

IN THE UTAH COURT OF APPEALS

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In the interest of J.L., a	)	MEMORANDUM DECISION
person under eighteen years of	)	(Not For Official Publication)
age.	)	
_____	)	Case No. 20091024-CA
	)	
J.C.,	)	F I L E D
	)	(February 25, 2010)
Appellant,	)	
	)	2010 UT App 47
v.	)	
	)	
V.L.,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 1016053  
The Honorable Frederic M. Oddone

Attorneys: Lisa B. Lokken, Salt Lake City, for Appellant  
V.L., Salt Lake City, Appellee Pro Se  
Martha Pierce, Salt Lake City, Guardian Ad Litem

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Before Judges Davis, McHugh, and Bench.<sup>1</sup>

PER CURIAM:

J.C. (Father) appeals the termination of his parental rights to J.L. Based on its findings of fact, the juvenile court concluded that Father had abandoned J.L. pursuant to Utah Code section 78A-6-507(1)(a). See Utah Code Ann. § 78A-6-507(1)(a) (2008). The juvenile court also determined that Father was unfit pursuant to Utah Code section 78A-6-507(1)(c). See *id.* § 78A-6-507(1)(c). Finally, the juvenile court found that it would be in J.L.'s best interests to terminate Father's parental rights and allow J.L. to be adopted by his stepfather. Father contends that the evidence was insufficient to support the juvenile court's determination that he had abandoned his child and was also

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<sup>1</sup>The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

insufficient to support the determination that it was in J.L.'s best interests that Father's parental rights be terminated.

Because Father has not challenged the juvenile court's determination that he is an unfit parent, that ground alone would be sufficient to establish the requisite statutory ground for termination. See id. § 78A-6-507(1) (stating that the court may terminate parental rights upon a finding of any one of the enumerated grounds). Nevertheless, there was also sufficient evidence to support the ground of abandonment. The two-pronged test for determining abandonment requires a court to determine "first, whether the parent's conduct evidenced a conscious disregard for his or her parental obligations, and second, whether that disregard led to the destruction of the parent-child relationship." In re J.R.T., 750 P.2d 1234, 1236 (Utah Ct. App. 1988). At the time of the termination trial, Father had not been in contact with J.L. for over two years. Contrary to Father's assertion, the juvenile court did not rely solely upon Father's incarceration as evidence of abandonment, although it noted that Father's "continued criminal activities and negative choices he has made while not incarcerated" contributed to the destruction of the parent-child relationship. The juvenile court found that Father had only infrequent contact with J.L., made few efforts to communicate, and did not show the normal interest of a father. Father had "prolonged periods of no contact with [J.L.] either while he was incarcerated or intentionally absent from the child's life." The juvenile court also found that Father had not maintained communication with J.L. even during those periods that he was not incarcerated and that he provided little or no child support even when he was not incarcerated. Accordingly, the juvenile court's determination of abandonment was supported by sufficient evidence and did not rely solely upon Father's incarceration.

The evidence was also sufficient to support the juvenile court's best interests determination. Eleven-year-old J.L. desired to be adopted by his step-father, S.P., and S.P. desired to adopt him. S.P. was actively involved with J.L., including serving as a coach for his football and baseball teams. S.P. loves J.L. and has functioned as a father to him for over eight years, providing financial and emotional support, love, and a stable home. In contrast, J.L. has not seen or heard from Father in over two years and has no viable parent-child relationship with him. The best interests determination was amply supported by the evidence.

We will 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." In re B.R., 2007 UT 82, ¶ 12, 171 P.3d

435. "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. Applying the foregoing standard, we affirm the decision of the juvenile court.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Russell W. Bench,  
Senior Judge