

IN THE UTAH COURT OF APPEALS

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In the interest of K.W., a	)	MEMORANDUM DECISION
person under eighteen years of	)	(Not For Official Publication)
age.	)	
_____	)	Case No. 20060718-CA
	)	
S.W.,	)	F I L E D
	)	(October 19, 2006)
Appellant,	)	
	)	2006 UT App 430
v.	)	
	)	
M.G.W. and J.W.,	)	
	)	
Appellees.	)	

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Third District Juvenile, Salt Lake Department, 175322  
The Honorable Charles D. Behrens

Attorneys: Jeffrey J. Noland, Salt Lake City, for Appellant  
D. Miles Holman, Sandy, for Appellees  
Martha Pierce and Brent J. Newton, Salt Lake City,  
Guardians Ad Litem

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Before Judges Greenwood, Davis, and Thorne.

PER CURIAM:

S.W. (Father) appeals the termination of his parental rights in K.W. We dismiss the appeal for lack of jurisdiction based upon In re D.E., 2006 UT App 391, \_\_\_ Utah Adv. Rep. \_\_\_ (per curiam).

A notice of appeal in a child welfare case must be filed with the juvenile court within fifteen days after entry of the order appealed. See Utah R. App. P. 52(a). The notice of appeal "must be signed by the appellant's counsel and by the appellant." Utah R. App. P. 53(b). If counsel files a notice of appeal without the appellant's signature, counsel "shall contemporaneously file, with the clerk of the juvenile court, a certification that substantially complies with the Counsel's Certification of Diligent Search form that accompanies these rules." Id. "Under those circumstances, counsel may then file

an amended notice of appeal adding appellant's signature within fifteen days of the filing of the initial notice of appeal." In re D.E., 2006 UT App 391 at ¶4; see also In re J.J.L., 2005 UT App 322, ¶5, 119 P.3d 315 (per curiam) (stating that where the certification is not filed, an extension is not available under rule 53(b)).

The juvenile court terminated Father's parental rights in an order dated July 19, 2006. On August 3, 2006, Father's counsel filed a notice of appeal unsigned by Father. No certification of diligent search was filed with the notice of appeal or at any subsequent time. Indeed, no additional document was filed by Father's counsel until August 18, when counsel filed a motion for extension of time to file Father's petition on appeal.

"Absent the certification of diligent search required by rule 53(b), the extension to file a complete notice of appeal under rule 53(b) is not available." In re D.E., 2006 UT App 391 at ¶6. Because no extension was warranted--or even requested--here, Father's notice of appeal was untimely. See id.; see also Utah R. App. P. 52(a). If an appeal is not timely filed, this court lacks jurisdiction and must dismiss the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶7, 13 P.3d 616.

Accordingly, we dismiss the appeal.

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Pamela T. Greenwood,  
Associate Presiding Judge

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James Z. Davis, Judge

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William A. Thorne Jr., Judge