Mother was present in court at a pretrial hearing during which the termination trial date was set. Second, counsel for Mother informed the juvenile court that she had provided Mother with verbal and written notice of the date and time of the termination trial. Counsel indicated that because she had been unable to contact Mother since the pretrial hearing, she could offer no reason for Mother's absence. Mother has never offered an appropriate explanation as to why she did not appear at the trial. Hence, it is clear that Mother had proper notice of the trial. As such, she was afforded due process and the trial court did not abuse its discretion in conducting the termination trial in her absence. See, e.g., In re Summers Children, 560 P.2d 331, 335 (Utah 1977) ("The movant must show that [she] has used due diligence and that [she] was prevented from appearing by circumstances over which [she] had no control.").

Therefore, we affirm the order terminating Mother's parental rights in M.H.

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Pamela T. Greenwood,  
Associate Presiding Judge

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Judith M. Billings, Judge

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James Z. Davis, Judge