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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re MACKENZIE K., et al.,
Persons Coming Under the Juvenile Court Law.

B245087
(Los Angeles County
Super. Ct. No. CK80592)

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ALEXANDER K.,

Defendant and Appellant,

TANIA K.,

Defendant and Respondent.

APPEAL from an order of the Superior Court of Los Angeles County,
Marilyn Kading Martinez, Juvenile Court Commissioner. Affirmed.

Daniel G. Rooney, under appointment by the Court of Appeal, for Defendant
and Appellant Alexander K.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Jeanette Cauble, Senior Deputy County Counsel, for Plaintiff and Respondent.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Respondent Tania K.

Suzanne M. Davidson, under appointment by the Court of Appeal, for minor Respondents MacKenzie K., Frances K., and Sidney K.

INTRODUCTION

Father, Alexander K., appeals from a dependency court order terminating dependency jurisdiction with respect to his three daughters, over whom Mother, Tania K., has full custody. We find no abuse of discretion in the dependency court's decision and thus affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

Father and Mother have four children together. This appeal involves the three older daughters, Mackenzie, Frances, and Sidney (collectively referred to as minors), and does not concern the youngest child, Charley.

All four children were detained by the Los Angeles County Department of Children and Family Services (DCFS) in January 2010. The dependency court sustained a dependency petition alleging jurisdiction under Welfare and Institutions Code section 300, subdivision (a),¹ based on an incident of physical abuse of Frances by Father and a 12-year history of domestic violence between the parents, as well as under section 300, subdivision (b), based on Mother's history of

¹ Further undesignated statutory references are to the Welfare and Institutions Code.

emotional problems, including anorexia and use of alcohol, which exacerbated the domestic violence. The children were placed in foster care.

At the October 1, 2010 disposition hearing, the court ordered reunification services for the parents. Father was ordered to participate in individual and psychiatric counseling and a 52-week domestic violence course, and to take all prescribed psychotropic medications. Mother was ordered to participate in individual and psychiatric counseling and domestic violence group counseling, to attend AA or NA meetings twice a week, to submit to random drug testing, and to take prescribed psychotropic medications. Father was to have monitored visits and Mother was permitted unmonitored visits.

Mother entered a domestic violence shelter and the court issued a restraining order against Father, which was subsequently lifted as to Mother but remained in place as to the children. A legal separation agreement was filed on July 26, 2011. On June 21, 2012, the court found Mother in compliance with all court orders and ordered the children placed with her. The court also ordered monitored visits once monthly for Charley and Father but did not order any visits between Father and the minors.

On October 16, 2012, DCFS reported that it had visited the minors twice a month in their home and spoken to Mother every week since they were returned to Mother on June 21, 2012. The minors appeared to be thriving and to be happy and well. They had spent the summer swimming in their apartment pool and making new friends. They had recently started new schools and liked their new schools and new friends. No reports were yet available from their schools. They appeared to be very attached to and protective of each other and Mother. Mother was teaching them to cook and knit. They continued to participate in weekly in-home counseling, but no progress letters from their therapists had yet been received. The

minors continued to state that they do not want to see Father and said they were afraid for Mother.

Mother continued to attend weekly counseling. Although she had been referred to Family Preservation Services (FPS) in May 2012, she had only recently started to receive those services due to a backlog of referrals. Mother's psychiatrist submitted a letter indicating that since March 28, 2012, Mother had been undergoing treatment, receiving medications management, and seeing a case manager once a month. She had also been linked to a women's group. The psychiatrist reported that Mother had been compliant with her appointments, medications and treatment recommendations, and had maintained her sobriety. Per Mother's verbal reporting and the psychiatrist's observations, her mood had improved and her anxiety and sleep problems had lessened. Mother was reported to be happy to have her children back and motivated to do activities with them. Results from Mother's drug and alcohol testing from June 26, 2012 through September 14, 2012 were negative, but Mother was a no-show for a September 19, 2012 test.

Mother and the minors stated that they would like the case to be closed as soon as possible. DCFS indicated that a risk assessment had been completed and that its recommendation was to close the case. However, DCFS recommended in its status report that the court continue jurisdiction for Mother and the minors during the next period of supervision, since FPS services had only recently been implemented, in order for the family to continue to stabilize and for DCFS to be available to assist the family with their needs.

At the October 16, 2012 hearing, Mother and the minors requested that the court terminate jurisdiction, noting that Mother had been sober for a year and a half, and had had unmonitored contact with them since 2011, with the minors

returned to her custody in June 2012. DCFS agreed that the minors were doing very well with Mother, but argued that court supervision and DCFS's services were necessary for a little while longer to ensure that the family continued to do well. Father also opposed terminating jurisdiction, arguing that such a step would be premature. He noted that the information about the family's progress was incomplete and that reports that the children continued to have anxiety about Father indicated there was a need for continued oversight. In addition, he noted an alleged incident during the summer in which Mother called him and was slurring, which he said raised issues with respect to Mother's stability and sobriety.

The court terminated jurisdiction as to the minors, finding that Mother was in full compliance with the court's orders, continued to live a sober and stable lifestyle, and continued to test clean. Further, the children were thriving in her care and were not at risk and did not need court supervision. The court found Father's statements about an alleged incident with Mother totally without support.

Father appeals from the order terminating jurisdiction.

DISCUSSION

Under section 364, at six-month intervals following the disposition hearing, the dependency court must determine "whether continued supervision is necessary," and must terminate its jurisdiction unless DCFS proves "by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under [s]ection 300, or that those conditions are likely to exist if supervision is withdrawn." (§ 364, subd. (c); see *In re Gabriel L.* (2009) 172 Cal.App.4th 644, 650.) Father contends that the dependency court erred in terminating jurisdiction as to the minors soon after they returned to Mother's custody following their two and a half-year stay in foster care. DCFS filed a letter

brief on appeal taking no position on the issue, while Mother and the minors filed briefs in support of the dependency court's decision to terminate jurisdiction.

We review the court's decision to terminate dependency jurisdiction for abuse of discretion. (*In re A.J.* (2013) 214 Cal.App.4th 525, 535, fn. 7; *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300 (*Bridget A.*)) Under this standard, we may not disturb the order unless the court “““exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].””” (*Bridget A., supra*, 148 Cal.App.4th at p. 300.) The court's factual findings are reviewed for substantial evidence. (*In re A.J., supra*, 214 Cal.App.4th at p. 535, fn. 7.) The appellant bears the burden to show the evidence is insufficient to support the court's findings. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

In this case, the dependency court did not abuse its discretion in finding continued supervision was not necessary. (§ 364, subd. (c).) DCFS and Father failed to prove that the same conditions justifying the initial assumption of jurisdiction were still present or likely to present themselves if supervision was withdrawn. Indeed, DCFS's own risk assessment recommended termination of jurisdiction. DCFS reported no cause for concern, and indicated that the children were doing very well with Mother, and only suggested that jurisdiction continue to ensure that DCFS was available to the family while they continued to stabilize. DCFS's reports, as well as the clean drug tests and letter from Mother's psychiatrist, supported the court's findings that Mother was fully complying with all court orders and was sober and stable, and that the children were thriving in her care and did not need further court supervision.

The court did not credit Father's report about an alleged incident in the summer of 2012 when Mother supposedly telephoned him while intoxicated, and

we will not disturb the court's credibility findings. (*In re B.D.* (2007) 156 Cal.App.4th 975, 986.) Further, the fact that Mother was a no-show at one drug test did not compel the court to conclude that she was no longer sober in light of all the other evidence buttressing the conclusion by DCFS and the court that Mother was clean.

Father also contends that the court erred in terminating jurisdiction because DCFS failed to attach visitation records proving the caseworker had visited Mother's home twice a month. However, DCFS represented in its October 16, 2012 status review report that DCFS had met bi-monthly with the minors in their home in the last period of supervision, and Father presents no basis for disregarding DCFS's assertions that such visits occurred. Finally, Father notes that the therapists who treated the minors every week had not submitted a progress report. Although having input from these therapists likely would have been informative, we cannot say the court abused its discretion in terminating jurisdiction before such progress reports were obtained.

In sum, Father has not shown that the dependency court abused its discretion in terminating jurisdiction over the minors.

DISPOSITION

The order terminating jurisdiction over the minors is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.