

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of B.J. and E.J., persons	)	(Not For Official Publication)
under eighteen years of age.	)	
_____	)	Case No. 20080964-CA
	)	
C.J.,	)	F I L E D
	)	(February 26, 2009)
Appellant,	)	
	)	2009 UT App 55
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Fourth District Juvenile, American Fork Department, 541291  
The Honorable Suchada P. Bazzelle

Attorneys: Erik G. Jacobson, Provo, 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 Bench, Davis, and McHugh.

PER CURIAM:

C.J. (Mother) appeals the termination of her parental rights. Her petition on appeal alleges that the evidence was insufficient to support each of the enumerated grounds for termination. The petition does not challenge the juvenile court's determination of the best interests of the children.

We overturn the juvenile court's decision "only if it either failed to consider all of the facts or considered all of the facts and its decision was nonetheless against the clear weight of the evidence." 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." Id. 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.

The juvenile court terminated Mother's parental rights on the grounds that Mother neglected the children, see Utah Code Ann. § 78A-6-507(1)(b) (2008); that she is an unfit and incompetent parent, see id. § 78A-6-507(1)(c); that the children are being cared for in an out-of-home placement and Mother has substantially neglected, willfully refused, or was unable or unwilling to remedy the circumstances that caused the children to be in an out-of-home placement and there is a substantial likelihood that she will not be capable of exercising proper and effective parental care in the near future, see id. § 78A-6-507(1)(d); that Mother experienced a failure of parental adjustment, see id. § 78A-6-507(1)(e); and that she made only token efforts to prevent the neglect and avoid being an unfit parent, see id. § 78A-6-507(1)(f).

The petition on appeal does not demonstrate that the evidence was insufficient to support the grounds for termination. Mother does not dispute that she failed to complete domestic violence treatment or parenting classes required by her service plan. At the time of trial, she had recently obtained employment and she was renting a room. Mother admitted that she had lied in a May 2008 hearing when she testified that she was not living with the children's father (Father) in violation of court orders. The children were removed due to a history of domestic violence between their parents. Mother was hospitalized on three occasions as a result of domestic violence incidents, including one incident that occurred while she was pregnant. The service plan required Mother to move into a shelter and have no contact with Father as a condition of having B.J. returned to her custody. However, she violated the shelter rules by, among other things, continuing to have contact with Father, and B.J. was removed for a second time. The evidence amply supports the juvenile court's findings that Mother did not comply with court orders prohibiting contact with Father and that her continued inability to comply placed her and the children at risk of injury. Although Mother's weekly visits were appropriate when they occurred, she cancelled or failed to appear at numerous scheduled visits throughout the case. The juvenile court found that although Mother was a victim of domestic violence, she received extensive services to assist her in breaking the cycle of domestic violence with Father, but she "simply wanted to have this relationship with [Father] and that desire and that need overrode everything else in this matter. " This finding is supported by the evidence. Because Mother did not challenge any findings of fact and conclusions of law regarding the best

interests of the children, we conclude that they were also adequately supported.

We affirm the decision terminating Mother's parental rights.

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Russell W. Bench, Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge