

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of D.H., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20050337-CA
)	
A.C.,)	F I L E D
)	(December 1, 2005)
Appellant,)	
)	2005 UT App 510
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 447950
The Honorable Sharon P. McCully

Attorneys: Russell S. Pietryga, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce and Suchada P. Bazzelle, Salt Lake
City, Guardians Ad Litem

Before Judges Greenwood, McHugh, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record[,] and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under applicable law.

Appellant A.C. (Mother) argues that the evidence was insufficient, or in some cases wholly lacking, to support the juvenile court's findings that resulted in termination of her parental rights in D.H. (Child). "Findings of fact in a parental rights termination proceeding are overturned only if they are clearly erroneous." In re S.T., 928 P.2d 393, 400 (Utah Ct. App. 1996). And we cannot say that the juvenile court's findings here--findings supporting the court's conclusions of neglect, unfitness, failure to remedy circumstances, and failure of

parental adjustment, see Utah Code Ann. § 78-3a-407(1)(b)-(e) (Supp. 2005)--are against the clear weight of the evidence.

"In this case, the juvenile court entered findings supporting four separate grounds for termination of [Mother's] parental rights in Child. Any one of these grounds was sufficient, by itself, to justify termination of [her] parental rights in Child." In re F.C., 2003 UT App 397, ¶6, 81 P.3d 790 (mem.). See also Utah Code Ann. § 78-3a-407(1) (authorizing termination of parental rights upon findings consistent with "any one of" several grounds). Thus, in affirming the juvenile court's findings, we need only discuss one of the grounds for termination. We choose to address parental unfitness. See Utah Code Ann. § 78-3a-407(1)(c).

Regarding the determination of parental unfitness, Mother argues that the juvenile court erred by making its determination solely from her past history with the Department of Child and Family Services (DCFS), having before it no evidence of present unfitness. We disagree. The juvenile court's consideration of her past history with DCFS was entirely appropriate. For

although the court has a duty to look forward--i.e., to look at the parent's present ability and the likelihood that the parent will be able to resume parenting within a reasonable time--the court must consider such evidence in light of the parent's past conduct and its debilitating effect on the parent-child relationship.

In re M.L., 965 P.2d 551, 561-62 (Utah Ct. App. 1998). And certain past conduct may alone furnish prima facie evidence of unfitness. See Utah Code Ann. § 78-3a-408(6)(a) (Supp. 2005) (providing that the injury of any child due to Mother's neglect would be prima facie evidence of unfitness).

Further, it is clear from the record that the juvenile court's consideration of past history was adequately coupled with evidence of Mother's present situation. Indeed, the language of the challenged finding itself states, and comments from the bench further clarify, that the present determination of unfitness was not simply a result of Mother's previous history with DCFS. The court remarked:

[Child] wasn't just born to a family that had prior past problems and had had other children removed and terminated. She was subjected to the same neglect, the same serious neglect, resulting in her being

exposed to drugs--resulting in her being
cared for by inappropriate caretakers while
parents did their other things, including
both of them having to go to jail.

And those factors referenced by the court are factors it must
necessarily consider when determining unfitness. See Utah Code
Ann. § 78-3a-408(2)(c)-(d) (providing court must consider, among
other things, parent's drug use and repeated failure to provide
child with necessary care).

Given the evidence before the court, including Mother's
previous history with DCFS, her drug use, her incarceration, and
her placement of Child in the care of a convicted sex offender,
we cannot say that the court's findings supporting its
determination of unfitness are clearly erroneous.

Affirmed.

Gregory K. Orme, Judge

WE CONCUR:

Pamela T. Greenwood, Judge

Carolyn B. McHugh, Judge