

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of K.G., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20050887-CA
	)	
R.G.,	)	F I L E D
	)	(December 22, 2005)
Appellant,	)	
	)	2005 UT App 561
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 448863  
The Honorable Kimberly K. Hornak

Attorneys: Sarah A. Giacobelli, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce and Kristin L. Fadel, Salt Lake City,  
Guardians Ad Litem

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Before Judges Billings, Bench, and Greenwood.

PER CURIAM:

R.G. (Father) appeals the termination of his parental rights  
in K.G. We affirm.

A juvenile court's findings of fact will not be overturned  
unless they are clearly erroneous. See In re E.R., 2001 UT App  
66, ¶11, 21 P.3d 680. A finding of fact is clearly erroneous only  
when, in light of the evidence supporting the finding, it is  
against the clear weight of the evidence. See id. Additionally,  
a juvenile court has broad discretion regarding judgments, based  
on the juvenile court's specialized experience and training, as  
well as the opportunity to judge credibility firsthand. See id.  
So, 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 has abused its discretion." In re R.A.J., 1999 UT App 329, ¶6, 991 P.2d 1118.

Where reunification services have been ordered for a parent, the juvenile court must make a finding that the Division of Child and Family Services (DCFS) "made reasonable efforts to provide those services" before terminating parental rights on various grounds. Utah Code Ann. § 78-3a-407(3)(a) (2002). Father asserts that there is insufficient evidence supporting the juvenile court's finding that DCFS made reasonable efforts to provide reunification services. The evidence supported that DCFS offered Father a bus pass to address transportation concerns, intervened with Father's employer to bolster his ability to drug test, and provided various resources to meet plan goals of assessments and treatment. Thus, the record evidence supports the juvenile court's finding and it is not clearly erroneous.

Father also asserts that the trial court cannot terminate his rights because he failed to complete his service plan, and the trial court erred in determining that Father failed to make a parental adjustment. Although Father is correct that a court may not terminate parental rights only because of failure to complete the requirements of a service plan, see Utah Code Ann. § 78-3a-407(2), failure to substantially comply with a service plan may be evidence of a failure of parental adjustment. See id. § 78-3a-408(3) (2002). Failure of parental adjustment means a parent is "unable or unwilling within a reasonable time to substantially correct the circumstances, conduct, or conditions that led to placement of [the] child outside of [the] home," notwithstanding reasonable efforts by DCFS to reunify. Id. § 78-3a-403(2) (2002). Failure of parental adjustment is a listed ground for termination in section 78-3a-407. See id. § 78-3a-407(e).

Here, Father did not complete essential requirements of his service plan, including drug treatment and drug testing. Because the primary basis for K.G.'s removal was Father's drug use, these elements were the critical elements of the plan. Father's failure to comply with these requirements demonstrated a failure to substantially comply with his service plan, which supports the determination that he failed to make a parental adjustment. This determination is further supported by the fact that Father had, at the time of trial, not corrected the circumstances or conduct that led to the removal. Father tested positive for drug use as recently as one month before the termination trial and had just begun treatment shortly before trial.

Furthermore, a separate ground for termination is also based on a parent's failure to remedy the circumstances of removal. See id. § 78-3a-407(d). Section 78-3a-407(d) provides for

termination of parental rights where a child is in the protective custody of DCFS and

the parent has substantially neglected, wilfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement, and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future.

Id.

The juvenile court concluded this ground for termination was met, and this has not been specifically challenged. Because any single ground under section 78-3a-407 is sufficient to support termination, the juvenile court did not err in terminating Father's parental rights in K.G. See id. § 78-3a-407 (providing for termination if any one of the grounds listed is found); In re F.C. III, 2003 UT App 397, ¶6, 81 P.3d 790 (noting any single ground is sufficient to terminate parental rights).

Accordingly, the termination of Father's parental rights is affirmed.

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Judith M. Billings,  
Presiding Judge

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Russell W. Bench,  
Associate Presiding Judge

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Pamela T. Greenwood, Judge