

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of T.G., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20100056-CA
)	
E.F.,)	F I L E D
)	(March 18, 2010)
Appellant,)	
)	2010 UT App 70
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 1021542
The Honorable Frederic M. Oddone

Attorneys: Sophia J. Moore, Salt Lake City, for Appellant
Mark L. Shurtleff and Carol L.C. Verdoia, Salt Lake
City, for Appellee
Martha Pierce, Salt Lake City, Guardian Ad Litem

Before Judges Davis, Thorne, and Roth.¹

PER CURIAM:

E.F. (Father) appeals the juvenile court's order terminating his parental rights in T.G. after accepting Father's voluntary relinquishment of his parental rights. We affirm.

Father signed the petition for voluntary relinquishment of his parental rights in open court after testifying that he understood the consequences of his actions and that he was

¹The Honorable Stephen L. Roth, Third District Court Judge, sat by special assignment pursuant to Utah Code section 78A-3-103(2) (2008) and rule 3-108(3) of the Utah Rules of Judicial Administration.

voluntarily giving up his parental rights. Father testified that he had not been influenced by anyone else and that he thought the termination was in T.G.'s best interests. His own counsel prepared the petition and the termination order. Father testified that he had no other questions and understood his rights. The juvenile court found that Father's relinquishment of his parental rights was voluntary and entered an order terminating his parental rights.

On appeal, Father asserts that the juvenile court erred in finding his relinquishment to be voluntary. He argues that because he later filed a motion to set aside the termination order and withdrew his consent, his relinquishment in court was not voluntary. However, reconsideration of the relinquishment is not a legally sufficient ground for appeal.

Utah Code section 78A-6-514 sets forth the procedure for voluntary relinquishment of parental rights. See Utah Code Ann. § 78A-6-514 (2008). Pursuant to the statute, "[a] voluntary relinquishment or consent for termination of parental rights is effective when signed and may not be revoked." Id. § 78A-6-514(4). Accordingly, Father's change of mind does not affect the relinquishment of his rights and is not a legitimate ground to assert juvenile court error.

To the extent that Father's assertion of error requires any new facts to be determined, Father has failed to preserve the issue of voluntariness for this appeal. Generally, appellate courts will not review issues raised for the first time on appeal, unless the trial court committed plain error. See In re E.R., 2001 UT App 66, ¶ 9, 21 P.3d 680. To preserve an issue for appeal, a party must first raise the issue before the trial court and give the trial court the opportunity to rule on the matter. See Hart v. Salt Lake County Comm'n, 945 P.2d 125, 129 (Utah Ct. App. 1997). Here, Father signed his voluntary relinquishment in open court after representing to the juvenile court that he understood the consequences and was taking the action voluntarily. Although he now asserts that his relinquishment was not voluntary, the juvenile court has not had the opportunity to consider whether any facts alleged by Father would entitle him to relief under rule 60(b) of the Utah Rules of Civil Procedure.²

²Father has filed a motion pursuant to rule 60(b) below, seeking to set aside the termination order. That motion is currently pending in the juvenile court and is not within the scope of this appeal.

As a result, any factual issue related to the Rule 60(b) proceedings is not properly before this court at this time. See id.

Accordingly, the juvenile court's order is affirmed.

James Z. Davis,
Presiding Judge

William A. Thorne Jr., Judge

Stephen L. Roth,
Visiting Judge