

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of B.K., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20061167-CA
	)	
D.W.,	)	F I L E D
	)	(February 15, 2007)
Appellant,	)	
	)	2007 UT App 51
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 507739  
The Honorable Frederic M. Oddone

Attorneys: Julie George, Salt Lake City, for Appellant  
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake  
City, for Appellee  
Martha Pierce and Tracy Mills, Salt Lake City,  
Guardians Ad Litem

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Before Judges Greenwood, Billings, and Davis.

PER CURIAM:

D.W. (Father) appeals the termination of his parental rights  
in B.K. We affirm.

Father asserts that Utah Code sections 78-3a-407(1)(c) and  
78-3a-408(2)(e) are insufficient grounds to terminate his  
parental rights "when he never even had an opportunity to reunify  
with his daughter because he was in prison her whole life."  
Under Utah Code section 78-3a-408(2)(e), the juvenile court  
"shall" consider as evidence of neglect or unfitness, "with  
regard to a child who is in the custody of [the Division of Child  
and Family Services (DCFS)], if the parent is incarcerated as a  
result of a conviction of a felony, and the sentence is of such  
length that the child will be deprived of a normal home for more  
than one year." Utah Code Ann. § 78-3a-408(2)(e) (Supp. 2006).  
The circumstances here fall squarely within this section.

The facts in this case are undisputed. Father has been incarcerated on felony charges for B.K.'s entire life. She was taken into DCFS custody in April 2006. Father will not be released until September 2007 at the earliest. As a result, Father's incarceration would deprive B.K. of a normal home for more than one year while she is in DCFS custody. See id. This scenario is sufficient to establish neglect and unfitness as grounds for termination. See id. § 78-3a-407 (Supp. 2006) (listing grounds for termination).

Father appears to assert that the circumstances described in section 78-3a-408(2)(e) are insufficient to justify termination of his parental rights. However, this court has held that the incarceration and deprivation of a normal home as described in the statute is, indeed, sufficient to support termination. See In re D.B., 2002 UT App 314, ¶¶9-11, 57 P.3d 1102. This court noted that it is not the incarceration itself that is the key, but rather that the incarceration deprives a child in DCFS custody of a normal home for an extended time. See id. at ¶11. Furthermore, Father's vague assertion that he should receive services is irrelevant in this circumstance because the length of his incarceration deprives B.K. of a normal home for more than one year regardless of whether Father could participate in services.

In addition, the juvenile court found grounds to terminate under Utah Code section 78-3a-407(1)(d), finding that Father is unable to remedy the circumstances that resulted in B.K.'s removal and that he would not be able to effectively parent in the near future. See Utah Code Ann. § 78-3a-407(1)(d) (Supp. 2006). Father does not challenge this ground for termination. Because termination is warranted if any single ground is found by the juvenile court, the termination of Father's parental rights is supported on this ground alone, regardless of Father's challenge to the other grounds for termination. See id. § 78-3a-407(1) (Supp. 2006) (providing that parental rights may be terminated on the finding of any one of the grounds listed); see also In re D.B., 2002 UT App 314 at ¶13 n.4.

Accordingly, the termination of Father's parental rights is affirmed.

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Pamela T. Greenwood,  
Associate Presiding Judge

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Judith M. Billings, Judge

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James Z. Davis, Judge