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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re G.M., a Person Coming Under
the Juvenile Court Law.

2d Juv. No. B271498
(Super. Ct. No. 15JD-00057)
(San Luis Obispo County)

SAN LUIS OBISPO COUNTY
DEPARTMENT OF SOCIAL
SERVICES,

Plaintiff and Respondent,

v.

A.G.,

Defendant and Appellant.

A.G. (mother) appeals orders of the juvenile court that terminated her parental rights to her son (G.M.), a child coming under the juvenile court law (Welf. & Inst. Code, §§ 300, subd. (a); 366.26),¹ and determined that the child was adoptable.

¹ All statutory references are to the Welfare and Institutions Code.

Mother contends the adoption of this child by his foster parents would improperly “sever his sibling bond with his brother.” We conclude, among other things, that substantial evidence supports the trial court’s findings. We affirm.

FACTS

In February 2015, the San Luis Obispo County Department of Social Services (DSS) filed a juvenile dependency petition (§ 300, subd. (b)) alleging that G.M., two years old, and D.M., his three-year-old brother, had to be removed from mother’s care. DSS said mother failed to provide the children “with adequate food, clothing, shelter, or medical treatment.” The children had “special behavioral and developmental needs.” Mother did not supervise the children and left them “unattended in a room or a store.” The children attempted to run away because of mother’s lack of supervision.

At a March 25, 2015, jurisdiction/disposition hearing, the juvenile court found the allegations of the petition were true and the children were persons “described by” section 300, subdivision (b). Because of the children’s different disabilities, DSS placed them in different out-of-home foster care placements. The court set a three-month review for June 25 and a six-month review for September 17.

In a June 2015 interim review report, DSS recommended that the children “remain dependents of the

Juvenile Court in out-of-home care” and that mother and father continue to receive family reunification services. In a September status review report, DSS said mother’s “multiple deficiencies and the children’s special needs would make reunifying not possible even after six more months of services.”

At an October 9 hearing, the juvenile court terminated family reunification services for mother with G.M.

In a January 2016 “366.26 WIC Report,” DSS recommended that mother’s parental rights to G.M. be terminated and that adoption be the “permanent plan.” In that report DSS said that allowing G.M. to be adopted was in the child’s best interests. G.M. had only “a loosely based connection to his brother.” It “would not be a detriment to sever their connection by allowing [G.M.] to be adopted by his current caregivers.”

The juvenile court set a contested section 366.26 hearing for February 11, 2016. Mother did not attend the hearing. The court reviewed the January 2016 DSS section 366.26 report. Counsel for the parties stipulated that the report would be received into evidence. The court also reviewed the earlier DSS reports. The court found, “There is clear and convincing evidence that it is likely that this child will be adopted. The adoption is likely to be finalized by July 28, 2016.” The court terminated mother’s parental rights.

DISCUSSION

The Sibling Relationship Exception

Mother contends the juvenile court erred by terminating her parental rights to G.M. because the evidence shows that “it substantially interfered with his relationship with” his brother. We disagree.

Before terminating parental rights and ruling the child is likely to be adopted, the court may consider the statutory exceptions to adoption. These exceptions “merely permit the court, in *exceptional circumstances* . . . to choose an option other than the norm, which remains adoption.” (*In re Naomi P.* (2005) 132 Cal.App.4th 808, 822, citation omitted.) Section 366.26, subdivision (c)(1)(B)(v) permits the court to select a different option from termination of parental rights and adoption where it would create a “substantial interference with a child’s sibling relationship.” In determining whether this exception applies, the court considers: 1) “the nature and extent of the relationship,” 2) whether “the child was raised with a sibling in the same home,” 3) whether “the child shared significant common experiences or has existing close and strong bonds with a sibling,” and 4) “whether ongoing contact is in the child’s best interest, including the child’s long-term emotional interest, as compared to the benefit of legal permanence through adoption.” (*Ibid.*)

A parent who claims this exception applies has the burden to prove that adoption is not in the child's best interest. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 574.) We determine whether substantial evidence supports the trial court's findings. (*In re D.M.* (2012) 205 Cal.App.4th 283, 291.)

Mother contends the evidence shows a significant sibling relationship between G.M. and his brother.

DSS notes that mother did not attend the section 366.26 hearing. It claims it presented evidence that supported a finding that "the nature of the relationship was not significant." We agree.

Where "the relationship is not sufficiently significant to cause detriment on termination, there is no substantial interference with that relationship." (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 952.)

DSS determined there was no detriment on termination of the sibling relationship. Here the children were young and they did not have a long relationship together. They also had significant developmental disabilities. DSS noted that G.M. had "developmental delays and speech delays"; his brother had more "significant" disabilities. DSS consequently had to arrange for separate out-of-home foster placements for these young children.

The DSS social worker noted that G.M. “is in a home that is willing and able to adopt him.” In its section 366.26 report, DSS said, “[G.M.] does have a sibling that is also in care and placed separately. Due to the [boys’] *developmental delays* and their behaviors with each other during visitations it *would not be a detriment to sever their connection* by allowing [G.M.] to be adopted by his current caregivers.” (Italics added.) DSS noted, “Each of the boys [has] *such significant delays and impairments* that they compete for attention when together or *they ignore each other*. They are even unable to join in any interactive play together. [G.M.] *needs parents more than he needs a loosely based connection to his brother.*” (Italics added.)

The Court Appointed Special Advocate (CASA) observed G.M.’s current home environment. She said G.M. is “a very happy little boy who interacted with his foster siblings and his foster parents. They interacted with him in a loving and supportive manner. He is an important part of this family.” She added that, “with the support and love of these parents and this family, he will be safe and continue to grow and learn to the best of his ability.”

The CASA advocate also observed the interaction between G.M. and his brother. She said, “The brothers did not interact with each other and really did not appear to have a

connection. They would go in opposite directions.” Mother has not shown error.

DISPOSITION

The orders are affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Teresa Estrada-Mullaney, Judge
Superior Court County of San Luis Obispo

Anne E. Fragasso, under appointment by the Court of
Appeal, for Defendant and Appellant.

Rita L. Neal, County Counsel, Leslie H. Kraut and
Cherie Vallelunga, Deputy County Counsel, for Plaintiff and
Respondent.