

IN THE UTAH COURT OF APPEALS

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In the interest of D.E.C.J., a person under eighteen years of age.)	MEMORANDUM DECISION
_____)	(Not For Official Publication)
)	Case No. 20080584-CA
A.K.J.,)	
Appellant,)	F I L E D
)	(September 18, 2008)
v.)	2008 UT App 341
State of Utah,)	
Appellee.)	

Third District Juvenile, West Jordan Department, 516312
The Honorable Christine S. Decker

Attorneys: A.K.J., Gunnison, Appellant Pro Se

Before Judges Billings, Davis, and McHugh.

PER CURIAM:

On December 7, 2007, A.K.J. (Father) was present with counsel at the time for trial of the State's petition for termination of the parental rights of both D.E.C.J.'s parents. Father executed a petition for voluntary relinquishment of parental rights in open court, which the juvenile court granted. The juvenile court made findings that Father and D.E.C.J.'s mother had voluntarily relinquished their parental rights to D.E.C.J. and that termination was in the child's best interest. Accordingly, the court ordered that Father's parental rights to D.E.C.J. were "permanently terminated including residual rights." The order was digitally signed by the juvenile court and filed on December 20, 2007. Therefore, the time for appeal expired on January 4, 2008, which was fifteen days after the entry of the final, appealable judgment. See Utah R. App. P. 52(a) (requiring a notice of appeal in a child welfare case to be filed within fifteen days after the entry of the order being appealed).

On June 19, 2008, the juvenile court terminated jurisdiction over D.E.C.J. because the child's adoption was finalized in May

2008. On July 1, 2008, Father filed a document with the juvenile court captioned "Notice to Withdraw Plaintiff's Consent to Relinquish His Parental Rights (Appeal Notice)." Father stated that he was giving notice that he was withdrawing his consent to relinquish his parental rights to D.E.C.J., claiming that the relinquishment was involuntary and obtained by coercion. The juvenile court construed the document as a notice of appeal and transmitted it to this court.

"[T]he initial inquiry of any court should always be to determine whether the requested action is within its jurisdiction." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989). "When a matter is outside the court's jurisdiction it retains only the authority to dismiss the action." Id. Father filed a notice of appeal almost six months after the expiration of the time for filing an appeal from the order terminating his parental rights. Accordingly, the notice of appeal was not timely and did not confer jurisdiction on this court. "If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal." Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616. Accordingly, we dismiss the appeal.

Judith M. Billings, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge