

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of J.E., J.E., R.E., and Z.E.,	)	(Not For Official Publication)
persons under eighteen years	)	
of age.	)	Case No. 20080341-CA
_____	)	
	)	
L.E.,	)	F I L E D
	)	(June 26, 2008)
	)	
Appellant,	)	2008 UT App 242
	)	
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 518799  
The Honorable Andrew A. Valdez

Attorneys: Julie George, Salt Lake City, 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 Greenwood, Thorne, and Orme.

PER CURIAM:

L.E. (Mother) appeals the termination of her parental rights. Mother does not challenge any specific finding of fact, but she contends that the court's decision to terminate her parental rights was not supported by sufficient evidence. She contends that "a parent addicted to drugs needs longer than eight to twelve months to come to terms with an addiction, address it, get counseling, and be clean" in order to reunify with her children. Accordingly, Mother contends that the juvenile court erred by not allowing her additional time to accomplish the court's requirements.

"Because of the factually intense nature of [a parental fitness] inquiry, the juvenile court's decision should be afforded a high degree of deference." In re B.R., 2007 UT 82, ¶ 12, 171 P.3d 435. We overturn the juvenile court's decision

"only if it either failed to consider all of the facts or considered all of the facts and its decision was nonetheless against the clear weight of the evidence." Id. (emphasis added). "When a foundation for the court's decision exists in the evidence, an appellate court may not engage in a reweighing of the evidence." Id.

The children were placed in the custody of the Division of Child and Family Services (DCFS) in April 2007. The juvenile court adjudicated the children to be neglected by Mother in May 2007 based upon Mother's drug use, the parents' lengthy history of domestic violence, and medical neglect of Z.E. In the shelter order entered on April 30, 2007, the court found Mother in contempt based upon her knowing failure to comply with court orders. Mother had failed to cooperate with voluntary services offered by DCFS. At the disposition hearing in June 2007, the court ordered DCFS to provide reunification services, finding that the requirements of the service plan were communicated to Mother on the record. The service plan required suitable housing and employment, random drug screens, a substance abuse evaluation and treatment, a domestic violence assessment and treatment, individual therapy, and a psychological evaluation with a parenting component. However, Mother's pattern of noncompliance continued. In October 2007, the court terminated reunification services based upon Mother's failure to substantially comply with the service plan.

At the December 19, 2007 permanency hearing, the juvenile court again found that Mother was not in compliance with the service plan and refused to reinstate reunification services. Mother had not completed a psychological evaluation or domestic violence classes, she continued to use illegal drugs and abuse prescription drugs, and she had failed to get drug treatment. The court found that the children could not safely return to Mother's custody and set adoption as the permanency goal. See Utah Code Ann. § 78-3a-312(2)(a) (Supp. 2007). "With regard to a case where reunification services were ordered by the court, if a child is not returned to the child's parent or guardian at the permanency hearing, the court shall . . . order termination of reunification services to the parent" and set a permanency goal. Id. § 78-3a-312(4)(a); see id. § 78-3a-312(7) (stating that nothing in that section entitled a parent to reunification services for a specified time or limited the court's ability to terminate reunification services prior to a permanency hearing). The juvenile court's decision to terminate reunification services was adequately supported by the evidence.

Mother claims that at the time of the termination trial in March 2008, she was drug-free and was making progress in drug treatment that she had obtained on her own. However, the court

found that Mother was just at the beginning of her drug treatment. Based upon the testimony of her therapist, it would take her roughly three and one-half years to complete treatment and be weaned from methadone. The juvenile court found that Mother did not have suitable employment. She had had six jobs in the six months preceding trial and had worked only two months and four days. Mother was living with her step-father in a home that was leased on a month-to-month basis, but he testified that the home was not large enough to accommodate the children if they returned to Mother. Mother testified that she believed that she did not need domestic violence counseling because she had separated from the children's father. However, the evidence demonstrated that both Mother and the children's father were participants in the long history of domestic violence. The most recent domestic violence incident had occurred within a month of the trial. The court found that Mother was not a credible witness and had not accepted responsibility for her actions that led to juvenile court jurisdiction over her children. Accordingly, the court found that Mother had been unable or unwilling to remedy the circumstances that caused the children to be in an out-of-home placement and that there was a substantial likelihood that she would not be capable of exercising proper and effective parental care in the near future. These findings are amply supported by the evidence and, in turn, those findings amply support the termination of Mother's parental rights. Accordingly, we affirm.

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Pamela T. Greenwood,  
Presiding Judge

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William A. Thorne Jr.,  
Associate Presiding Judge

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Gregory K. Orme, Judge