

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)
of M.W. and B.W., persons)
under eighteen years of age.)
_____)

S.W.,)
Appellant,)

v.)

State of Utah,)
Appellee.)
_____)

M.W.,)
Appellant,)

v.)

State of Utah,)
Appellee.)

MEMORANDUM DECISION
(Not For Official Publication)

Case No. 20080134-CA
Case No. 20080195-CA

F I L E D
(May 30, 2008)

2008 UT App 204

Second District Juvenile, Ogden Department, 531725, 531476
The Honorable J. Mark Andrus

Attorneys: F. Kim Walpole, Ogden, for Appellant S.W.
Travis R. Marker, Ogden, for Appellant M.W.
Mark L. Shurtleff, Carol L.C. Verdoia, 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:

Both S.W. (Mother) and M.W. (Father) appeal from an
adjudication order that found B.W. to be an abused child and M.W.
to be a child at risk of abuse or neglect by virtue of residing
in the home with an abused child. The State and Guardian Ad

Litem seek dismissal of the separate appeals of Mother and Father as untimely. We consolidate the appeals for purposes of decision.

On January 14, 2008, the juvenile court entered a signed order prepared by the court and captioned Findings and Order on Abuse/Neglect Petition. The order contained lengthy, detailed findings from the trial on the State's petition. On the basis of its findings, the court concluded that B.W. had been subjected to abuse or mistreatment by a parent and that M.W. was a sibling at risk of abuse or neglect. The court continued the children's current placements and directed the clerk to set the matter for a disposition hearing as soon as the calendar would allow. On January 24, 2008, the juvenile court held the disposition hearing contemplated by the adjudication order. The court entered a signed order on February 19, 2008.

Rule 52(a) of the Utah Rules of Appellate Procedure requires a notice of appeal from an order in a child welfare proceeding to be filed within fifteen days of the entry of the order appealed, unless that time is properly extended. See Utah R. App. P. 52(a). Neither Mother nor Father timely sought or obtained an extension of the time to file a notice of appeal. If a notice of appeal is untimely, we lack jurisdiction and must dismiss the appeal. See In re D.E., 2006 UT App 391, ¶ 6, 147 P.3d 462.

Father's notice of appeal attached a copy of the January 14, 2008 adjudication order, thereby identifying that order as the one from which his appeal was taken. The time for filing a notice of appeal from the January 14 order expired on January 29, 2008. Father's notice of appeal, filed on January 31, 2008, was therefore untimely. Mother's notice of appeal, filed on February 7, 2008, stated that it was taken from the "final Order entered on the 24th day of January, 2008." Although this was the date of the disposition hearing, there is no written order that was entered on that date. In addition, Mother's petition on appeal states that the appeal is taken from the January 14, 2008 adjudication order. Accordingly, Mother's February 7, 2008 notice of appeal was also not timely filed from the adjudication order entered on January 14. To the extent that Mother and Father seek to appeal from the disposition order, which ruled that they would not be provided reunification services, that interim order did not permanently affect the status of the children and was not immediately appealable as a matter of right. See In re A.F., 2007 UT 69, ¶ 10, 167 P.3d 1070 (holding that orders in child welfare cases that do not permanently affect the status of a child are not appealable as a matter of right).

Mother and Father filed substantially similar petitions on appeal. The petitions challenge specific findings of fact

contained in the Findings and Order on the Abuse/Neglect Petition, entered January 14, 2008. However, because neither notice of appeal was timely filed following entry of the adjudication order on January 14, 2008, we lack jurisdiction to consider the appeals.

We dismiss both appeals for lack of jurisdiction.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge