

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of B.S., C.S., and A.S.,	)	(Not For Official Publication)
persons under eighteen years	)	
of age.	)	Case No. 20060800-CA
_____	)	
L.S.,	)	F I L E D
	)	(November 16, 2006)
Appellant,	)	2006 UT App 462
	)	
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 179452  
The Honorable Charles D. Behrens

Attorneys: Sarah A. Giacobelli, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce and Brent J. Newton, Salt Lake City,  
Guardians Ad Litem

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Before Judges Greenwood, Davis, and Orme.

PER CURIAM:

L.S. (Mother) appeals the termination of her parental rights in B.S., C.S., and A.S. Mother asserts that the juvenile court failed to consider all required factors in assessing whether it was in the children's best interests to terminate Mother's parental rights. Mother also asserts that there was insufficient evidence for the juvenile court to find that it was in the children's best interests to terminate Mother's parental rights. Finally, Mother asserts that there was insufficient evidence to support a basis for termination of her parental rights. We affirm.

Mother argues that the juvenile court failed to consider the factors required by Utah Code sections 78-3a-402, 78-3a-409, and

78-3a-410. See Utah Code Ann. §§ 78-3a-402, -409, -410 (2002). However, there is no requirement that the juvenile court expressly list each factor or refer to the applicable section when considering the factors. See In re S.T., 928 P.2d 393, 400 (Utah Ct. App. 1996). All that is required is that the factors be considered. See id. In reviewing the juvenile court's findings of fact in their entirety, it is clear that the juvenile court considered all legally required factors in making its determination concerning the children's best interests. For example, the findings include an assessment of the "physical, mental or emotional condition and needs" of the children, Utah Code Ann. § 78-3a-409(1)(a), and of Mother's efforts to "adjust [her] circumstances, conduct or conditions to make it in the [children's] best interest[s] to return [them] home," id. § 78-3a-409(1)(b). The findings also include an assessment of the children's integration into their foster home, noting their current condition, progress, and future needs. Thus, the juvenile court considered all legally necessary factors in making its best interest determination. See id. §§ 78-3a-402, -409, -410.

Mother next argues that there was insufficient evidence to find that the children "were in a stable placement, that they were bonding to their foster family and becoming integrated." Mother essentially argues that it cannot be in the children's best interests to terminate Mother's parental rights if the children are not in a home that will necessarily lead to their adoption. However, a person's parental rights may be terminated even if no adoptive home has been currently identified for the children. See Utah Code Ann. § 78-3a-411 (2002) (stating that upon termination a child is placed in legal custody of a licensed child placement agency or the division for adoption and that all adoptable children shall be placed for adoption); id. § 78-3a-412 (2002) (discussing review procedure after termination to create permanent placement plan for children); see also In re S.L., 1999 UT App 390, ¶48, 995 P.2d 17 (noting that after statutory time runs on reunification efforts, the only option is to move towards adoption or some other permanent status; delay in termination proceedings is not an option). Thus, a child's adoption status is only one factor to consider in the determination of the best interests of the children.

The juvenile court considered this factor and specifically determined that "even if the children's current placement does not work out, it is still in their best interest for [Mother's] parental rights to be terminated so that they can be legally free for adoption into a home where they will have stability, love and consistency." Because the juvenile court considered the children's adoption status in making its findings, the juvenile

court properly exercised its discretion in making its best interest determination. See In re R.A.J., 1999 UT App 329, ¶6, 991 P.2d 1118 (stating that 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" (quotations and citation omitted)); see also In re E.R., 2001 UT App 66, ¶11, 21 P.3d 680 (stating that we afford the juvenile court a "wide latitude of discretion as to the judgments arrived at 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" (quotations and citation omitted)).

Mother also argues that there was insufficient evidence to support a ground for termination. In reviewing the termination of 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 D.B., 2002 UT App 314, ¶6, 57 P.3d 1102.

The juvenile court found that termination was justified under three grounds enumerated under section 78-3a-407(1). See Utah Code Ann. § 78-3a-407(1) (Supp. 2006). Specifically, the court found that termination was appropriate due to Mother's: (1) neglect of the children; (2) unfitness or incompetency as a parent; and (3) unwillingness to remedy the circumstances that caused the children to be in an out-of-home placement and a substantial likelihood that she will not be capable of exercising proper and effective parental care in the near future. See id. § 78-3a-407(1)(b)-(d). Any single ground is sufficient to terminate parental rights. See id. § 78-3a-407(1) (providing court may terminate parental rights if it finds "any one of" the listed grounds); In re D.B., 2002 UT App 314 at ¶13 n.4.

A "neglected child" includes one "whose parent, guardian, or custodian has subjected the minor to mistreatment or abuse," Utah Code Ann. § 78-3a-103(1)(s)(i)(B) (Supp. 2006), and includes a child that has been returned to an abusive environment by a parent, thus exposing the child to the substantial risk of abuse in the future. See In re C.B., 1999 UT App 293, ¶¶8-11, 989 P.2d 76 (upholding trial court's finding that child was "neglected" because mother voluntarily returned to abusive relationship with child's father, thus subjecting child to risk of future abuse). The juvenile court made several findings supporting its determination of neglect. These findings, which are supported by the record, focus on Mother's continued voluntary relationship with J.S., despite a long history of domestic violence with him, including numerous acts of violence in front of the children.

Repeated refusal to cut ties to a man responsible for exposing the children to numerous acts of domestic violence constitutes a fully adequate basis for terminating Mother's parental rights. See id. at ¶¶9-10 (holding that return to abusive relationship by mother was neglect of her child justifying protective intervention); see also In re Jonathan Michael D., 459 S.E.2d 131, 137-38 (W. Va. 1995) (per curiam) (affirming termination of parental rights of mother who completed treatment plan but continued to allow abusive father to have access to child). Thus, the record supports the juvenile court's finding of neglect as a ground for termination of Mother's parental rights.

Accordingly, we affirm.

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Pamela T. Greenwood,  
Associate Presiding Judge

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James Z. Davis, Judge

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Gregory K. Orme, Judge