

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

State of Utah, in the interest	)	MEMORANDUM DECISION
of N.H., T.H. and B.H.,	)	(Not For Official Publication)
persons under eighteen years	)	
of age.	)	Case No. 20080593-CA
_____	)	
	)	
C.H.,	)	F I L E D
	)	(October 2, 2008)
	)	
Appellant,	)	2008 UT App 354
	)	
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

-----

Fourth District Juvenile, Provo Department, 512961, 512962, 512124  
The Honorable Suchada P. Bazzelle

Attorneys: McKay G. King, Provo, 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 Billings, Davis, and McHugh.

PER CURIAM:

C.H. (Father) appeals the termination of his parental rights in his children. We dismiss the appeal.

This court's jurisdiction over child welfare cases is governed by statute. See Utah Code Ann. § 78A-6-1109 (Supp. 2008). Utah Code section 78A-6-1109(2) provides that an appeal from an order terminating a parent's rights must be filed within fifteen days of the date the order was entered. See id. § 78A-6-1109(2). Further, the notice of appeal must be signed by both appellant's counsel and the appellant. See id. Similarly, rule 53 of the Utah Rules of Appellate Procedure reiterates that a notice of appeal in a child welfare case "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, he must

file a certification of diligent search. See id. If counsel has complied with his obligation to file a certificate of diligent search, counsel may then file an amended notice of appeal adding appellant's signature within fifteen days of the original notice of appeal. See id.

In this case, the juvenile court issued its order terminating Father's parental rights on June 25, 2008. Thus, a notice of appeal complying with the applicable statute and rule needed to be filed on or before July 10, 2008. On July 10, 2008, Father's counsel filed a notice of appeal that was unsigned by Father. Counsel did not file a certification of diligent search. Counsel later filed an amended notice of appeal on July 22, 2008, which included Father's signature. "Absent the certification of diligent search required by rule 53(b), the extension to file a complete notice of appeal under rule 53(b) is not available." In re D.E., 2006 UT App 391, ¶ 6, 147 P.3d 462 (per curiam). As a result, Father was not entitled to the extension of time contemplated by rule 53(b) to file an amended notice of appeal. Therefore, the July 22, 2008 notice of appeal was untimely. If an appeal is not timely filed, this court lacks jurisdiction and must dismiss the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616.

Dismissed.

---

Judith M. Billings, Judge

---

James Z. Davis, Judge

---

Carolyn B. McHugh, Judge