

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of E.M., C.M., and M.F.L.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20070540-CA
_____)	
)	
B.L.,)	F I L E D
)	(September 20, 2007)
Appellant,)	2007 UT App 309
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third Juvenile District, Tooele Department, 524734
The Honorable Christine S. Decker

Attorneys: Wayne A. Freestone, Sandy, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, and Cas White, West
Jordan, Guardians Ad Litem

Before Judges Greenwood, Billings, and Davis.

PER CURIAM:

B.L. (Mother) appeals an adjudication order determining that the children were within juvenile court jurisdiction. Mother challenges the sufficiency of the evidence to support the juvenile court's conclusions that (1) her children were neglected and (2) her children were siblings at risk of abuse or neglect as a result of residing in the same home with an abused child. In related proceedings, the juvenile court adjudicated K.C., a fourteen year old girl who resided in the family home, to be sexually abused by Mother, K.C.'s legal guardian.

Mother first contends that there was insufficient evidence of the abuse of K.C.; therefore, her children should not have

been adjudicated as siblings at risk of abuse or neglect. The juvenile court has wide discretion regarding judgments, "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, and . . . devoted . . . attention to such matters.'" In re E.R., 2001 UT App 66, ¶11, 21 P.3d 680 (citations omitted). A juvenile court's findings of fact will not be overturned unless they are clearly erroneous. See id. 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.

Mother challenges the factual findings supporting the determination that she sexually abused K.C. Mother contends that because K.C. admitted that she took other photos of herself, it is probable that she also took the nude photo admitted as Exhibit 2. However, the juvenile court found the evidence that Mother took the photo to be more credible. The court found that K.C. consistently claimed Mother took the photo, the photo had to have been taken by a third party, and the photo was centered and posed. In addition, a detective testified that Mother admitted during an interview that she took this photo of K.C. Mother also argues that K.C.'s testimony about sexual touching was not credible because others in the room were not aware of the touching when it occurred. This argument is both speculative and unpersuasive. Finally, Mother contends that the game "Tune In Tokyo," which involved touching K.C.'s breasts, was playful and not sexual. The claim that touching the teenager's breasts during a game is not sexual touching was properly rejected by the juvenile court as not credible and without merit. The juvenile court's factual findings are not clearly erroneous, and they support the conclusions that K.C. was sexually abused and that the other children in the home were at risk of abuse or neglect.

Mother also argues that there was insufficient evidence that her children were neglected. Although there was little direct evidence about Mother's treatment of her children, the juvenile court found that the cumulative evidence about events in the home was sufficient to establish neglect because the home environment was inappropriate. It is not necessary to review this alternative ground supporting the adjudication in further detail because the conclusion that the children were siblings at risk as a result of the sexual abuse of K.C. is amply supported. This is a sufficient basis to support the adjudication that the children

were within the jurisdiction of the juvenile court as children at risk of abuse or neglect.

Affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

James Z. Davis, Judge