

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. 20100252-CA
)	
C.C.,)	F I L E D
)	(June 10, 2010)
Appellant,)	
)	2010 UT App 153
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, Carol L.C. Verdoia, and John M.
Peterson, Salt Lake City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, Orme, and Roth.

PER CURIAM:

C.C. (Mother) appeals the juvenile court's order terminating her parental rights in her child, C.J. We affirm.

Mother first argues that the juvenile court erred by permitting the amendment of the verified petition for termination of parental rights to include several grounds for termination of parental rights that were not originally set forth in the petition. We need not resolve this issue because the petition alleged neglect and abuse. Accordingly, if we conclude that the record supported terminating Mother's parental rights on those grounds, then there is no need to analyze the other potential grounds for termination. See generally Utah Code Ann. § 78A-6-507(1) (2008) (providing that the court may terminate all parental rights if it finds any one of the grounds listed); In re F.C., 2003 UT App 397, ¶ 6, 81 P.3d 790 (noting that any single ground is sufficient to terminate parental rights).

Mother next asserts that there was insufficient evidence to support terminating her parental rights. 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. 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. Further, we give 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.'" Id. (citations omitted).

Utah Code section 78A-6-507 provides that a person's parental rights may be terminated if the juvenile court finds "that the parent has neglected or abused the child." Utah Code Ann. § 78A-6-507(1)(b). Furthermore, a determination of neglect may be supported by previously adjudicated facts establishing abuse or neglect of other children from the same home. See id. § 78A-6-105(25)(a)(iv); In re J.B., 2002 UT App 267, ¶ 18, 53 P.3d 958. When a prima facie case of neglect of 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 J.B., 2002 UT App 267, ¶ 22. In so doing, the parent is allowed the "opportunity to demonstrate that the home environment has changed and that an after-born child is not 'at risk.'" In re E.K., 913 P.2d 771, 774 (Utah Ct. App. 1996).

Mother's parental rights in two children were terminated on March 11, 2009. See In re N.S., 2009 UT App 156U (mem.) (per curiam). The grounds for termination included abuse and neglect. See id. C.J. was born on October 2, 2009, and was removed from Mother's custody twelve days later. An adjudication hearing was held on December 17, 2009. The juvenile court determined that C.J. was a neglected child under Utah Code section 78A-6-105(25)(a)(iv). See In re C.J., 2010 UT App 69U (mem.) (per curiam). This court recently upheld the juvenile court's determination. See id. In so doing, this court determined that the juvenile court had not erred in determining that the State had made a prima facie case of neglect and that Mother had failed to rebut the finding of neglect by demonstrating that her home environment had changed. See id. para. 4. Thus, as of December 30, 2009, there was clear and convincing evidence that C.J. was neglected, due to being an at risk child, and that Mother had not sufficiently demonstrated that her home environment had changed.

At trial, the juvenile court took judicial notice of all prior findings. It then found that "Mother has failed to rectify the problems that [led] to C.J. being removed from her custody"

and that Mother "did not provide sufficient evidence to demonstrate that circumstances had sufficiently changed to allow the safe return of [C.J.] to [Mother]." As such, the juvenile court found that Mother was still a danger to the child. The evidence supports the juvenile court's findings. In an effort to demonstrate that her conditions had sufficiently changed, Mother offered testimony that she had at least one therapy session after the adjudication hearing and that she had frequent informal on-line communications with her therapist. She also testified that she had obtained stable housing, had gone to school to obtain a more stable career, and had frequently taken care of children. However, the juvenile court determined that such efforts were insufficient to demonstrate that the circumstances that had led to the removal of C.J. had changed. We cannot say that the juvenile court abused its discretion in so finding. See In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435 ("When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence.").

Affirmed.

James Z. Davis,
Presiding Judge

Gregory K. Orme, Judge

Stephen L. Roth, Judge