

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest	)	MEMORANDUM DECISION
of Z.L. and A.L., persons	)	(Not For Official Publication)
under eighteen years of age.	)	
_____	)	Case No. 20070422-CA
	)	
D.L.,	)	F I L E D
	)	(March 6, 2008)
Appellant,	)	
	)	2008 UT App 67
v.	)	
	)	
State of Utah,	)	
	)	
Appellee.	)	

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Third District Juvenile, Salt Lake Department, 458259  
The Honorable Charles D. Behrens

Attorneys: Judith L.C. Ledkins, Salt Lake City, for Appellant  
Mark L. Shurtleff and John M. Peterson, Salt Lake  
City, for Appellee  
Martha Pierce, Salt Lake City, Guardian Ad Litem

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Before Judges Billings, McHugh, and Orme.

BILLINGS, Judge:

Appellant D.L. appeals the juvenile court's termination of his parental rights in Z.L. and A.L. (the Children). Specifically, D.L. contends that the evidence was insufficient to support termination of his parental rights and that the evidence was insufficient to demonstrate that termination was in the Children's best interests. We affirm.

We review insufficiency of evidence claims for clear error. See Utah R. Civ. P. 52(a). Further, the Utah Supreme Court has recently clarified in In re B.R., 2007 UT 82, 171 P.3d 435, that in termination of parental rights cases "the juvenile court's decision should be afforded a high degree of deference." Id. ¶ 12. We afford such a high degree of deference because parental rights termination cases are fact intensive and because the juvenile court is in an "advantaged position with respect to the parties and the witnesses." Id. The supreme court also stated

that to overturn the juvenile court's decision, "the result [below] must be against the clear weight of the evidence or leave the appellate court with a firm and definite conviction that a mistake has been made." Id.

The juvenile court found three statutory bases upon which to terminate D.L.'s parental rights: (1) unfitness, (2) failure to remedy the circumstances which resulted in the Children's removal, and (3) failure to make parental adjustments. See Utah Code Ann. § 78-3a-407(1)(c)-(e) (Supp. 2007). In light of the deference we afford the juvenile court and the record evidence on appeal, we conclude that there is sufficient evidence to support the statutory bases upon which the juvenile court terminated D.L.'s parental rights.

The predominant factors that led to the termination of D.L.'s parental rights were substance abuse and domestic violence. While D.L. does not deny his past involvement with drugs and domestic violence, he argues that he substantially complied with the requirements of the service plan to eliminate substance abuse and domestic violence from his life. The juvenile court found otherwise. The record evidence clearly indicates that D.L. repeatedly missed drug tests, admitted to using methamphetamine on September 30, 2006--after the termination trial was underway--and was arrested for assault involving domestic violence against his girlfriend on October 1, 2006--again, after the termination trial was underway. Given this evidence of drug use and domestic violence during the termination trial, combined with D.L.'s past history of drug abuse and domestic violence, we cannot say that the ruling declaring him unfit was against the clear weight of the evidence. We further note that the same evidence also supports the juvenile court's findings that D.L. failed to remedy the circumstances that resulted in the Children's removal, and that he failed to make any parental adjustments.

We turn next to the issue of whether there was sufficient evidence to warrant a finding that it was in the Children's best interests to terminate D.L.'s parental rights. D.L. contends that an important factor for not terminating parental rights, despite the level of progress by the parents, is a child's strong bond and attachment with his or her parent. The State acknowledges the importance of this factor, but points out that it is far from the juvenile court's only consideration. Indeed, the parent/child bond may be outweighed by other factors. See, e.g., In re E.A., 2007 UT App 181U (mem.) (per curiam) (affirming termination where mother had untreated substance abuse problem despite the fact that children remained bonded with her and one child wished to return home).

No one involved in this case has denied that D.L. loves the Children or that they are bonded to him. However, there is nothing in the record to indicate that the juvenile court did not consider this factor when making its decision. Rather, the juvenile court weighed this factor against all others and still decided to terminate D.L.'s parental rights. Thus, the juvenile court's finding that it was in the Children's best interests to terminate D.L.'s parental rights is not clearly erroneous.

We affirm.

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Judith M. Billings, Judge

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WE CONCUR:

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Carolyn B. McHugh, Judge

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Gregory K. Orme, Judge