IN THE UTAH COURT OF APPEALS

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In the interest of B.P., A.H., and M.H., persons under eighteen years of age.	MEMORANDUM DECISION (Not For Official Publication)
	Case No. 20051134-CA
J.D. and D.D.,	F I L E D (April 20, 2006)
Petitioners and Appellees,	2006 UT App 160
v.	
M.P. and A.H.,	
Respondents and Appellants.	

Fourth District Juvenile, Provo Department, 443181
The Honorable Sterling B. Sainsbury

Attorneys: Margaret P. Lindsay and Gary J. Anderson, Orem, for Appellants
Mark L. Shurtleff, Carol L.C. Verdoia, and John M. Peterson, Salt Lake City, for State of Utah
Martha Pierce, Salt Lake City, and R. John Moody, Provo, Guardians Ad Litem

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Before Judges Davis, McHugh, and Orme.

PER CURIAM:

M.P. and A.H. (Parents) appeal the decision terminating their parental rights.

Parents claim that the evidence was insufficient to support the conclusions that: (1) they had abandoned their children; (2) they made only token efforts to support and communicate with the children, to avoid being unfit parents, or to prevent neglect; (3) their actions constituted a failure of parental adjustment in that they failed to comply with the court-ordered treatment plan despite reasonable efforts by the Division of Child and Family Services (DCFS) to provide reunification services.

We "review the juvenile court's factual findings based upon the clearly erroneous standard." In re E.R., 2001 UT App 66,¶11,

21 P.3d 680. The juvenile court has wide discretion regarding judgments, "based upon not only the court's opportunity to judge credibility firsthand, but also based on the juvenile court judges' 'special training, experience and interest in this field, and . . . devoted . . . attention to such matters.'" Id. (citations omitted). In reviewing a decision to terminate parental rights, we "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.

Termination may be based on any one of the grounds enumerated in Utah Code section 78-3a-407(1). See Utah Code Ann. § 78-3a-407(1) (Supp. 2005). Prima facie evidence of abandonment includes proof that the parents "have failed to communicate with the child by mail, telephone, or otherwise for six months" or "failed to have shown the normal interest of a natural parent, without just cause." Id. § 78-3a-408(1)(b),(c) (Supp. 2005). The trial court is not required to make a finding that DCFS made reasonable efforts to provide reunification services where the ground for termination is abandonment. See id. § 78-3a-407(3)(a). A conclusion that parents have abandoned a child "will be upheld based solely on a parent's lack of visitation and communication." In re Adoption of B.O., 927 P.2d 202, 208 (Utah Ct. App. 1996) (quotations and citations omitted). "[L]ack of visitation and communication with . . . children evidences a conscious disregard of parental obligations, which leads to the destruction of the parent-child relationship." Id. at 209.

At the time of the termination trial in October 2005, the children had resided with Appellees J.D. and D.D. for roughly two years. Parents conceded that they had provided no financial support, had not visited in person since January 2004, and had terminated telephone visitation. The mother testified that she provided one birthday gift for B.P. through her brother in June 2005. We conclude that the termination of parental rights on the ground of abandonment is amply supported by the evidence.

The juvenile court based its termination decision on the additional grounds that the parents made only token efforts to support or communicate with the children or to avoid being unfit parents and that parents demonstrated a lack of parental adjustment. At the time of trial in October 2005, Parents still had not visited the children in person since January 2004, had not engaged in telephone visits in over six months, and had not provided financial support. Both parents testified that they had been employed during the majority of the time since October 2003. The mother also received money through inheritance. Nevertheless, they testified that they had neither the resources,

nor the time, to visit their children or provide support. Parents did not begin any counseling or treatment until July or August 2005. It placed an additional burden on Parents that their children were located in Utah, while they resided in Nevada. However, it was reasonable to expect them to take appropriate steps to regain custody of their children. Parents allowed the children to remain in substitute care for roughly two years, without visiting, and with only sporadic and ineffectual attempts at other contact. Regardless of any belated progress, Parents simply failed to demonstrate anything beyond token efforts and failed to demonstrate appropriate parental adjustment. The court's conclusion that DCFS made reasonable efforts to provide services is sufficiently supported by the record.

We affirm the decision terminating parental rights.

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge

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Gregory K. Orme, Judge