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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)

In re J. F., a Person Coming Under the
Juvenile Court Law.

SAN JOAQUIN COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

T. S.,

Defendant and Appellant.

C066083

(Super. Ct. No.
J05187)

Appellant, the mother of the minor, appeals from the juvenile court's order at the jurisdictional hearing denying placement with the minor's cousin. (Welf. & Inst. Code, § 395; further statutory references are to this code.) She contends the court applied an incorrect standard when ruling on the

placement and that, under the correct standard, the evidence was insufficient to support the court's order. We shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In May 2009, a juvenile dependency petition was filed by the San Joaquin County Human Services Agency (Agency) concerning the newborn minor, alleging that appellant is "severely developmentally delayed," and that she attempted to release the minor from the hospital to the minor's cousin, L.C., "via a notarized letter."¹ Appellant had five other children who had been removed from her care, three of who had been adopted.

The juvenile court ordered detention of the minor and appointed a guardian ad litem for appellant.

At the parents' request, the Agency assessed L.C. for placement. Although a background check and a home assessment did not disclose any concerns, the social worker rejected the placement based on the investigation of the Agency's concurrent planning unit. When L.C. was interviewed during this investigation, she stated she planned to return the minor to appellant once appellant got housing and she felt appellant would be a good parent. There was also a concern that L.C. had appellant sign paperwork relinquishing custody of the minor to her without legal representation.

¹ L.C. represented she is the father's niece (i.e., the minor's cousin). L.C.'s mother is appellant's aunt, which means that L.C. is also appellant's cousin.

At the jurisdictional hearing, at which the placement issue was heard, L.C. denied stating that she planned to return the minor to the parents. She claimed she told the social worker only that she "felt [appellant] hadn't been given a chance to care for her children and that she probably would be a better parent if given a chance."

The juvenile court stated it "was not satisfied that the [A]gency had abused [its] discretion" when it denied placement with L.C., and concluded "their decision to not place with [L.C.] was appropriate." The court commented that there were questions as to L.C.'s "judgment and insight," as well as her honesty. The court also observed it was possible that the parents and L.C. had been attempting to circumvent the dependency system through their custody agreement.

The court sustained the allegations in the petition and, at the dispositional hearing, denied appellant services pursuant to section 361.5, subdivision (b)(2) (parent suffering from a mental disability rendering her incapable of utilizing services), (10) (previous termination of services with a sibling or half sibling) and (11) (previous termination of parental rights to a sibling or half sibling). The court ordered services for the minor's father.

DISCUSSION

Appellant contends the juvenile court erred in reviewing the Agency's placement decision regarding L.C. for abuse of

discretion rather than exercising its independent judgment concerning the placement. We discern no error.²

Section 361.2, subdivision (e)(2), requires the juvenile court, when removing a child, to order the care, custody and control of the child to be under the supervision of the social worker, whose placement options include the home of an approved relative. (§ 361., subd. (e)(2).) “‘Relative’” is defined by statute as an adult who is related to the child “within the fifth degree of kinship” (§ 361.3, subd. (c)(2).)

Preferential consideration must be given to specified relatives who request placement. (§ 361.3, subd. (a).) “‘Preferential consideration’ means that the relative seeking placement shall be the first placement to be considered and investigated.” (§ 361.3, subd. (c)(1).) When the requirement for preferential consideration applies to a relative placement request, the juvenile court must exercise its independent judgment when reviewing the social worker’s placement decision, rather than merely reviewing the decision for an abuse of discretion. (*Cesar V. v. Superior Court*, *supra*, 91 Cal.App.4th at p. 1033.)

² The parties disagree on whether appellant has standing to raise a placement issue on appeal from an order denying her reunification services. (Compare *Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1035, with *In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1053-1054, and *In re H.G.* (2006) 146 Cal.App.4th 1.) We assume without deciding that appellant has standing.

However, the only relatives entitled to preferential consideration for placement are grandparents, aunts, uncles and siblings of the child. (§ 361.3, subd. (c)(2).) In other words, the relative placement preference does not apply to cousins. (*In re Luke L.* (1996) 44 Cal.App.4th 670, 680.) As L.C. is the minor's cousin, she is not entitled to preferential placement consideration. Accordingly, we reject appellant's claim.

DISPOSITION

The juvenile court's orders are affirmed.

BLEASE, Acting P. J.

We concur:

ROBIE, J.

MURRAY, J.