

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of R.W., Z.A., E.A. and P.W.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20070239-CA
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T.W.,)	F I L E D
)	(May 24, 2007)
Appellant,)	2007 UT App 178
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 507816
The Honorable Kimberly K. Hornak

Attorneys: Julie George, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee

Before Judges Bench, Orme, and Thorne.

PER CURIAM:

T.W. (Father) appeals the termination of his parental rights, claiming that he was not provided sufficient time to overcome his drug addiction. T.W. argues that there was insufficient evidence to support the grounds for termination or the juvenile court's determination regarding reasonable efforts. We affirm.

In reviewing an order terminating parental rights, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re R.A.J., 1999 UT App 329, ¶6, 991 P.2d 1118 (quotations and citation omitted). A juvenile court's findings of fact will not be overturned unless they are clearly erroneous. See In re E.R., 2001 UT App 66, ¶11, 21 P.3d 680. 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. (quotations and citation omitted).

The juvenile court found several grounds for termination, including but not limited to unfitness, failure to remedy the circumstances leading to removal, and failure of parental adjustment. See Utah Code Ann. § 78-3a-407(1) (2002). A review of the record shows there was sufficient evidence to support the juvenile court's findings and conclusions regarding each of these grounds, although any single ground is sufficient for termination. See id.

Father asserts on appeal that he has made great strides, but requires more time to correct the circumstances that led to the removal of the children. However, the record establishes that Father failed to comply with his service plan requirements and failed to address the circumstances leading to removal. Father was ordered to participate in drug testing and obtain a drug and alcohol assessment. Father was subsequently referred to outpatient treatment but failed to enroll in or follow through with this or any other treatment. Moreover, Father missed many required drug tests, and many of the tests he did take were positive. Though he ultimately enlisted in drug court, he was unsuccessfully discharged in November 2006.

The evidence establishes that Father's drug addiction rendered him an unfit parent. See Utah Code Ann. § 78-3a-408 (2)(c) (2002) (providing that sustained drug use must be considered as evidence of unfitness). Father acknowledged continued drug use after the children's removal. Such drug use was the primary reason for the children's removal. Father had not resolved his drug problem at the time of trial, and thus, he had failed to remedy the circumstances leading to the removal. Additionally, because he had not even begun treatment, a substantial likelihood existed that he would not be able to effectively parent in the near future. See id. § 78-3a-407(1)(d). And, notwithstanding the services provided in an effort to reunify, Father has been unwilling or unable to correct the circumstances and conduct that led to the out-of-home placement of the children. See id. § 78-3a-407(1)(e). In sum, there was sufficient evidence supporting the juvenile court's termination of Father's parental rights.

In addition, Father seems to argue that the Division of Child and Family Services (the Division) did not provide him with reasonable services. "The [juvenile] court has broad discretion in determining whether [the Division has] made reasonable efforts at reunification." In re A.C., 2004 UT App 255, ¶12, 97 P.3d 706.

The juvenile court specifically noted the Division's ongoing efforts regarding treatment and referrals, parenting classes, drug and alcohol assessments, and personal contact, along with Father's lack of progress despite such assistance. The juvenile court's findings are supported by the record. As this court has noted, rehabilitation is "a two-way street which requires commitment on the part of the parents, as well as the availability of services from the State." In re P.H., 783 P.2d 565, 572 (Utah Ct. App. 1989) (quotations and citation omitted); see also In re M.S., 806 P.2d 1216, 1219 (Utah Ct. App. 1991). "The parent must be willing to acknowledge past deficiencies and [exhibit a] desire to improve as a parent and correct the abuses and neglect." In re P.H., 783 P.2d at 572 (quotations and citation omitted).

Accordingly, the order terminating Father's parental rights is affirmed.

Russell W. Bench,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge