

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of E.S., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20100290-CA
	)	
S.B.,	)	F I L E D
	)	(June 17, 2010)
Appellant,	)	
	)	2010 UT App 161
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Fourth District Juvenile, American Fork Department, 528815  
The Honorable Suchada P. Bazzelle

Attorneys: Ronald D. Wilkinson, Orem, 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 Roth.

PER CURIAM:

S.B. (Mother) appeals the juvenile court's order adjudicating her as having neglected E.S. We dismiss the appeal for lack of jurisdiction.

This court's jurisdiction over child welfare appeals is governed by statute. See Utah Code Ann. § 78A-6-1109(2) (2008). Utah Code section 78A-6-1109(2) provides that an appeal from a juvenile court's order related to abuse, neglect, dependency, termination, and adoption proceedings shall be filed within fifteen days of the date the order was entered. See id. Furthermore, the notice of appeal must be signed by both appellant's counsel and the appellant. See id. "If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed." Id.

Similarly, rule 53(b) of the Utah Rules of Appellate Procedure reiterates that a notice of appeal in a child welfare proceeding "must be signed by appellant's counsel and by appellant." Utah R. App. P. 53(b). If counsel fails to obtain the appellant's signature on the notice of appeal, counsel must contemporaneously file a certificate of diligent search. See id. So long as counsel has complied with the obligation to file a certificate of diligent search, counsel may then file an amended notice of appeal adding the appellant's signature within fifteen days of the original notice of appeal. See id. Failure to comply with these requirements divests this court of jurisdiction and this court is required to dismiss the appeal. See Utah Code Ann. § 78A-6-1109(2); see also In re D.E., 2006 UT App 391, ¶ 6, 147 P.3d 462.

On March 22, 2010, the juvenile court issued an order finding that Mother had neglected E.S. Mother's counsel filed Mother's notice of appeal on April 5, 2010. However, Mother did not sign the notice of appeal. Mother's counsel failed to file a certificate of diligent search. On May 4, 2010, Mother's counsel filed an amended notice of appeal adding Mother's signature. However, Mother's counsel's failure to file a certificate of diligent search precluded the filing of an amended notice of appeal. See Utah R. App. P. 53(b). Even had counsel filed a certificate of diligent search, the amended notice of appeal was not filed within fifteen days of the original notice of appeal as required by rule 53(b). See id. Thus, this court is required to dismiss the appeal for lack of jurisdiction. See Utah Code Ann. § 78A-6-1109(2).

Accordingly, the appeal is dismissed.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Stephen L. Roth, Judge