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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

In re JOSHUA W., a Person Coming Under
the Juvenile Court Law.

SHASTA COUNTY HEALTH AND HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

RACHEL S.,

Defendant and Appellant.

C070515

(Super. Ct. No.
05JVSQ2587801)

Rachel S., mother of the minor, appeals from orders of the juvenile court entered at a permanent plan review hearing. (Welf. & Inst. Code,¹ §§ 366.3, 395.) Appellant contends the juvenile court abused its discretion in failing to order reunification services for her. We affirm.

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

FACTS

In May 2005, the Shasta County Health and Human Services Agency (agency) removed Joshua W., age 9, from appellant's custody due to physical and sexual abuse. Appellant failed to reunify and parental rights were terminated in December 2006. At that time the permanent plan was adoption. However as time went on, the minor displayed serious emotional and behavioral problems and, in 2009, was placed in a group home. The minor's problems stabilized briefly but became increasingly severe and the permanent plan was modified to long-term foster care in November 2010.

By May 2011, the minor, who remained in the group home, asked to have parental rights reinstated because he had contact with his father and could possibly reunify with him. The minor filed a petition for modification seeking reinstatement of the father's parental rights. The petition was granted in August 2011. Subsequently, appellant's parental rights were also reinstated.

A status report filed in November 2011 stated that appellant remained in custody for her physical abuse of the minor and the father was in custody for threatening to kill a nurse who declined to give him a narcotic injection. The minor, now 16 years old, remained in the group home and continued to have behavioral problems which remained serious.

Appellant sent a letter to the court which detailed the changes she had made in her life while incarcerated, her participation in multiple programs available to her in prison,

and her desire to have visits with the minor. Appellant did not ask to renew efforts to reunify with the minor.

The agency's status report in February 2012 recommended terminating the father's reunification services because he remained in custody. The agency also recommended commencing therapeutic visits between appellant and the minor when she was released from state prison. The minor remained in the group home. At times his emotional and behavioral issues escalated to assaults on peers and staff.

No parents were present at the review hearing in February 2012. Appellant's counsel asked the court to grant the agency discretion to offer nontherapeutic visits. The court ordered therapeutic visits with discretion to the agency for nontherapeutic visits based on how visits went following appellant's release. There was no request for the court to consider reunification services for appellant.

DISCUSSION

Appellant contends on appeal the juvenile court abused its discretion by failing to exercise its discretion to order reunification services for appellant.

Postpermanency review hearings for minors in a plan of long-term foster care are governed by section 366.3, subdivision (e). That section provides for a review every six months in which the court or agency "shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following: [¶] (1) The continuing necessity for, and

appropriateness of, the placement. [¶] (2) Identification of individuals . . . important to the child [¶] (3) The continuing appropriateness and extent of compliance with the permanent plan [¶] (4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child. If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision f), the specific reunification services required to effect the child's return to a safe home shall be described. [¶] (5) Whether there should be any limitation of the right of the parent . . . to make educational decisions for the child. . . . [¶] (6) The adequacy of services provided to the child. . . . [¶] (7) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care. [¶] (8) The likely date by which the child may be [placed in a permanent plan such as return home, guardianship]. [¶] (9) Whether the child has any siblings under the court's jurisdiction [¶] (10) For a child who is 16 years of age or older . . . the services needed to assist the child . . . to make the transition from foster care to independent living." (§ 366.3, subd. (e).)

Section 366.3, subdivision (f), permits the parents to participate in the review hearings. Further, the subdivision states: "It shall be presumed that continued care is in the best interests of the child, *unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents up to a period of six months*" (§ 366.3, subd. (f), italics added.)

Read together, these subdivisions give the juvenile court discretion to order reunification services to a parent who has asked for them and provided proof that reunification is the best alternative for the minor and that the minor would be returned to a safe home environment.

Appellant did not ask for reunification services in the juvenile court. Under the statutes, the court did not have a duty to raise the issue sua sponte. The issue has been forfeited. (*In re Christopher B.* (1996) 43 Cal.App.4th 551, 558; *In re Dakota S.* (2000) 85 Cal.App.4th 494, 501-502.)

Moreover, on appeal, appellant is seeking an order for services, not to reunify, but "to maximize the benefits of maternal visitation." The statute does not authorize the court to provide services for this purpose. (§ 366.3, subs. (e), (f), (h).)

In any case, appellant offered no proof that reunification with a child she had so seriously damaged was the best

alternative for him. At best, she provided extensive material to the court on the programs she had attended in prison. There was no effort to connect the content of these programs to reunification as the best alternative for the minor. Indeed, it had yet to be shown that appellant could successfully visit the minor in a therapeutic setting. Further, because she remained in state prison, she could not provide a safe home for the minor. Thus, even if appellant had raised the question of reunification, under these circumstances, the juvenile court would have abused its discretion had it ordered reunification services. No abuse of discretion in failing to order reunification services appears.

DISPOSITION

The orders of the juvenile court are affirmed.

ROBIE, J.

We concur:

RAYE, P. J.

MURRAY, J.