

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of D.T., A.J.T., and M.T.,	)	(Not For Official Publication)
persons under eighteen years	)	Case No. 20091054-CA
of age.	)	
_____	)	
D.T.,	)	F I L E D
	)	(February 25, 2010)
Appellant,	)	2010 UT App 46
	)	
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Seventh District Juvenile, Moab, 1016011  
The Honorable Mary L. Manley

Attorneys: K. Andrew Fitzgerald, Moab, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce, Salt Lake City, Guardian Ad Litem

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Before Judges Davis, McHugh, and Bench.<sup>1</sup>

PER CURIAM:

D.T. (Father) appeals the December 4, 2009 order, which ordered that (1) the children are continued in the protective supervision of the Division of Child and Family Services (DCFS); (2) the DCFS recommendation to terminate services is denied; (3) "[i]t is in the children's best interest that [Mother] finish her court ordered drug treatment program"; and (4) "[t]he children are not to be removed from the State of Utah without the court's consent."

The order from which this appeal is taken denied a motion to terminate DCFS involvement and juvenile court jurisdiction. As a

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<sup>1</sup>The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

result, the case remains before the juvenile court and the order did not alter the children's status vis-a-vis either parent. Both the State and the Guardian Ad Litem (GAL) assert that the order was not final and appealable as a matter of right. Father could have, but did not, seek permission to appeal from the interlocutory order denying the request to terminate court jurisdiction through a timely petition for permission to appeal. See generally Utah R. App. P. 52(c) ("Appeals from interlocutory orders are governed by Rule 5.").

Regardless of any arguments that Father might make in support of the termination of juvenile court jurisdiction, the threshold issue before us is whether we have jurisdiction to consider this appeal. For a juvenile court order to be final and appealable, it "must end the current juvenile proceedings, leaving no question open for further judicial action." In re K.F., 2009 UT 4, ¶ 36, 201 P.3d 985. "[T]he determining factor in deciding if an order is final and appealable is whether it effects a change in the permanent status of the child." Id. (quoting In re C.M.F., 2007 UT 69, ¶ 3, 167 P.3d 1070). The order that Father seeks to appeal as a matter of right is clearly interlocutory. It does not effect any change in the permanent status of the children and does not end the current juvenile proceedings. The order continues the juvenile court's jurisdiction over the children and parents and does not change the status of the children vis-a-vis their parents. Father did not seek permission to appeal from the interlocutory ruling by filing a timely petition for permission to appeal in this court under rule 5 of the Utah Rules of Appellate Procedure.

Accordingly, we dismiss this appeal for lack of jurisdiction because it is taken from an order that is not final and appealable.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Russell W. Bench,  
Senior Judge