

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of J.E., a person under	)	(Not For Official Publication)
eighteen years of age.	)	
_____	)	Case No. 20040762-CA
	)	
J.W.,	)	F I L E D
	)	(November 17, 2005)
Appellant,	)	
	)	2005 UT App 499
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 430037  
The Honorable Sharon P. McCully

Attorneys: Jeffrey J. Noland, Salt Lake City, for Appellant  
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake  
City, for Appellee  
Martha Pierce and Suchada P. Bazzelle, Salt Lake  
City, Guardians Ad Litem

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Before Judges Bench, Greenwood, and McHugh.

PER CURIAM:

J.W. (Mother) appeals the termination of her parental rights in J.E. Mother challenges the sufficiency of the evidence supporting the juvenile court's findings. Specifically, Mother alleges that the juvenile court erred in determining that the Division of Child and Family Services (DCFS) provided her with reasonable services to allow her to reunite with J.E.

We "review the juvenile court's factual findings based upon the clearly erroneous standard." 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. Further, we give the juvenile court a "wide latitude of discretion as to the

judgments arrived at' 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.'" Id. (citations omitted); see also In re A.C., 2004 UT App 255, ¶20, 97 P.3d 706 (concluding that the juvenile court has broad discretion in determining whether DCFs made reasonable efforts to reunify a child with her parent and that reversal is appropriate only upon a demonstration that the juvenile court's determination was clearly in error).

Mother first argues that DCFs did not provide her with a full year's time to comply with her service plan. "Reunification services are a gratuity provided to parents by the Legislature, and appellants thus have no constitutional right to receive these services." In re N.R., 967 P.2d 951, 955-56 (Utah Ct. App. 1998). No statute or rule of law mandates that a parent receive twelve months of reunification services. In fact, just the opposite is true. See Utah Code Ann. § 78-3a-311(2)(d)(iii)(B) (Supp. 2005) ("Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services."). Further, because J.E. was removed at the age of fourteen months, there was a shortened reunification period. See Utah Code Ann. § 78-3a-311(2)(g) (setting forth expedited permanency procedures for children under the age of thirty-six months at the time of removal). Thus, Mother was not entitled to twelve months of services.

Mother next argues that she completed a sizeable portion of her service plan and, given more time, she may have fully completed the service plan. The juvenile court found, and we agree, that Mother did not complete a sizeable portion of the service plan. Mother's service plan required her to perform the following: (1) obtain a domestic violence assessment; (2) participate in a domestic violence prevention course; (3) obtain a psychological evaluation with a parenting assessment to identify her strengths and weaknesses as a parent; (4) obtain a substance abuse evaluation and receive counseling for her problem; and (5) acquire and maintain steady employment and stable housing. Mother did take a parenting class, and she did participate in drug and alcohol counseling for five months. However, Mother failed to complete the rest of the service plan.

Mother did not undergo a domestic violence assessment or participate in domestic violence counseling because, according to her counselor, those issues could not be addressed until she completed substance abuse counseling. In this regard, Mother never completed a substance abuse program that would allow her to move on to the next stage of her service plan. In fact, while

Mother was participating in this program, she consistently tested positive for marijuana. As the district court remarked, Mother's continued use of illegal drugs rendered meaningless any substance abuse treatment she received. See In re C.Y., 765 P.2d 251, 255 (Utah Ct. App. 1988) ("It is not sufficient to merely go through the motions of a treatment plan. The plan is developed to change attitudes and behavior."). Mother also failed to obtain a parenting assessment to determine the parenting skills she needed to improve. Finally, Mother failed to obtain stable housing. At the time of trial, Mother testified that she was living with an individual and she believed that her housing situation was stable. However, Mother refused to give her address to DCFS, thereby depriving DCFS of the opportunity to observe her living conditions.<sup>1</sup> There is no evidence in the record that Mother obtained stable housing. These uncompleted goals of the service plan were substantial and demonstrated that Mother was not willing to change behaviors that led to the removal of J.E. in the first place.

Further, despite Mother's claims to the contrary, the record reveals that DCFS did make reasonable efforts to assist Mother in completing her service plan. DCFS provided Mother with numerous options to fulfill her treatment requirements. DCFS also attempted to remain in contact with Mother on a weekly basis, especially regarding Mother's visitations with J.E. However, Mother eventually stopped returning phone calls and ceased almost all contact with DCFS. There is no evidence in the record that would lead us to conclude that the juvenile court abused its discretion in finding that DCFS provided reasonable efforts to assist Mother in completing her service plan.

Finally, Mother argues that her limited visitation periods with J.E. did not allow her to maintain a parent-child relationship. The record reveals that Mother was allowed visitation rights with J.E. for an hour each week, contingent only upon Mother taking a drug test. The test results were never used to deny visitation. However, Mother eventually stopped obtaining the drug tests. Mother took few, if any, steps to resolve these visitation issues with DCFS. Thus, it was Mother's own actions that led to decreased visitation. To the extent Mother argues that her lack of visitation time with J.E. caused her to have less of a bond with J.E., thereby excusing her

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<sup>1</sup>Prior to those living arrangements, but after the date she signed her service plan, Mother lived with an individual who had a substantiation of sexual abuse.

behavior, this argument is without support in the record or the law.

Accordingly, because the record supports the juvenile court's determination that DCFSS provided reasonable services to Mother, the termination of Mother's parental rights is affirmed.

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Russell W. Bench,  
Associate Presiding Judge

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Pamela T. Greenwood, Judge

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Carolyn B. McHugh, Judge