

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. 20090936-CA
)	
P.E.,)	F I L E D
)	(January 28, 2010)
Appellant,)	
)	2010 UT App 18
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Fourth District Juvenile, Provo Department, 1006105
The Honorable Sterling B. Sainsbury

Attorneys: Jared M. Anderson, Spanish Fork, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges McHugh, Orme, and Bench.¹

PER CURIAM:

P.E. (Father) appeals the termination of his parental rights in J.M. Father asserts that there was insufficient evidence to support the termination. We affirm.

A juvenile court's findings of fact will not be overturned unless clearly erroneous. See In re E.R., 2001 UT App 66, ¶ 11, 21 P.3d 680. Additionally, a juvenile court has broad discretion regarding judgments, based on the juvenile court's specialized experience and training, as well as its ability to judge credibility firsthand. See id. Therefore, 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

¹The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

has abused its discretion." In re R.A.J., 1999 UT App 329, ¶ 6, 991 P.2d 1118.

Here, the relevant facts are not in dispute. J.M. was taken into the custody of the Division of Child and Family Services (DCFS) in September 2008, when he was less than one year old. Father has been incarcerated since J.M. was about five or six months old and has an expected release date of June 2012. Mother relinquished her parental rights prior to Father's parental rights trial. These facts are sufficient for the juvenile court to have found Father unfit because his incarceration was such that J.M. would be deprived of a normal home for more than one year. See Utah Code Ann. § 78A-6-508(2)(e) (2008).

The juvenile court may terminate parental rights if it finds that a parent is unfit. See id. § 78A-6-507(1)(c). In determining whether a parent is unfit, the juvenile court "shall consider . . . whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year." Id. § 78A-6-508(2)(e). Father was convicted on multiple felony charges resulting in a lengthy sentence. With Mother's rights already relinquished, Father's incarceration resulted in no parent being available to provide a normal home for J.M. Father's sentence is of such length that J.M. would be deprived of a normal home for more than one year, constituting evidence of unfitness on Father's part. See id. Accordingly, the evidence was sufficient to terminate Father's parental rights.

Affirmed.²

Carolyn B. McHugh,
Associate Presiding Judge

Gregory K. Orme, Judge

Russell W. Bench, Senior Judge

²Father asserted that there was insufficient evidence to support three different grounds for termination. However, the juvenile court's order relied only on unfitness. Father also questioned whether J.M. was actually deprived of a normal home due to his incarceration. However, the issue as presented in the petition is too vague to address. See generally Utah R. App. P. 55(d) (noting that conclusory issue statements are insufficient).