

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of C.I. and C.I., persons)	(Not For Official Publication)
under eighteen years of age.)	
_____)	Case No. 20090238-CA
)	
M.A.I.,)	F I L E D
)	(May 29, 2009)
Appellant,)	
)	2009 UT App 141
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, West Jordan Department, 1013076
The Honorable Christine S. Decker

Attorneys: Judith L.C. Ledkins, 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 Thorne, Bench, and Orme.

PER CURIAM:

M.A.I. (Mother) appeals the juvenile court's March 3, 2009 order adjudicating C.I. as abused. We affirm.

Mother asserts that there was insufficient evidence to support the juvenile court's determination that C.I. was abused. A juvenile court's findings will not be overturned unless they are clearly erroneous. See In re A.G., 2001 UT App 87, ¶ 7, 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.

Utah Code section 78A-6-105(1)(a)(i) provides that a child is abused where there is evidence of nonaccidental harm to the child. See Utah Code Ann. § 78A-6-105(1)(a)(i) (2008). Abuse does not include situations involving: (1) the reasonable discipline or management of a child; (2) self-defense;

(3) defense of others; and (4) actions taken to remove a weapon in the possession of a child. See id. § 78A-6-105(1)(b).

Mother asserts that she did not abuse C.I., because she believes that she reasonably disciplined him. The record demonstrates that Mother hit C.I. on his arms with a belt, and also hit C.I. near his eye. The record also indicates that C.I. had a black eye and bruising as a result of Mother's blows. This court has previously discussed the difference between reasonable discipline and abuse. Striking a child with a belt does not constitute the use of reasonable discipline as it is an "unreasonably cruel punishment." In re L.P., 1999 UT App 157, ¶ 8, 981 P.2d 848. There is also no evidence that Mother's action was excused by any of the exceptions set forth in Utah Code section 78A-6-105(1)(b). Thus, we cannot say that the juvenile court's determination that C.I. was abused was against the clear weight of the evidence.

Mother next asserts that the juvenile court erred by referring to her prior testimony from the shelter hearing. However, the invited error doctrine provides that a party cannot take advantage of an error when the party led the court into making it. See Pratt v. Nelson, 2007 UT 41, ¶ 17, 164 P.3d 366. Under the invited error doctrine, an appellate court is precluded from reviewing an invited error. See id. The record demonstrates that Mother referred the juvenile court to her prior testimony at the shelter hearing. Because Mother invited the juvenile court to consider her shelter hearing testimony, this court is barred from addressing the merits of this argument under the invited error doctrine.

Accordingly, we affirm the juvenile court's order adjudicating C.I. as abused.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge