

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah, in the interest)	MEMORANDUM DECISION
of M.P., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20100588-CA
)	
K.P.,)	F I L E D
)	(October 7, 2010)
Appellant,)	
)	2010 UT App 272
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 1023721
The Honorable Charles D. Behrens

Attorneys: Craig T. Peterson, Bountiful, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Orme, Thorne, and Christiansen.

PER CURIAM:

K.P. appeals the juvenile court's July 8, 2010 order terminating her parental rights. We dismiss the appeal for lack of jurisdiction.

This court's jurisdiction over child welfare appeals is governed by statute. See Utah Code Ann. § 78A-6-1109(2) (2008). Utah Code section 78A-6-1109(2) provides that an appeal from a juvenile court's order related to abuse, neglect, dependency, termination, and adoption proceedings, shall be filed within fifteen days of the date the order was entered. See id. Furthermore, the notice of appeal must be signed by

both appellant's counsel and the appellant. See id. "If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed." Id.

Similarly, rule 53(b) of the Utah Rules of Appellate Procedure reiterates that a notice of appeal in a child welfare proceeding "must be signed by appellant's counsel and by appellant." Utah R. App. P. 53(b). If counsel fails to obtain the appellant's signature on the notice of appeal, counsel must contemporaneously file a certificate of diligent search. See id. This court has previously determined that an extension to file an amended notice of appeal adding an appellant's signature is only available when counsel contemporaneously files a certificate of diligent search. Specifically, we determined:

Rule 53(b) provides counsel an opportunity to correct the lack of an appellant's signature by granting essentially an automatic extension to find the client and obtain a signature. To warrant this extension, however, counsel must file the certification of diligent search. This assures that the sole reason for filing an incomplete notice [of appeal] is that the client is unable to be found, rather than filing merely to extend the time as a matter of convenience. This court has previously noted that where counsel failed to file a certification of diligent search, the extension under rule 53(b) is not available.

In re D.E., 2006 UT App 391, ¶ 5, 147 P.3d 462.

Failure to timely file a notice of appeal, or to timely file an amended notice of appeal after contemporaneously filing a certificate of diligent search, divests this court of jurisdiction, and we are required to dismiss the appeal. See id. ¶ 6.

On July 22, 2010, K.P.'s counsel filed a notice of appeal. The notice of appeal was not signed by K.P. Counsel concedes that he did not file a certificate of diligent search. On July 29, 2010, counsel filed an amended notice of appeal adding K.P.'s signature. However, because counsel failed to file a certificate of diligent search, counsel is unable to file an amended notice of appeal adding K.P.'s signature to the notice of appeal. See

id. ¶ 5. Thus, we are required to dismiss the appeal for lack of jurisdiction. See id. ¶ 6.

Dismissed.

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

Michele M. Christiansen, Judge