

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of J.D. and E.D., persons)	(Not For Official Publication)
under eighteen years of age.)	
_____)	Case No. 20080756-CA
)	
A.D.,)	F I L E D
)	(November 14, 2008)
)	
Appellant,)	2008 UT App 411
)	
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Tooele Department, 1000289
The Honorable Mark W. May

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

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

A.D. (Father) appeals the juvenile court's adjudication order finding that Father abused J.D. We affirm.

A juvenile court's findings of fact will not be overturned unless they are clearly erroneous. See In re E.R., 2001 UT App 66, ¶ 11, 21 P.3d 680. 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. Additionally, a juvenile court has broad discretion regarding judgments, based on the juvenile court's specialized experience and training, as well as its ability to judge credibility firsthand. See id. In reviewing a juvenile court's order, this court "will not disturb the juvenile court's findings and conclusions unless the evidence clearly preponderates against the findings as made or the court has abused its discretion." In re R.A.J., 1999 UT App 329, ¶ 6,

991 P.2d 1118. "When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence." In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435.

Father asserts that there was insufficient evidence to support the determination of abuse because the juvenile court relied only on hearsay. We disagree. In addition to J.D.'s account of how the injury occurred, the juvenile court heard expert medical testimony regarding the wound. The medical expert testified that the wound was consistent with J.D.'s initial report of how the injury happened. Based on the clear boundaries and nature of the wound, the medical expert testified that it was more likely caused by intentional conduct than by any accident scenario. With J.D.'s account and supporting medical evidence, the juvenile court had sufficient evidence to find that Father had intentionally caused the wound, supporting the conclusion that J.D. had been abused.

Father argues that hearsay that is repudiated at trial is insufficient standing alone to support the abuse finding. However, the circumstances of this case do not conform to Father's argument. The transcript of J.D.'s interview was admitted without objection. Any hearsay objection now is untimely. See Hart v. Salt Lake County Comm'n, 945 P.2d 125, 129 (Utah Ct. App. 1997). Moreover, there was additional supporting evidence from expert testimony. Additionally, J.D.'s initial account was not repudiated at trial but, rather, contradicted by other testimony. The juvenile court found the contradictory testimony from Father's witnesses to lack credibility. The juvenile court is in the best position to make credibility determinations. See In re E.R., 2001 UT App 66, ¶ 11. Given the lack of credible alternate accounts and the medical evidence supporting J.D.'s report, there was sufficient evidence for the juvenile court to find that Father abused J.D.

Affirmed.

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge