

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of D.M., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
<hr/>	)	Case No. 20050730-CA
	)	
D.M.,	)	F I L E D
	)	(July 28, 2006)
Appellant,	)	2006 UT App 319
	)	
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Seventh District Juvenile, Moab Department, 976578  
The Honorable Mary L. Manley

Attorneys: Justin Kent Roberts, Murray, for Appellant  
Mark L. Shurtleff and Marian Decker, Salt Lake City,  
for Appellee

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Before Judges Bench, Billings, and McHugh.

PER CURIAM:

Appellant D.M. appeals the juvenile court's disposition order. Specifically, D.M. argues that the juvenile court erred by not allowing him to cross-examine his probation officer. We affirm due to D.M.'s failure to preserve the argument for appeal.

"[A] defendant who fails to preserve an objection at trial will not be able to raise that objection on appeal unless he is able to demonstrate either plain error or exceptional circumstances." State v. King, 2006 UT 3, ¶13, 131 P.3d 202. Further, this "preservation rule applies to every claim, including constitutional questions." State v. Holgate, 2000 UT 74, ¶11, 10 P.3d 346. D.M. argues that the juvenile court violated the open courts provision of the Utah Constitution as well as his due process rights by not allowing him to cross-examine his probation officer. At no point did D.M. or his parents ever request the opportunity to cross-examine the

probation officer or respond to the allegations he made.<sup>1</sup> Thus, D.M. failed to preserve these arguments for appeal. Further, D.M. fails to argue that the juvenile court committed plain error or that exceptional circumstances exist. Finally, even if we were to consider D.M.'s arguments for the first time on appeal, he would not be entitled to relief because he has failed to demonstrate any prejudice resulting from the alleged error. Accordingly, D.M. is foreclosed from raising these arguments on appeal.

Affirmed.

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Russell W. Bench,  
Presiding Judge

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Judith M. Billings, Judge

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Carolyn B. McHugh, Judge

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<sup>1</sup>D.M. waived the right to counsel at that hearing and admits on appeal that his admissions to the use of alcohol and tobacco were valid.