

IN THE UTAH COURT OF APPEALS

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In the matter of the adoption of H.M., a minor.)	MEMORANDUM DECISION
_____)	(Not For Official Publication)
)	Case No. 20070227-CA
T.V. and T.V.,)	
Appellants,)	F I L E D
)	(July 27, 2007)
v.)	2007 UT App 257
K.M.,)	
Appellee.)	

Third District, Salt Lake Department, 052900129
The Honorable Tyrone E. Medley

Attorneys: Richard S. Nemelka, Salt Lake City, for Appellant
Nelda M. Bishop, Bountiful, for Appellee

Before Judges Billings, Orme, and Thorne.

PER CURIAM:

T.V. and T.V. appeal the trial court's dismissal of their petition to terminate the parental rights of K.M. We affirm.

Appellants assert that the trial court abused its discretion in granting a continuance of trial and that two of the trial court's findings of fact were clearly erroneous. This court will overturn findings of fact in a parental termination proceeding only if the findings are clearly erroneous. See In re D.G., 938 P.2d 298, 301 (Utah Ct. App. 1997). 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.

It is Appellants' obligation to provide a complete record for review. See Utah R. App. P. 11; State v. Penman, 964 P.2d 1157, 1162 (Utah Ct. App. 1998). Rule 11 specifically requires a transcript of the proceedings when an appellant is challenging a finding of fact. See Utah R. App. P. 11(e)(2). Here, Appellants

certified that no transcript was required on appeal, and so, no transcript is in the record on appeal.

However, Appellants' unilateral assertions of what facts are "undisputed" are insufficient without a complete record to confirm the factual context and basis for the trial court's ruling. In fact, Appellants' assertions of "fact" are contradicted by the court's own findings, which underscores the requirement for an adequate record for review. An appellant cannot show that a finding of fact is clearly erroneous without a full record for review. Absent a complete record, Appellants' assertion of error "stands as a unilateral allegation which the reviewing court has no power to determine." Penman, 964 P.2d at 1162. Without an adequate record, this court must presume the regularity of the proceedings below. See State v. Pritchett, 2003 UT 24, ¶13, 69 P.3d 1278.

Likewise, the lack of an adequate record prevents full consideration of the trial court's grant of a continuation of trial. Without a transcript for record support, Appellants' assertions are merely conclusory allegations. Appellants have not shown that the trial court abused its discretion in granting the continuance, particularly when the trial court appointed the expert witness and requested the testimony pursuant to Utah Rule of Evidence 706. See Utah R. Evid. 706.

Accordingly, the trial court's dismissal of the termination petition is affirmed.¹

Judith M. Billings, Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

¹Appellee's request for attorney fees pursuant to Utah Rule of Appellate Procedure 33 is denied.