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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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

SHASTA COUNTY HEALTH AND HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

C.C.,

Defendant and Appellant.

C073580

(Super. Ct. Nos.
09JVSQ2830201,
09JVSQ2830301,
09JVSQ2830401 &
09JVSQ2830501)

Appellant C.C. is the father of minors V.C. (female, born 2002), P.C. (female, born 2003), T.C. (male, born 2005), and A.C. (female, born 2007). Father appeals

juvenile court orders terminating his parental rights. (Welf. & Inst. Code, §§ 395, 366.26.)¹

Father's sole contention on appeal is that there is insufficient evidence to support the juvenile court's finding that V.C. was adoptable. We conclude substantial evidence supports the juvenile court's finding that V.C. was adoptable, and we will affirm the juvenile court orders.

BACKGROUND

The minors lived with their mother in December 2009. Father left the home in October due to ongoing domestic violence but stayed at the home a couple of days a week. Mother admitted that she and father fought frequently, including slapping and arguing; father admitted pushing mother and punching walls when he was angry.

The minors were placed in protective custody in December 2009 after a welfare check of the home found cockroaches, rotting food, dirty dishes, overflowing trash, a broken toilet filled with feces, and a strong fecal and urine odor. Three of the children had severe head lice.

The Shasta County Department of Social Services (Department) filed a dependency petition alleging jurisdiction over the minors pursuant to section 300, subdivision (b). The minors were detained later that month.

The February 2010 jurisdiction/disposition report noted that V.C. and P.C. were placed in one foster home and T.C. and A.C. were placed in another foster home. V.C. and P.C. adjusted well to their foster placement and behaved normally at home and school. They were healthy and developing at an age appropriate rate. T.C. and A.C. presented some challenges for the foster parents, who characterized them as

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

“mischievous” and “busy” children. They were nonetheless healthy and developmentally on track.

The juvenile court sustained the petitions and ordered services for the parents at the February 2010 jurisdiction/disposition hearing.

The minors were doing well in their foster placements as of the August 2010 review report. V.C. and P.C. displayed troubling behavior at times, such as extended tantrums when they were upset, but the behavior decreased when they participated in counseling. V.C. was diagnosed with adjustment disorder with mixed disturbance of emotions and conduct, and P.C. was diagnosed with adjustment disorder with depressed mood. The social worker found their mental health needs did not present significant problems at school or home.

According to V.C.’s May 2010 psychological evaluation, V.C. wanted to be home with her “real” family, but her foster placement “may be the safest she has ever felt.” V.C.’s escalating emotional and behavioral concerns and depressive symptoms put her ability to reach developmental milestones at risk, as well as impairing her academic performance and ability to maintain appropriate relationships. The therapist recommended 17 weeks of mental health services.

A June 2010 letter from the foster care service said V.C. was very social and had many friends, but was very sensitive and prone to hurt feelings. She promoted to the third grade and was liked by her peers and teacher.

The juvenile court continued services at the August 2010 six-month review hearing.

The February 2011 status report found V.C.’s behavior significantly improved in the last six months. V.C. enjoyed school and did not misbehave there. V.C. and P.C. continued to participate in weekly counseling sessions.

Services were continued at the 12-month hearing in February 2011.

Father was arrested in March 2011 for lewd and lascivious acts with a child under 14. The incident took place in 2003 and involved an eight- or nine-year-old stepchild living in the home. Father had phone contact with the minors from the Shasta County Jail after his arrest.

V.C. and P.C. were living with mother as of August 2011. V.C. had difficulty dealing with father's arrest and started defecating and urinating in her pants several times a day. The problem lasted a week before subsiding.

A July 2011 mental health evaluation of V.C. concluded she had "fairly minimal mental health symptoms at this juncture." Her favorable presentation suggested that her problems in the past were linked to specific stressors such as her placement in foster care and the arrest of her father. She was diagnosed with adjustment disorder with mixed anxiety and depressed mood.

At the August 2011 review hearing, father's attorney informed the juvenile court that father had been sentenced to three years in state prison. The juvenile court returned the minors to mother (with family maintenance services) and terminated father's services.

The January 2012 status report noted mother was living with her children in her sister's home in Oxnard. Later that month, mother's sister informed the Department that the sister was losing the home and the family would need to make other arrangements. When mother became homeless, the Department filed a supplemental petition (§ 387) in August 2012, alleging mother could not care for the minors. The minors were detained later that month.

The October 2012 report on the supplemental petition noted the minors had been placed with maternal relatives; V.C. was with one family, P.C. and T.C. with another, and A.C. with a third family, all in Bakersfield. A November 2012 report related that V.C. was healthy and happy in her new home. She appeared to have no problems, enjoyed school, and was getting good grades.

In November 2012, the juvenile court sustained the supplemental petition and terminated mother's services.

The April 2013 section 366.26 report recommended terminating parental rights with a permanent plan of adoption for all the minors. The relative families with whom the minors had been placed were all prospective adoptive placements. The report noted that V.C. had undergone counseling when she lived in Shasta County, and her behavior had included "uncontrollable episodes of crying, tantrums, scratching herself and others, kicking, hitting, throwing, stealing from home, school and stores, and anxious when in public and when out of the normal routine."

