

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION	
of C.J., a person under)	(Not For Official Publication)	
eighteen years of age.)		
_____)	Case No. 20100027-CA	
)		
C.C.,)	F I L E D	
)	(March 18, 2010)	
Appellant,)		
)	<table border="1"><tr><td>2010 UT App 69</td></tr></table>	2010 UT App 69
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v.)		
)		
State of Utah,)		
)		
Appellee.)		

Third District Juvenile, Tooele Department, 1025057
The Honorable Mark W. May

Attorneys: Wayne A. Freestone, Sandy, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, Thorne, and Roth.¹

PER CURIAM:

C.C. (Mother) appeals the juvenile court's adjudication order finding her child C.J. to be neglected as a child at risk under Utah Code section 78A-6-105(25)(a)(iv). See Utah Code Ann. § 78A-6-105(25)(a)(iv) (2008). 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. 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. When a foundation for the juvenile court's decision exists in the evidence, this court may not reweigh the evidence. See In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435.

1. The Honorable Stephen L. Roth, Third District Court Judge, sat by special assignment pursuant to Utah Code section 78A-3-103(2) (2008) and rule 3-108(3) of the Utah Rules of Judicial Administration.

Furthermore, a determination of neglect as a child at risk under section 78A-6-105(25)(a)(iv) may be supported by previously adjudicated facts establishing abuse or neglect of other children from the same home. See Utah Code Ann. § 78A-6-105(25)(a)(iv); In re E.K., 913 P.2d 771, 775 (Utah Ct. App. 1996). When a prima facie case of neglect as a child at risk is established, the burden then shifts to the parent to produce evidence to persuade the juvenile court that the State did not show neglect by clear and convincing evidence. See In re E.K. 913 P.2d at 775. The parent is allowed the "opportunity to demonstrate that the home environment has changed and that an after-born child is not 'at risk.'" Id. at 774.

Mother concedes that the State established a prima facie case but asserts that she produced sufficient evidence to refute a finding of neglect and show that the home environment had changed. However, the evidence at trial supported the juvenile court's finding that there had been no significant change in the home environment. Mother remained unwilling to accept responsibility for the harm she had caused to the two children previously adjudicated as abused or neglected.² Mother acknowledged only an accidental injury of her child to her long-time therapist, lied on a recent psychological evaluation in preparation for trial, and mischaracterized the juvenile court's prior findings of abuse regarding her other children. Even on the day C.J. was removed, Mother denied ever hurting her other children. Furthermore, she tried to hide her pregnancy from the Division of Child and Family Services in an effort to avoid supervision. Overall, Mother demonstrated no significant change in her attitude or acceptance of responsibility for her conduct toward her children, leaving C.J. a child at risk. Accordingly, the juvenile court did not err in determining that C.J. was a neglected child.

Affirmed.

James Z. Davis,
Presiding Judge

William A. Thorne Jr., Judge

Stephen L. Roth,
Visiting Judge

2. Mother's parental rights in those two children were terminated in March 2009.