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

J.K.,

Respondent,

v.

V.S.,

Appellant.

C068428

(Super. Ct. No. 09FL03464)

Appellant V.S. (mother), appeals from a court order granting respondent J.K. (father), sole legal and physical custody of the parties' minor child and limiting mother's visitation with the child to supervised, therapeutic visitation.¹ Mother's only claim on appeal relative to that order is that the "[t]rial court prejudicially erred in granting sole custody and physical custody to the alleged father without prior determination of paternity Uniform Act on Blood Test Cal. Fam. Code Section 7550, or without the

¹ Mother initially raised claims regarding numerous other trial court orders; however, on May 24, 2012, this court "granted in part" father's motion to dismiss the appeal continuing the appeal only as to the order from the April 1, 2011, hearing. On June 14, 2012, this court also denied mother's petition for rehearing on the May 24, 2012, order.

burden of proof of paternity Cal. Fam. Code Section 7555.” Finding her claim lacks merit, we affirm the judgment.

BACKGROUND²

Mother has elected to proceed on a clerk’s transcript. (Cal. Rules of Court, rule 8.121.) Thus, the appellate record does not include a reporter’s transcript of the hearing in this matter. This is referred to as a “judgment roll” appeal. (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082-1083; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.)

The limited record we have establishes that in May 2009, father filed a Uniform Parentage Petition for Custody and Support in Sacramento County Superior Court. A final judgment establishing paternity, pursuant to which respondent was found to be the minor child’s father, was then entered in February 2010.

In March 2010, the trial court adopted Family Court Services’ recommendations regarding custody and visitation as temporary orders. The court also ordered the parties to participate in a Family Code section 3111 evaluation. The issues of custody and visitation were set for trial in June 2010, along with mother’s request for a domestic violence restraining order.

In June 2010, the trial court denied mother’s request for a domestic violence restraining order and issued numerous other orders. No orders were issued regarding custody of the minor.

In October 2010, the trial court adopted the Family Code section 3111 evaluator’s custody recommendations as the orders of the court. Accordingly, father was granted sole legal and physical custody of the minor child and mother’s parenting time was limited to four hours per week. The trial court further ordered that mother’s parenting

² Mother’s brief includes numerous facts not relevant to the issue on appeal. We limit our recitation of facts to those relevant to our decision.

time be supervised by a licensed professional and that mother submit to an Evidence Code section 730 psychological evaluation.

By December 2010, mother had not yet obtained the court-ordered psychological evaluation. In March 2011, based on allegations that mother was using her telephone calls with the minor child to abuse him psychologically, the court ordered mother to have no more telephone contact with the minor and further limited her parenting time to supervised, therapeutic visitation.

Trial on the issues of custody and visitation took place on April 1, 2011. Both parties were present at trial; mother appeared without counsel. Following the admission of evidence and argument, the trial court granted father sole legal and physical custody of the minor and continued to limit mother's parenting time to supervised, therapeutic visitation.

The court found mother continued refusing to comply with the court's prior order for a psychological evaluation. The court ordered mother to participate in counseling and obtain a psychological assessment "so as to allow [mother's] counselor/psychologist/psychiatrist to pinpoint the issues and work on them with [her]." The court also ordered there to be no telephone contact between mother and the minor child (noting that if there were any telephone contact, father had a right to record the call) and deemed the order to be a final custody determination.

DISCUSSION

Mother contends the trial court erred in awarding father sole legal and physical custody of the minor child without a proper paternity determination or blood test. The judgment establishing paternity, wherein respondent was found to be the minor child's father, was entered in February 2010. Mother attempted to challenge that judgment in this appeal but that portion of her appeal was dismissed as untimely. Accordingly, the issue of paternity is unassailable and her claim lacks merit.

To the extent mother is arguing either that there is insufficient evidence to support the trial court's order or that the trial court abused its discretion in issuing the custody order, her claim fails. Without a reporter's transcript of the relevant hearing, we must presume the court made sufficient findings to support its decision. That is, we must presume the court found that giving father sole legal and physical custody of the minor and limiting mother's parenting time to therapeutic visitation was in the minor's best interest. Furthermore, we must conclusively presume the evidence was sufficient to sustain the court's findings. (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154.) On the face of this record, we find no error; we must affirm the trial court's decision.

DISPOSITION

The order of the trial court is affirmed. Costs are awarded to respondent. (Cal. Rules of Court, rule 8.278(a)(1), (2).)

BLEASE, Acting P. J.

We concur:

HULL, J.

BUTZ, J.