V.C. was placed with her maternal great-uncle and his family, and they were interested in adopting her. The great-uncle was a 47-year-old high school graduate employed as a plumbing service specialist. His wife was a 36-year-old homemaker with an associate's degree in nursing. She had a criminal and child abuse history from 2008, but she successfully completed treatment and case plan services. The prospective adoptive parents were assessed as a mature and responsible couple who provided excellent care for V.C. The couple knew V.C. since she was born and had an ongoing relationship with her since June 2012. They had two daughters, ages 5 and 16, who lived at home. The family's support system included extended family members who lived a few blocks away.

The Department concluded that the minors were adoptable children. Their emotional and mental state appeared normal with no outward signs of pathology. They were physically attractive with no medical problems, and they wanted to live with and be adopted by their current caretakers. Counseling was being secured for V.C., P.C., and T.C., whose behaviors were due to a history of trauma like those of other children adopted through foster care. It was highly likely that the minors would be adopted by their current families, but if not, a preliminary search produced 17 families with approved adoption home studies who were interested in children with similar characteristics.

After a contested hearing, the juvenile court terminated parental rights with a permanent plan of adoption.

DISCUSSION

Father contends there is insufficient evidence to support the juvenile court's finding that V.C. was adoptable. We disagree.

An order terminating parental rights must be affirmed if it is supported by substantial evidence. (*In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1154.) "On review of the sufficiency of the evidence, we presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order. [Citations.]" (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

" 'At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must make one of four possible alternative permanent plans for a minor child. . . . The permanent plan preferred by the Legislature is adoption. [Citation.]' " (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368, italics omitted.) "In order for the court to select and implement adoption as the permanent plan, it must find, by clear and convincing evidence, the minor will likely be adopted if parental rights are terminated. [Citation.]" (*In re Tabatha G.* (1996) 45 Cal.App.4th 1159, 1164; § 366.26, subd. (c)(1).)

"The issue of adoptability posed in a section 366.26 hearing focuses on the minor, e.g., whether the minor's age, physical condition, and emotional state make it difficult to find a person willing to adopt the minor. [Citations.] Hence, it is not necessary that the minor already be in a prospective adoptive home or that there be a proposed adoptive parent 'waiting in the wings.' [Citations.]" (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649, italics omitted.) On the other hand, "the fact that a prospective adoptive parent has expressed interest in adopting the minor is evidence that the minor's age, physical condition, mental state, and other matters relating to the child are not likely to dissuade individuals from adopting the minor. In other words, a prospective adoptive parent's

willingness to adopt generally indicates the minor is likely to be adopted within a reasonable time either by the prospective adoptive parent or by some other family.” (*Id.* at pp. 1649-1650, italics omitted.)

Father points out that V.C. was over seven years old at the termination hearing and had a “diagnosed mental/emotional issue.” He acknowledges that earlier reports said V.C.’s mental health problems did not present significant issues, but he focuses on the section 366.26 report, which said V.C.’s behaviors had included “uncontrollable episodes of crying, tantrums, scratching herself and others, kicking, hitting, throwing, stealing from home, school and stores, and anxious when in public and when out of the normal routine.”

According to father, that assessment calls into question the earlier reports stating she did not display significant problems. In addition, he notes that V.C. became depressed after a holiday visit with mother and asked why her father was in prison. Father also accuses the Department of glossing over the problems of the prospective adoptive family, namely the prospective adoptive mother’s criminal history and child abuse history. Finally, father protests that V.C., a “unique” child, should not be “profil[ed]” as prospectively adoptable simply because 17 other families had expressed interest in adopting children with similar characteristics. Given the minor’s age, psychological issues, placement in a home that may be disqualified, and her close relationship with siblings placed in other homes, father argues the juvenile court should have taken “additional time to assure [that] this child’s needs are met.”

But V.C. had a potential adoptive family, which is strong evidence of her adoptability. Father points to the potential adoptive mother’s prior criminal history, noting that placement required a waiver from the Director of Social Services. (§ 361.4, subd. (d)(2); Health & Saf. Code, § 1522, subd. (a)(4); *In re M.L.* (2012) 205 Cal.App.4th 210, 223.) But father does not contend that such a waiver was not obtained. The

potential adoptive mother successfully completed services and the couple was now assessed as mature, responsible, and providing excellent care for V.C.

Although V.C. was diagnosed with mental health problems, the most recent evaluation found they had largely subsided and were a product of particularly stressful periods in the child's life. The statement from the section 366.26 report merely summarized prior incidents. And the problems were amenable to treatment and tended to go away as the stress in her life dissipated.

In addition, the record indicates that at least 17 other families were willing to adopt a child with similar characteristics. We do not agree with father's argument that this information amounts to inappropriate "profiling." The information simply identified the characteristics that were desired by families seeking to adopt.

On this record, substantial evidence supports the juvenile court's finding that V.C. was adoptable.

DISPOSITION

The juvenile court orders terminating parental rights are affirmed.

_____ MAURO _____, J.

We concur:

_____ BUTZ _____, Acting P. J.

_____ MURRAY _____, J.