

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah, in the interest)	MEMORANDUM DECISION
of S.G., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070836-CA
)	
L.L.A.,)	F I L E D
)	(December 28, 2007)
Appellant,)	
)	2007 UT App 413
v.)	
)	
State of Utah, R.G., and M.G.,)	
)	
Appellees.)	

Third District Juvenile, Salt Lake Department, 532740
The Honorable Kimberly K. Hornak

Attorneys: J. Scott Cottingham, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee State of Utah
Frank N. Call, Salt Lake City, for Appellees R.G. and
M.G.
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Davis, and Thorne.

PER CURIAM:

L.L.A. (Grandmother) appeals the juvenile court's order granting R.G. and M.G.'s (adoptive parents) petition to adopt S.G. and dismissing Grandmother's adoption petition. We affirm.

Grandmother asserts that the juvenile court erred in giving priority to adoptive parents' petition for adoption. Where more than one petition for adoption of a child is before the juvenile court, the court "may determine that one petition is the primary matter to be decided and hear that petition first. If that petition is granted, the adoption placement is concluded and there is no need to consider the second petition." In re A.B.,

1999 UT App 315, ¶ 14, 991 P.2d 70. A juvenile court may grant priority to the petition that is most compliant with Utah's adoption requirements. See id. ¶ 15.

Grandmother argues that the juvenile court should have held an evidentiary hearing to adjudicate allegations that S.G. was sexually abused before granting priority to adoptive parents' adoption petition. Grandmother's petition on appeal presents what she calls "unadjudicated facts" in support of her argument. Grandmother's argument fails for two reasons.

First, the "unadjudicated facts" asserted are not properly before this court. Rule 55(d) of the Utah Rules of Appellate Procedure requires that a petition include a "statement of the material adjudicated facts as they relate to the issues presented" on appeal. Utah R. App. P. 55(d). The statement of unadjudicated facts has no relevancy to what the juvenile court found or to a proper challenge to the juvenile court's findings. It is, in essence, a restatement of "facts" favorable to Grandmother's position, but is not based on what the juvenile court determined as a matter of fact.

Second, the record supports the juvenile court's findings and conclusions regarding prioritization.¹ The Division of Child and Family Services (DCFS) investigated the allegation of abuse and entered a substantiated administrative finding that Grandmother sexually abused the child. That substantiated finding was not timely appealed by Grandmother and was relied on by the juvenile court. However, the abuse finding was only one of several deficiencies in Grandmother's adoption petition. In addition, Grandmother's adoption petition failed to include the required background check, home study, and consent to adopt. In contrast, adoptive parents had a completed home study finding them to be an appropriate placement, a therapy progress study, background checks, and consent from DCFS. Grandmother's adoption petition was clearly insufficient while adoptive parents' petition met all the requirements. Accordingly, the juvenile

¹Grandmother asserts only that a second investigation into the abuse allegations should have been done. She does not challenge any finding of fact of the juvenile court regarding any of the adoption petition requirements.

court did not err in giving the adoptive parents' petition priority.

Affirmed.²

Russell W. Bench,
Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge

²Adoptive parents' request for attorney fees under rule 33 of the Utah Rules of Appellate Procedure is denied.