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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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

SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

N.B.,

Defendant and Appellant.

C068198

(Super. Ct. Nos.
JD231262, JD231263,
JD231264, JD231265,
JD231266)

Father (N.B.) appeals from the juvenile court's dispositional order denying him contact with minors C.B. and J.B. until further order of the court "pending the therapists['] recommendations."¹ Father, who is incarcerated in county jail

¹ Although father filed a notice of appeal from all of the court's jurisdictional and dispositional orders, he now challenges only the no-contact order, and only as to C.B. and

and charged with 15 counts of molesting C.B.'s and J.B.'s older siblings, contends there was insufficient evidence to justify the finding that contact with C.B. and J.B. would be detrimental to them. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On January 26, 2011, the Sacramento County Department of Health and Human Services (the Department) filed petitions under Welfare and Institutions Code section 300² as to A.B., a 16-year-old girl; Na.B., a 14-year-old girl; R.B., a 12-year-old girl; J.B., a 10-year-old girl; and C.B., a five-year-old boy. The petitions alleged that father physically abused A.B. on more than one occasion; father sexually abused the three oldest girls on numerous occasions; mother (Cr.B.) knew or should have known of father's actions and failed to protect the minors; and the parents engaged in domestic violence in the minors' presence.

The detention report stated: A.B. disclosed to a mandated reporter in January 2011 that father had sexually abused her for five years by rubbing his erect penis against her buttocks, flashing his erect penis to her, showing her pornography, peeking at her in the shower, and appearing before her naked with an erect penis when she woke up. When she told him to stop, he would beat her with his fists. She had told her mother, but when her mother confronted him, he beat her also and

J.B. Any other attack on the court's orders is deemed abandoned.

² Further undesignated section references are to the Welfare and Institutions Code.

threatened to kill her. According to A.B., the whole family was terrified of father.

The three oldest girls confronted father during a family meeting around last Christmas. He apologized and asked them if they wanted him to leave home, and they said "Yes," but mother asked them to give him another chance and got mad at the girls.

A.B. finally decided to report the matter because father had done something much worse to R.B., going into R.B.'s room late at night and sucking on her nipples. R.B. confirmed this charge and reported that father had also done to her the kinds of things he did to A.B. Na.B. reported that father had done similar things to her. Na.B. said she told the paternal grandmother and uncle about it, as well as mother.

Father was arrested on January 21, 2011, and charged with committing lewd or lascivious acts with children under 14, committing lewd acts on a child aged 14 or 15, engaging in three or more sexual acts with a child under 14, annoying or molesting a child, and sexual battery.

The day after father's arrest, A.B. called a detective and said she had made up her story.

Mother said she had heard the girls' stories, but had not seen father do any of those things. When she confronted him about some of the charges, he gave innocent explanations for his conduct. She initially denied that he had physically abused her, but finally admitted he had often threatened to kill her. She visited him repeatedly in jail, and the investigating

detective was concerned about her capacity to protect the minors.

The two youngest minors (J.B. and C.B.) said father had not molested them and they had not seen him molest their sisters.

At the initial hearing, the juvenile court ordered father to have no contact with the minors until further order of the court.

The jurisdiction/disposition report recommended granting reunification services to mother, but denying them to father. It also recommended that father should have no contact with the minors "at this time" and that the possibility of future contact should "be assessed for detriment on an ongoing basis."

According to the report, father said he missed the minors and denied harming them.

Mother continued to doubt the charges against father, while admitting she had not read the social worker's earlier report. She denied knowing that one paternal uncle had been convicted of indecent exposure and the other paternal uncle had a Child Protective Services history of alleged sexual and physical abuse.

Na.B. said the paternal uncles and grandmother "were upset that the children would do that to their father."

The foster parent of the four younger minors reported they had disclosed that "their paternal family had been calling and pressuring the girls to lie" on father's behalf; they felt "very pressured and being guilted [sic]." A detective went to the foster home and took the minors' cell phones.

All the minors wanted to return to mother's care.

J.B. did not want to visit father in jail, but would be willing to communicate with him by letter and to visit him if he were released. C.B. wanted to visit both parents.³

After the jurisdiction/disposition report was filed, mother obtained a temporary restraining order against father on her own and the minors' behalf, later replaced by a new restraining order extending to March 29, 2014. Mother also filed for legal separation from father.

According to addenda from the Department, mother had begun sexual abuse group counseling and now sounded as though she believed the charges against father, who remained incarcerated; however, she struck the counselor as very naive, and the counselor could not say whether mother's changed attitude was real or "a show . . . to get the children home." As of mid-April 2011, she had not visited him in jail since January 2011.

At the contested jurisdiction/disposition hearing, the juvenile court sustained the amended section 300 petitions, ordered the minors removed from the physical custody of both parents, and ordered reunification services to mother but denied them to father. The court also ordered overnight visits for mother, but specified that the paternal relatives should not be involved in them because they had "made many efforts to convince

³ C.B., who was five years old when interviewed, stated that he was seven before he turned five. He "was not able to demonstrate an understanding of truth versus lie concepts."

the children not to pursue these allegations against their father in an attempt to dissuade the children's statements or evidence."

Father's counsel objected to the proposed no-contact order and requested that "at least letter contact through the social worker be available." The juvenile court found instead that any visitation with father would be detrimental to the minors and that he should continue to have no contact with them. This would change only "once the therapist has been involved with these children and makes a recommendation that the children should have contact with their father."

DISCUSSION

Father contends the evidence did not show that letter contact with him would be detrimental to J.B., or that visitation with him would be detrimental to C.B. We disagree.

When the juvenile court has denied reunification services to a parent, as here, the court "may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child." (§ 361.5, subd. (f).)

Where the juvenile court has found that visitation would be detrimental to the minor, we review the court's order for substantial evidence, construing all evidence (including the reasonable inferences therefrom) most favorably to the order. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 580-581.)

Here, the juvenile court found that any contact with father, including letter contact as to J.B., would be

detrimental to J.B. and C.B. unless and until their therapists decide otherwise. Ample evidence supported this finding.

First, the allegations of molestation against father include acts against R.B., who is only two years older than J.B., and acts against A.B. that began when she was 11, only one year older than J.B. is now.

Second, father has been accused by all three alleged victims of using physical force against them and mother when challenged, and of maintaining the family secrets through threats.

Third, father continues to deny the charges against him, even though the accusers' stories are consistent with each other, have been deemed credible by the prosecutor, and no motive for fabrication appears in the record.

Fourth, father's relatives have attempted to pressure the alleged victims into recanting.

Fifth, it is not yet certain that mother is emotionally prepared to support the minors against father.

Under all the circumstances, the juvenile court could reasonably conclude that, if allowed any form of contact with J.B. and C.B. now, father (probably aided by his relatives) would put intense pressure on them to take his side against their siblings, that this pressure would be very difficult for these young children to resist, and that the resulting emotional conflicts would be detrimental to them. The court could also reasonably conclude that, given father's alleged practice of molesting his older daughters when they were barely older than

J.B. is now, he might use even letter contact with J.B. to try to "groom" her as a future victim. Finally, the court could reasonably conclude that visitation with father in custody could be emotionally detrimental to C.B., a very young child who is immature even for his age.

In any event, the juvenile court did not rule out contact between father and these minors forever, but only until their therapist recommends it.

DISPOSITION

The no-contact orders as to J.B. and C.B. are affirmed.

ROBIE _____, J.

We concur:

HULL _____, Acting P. J.

MURRAY _____, J.