

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of J.D., J.C.D., and M.C.,)	(Not For Official Publication)
persons under eighteen years)	
of age.)	Case No. 20080749-CA
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S.C.,)	F I L E D
)	(December 11, 2008)
Appellant,)	2008 UT App 446
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Second District Juvenile, Ogden Department, 163619
The Honorable J. Mark Andrus

Attorneys: Randall W. Richards and Gary W. Barr, Ogden, for
Appellant
Mark L. Shurtleff, Carol L.C. Verdoia, and John M.
Peterson, Salt Lake City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

S.C. (Mother) appeals the termination of her parental rights. We affirm.

Mother asserts that there was insufficient evidence to terminate her parental rights and that it was not in the children's best interests to do so. Pursuant to Utah Code section 78A-6-507(1), the court may terminate a parent's rights to his or her children if the court finds that the parent has neglected them. See Utah Code Ann. § 78A-6-507(1) (Supp. 2008); see also In re F.C. III, 2003 UT App 397, ¶ 6, 81 P.3d 790. In determining whether a parent is unfit or has neglected his or her children, the court shall consider, among other things, a parent's repeated or continuous failure to provide the children with adequate food, clothing, shelter, education, or other care

necessary for the children's physical, mental, and emotional health. See Utah Code Ann. § 78A-6-508(2)(d).

The record supports the juvenile court's determination that Mother neglected her children as there is evidence that Mother: (1) repeatedly failed to provide her children with adequate shelter; (2) failed to provide her children with a stable home; (3) withdrew her children from school; (4) failed to provide the children with adequate food; and (5) taught the children how to shoplift and later forced the children to steal and panhandle. Thus, there was sufficient evidence to support the juvenile court's determination that Mother had neglected her children. This finding alone is sufficient to terminate her parental rights. See Utah Code Ann. § 78A-6-507(1)(Supp. 2008).

Alternatively, there was also sufficient evidence to support the termination of Mother's parental rights under Utah Code section 78A-6-507(1)(d). A parent's rights may be terminated when there is evidence that the children were in an out-of-home placement, under the supervision of the court or the Division of Child and Family Services, and that the parent was unable or unwilling to remedy the circumstances that caused the out-of-home placement to begin with. See id. § 78A-6-507(1)(d). Furthermore, there must be a substantial likelihood that the parent would not be capable of exercising proper and effective parental care in the near future. See id.

The record demonstrates that Mother has an extensive history of being unable or unwilling to establish an adequate and appropriate place for her children to reside. Mother spends her limited income on traveling from hotel to hotel. At other times, Mother asserts that she has lived at undisclosed locations, as the guest of undisclosed tenants. Despite such assertions, the record is also clear that Mother has forced the children to reside in her car for extended periods of time. Over the history of the children's removals, the children have asked Mother to make the appropriate changes, but Mother has been unable or unwilling to do so. Because there is evidence that establishes that Mother has been unable or unwilling to find stable and appropriate housing for the children, the record also supports the juvenile court's termination of Mother's rights on this basis. See id. § 78A-6-507(1).

Mother next asserts that there was insufficient evidence to support the juvenile court's determination that it was in the children's best interests to terminate Mother's parental rights. If there are sufficient grounds to terminate parental rights, in order to actually do so, "the court must [next] find that the best interests and welfare of the child are served by terminating the parents' parental rights." In re R.A.J., 1999 UT App 329,

¶ 7, 991 P.2d 1118; see also Utah Code Ann. § 78A-6-506(3) (Supp. 2008). The determination of whether the termination of parental rights is in the best interests of the child is reviewed for an abuse of discretion. See In re A.G., 2001 UT App 87, ¶ 7, 27 P.3d 562. 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.

The record demonstrates that Mother has an extensive history with DCFS and with the juvenile court. The children have been placed in the State's custody at least three times in Utah, and twice more in California and Oregon. Mother has been, and continues to be, a source of chaos and disruption to the children. Mother has a history of completely disappearing from the children's lives without ever explaining to the children where she was going or why. Mother justifies such behavior by stating that she needs time to get away and clear her head. The children are old enough to appreciate the hardships incurred while living with Mother, and they have indicated that they would prefer the termination of Mother's parental rights. The children are now in loving, foster homes where they are doing well and appreciate the stable lifestyle. In comparison to the children's life with Mother, the children now receive love, affection, appropriate education, and appropriate shelter.

Because the children are doing well in their foster homes, we cannot say that the juvenile court abused its discretion in determining that it was in the children's best interests to terminate Mother's parental rights.

Accordingly, the termination of Mother's parental rights is affirmed.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge