

IN THE UTAH COURT OF APPEALS

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In the matter of the adoption of A.R.A., a minor.)	MEMORANDUM DECISION
_____)	(Not For Official Publication)
)	Case No. 20060682-CA
R.G.N. and A.D.N.,)	
)	F I L E D
Petitioners and Appellants,)	(September 13, 2007)
)	
v.)	2007 UT App 298
)	
R.M.,)	
)	
Respondent and Appellee.)	

Second District, Layton Department, 062600002
The Honorable Thomas L. Kay

Attorneys: Orson B. West Jr., Salt Lake City, for Appellants
Jonathan G. Jemming and Michelle Diamond, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

A.D.N. (Mother) and R.G.N. (Prospective Father) appeal the district court's order denying their petition to terminate the parental rights of R.M. (Father) and denying Prospective Father's petition to adopt A.R.A.

In reviewing a trial court's order concerning a petition to terminate an individual's parental rights, this court "will not disturb the [trial] 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). Accordingly, this court will not overturn a trial court's findings of fact unless they are 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. We grant this discretion to the trial court in finding facts because the trial court is in the best position to judge the credibility of the parties. See id.; see also Morton v. Continental Baking Co., 938 P.2d 271, 275 (Utah 1997) (stating that the district court "is in the best position to evaluate the status of [its] cases as well as the attitudes, motives, and credibility of the parties").

Prior to terminating a person's parental rights, a trial court must not only find appropriate grounds for termination, but must also determine that terminating a person's parental rights is in the best interest of the child. See Utah Code Ann. § 78-3a-406(3) (Supp. 2007). Here, the district court determined that there were insufficient grounds to warrant termination and that it was not in the child's best interest to terminate Father's parental rights. Because the record clearly supports the district court's finding that it would not be in A.R.A.'s best interest to terminate Father's parental rights, we do not analyze Mother and Prospective Father's claim that there was clear and convincing evidence that Father had abandoned A.R.A.

After hearing the testimony and observing the demeanor of all of the witnesses, the trial court expressed that while it had concerns over Father's conduct, it could not say that Mother and Prospective Father had proven by clear and convincing evidence that Father's parental rights should be terminated. Rather than being based upon any specific facts, this determination was based largely upon the trial court's general observations of the parties and their family members, i.e., how they interacted and related to one another. The trial court found that there was deep animosity between the parties and their respective families, which permeated their relationships and made communication difficult. Thus, the trial court determined that Father was not solely responsible for his lack of communication with A.R.A. since Father became incarcerated. Consequently, the trial court concluded that Mother and Prospective Father had not met their burden of proving by clear and convincing evidence that termination of Father's parental rights would be in A.R.A.'s best interest. Because this finding is intrinsically related to the trial court's observations of the parties' and witnesses' demeanor, attitudes, motives, and credibility, we cannot say that the trial court abused its discretion in so finding. See In re S.T., 928 P.2d 393, 401 (Utah Ct. App. 1996) ("The mere fact that we could reach a different result than the juvenile court on the same evidence does not justify setting aside the juvenile court's

findings."). Therefore, the evidence supports the trial court's decision not to terminate Father's parental rights.

Accordingly, the trial court's order is affirmed.

Russell W. Bench,
Presiding Judge

Pamela T. Greenwood,
Associate Presiding Judge

Carolyn B. McHugh, Judge