

IN THE UTAH COURT OF APPEALS

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| State of Utah, in the interest |) | MEMORANDUM DECISION |
| of C.L., C.L., and S.B., |) | (Not For Official Publication) |
| persons under eighteen years |) | |
| of age. |) | Case No. 20090326-CA |
| _____ |) | |
| |) | |
| B.B., |) | F I L E D |
| |) | (September 11, 2009) |
| Appellant, |) | |
| |) | 2009 UT App 256 |
| v. |) | |
| |) | |
| State of Utah, |) | |
| |) | |
| Appellee. |) | |

Fourth District Juvenile, Provo Department, 542830
The Honorable Kay A. Lindsay

Attorneys: Jared M. Anderson, Spanish Fork, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

B.B. (Mother) appeals the termination of her parental rights in her children C.L., C.L., and S.B. 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. 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. Additionally, a juvenile court has broad discretion regarding judgments, based on the juvenile court's specialized experience and training, as well as the ability to judge credibility firsthand. See id. In determining whether grounds for termination exist, the juvenile court must consider the totality of the evidence, weighing past conduct and present ability. See In re B.R., 2007 UT 82, ¶ 13, 171 P.3d 435. In reviewing an order terminating 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 R.A.J., 1999 UT App 329, ¶ 6, 991 P.2d 1118.

Additionally, pursuant to Utah Code section 78A-6-507, the finding of any single ground is sufficient to warrant termination of parental rights. See 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. III, 2003 UT App 397, ¶ 6, 81 P.3d 790 (noting that any single ground is sufficient to terminate parental rights). As a result, if there is sufficient evidence to support any one of the grounds for termination found by the juvenile court, the termination of Mother's rights is appropriate.

Mother asserts that there was insufficient evidence to terminate her parental rights. The juvenile court found several grounds to terminate Mother's rights, including that Mother had neglected or abused her children, see Utah Code Ann. § 78A-6-507(1)(b), and that she was unfit or incompetent, see id. § 78A-6-507(1)(c). In determining neglect or unfitness, a juvenile court must consider, at a minimum, a parent's conduct toward the child of a physically or emotionally abusive nature, habitual or excessive use of drugs that renders the parent unable to care for the child, and failure to provide education. See id. § 78A-6-508(2). In this case, the evidence regarding each of these factors supports the juvenile court's determination of grounds for termination.

The oldest child reported that Mother beat him with a belt. Mother also admitted to hitting him with a belt. After investigating, the Division of Child and Family Services substantiated the abuse. Additionally, all of the children were witnesses to regular domestic violence and drug use. This conduct supports a determination that Mother was physically and emotionally abusive toward her children.

Mother also admitted to several periods of heavy drug use, including using drugs in front of her children. On the night of the children's removal, there was methamphetamine smoke in the house and one of the children tested positive for the drug on her cheek. The cycles of use included days of drug use followed by days of "crashing"--sleeping it off. This rendered Mother unable to care for her children for prolonged periods of time.

Mother also neglected to provide for the educational needs of her children. The boys' school attendance was inconsistent, with numerous absences and chronic tardiness. They were far behind their age group academically. School officials' efforts

to get Mother involved in the boys' education were unsuccessful. Mother's lack of attention to their educational needs was chronic.

Given Mother's abusive behavior, drug use, and educational neglect, grounds for termination were amply supported. Furthermore, the juvenile court did not err in finding that Mother's recent improvement did not outweigh her past egregious conduct. See In re B.R., 2007 UT 82, ¶¶ 12-13, 171 P.3d 435. Accordingly, the juvenile court did not abuse its discretion in determining that Mother had abused and neglected her children and that she was an unfit parent, justifying the termination of her parental rights.

Affirmed.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge