

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of K.B., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20090851-CA
)	
D.B.,)	F I L E D
)	(November 19, 2009)
Appellant,)	
)	2009 UT App 339
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Second District Juvenile, Ogden Department, 1001246
The Honorable Paul F. Iwasaki

Attorneys: Travis R. Marker and Randall W. Richards, Ogden, for
Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

D.B. (Mother) appeals the order terminating her parental rights. Mother filed a timely notice of appeal, but she failed to file a timely petition on appeal. Rule 55(a) of the Utah Rules of Appellate Procedure states, in relevant part:

The appellant shall file with the clerk of the Court of Appeals an original and four copies of the petition on appeal. The petition on appeal must be filed with the appellate clerk within 15 days from the filing of the notice of appeal or the amended notice of appeal. If the petition on appeal is not timely filed, the appeal shall be dismissed. It shall be accompanied by proof of service. The petition shall be deemed

filed on the date of the postmark if first-class mail is utilized.

Utah R. App. P. 55(a).

Mother timely filed a notice of appeal with the clerk of the juvenile court on September 24, 2009. See Utah R. App. P. 53(a) ("A notice of appeal filed pursuant to Rule 52(a) must be filed with the clerk of the juvenile court where the order was entered."). The fifteen-day period after the notice of appeal was filed in the juvenile court expired on October 9, 2009. The original petition was signed, and filed in this court, on October 14, 2009, five days after the date on which it was required to be filed. Mother filed an amended petition on October 16, 2009, which was identical in content to the first petition but included omitted exhibits.

Because neither petition was filed in this court within fifteen days after Mother filed her notice of appeal in the juvenile court, we must dismiss the appeal under rule 55(a). The postmark provision does not assist in this case because the original petition was not even signed until October 14, 2009, which was five days after its due date. In addition, because the specified time period was longer than eleven days, the time for filing is based upon calendar days. See Utah R. App. P. 22(a) ("When the period of time prescribed or allowed . . . is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.").

We dismiss the appeal because the petition on appeal was untimely. Accordingly, we lack jurisdiction to consider the merits of the appeal.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge