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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re C.J., et al., Persons Coming Under the
Juvenile Court Law.

B243975
(Los Angeles County Super. Ct.
No. CK61084)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

TIFFANY C.,

Defendant and Appellant.

APPEAL from the orders of the Superior Court of Los Angeles County, Elizabeth Kim, Juvenile Court Referee. Affirmed.

Valerie N. Lankford, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant Counsel, and Navid Nakhjavani, Deputy County Counsel, for Plaintiff and Respondent.

Tiffany C. (mother) appeals from the dependency court's orders of September 5, 2012, made at an in-home review hearing under Welfare and Institutions Code section 364¹ concerning her daughters B. and A., who lived in the home of their father, Angel Q.² Mother contends substantial evidence does not support the order continuing jurisdiction over B. and A., and it was an abuse of discretion to order that her visits with B. and A. be monitored.³ We conclude substantial evidence supports the order and there was no abuse of discretion. Accordingly, we affirm..

STATEMENT OF FACTS AND PROCEDURE

C. was born to mother in 2001. B. was born in 2009 and A. was born in 2011 to mother and Angel,⁴ who did not live together. Mother verbally abused C. on a daily basis and physically abused her. C. had scars on her body from the abuse. Mother disciplined B. by yelling, giving her "pops" on her hand, which caused her to cry, and "pok[ing]" her on the mouth. C. often took the blame for things B. did so that mother would not hurt B. C. cut herself and picked at her scabs.

On June 15, 2011, mother lost her temper and threw a bottle at C., as if she were throwing a baseball. The bottle hit C. in the head with such force it caused a laceration

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² Mother also appeals from the September 5, 2012 orders made at a 12-month review hearing under section 366.21, subdivision (f), concerning her daughter C., but makes no contention concerning those orders.

³ We liberally construe the notice of appeal from the September 5, 2012 orders to include an appeal from the visitation order concerning B. and A. (Cal. Rules of Court, rule 8.405(a)(3).)

⁴ Angel is B.'s and A.'s presumed father.

that required stitches to close. B. was present during the abuse.⁵ Mother contended C.'s injury was an accident. She said she threw the bottle because she was pregnant.

On August 3, 2011, the children were declared dependents of the court, based on sustained allegations under section 300, subdivision (a) as to C. and B., and subdivision (j) as to the three children. Custody was taken from mother. B. and A. were placed in home-of-parent Angel, and enhancement services were ordered for mother. Mother's case plan concerning the children required mother to attend parent education, individual counseling that addressed case issues, and when appropriate, conjoint counseling with C. The dependency court ordered reunification services for mother with C. Mother was granted monitored visitation with the children. The parents appealed the judgment and orders. We affirmed. (Case No. B235234, filed May 9, 2012.)

Mother believed that, as a cultural matter, "Black mothers often raise their children by 'breaking their spirit' to gain obedience and control." During visits, mother inappropriately engaged in arguments with C. that required the visitation monitor's intervention.

In November 2011, the dependency court ordered that Angel was allowed to monitor visits with B. and A. Mother completed a parenting and anger management program in December 2011.

Angel expected the children would be returned to mother's care. He believed mother was a "good mother, but she made a mistake" and A. and B. should be returned to mother.

On February 1, 2012, the dependency court granted the Department discretion to liberalize mother's visits with B. and A. and granted mother unmonitored visits with C.

On May 29, 2012, mother was arrested for willful infliction of corporal punishment or injury on a child on June 15, 2011, causing a traumatic condition (Pen. Code, § 273d, subd. (a)).

Mother began individual counseling in late June 2012 with a marriage and family

⁵ A. was not yet born.

therapist intern.

Mother continued to be angry, rejecting, critical, and insulting of C. She routinely yelled at C., treated her meanly, and made inappropriate comments in the presence of B. and A. She called her “stupid,” “dumb ass idiot,” “bitch,” and crazy. Mother talked to all three children as if they were adults. On an occasion when C. hugged Angel because she was happy to see him, mother stated to C., “Damn bitch you act like you fucking him.” In July 2012, mother excluded C. from a swimming outing with B. and A. at the last minute and returned her to the foster home early, because C. failed to find B.’s shoes when mother yelled and cursed at her to find them. In other incidents in July 2012, mother accused C. of trying to kill her little sister and told C. she needed psychotropic medication because she had a mental problem.

Such treatment caused C. to suffer from depression, low self-esteem, a negative self-image, nightmares, and a color complex. C. was afraid of mother. Angel could not control mother’s conduct or statements. Mother told Angel in front of the children, “Mexicans fuck their kids so I don’t trust you.”

At the section 364 hearing on August 1, 2012, the dependency court was advised of the criminal charges that were filed against mother concerning the June 15, 2011 incident. Mother faced five years in prison. Mother wanted the children returned to her custody to improve her position in the criminal case. The court ordered mother’s visits with the children be monitored pending further order of the court. The court continued the case for a contested hearing.

Mother and C. participated in their first conjoint counseling session on August 19, 2012. Mother brought an advocate with her to the session, with the understanding the advocate was not allowed to speak. The session lasted ten minutes and consisted of mother and the advocate defending mother. C. was re-traumatized. As mother was defensive, did not take responsibility for C.’s trauma, and did not support C. in her recovery, no further conjoint session was recommended.

On September 5, 2012, at the contested section 364 hearing, the dependency court denied mother’s request to lift the visitation monitor requirement and continued

jurisdiction over B. and A. The court stated it was “extremely concerned with respect to the language and the behavior that is demonstrated by the mother when she is with C. And B. and A. are significantly younger than C. And those girls have been present during the time that the mother has made these statements to C.” Mother made derogatory statements about C. and Mexicans during her overnight contact with all three children. The court found with respect to B. and A. that “continued jurisdiction is necessary because conditions continue to exist which justified the court taking jurisdiction pursuant to . . . section 300. [¶] Those conditions which would justify initial assumption of jurisdiction under . . . section 300 are likely to exist if supervision is withdrawn. Continued supervision of the children is necessary and they shall remain dependent children under the jurisdiction of the court. [¶] . . . [¶] . . . [W]ith respect to the court not terminating jurisdiction regarding [B. and A.], it is based in part on the fact the mother is currently pregnant with [Angel’s] child, and the court is concerned with respect to whether this would be a safe and stable environment if the court were to terminate jurisdiction.” The court ordered that Angel was not to be the monitor. Mother was ordered to participate in individual counseling with a licensed therapist. The matters were continued for a judicial review for B. and A.

DISCUSSION

I. Substantial Evidence

A. Order Continuing Dependency Court Jurisdiction

Mother contends substantial evidence does not support the order under section 364 continuing jurisdiction over B. and A. We disagree with the contention.

In determining whether an order is supported by substantial evidence, “we look to see if substantial evidence, contradicted or uncontradicted, supports [it]. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to

support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court. [Citation.]" (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court." (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) Thus, the pertinent inquiry is whether substantial evidence supports the finding, not whether a contrary finding might have been made. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Section 364 provides in pertinent part: "(c) . . . The court shall terminate its jurisdiction [over a child who was not removed from a parent's physical custody] unless [the Department] establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn. Failure of the parent or guardian to participate regularly in any court ordered treatment program shall constitute prima facie evidence that the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary."

Substantial evidence supports the finding that "conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn." (§ 364, subd. (c).) There is evidence that, when the court assumed jurisdiction, mother had a history of frequently displaying anger toward her children by physically and verbally abusing them. She frequently verbally denigrated her ten-year old and struck her with objects, inflicting injury. She disciplined her two-year old by yelling at her and striking her on the face and hands, which caused the child pain and distress. C. felt she had to protect her sibling from mother's wrath. Mother believed it is necessary to break a child's spirit in order to control the child and procure obedience. C. suffered emotional problems as a result of mother's treatment of her. Mother denied responsibility for the injury she inflicted on C. and for C.'s trauma.

When the hearing was held, mother's failure to participate regularly in court-ordered individual counseling during most of the period of court supervision was prima

facie evidence that “the conditions which justified initial assumption of jurisdiction still exist and that continued supervision is necessary.” (§ 364, subd. (c).) Moreover, there is evidence that completion of an anger management and parenting program was not effective in rehabilitating mother. She continued to display anger in the presence of the children, deny the sustained allegation she intended to strike C. with the bottle, deny responsibility for her current actions and their consequences, and blame C. for C.’s problems. There was evidence mother’s motivation for seeking return of the children was to improve her position in her felony criminal case, which indicates a lack of rehabilitation.

Mother engaged in angry, profane, and degrading outbursts in the children’s and Angel’s presence. Termination of jurisdiction would leave B. and A. in home-of-parent Angel, who believed mother was ready to have, and should have, custody of B. and A. It is reasonable to infer that Angel would give custody of B. and A. to mother, or allow unmonitored visitation, if jurisdiction were terminated.

All of the foregoing is substantial evidence that “conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.”

Mother reargues the evidence and asks us to reweigh it. This we will not do. Our role is to determine whether substantial evidence supports the order. In this case, ample substantial evidence supports the order.

B. Monitored Visits

Mother contends substantial evidence does not support the order requiring her visits with the children to be monitored. Again, we disagree.

“Courts have long held that in matters concerning . . . visitation trial courts are vested with broad discretion. On appeal the exercise of that discretion will not be reversed unless the record clearly shows it was abused.” (*In re Megan B.* (1991) 235 Cal.App.3d 942, 953; accord, *In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319 [custody

and visitation determinations are reviewed for abuse of discretion].) In exercising discretion, the court “balanc[es] the rights of the parent with the best interests of the child.” (*In re R.R.* (2010) 187 Cal.App.4th 1264, 1284.) Given mother’s failure to substantially complete her court-ordered rehabilitation program and her continuing displays of anger, inappropriate outbursts in B.’s and A.’s presence, and denial of her role, it was not an abuse of discretion to conclude B.’s and A.’s safety and welfare required that visits with mother be monitored.

DISPOSITION

The orders are affirmed.

KRIEGLER, J.

We concur:

ARMSTRONG, Acting P. J.

O’NEILL, J.*

* Judge of the Ventura County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.