IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest of S.H. and C.M., persons under eighteen years of age.	MEMORANDUM DECISION (Not For Official Publication)
	Case No. 20080541-CA
J.H., Appellant,	F I L E D (August 28, 2008)
v.	2008 UT App 320
State of Utah, Appellee.	

Third District Juvenile, Salt Lake Department, 521085
The Honorable Andrew A. Valdez

Attorneys: T. Laura Lui, Salt Lake City, 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 Greenwood, Billings, and McHugh.

PER CURIAM:

J.H. (Father) appeals the termination of his parental rights in S.H. Father challenges the sufficiency of the evidence to support both the grounds for termination and the best interests determination. "Because of the factually intense nature of [a parental fitness] inquiry, the juvenile court's decision should be afforded a high degree of deference." In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435. We overturn the juvenile court's decision "only if it either failed to consider all of the facts or considered all of the facts and its decision was nonetheless against the clear weight of the evidence." Id. (emphasis added). "When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence." Id.

The State stipulated, and the juvenile court found, that when S.H. returned home in October 2007, Father had substantially

complied with the service plan. However, the evidence demonstrated that the Division of Child and Family Services (DCFS) had concerns about S.H.'s care and safety soon after she returned home. The child's mother was not taking the medication she had been prescribed for depression and was not getting up in the morning to care for S.H. and her sibling. DCFS requested that Father observe the mother taking her medication and also required the parents to call DCFS daily to report that someone was up and caring for the children. Father decided that he would not take responsibility to ensure that the mother was taking her medications because it was her business and he did not want to argue with her about it. He also testified that the parents stopped calling DCFS every morning. Despite being aware that the mother had difficulty getting up, Father left her alone with the children to go camping overnight in December 2007. He testified that because he intended to return in the morning, he was not concerned if Mother did not get up when the children awoke because the children would not starve and would not be in a wet or soiled diaper all day. However, Father was arrested and incarcerated on an outstanding warrant during the camping trip. Although conceding that the mother had difficulty getting up in the morning, he claimed that she was an appropriate caregiver at all other times. Father testified that he obtained daycare, but this did not occur until two weeks before the second removal. Father allowed a known sex offender to reside in the home, failed to obtain health insurance for the children, and refused to take at least two drug screens requested by DCFS.

The evidence of Father's present parenting ability consisted of his own testimony and the testimony of Sarah Ahlander, who was employed by an agency that provided parenting instruction. The juvenile court found the testimony not to be credible. Ahlander testified that she believed Father was implementing parenting skills that he had learned and would be able to parent S.H. at some time in the future. Her testimony was effectively refuted by the testimony of the DCFS caseworker, who made frequent visits to the home and had frequent contact with the family after S.H. returned home.

Father received reunification services for over one year and was sufficiently compliant with those services to allow S.H. to return home in October 2007. She was removed for a second time after roughly two months. When she returned home, S.H. had a vocabulary of 300 words. When she was removed for the second time, she used only 15 to 20 words, she had nightmares, and both she and her sibling had lice. Although Father claims to have been consistently employed or seeking employment, he had seven jobs during the course of the case. At the time of trial, he was not employed but testified that he would begin a new job the following month. He was separating from S.H.'s mother and

planned to have his disabled father provide daycare. If returned, S.H. would be separated from her sibling. S.H. had been in an out-of-home placement for fifteen of her twenty-four months of life. The court found that Father had been unable or unwilling to remedy the circumstances that caused S.H. to be in an out-of-home placement and that there was a substantial likelihood that Father would not be capable of exercising proper and effective parental care in the future. This finding and the findings supporting the additional grounds of unfitness, token efforts, and failure of parental adjustment are amply supported by the evidence.

The juvenile court's best interests determination was also amply supported by the evidence. S.H. was thriving in her foster placement, she was bonded to that family, and they wished to adopt her and her sibling. Her medical, physical, educational, and emotional needs were being met in the foster placement.

Accordingly, we affirm the termination of Father's parental rights.

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Pamela T. Greenwood,
Presiding Judge

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Judith M. Billings, Judge

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Carolyn B. McHugh, Judge