

IN THE UTAH COURT OF APPEALS

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| State of Utah, in the interest | ) | MEMORANDUM DECISION            |
| of A.M. and B.P., persons      | ) | (Not For Official Publication) |
| under eighteen years of age.   | ) |                                |
| _____                          | ) | Case No. 20090581-CA           |
| A.P.,                          | ) |                                |
|                                | ) | F I L E D                      |
| Appellant,                     | ) | (October 16, 2009)             |
|                                | ) |                                |
| v.                             | ) | 2009 UT App 297                |
|                                | ) |                                |
| State of Utah,                 | ) |                                |
|                                | ) |                                |
| Appellee.                      | ) |                                |

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Third District Juvenile, Salt Lake Department, 1017242  
The Honorable James R. Michie Jr.

Attorneys: Steven B. Wall, 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

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Before Judges Greenwood, Thorne, and Davis.

PER CURIAM:

A.P. (Mother) appeals the juvenile court's order adjudicating A.M. and B.P. as neglected. We affirm.

A juvenile court may find that a parent has neglected his or her child if the child lacks proper parental care by reason of the parent's faults or habits. See Utah Code Ann. § 78A-6-105(25)(a)(ii) (2008). Utah Code section 78A-6-105(25) also provides that "a child at risk of being neglected or abused because another child in the same home is neglected or abused" may be adjudicated as neglected. See id. § 78A-6-105(25)(a)(iv). We afford the juvenile court wide latitude of discretion as to its findings of neglect. See In re O.C., 2005 UT App 563, ¶ 19, 127 P.3d 1286. A juvenile court's findings will not be overturned unless they are clearly erroneous. See In re A.G., 2001 UT App 87, ¶ 4, 27 P.3d 562. A finding is clearly erroneous only when, in light of the evidence supporting the finding, it is against the clear weight of the evidence. See id.

Mother asserts that there was insufficient evidence to support the juvenile court's finding of neglect based on her admissions in the State's verified petition. The record indicates that Mother admitted the allegations in the State's verified petition. Those allegations not expressly admitted were deemed admitted pursuant to rule 34(e) of the Utah Rules of Juvenile Procedure. Under rule 34(e), "[a]llegations not specifically denied by a respondent shall be deemed true." Utah R. Juv. P. 34(e).

A juvenile court may find that a child is neglected if the child lacks proper parental care by reason of the parent's faults or habits. See Utah Code Ann. § 78A-6-105(25)(a)(ii) (2008). A juvenile court may determine that a child lacks proper parental care if there is sufficient evidence that the parent knew, or should have known, that the child was injured, the injuries required immediate medical attention, and the parent failed to provide the required medical attention. See *In re O.C.*, 2005 UT App 563, ¶ 9. We will affirm a juvenile court's finding of neglect where the evidence is sufficient that a parent failed to provide adequate parental and medical care. See *id.* ¶ 19.

The record demonstrates that A.M. lacked proper parental care by reason of Mother's faults or habits because Mother knew, or should have known, that A.M. had a severe injury but failed to provide A.M. with proper and necessary medical care. A.M.'s bruising was so severe that A.M.'s daycare was compelled to refer him to Primary Children's Medical Center. Two physicians concurred that A.M. had a broken clavicle as a result of non-accidental abuse. The record also demonstrates that Mother was aware of the history of domestic violence in the household. In one instance, Father had beaten Mother so severely that she was rendered unconscious. The record also indicates that there was evidence that Father had beaten A.M. Mother should have immediately sought medical care for A.M. when his injuries were so serious that A.M.'s daycare felt compelled to refer him to the hospital. Thus, in light of the record, we cannot say that the juvenile court's finding of neglect for lack of proper parental care was against the clear weight of the evidence.

Mother also asserts that the juvenile court erred by determining that B.P. was neglected. Utah Code section 78A-6-105(25)(a)(iv) provides that a child may be found to be neglected if the child is at risk of being neglected or abused "because another child in the same home is neglected or abused." Utah Code Ann. § 78A-6-105(25)(a)(iv). Having determined that the juvenile court did not err in finding that A.M. was neglected, we

cannot say that the juvenile court erred in determining that B.P. was neglected pursuant to section 78A-6-105(25)(a)(iv).

Accordingly, the juvenile court's order is affirmed.

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Pamela T. Greenwood,  
Presiding Judge

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William A. Thorne Jr.,  
Associate Presiding Judge

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James Z. Davis, Judge