

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of S.G., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070837-CA
)	
M.S. and L.S.,)	
)	F I L E D
Appellants,)	(December 28, 2007)
)	
v.)	2007 UT App 412
)	
State of Utah, R.G., and M.G.,)	
)	
Appellees.)	

Third District Juvenile, Salt Lake Department, 532739
The Honorable Kimberly K. Hornak

Attorneys: M.S. and L.S., Grantsville, Appellants Pro Se
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee State of Utah
Frank N. Call, Salt Lake City, for Appellees R.G. and
M.G.
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Davis, and Thorne.

PER CURIAM:

M.S. and L.S. (Appellants) appeal the juvenile court's order granting R.G. and M.G.'s (adoptive parents) petition to adopt S.G. and dismissing Appellants' petition. We affirm.

Appellants assert that the juvenile court erred in giving priority to adoptive parents' petition for adoption. Where more than one petition for adoption of a child is before the juvenile court, the court "may determine that one petition is the primary matter to be decided and hear that petition first. If that petition is granted, the adoption placement is concluded and there is no need to consider the second petition." In re A.B., 1999 UT App 315, ¶ 14, 991 P.2d 70. A juvenile court may grant priority to the petition that is most compliant with Utah's adoption requirements. See id. ¶ 15.

Appellants argue that the juvenile court should have held an evidentiary hearing to adjudicate allegations that S.G. was sexually abused before granting priority to adoptive parents' adoption petition. Appellants' petition on appeal presents what

Appellants refer to as "unadjudicated facts" in support of their argument. Appellants' argument fails for two reasons.

First, the "unadjudicated facts" asserted are not properly before this court. Rule 55(d) of the Utah Rules of Appellate Procedure requires that a petition include a "statement of the material adjudicated facts as they relate to the issues presented" on appeal. Utah R. App. P. 55(d). The statement of unadjudicated facts has no relevancy to what the juvenile court found or to a proper challenge to the juvenile court's findings. It is, in essence, a restatement of "facts" favorable to Appellants' position, but is not based on what the juvenile court determined as a matter of fact.

Second, the record supports the juvenile court's findings and conclusions regarding prioritization.¹ The Division of Child and Family Services (DCFS) investigated the allegation of abuse and entered a substantiated administrative finding against the child's grandmother. Although Appellants assert that further investigation was warranted, they do not show how the finding against the grandmother was relevant to their adoption petition. Furthermore, Appellants' adoption petition failed to include the required background check, home study, and consent to adopt. In contrast, adoptive parents had a completed home study finding them to be an appropriate placement, a therapy progress study, background checks, and consent from DCFS. Appellants' adoption petition was clearly insufficient while adoptive parents' petition met all the requirements. Accordingly, the juvenile court did not err in giving the adoptive parents' petition priority.

Affirmed.²

Russell W. Bench,
Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge

1. Appellants assert only that a second investigation into the abuse allegations should have been done. They do not challenge any finding of fact of the juvenile court regarding any of the adoption petition requirements.

2. Adoptive parents' request for attorney fees under rule 33 of the Utah Rules of Appellate Procedure is denied.