

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of N.N., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20091012-CA
B.J.,)	
)	F I L E D
Appellant,)	(April 8, 2010)
)	
v.)	2010 UT App 79
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, West Jordan Department, 425578
The Honorable Elizabeth A. Lindsley

Attorneys: Joseph Lee Nemelka, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, Thorne, and Roth.

PER CURIAM:

B.J. (Mother) appeals the juvenile court's order granting permanent custody of N.N. to N.N.'s father (Father). Mother asserts that the juvenile court abused its discretion in so doing.

As a preliminary matter, the court takes this opportunity to remind all counsel appearing in child welfare proceedings of their responsibilities to file petitions on appeal, and responses to those petitions, that comply with the requirements of rules 55(d) and 56(b) of the Utah Rules of Appellate Procedure. While the court is mindful of the restrictions placed upon litigants due to the expedited appellate process in child welfare proceedings, petitions on appeal and responses to those petitions must be designed to zealously advocate the positions of the parties and to assist the court in resolving the matter. In so doing, the parties should provide the court with an adequate statement of facts that will allow the court to understand the nature and history of the case. Further, the parties should

attempt to apply legal authority to the particular facts of the case. See In re B.A.P., 2006 UT 68, ¶ 12, 148 P.3d 934 (discussing the obligation to include an argument section in a petition on appeal). Legal citations unaccompanied by an application to the particular facts and issues involved in the case are rarely helpful. Ultimately, counsel should consider petitions on appeal and responses thereto to be more like briefs than docketing statements.

Mother asserts that the juvenile court abused its discretion in granting custody of N.N. to Father. However, in so arguing, Mother fails to specifically state whether she believes that the juvenile court's findings were erroneous or the court's conclusions that relied upon those findings were erroneous. Based upon our independent review of the record, we do not believe that the juvenile court abused its discretion in either regard.

In reviewing an order of the juvenile court, 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 (internal quotation marks omitted). 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. Further, we give the juvenile court a "'wide latitude of discretion as to the judgments arrived at' based upon not only the court's opportunity to judge credibility firsthand, but also based on the juvenile court judges' 'special training, experience and interest in this field.'" Id.

Mother asserts that the juvenile court abused its discretion in removing N.N. from her custody and placing N.N. in Father's custody because Mother substantially complied with her service plan. However, the law is clear that "an effort to improve one's parenting skills is not determinative if 'no significant improvement in [the parent's] parenting skills has been noted despite [the parent's] efforts.'" In re G.B., 2002 UT App 270, ¶ 17, 53 P.3d 963. Here, the juvenile court relied extensively on a neuropsychological evaluation and determined that despite Mother's compliance with her service plan, it was not safe to return N.N. to Mother's custody. More particularly, the evaluation concluded that Mother's "inability to regulate her emotions, demonstrate adequate problem solving skills, and inability to understand the effects of her behaviors on her daughter suggest that at this time she is not capable of meeting her daughter's needs." As a result, the report recommended that Mother should not "be given the responsibility of caring for her daughter," and "[r]eunification should only be pursued if [Mother] is able to complete long-term therapy." Based upon this

report and the other evidence presented to the juvenile court, including a letter prepared by N.N.'s therapist, the juvenile court did not err in determining that N.N. should be placed in Father's custody. See In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435 ("When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence.").

Affirmed.

James Z. Davis,
Presiding Judge

William A. Thorne Jr., Judge

Stephen L. Roth, Judge