

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of A.M., R.M., M.M.Q., and)	(Not For Official Publication)
A.M., persons under eighteen)	Case No. 20080610-CA
years of age.)	
_____)	
)	F I L E D
D.Q.,)	(September 11, 2008)
)	
Appellant,)	2008 UT App 335
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 541000
The Honorable Kimberly K. Hornak

Attorneys: Joseph Lee Nemelka, Salt Lake City, for Appellant
Mark L. Shurtleff, John M. Peterson, and Carol L.C.
Verdoia, Salt Lake City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Billings, and Davis.

PER CURIAM:

D.Q. (Mother) appeals the termination of her parental rights in her four children. We affirm.

A juvenile court's findings of fact will not be overturned unless clearly erroneous. See 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. Additionally, a juvenile court has broad discretion regarding judgments, based on the juvenile court's specialized experience and training, as well as its ability to judge credibility firsthand. See id. 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.

Additionally, pursuant to Utah Code section 78A-6-507, the finding of any single ground for termination is sufficient to warrant termination of parental rights. See Utah Code Ann. § 78A-6-507(1) (Supp. 2008) (providing the court may terminate all parental rights if it finds any one of 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). As a result, if there is sufficient evidence to support any one of the grounds for termination found by the juvenile court, the termination of Mother's rights is appropriate.

Mother asserts that the juvenile court terminated her parental rights "solely on the basis that [s]he was incarcerated." She argues that termination based on abandonment due to a parent's incarceration is inappropriate. Even if Mother is correct that abandonment may not be shown by incarceration alone, she has misstated the reasons for the termination of her parental rights. Abandonment was not a ground for termination.

The juvenile court terminated Mother's rights on several grounds, including abuse, unfitness, and the failure to remedy the circumstances leading to the removal. The key fact supporting these grounds was the juvenile court's finding that Mother had abused and neglected the children. Mother's incarceration was not the reason her rights were terminated, although it affected her ability to remedy the circumstances of the removal. The actual grounds for termination are supported in the record and are unchallenged on appeal.

Mother additionally asserts that the juvenile court failed to give weight to family preservation. There is no indication that this issue was preserved. Furthermore, family preservation is superseded by the best interests of the children when a juvenile court finds grounds for termination of parental rights. See id. § 78A-6-503(2)(Supp. 2008).

Mother also asserts that kinship placements were not investigated. Mother did not preserve this issue below and it is not appropriately before this court. See In re E.R., 2001 UT App 66, ¶ 9, 21 P.3d 680. Furthermore, Mother's mother was

investigated and did not pass the background check required for placement.

Affirmed.

Russell W. Bench, Judge

Judith M. Billings, Judge

James Z. Davis, Judge