

Utah Code section 78A-6-508(b) indicates that "conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent" constitutes prima facie evidence of unfitness. See Utah Code Ann. § 78A-6-508(6)(b). The juvenile court should consider any known or substantiated sexual abuse of a sibling. See id. § 78A-6-508(2)(b), (6)(a). There is no time limitation for considering such factors. See id. Thus, the juvenile court did not err by considering Father's conviction for sexual abuse.

Father next asserts that there was insufficient evidence to support the juvenile court's determination that Father is an unfit parent. Specifically, Father asserts that the juvenile court erred by determining that he was unfit by reason of Father's sexual abuse of J.S.P.'s sibling. A juvenile court may terminate parental rights if the court finds that a parent has abandoned, neglected, or is an unfit or incompetent parent. See Utah Code Ann. § 78A-6-507(1) (2009). The finding of a single ground is alone sufficient to warrant the termination of parental rights. See id. § 78A-6-507(1); see also In re F.C. III, 2003 UT App 397, ¶ 6, 81 P.3d 790. A juvenile court's findings will not be overturned unless they are clearly erroneous. See In re A.G., 2001 UT App 87, ¶ 7, 27 P.3d 562. A finding is clearly erroneous only when, in light of the evidence supporting the finding, it is against the clear weight of the evidence. See id.

Utah Code section 78A-6-508(6)(a) provides that sexual abuse of a sibling constitutes prima facie evidence of lack of parental fitness. See Utah Code Ann. § 78A-6-508(6)(a). A prima facie case is proven "when evidence has been introduced which, in the absence of contrary evidence, would entitle the party with the burden of proof to judgment as a matter of law." In re M.L., 965 P.2d 551, 557, (Utah Ct. App. 1998).

The record demonstrates that Father was convicted of sexually abusing J.S.P.'s sibling. Father sought to rebut this prima facie case of lack of parental fitness by arguing that he had completed mental health and cognitive skills courses while incarcerated and that he was no longer an unfit parent. However, the record also indicates that Father conceded that he had not been rehabilitated for the sexual abuse and rape of a child. Thus, we cannot say that the juvenile court's determination that Father is an unfit parent was against the clear weight of the evidence.²

2. Because the record supports the juvenile court's determination that Father is unfit by reason of his sexual abuse of J.S.P.'s sibling, we need not address the alternative grounds before affirming the termination of Father's parental rights. See Utah Code Ann. § 78A-6-507(1).

Father next asserts that there was insufficient evidence that it was in J.S.P.'s best interests to terminate Father's parental rights so that J.S.P. could be adopted. 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). 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.

The record supports the juvenile court's determination that it was in J.S.P.'s best interests to terminate Father's parental rights so that J.S.P. could be adopted by Mr. Stewart. The record indicates that J.S.P. is flourishing with Mr. Stewart and his mother. Mr. Stewart treats J.S.P. as his own son and has been J.S.P.'s father figure for the majority of J.S.P.'s life. J.S.P. considers Mr. Stewart to be his father and has done so for nearly a decade. J.S.P. also desires to be adopted by Mr. Stewart. In light of the record, we cannot say that the juvenile court abused its discretion by determining that it is in J.S.P.'s best interests to terminate Father's parental rights so that J.S.P. may be adopted by Mr. Stewart.

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

Carolyn B. McHugh,
Associate Presiding Judge

Gregory K. Orme, Judge

Russell W. Bench, Senior Judge