

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of M.R., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20090462-CA
)	
S.A.R.,)	F I L E D
)	(August 27, 2009)
Appellant,)	
)	2009 UT App 237
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Second District Juvenile, Farmington, 1002206
The Honorable Stephen A. VanDyke

Attorneys: Daniel G. Shumway, Layton, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

S.A.R. (Father) appeals the juvenile court's order terminating his parental rights. Father argues that the juvenile court erred in determining that it was in the best interest of the child for Father's parental rights to be terminated. More particularly, Father asserts that the juvenile court failed to consider whether it could be in the child's best interest to be placed with, and raised by, the child's grandmother in Mexico. We affirm.

This court has previously concluded that "nothing in the plain language of the [Termination of Parental Rights Act] requires a juvenile court to consider possible kinship placements when deciding whether termination is in the best interest of the child." In re W.P.O., 2004 UT App 451, ¶ 10, 104 P.3d 662. While such kinship placements are relevant following the shelter hearing, they are not directly relevant to termination

proceedings. See id. ¶ 11; see also Utah Code Ann. § 78A-6-307(18)(a) (2008) (stating that any preferential consideration for kinship placement expires 120 days from the date of the shelter hearing, and after that time has expired a relative may not be granted preferential consideration). Furthermore, even if placement decisions were relevant in termination proceedings, except as otherwise required by federal law, the Division of Child and Family Services is prohibited from basing any placement decisions of adoptable children in its custody "solely on race, ethnicity, or cultural heritage." Utah Code Ann. § 62A-4a-205.5 (Supp. 2008). Accordingly, the juvenile court did not err in refusing to consider a kinship placement during the course of the termination proceedings.

Affirmed.

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge

I CONCUR IN THE RESULT:

William A. Thorne Jr.,
Associate Presiding Judge