

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of K.B., K.B., M.P., and A.P.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20100223-CA
_____)	
)	
A.F.,)	F I L E D
)	(May 20, 2010)
)	
Appellant,)	2010 UT App 133
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Tooele Department, 1010757
The Honorable Mark W. May

Attorneys: David J. Angerhofer, Sandy, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, Orme, and Roth.

PER CURIAM:

A.F. (Mother) appeals the termination of her parental rights in M.P., A.P., K.B., and K.B. Mother alleges that the juvenile court erred in determining that the Division of Child and Family Services (DCFS) provided her with reasonable services. She further asserts that there was insufficient evidence to support the grounds for terminating her parental rights.

We "review the juvenile court's factual findings based upon the clearly erroneous standard." 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. Further, we give the juvenile court a "wide latitude of discretion as to the

judgments arrived at' based upon not only the court's opportunity to judge credibility firsthand, but also based on the juvenile court judges' 'special training, experience and interest in this field.'" Id. (citations omitted); see also In re A.C., 2004 UT App 255, ¶ 20, 97 P.3d 706 (concluding that the juvenile court has broad discretion in determining whether DCFS made reasonable efforts to reunify a child with her parent and that reversal is appropriate only upon a demonstration that the juvenile court's determination was clearly in error).

Mother first argues that DCFS did not make reasonable efforts to provide her services because family therapy did not begin until almost one year after the children were removed from her home. "Reasonable efforts" has been defined as "a fair and serious attempt to reunify a parent with a child prior to seeking to terminate parental rights." In re A.C., 2004 UT App 255, ¶ 14. However, reasonableness is an objective standard that "depends upon a careful consideration of the facts of each individual case." In re K.F., 2009 UT 4, ¶ 51, 201 P.3d 985.

The testimony at trial indicated that family therapy could not begin until each child was mentally and emotionally ready to begin such therapy. However, due to the severe and ongoing abuse the children suffered, much of which was unknown prior to the children beginning individual therapy, they were not ready to begin family therapy with a perpetrator of that abuse until a significant portion of the reunification period had passed. Mother asserts that the State should have recognized the children's needs and increased the frequency of their individual therapy so that they could have begun family therapy earlier in the reunification period. Even if this court were to assume for the sake of argument that in some circumstances reasonable efforts would require DCFS to increase the amount of therapy provided to children, there is no evidence in the record demonstrating that such efforts in this case would have been reasonable, warranted, or even helpful. Without such evidence, Mother's claim that increased individual therapy would have led to an earlier beginning of family therapy is pure speculation. Accordingly, we cannot conclude that the juvenile court abused its discretion in determining that DCFS made reasonable efforts to reunify the children with Mother.

Mother next argues that there was insufficient evidence to support the grounds for terminating her parental rights. The juvenile court determined that multiple grounds supported terminating Mother's parental rights, including unfitness. Such ground is clearly supported in the record. Mother inflicted severe and ongoing abuse upon the children. She further allowed

her ex-husband, who was the father of two of the children, to abuse the children, while doing nothing to protect them. In fact, in the incident that led to the children's removal from her custody, Mother left the children in the home with her ex-husband while she left due to her fear of violence. This decision resulted in the ex-husband physically abusing one of the children and sexually abusing another.

Mother acknowledges her past deficiencies but alleges that due to the counseling and services she and the children have received, coupled with the family therapy she intends to continue, she is no longer unfit. However, neither the children's therapists nor the family therapist believed that it was safe to return the children to Mother's custody. These opinions were due, in part, to the ongoing concerns the children had about Mother and the therapists' own concerns about Mother's behavior. For example, despite the abuse perpetrated by Mother's ex-husband on the children, she had repeated contact with him while he was in prison. When the children voiced their concern, Mother responded that she decided with whom she associated. Based upon these and other circumstances, the juvenile court determined that Mother continued to choose her needs over those of her children. Thus, despite Mother's completion of a substantial portion of her service plan, it does not appear that the service plan altered Mother's attitudes and behavior. See In re C.Y., 765 P.2d 251, 255 (Utah Ct. App. 1988) ("It is not sufficient to merely go through the motions of a treatment plan. The plan is developed to change attitudes and behavior."). Accordingly, there was sufficient evidence to support the juvenile court's determination that Mother's parental rights should be terminated based upon unfitness. See 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."). Because the evidence was sufficient to support termination of Mother's parental rights on the ground of unfitness, we need not examine the other grounds supporting termination of Mother's parental rights relied upon by the juvenile court.¹ See Utah Code Ann. § 78A-6-507(1) (2008) (providing that the juvenile court may terminate all parental

¹Mother makes no specific argument concerning whether it was in the children's best interest to terminate her parental rights.

rights if it finds any one of the grounds listed); In re F.C. III, 2003 UT App 397, ¶ 6, 81 P.3d 790 (noting that any single ground is sufficient to terminate parental rights).

Affirmed.

James Z. Davis,
Presiding Judge

Gregory K. Orme, Judge

Stephen L. Roth, Judge