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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re HANNAH T., a Person Coming
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

TROY S.,

Defendant and Appellant.

D061361

(Super. Ct. No. NJ14351)

APPEAL from an order of the Superior Court of San Diego County, Michael J. Imhoff, Commissioner. Affirmed.

Troy S. appeals an order entered at the 12-month review hearing in the juvenile dependency case of his daughter, Hannah T. Troy contends the evidence is insufficient to support the finding that placing Hannah with him would be detrimental to her. We affirm.

BACKGROUND

In October 2010, the San Diego County Health and Human Services Agency (the Agency) filed a dependency petition for 14-and-one-half-year-old Hannah. The petition alleged her mentally ill mother, Cheri T., wandered around their apartment complex speaking incoherently, screamed at neighbors, spit at children and yelled at Hannah and slapped her face. Cheri was placed on a Welfare and Institutions Code section 5150¹ hold, and Hannah was detained in a foster home.

When the petition was filed, Troy could not be found. In November 2010, the Agency learned he was living in Pennsylvania. On November 16, a social worker interviewed Troy by telephone, and he related the following information: He was at the hospital when Hannah was born. He last saw her in 1996, when she was two months old, before his six-month military deployment. When the deployment ended, Cheri served Troy with an order prohibiting him from having any contact with Hannah. Because Troy was deployed frequently, the family court denied his request for visitation. In 1997, Troy left the military and moved to Pennsylvania. He did not request visitation because of the distance to California. He sent cards and gifts on holidays and birthdays, but was unsure if Hannah received them. He paid child support. He was unaware of Cheri's mental health history before he read the dependency petition. He wanted custody of Hannah.

On November 24, 2010, the social worker gave Troy the telephone number of Hannah's foster parents. By December 3, Troy was calling Hannah regularly. By

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise specified.

December 29, they were communicating over the internet by voice and video. Troy called Hannah every day and they usually spoke for an hour. Hannah said the conversations were awkward because they ran out of things to say.

On January 5, 2011, the court entered a true finding on the petition. On January 13, Troy told the social worker "he would eventually like to obtain custody [of] Hannah . . . but agreed [they] must build on their relationship before this occurs." The social worker suggested Troy plan a short trip to San Diego.

At the dispositional hearing on January 27, 2011, the court ordered Hannah removed from Cheri's custody and placed in foster care. The court found that Troy was Hannah's biological father, denied his request for presumed father status and ordered reunification services composed of supervised visits, conjoint therapy and a parenting course. Although Troy did not request custody, the court found it would be detrimental to place Hannah with him until he reestablished a relationship with her.

Cheri died in May 2011. Troy and Hannah had their first face-to-face visit on June 18 in San Diego. The social worker supervised the visit. Troy and Hannah had another visit on June 19, supervised by the foster mother. Troy and Hannah were happy to see each other, enjoyed each other's company and talked with each other. Hannah said she felt comfortable with Troy and believed he wanted to get to know her. She hugged him and gave him a Father's Day card.

While Troy was in San Diego, he met with Hannah's psychotherapist, Jennifer Jenkins. Jenkins was helping Hannah cope with Cheri's death. Jenkins and Hannah also

discussed Hannah's experience living with a mentally ill parent, her adjustment to her new school and the stress she felt with Troy.

The social worker offered to pay airfare and lodging costs for Troy's next visit with Hannah, but Troy said he would be unable to visit again for a month or two. Troy began attending a parenting course on June 27, 2011, but his work required him to miss two classes, and he did not complete the course. On June 28, Hannah's counsel, joined by Troy, requested an evaluation of Troy's home pursuant to the Interstate Compact on the Placement of Children (ICPC) (Fam. Code, § 7900 et seq.). The court granted the request.

Jenkins postponed the start of conjoint therapy for Hannah and Troy while Hannah grieved Cheri's death. Hannah was handling the loss well and was happy in her foster home. She wanted to visit Troy, but live with her adult half brother. Jenkins recommended Hannah not be placed with Troy. The social worker suggested that Hannah allow her relationship with Troy to develop and Hannah assented. In July 2011, the social worker reported Hannah's half brother said there was no room for Hannah in his home, but he might pursue placement when he moved to a larger home. In August, telephonic conjoint therapy began and Troy suspended his ICPC home study.

On September 20, 2011, Hannah told the social worker she was upset with Troy. Hannah believed Troy did not care about her because he was not showing an interest in her or making an effort to get to know her. He did not ask her many questions and gave brief responses to her questions. He still wanted her to move to Pennsylvania and was still seeking custody. Hannah said she did not want to live with Troy, but did want visits.

She wanted him to come to California once more before she considered visiting him in Pennsylvania. Troy testified by stipulation at the six-month review hearing that he had not been able to "schedule another visit because of work conflict."

The six-month review hearing was held on September 26, 2011. The court found it would be detrimental to Hannah to be placed with Troy. The court reasoned that Hannah's anxiety, posttraumatic stress disorder and insecure childhood made consistency and continuity of supreme importance, and Troy had not demonstrated the necessary insight into her need for stability, consistency and security.

In November 2011, Troy returned to San Diego. Hannah and Troy had a 10-hour visit on November 12. The foster mother supervised part of the visit, and part of the visit was unsupervised. Hannah and Troy had another visit on November 13. The visits went well.

By mid-December 2011, Hannah and Troy were speaking by telephone "a couple of times a week." Sometimes the conversations were short, and sometimes they lasted an hour. The conversations were unsupervised. Hanna reported the quality of the conversations had improved.

Hannah and Troy's telephonic conjoint therapy continued. Hannah reported her relationship with Troy was "getting better" and he was "trying to get to know her," but she still wished to stay in San Diego. She strongly preferred to live with her half brother, whom she visited at least weekly. Alternatively, she wished to remain in her foster home. The half brother had moved to a new home. At his request, the Agency intended to evaluate the home for Hannah's placement.

Hannah visited Troy in Pennsylvania from December 28 to 31, 2011. Troy reported the visit "went well." On a scale with zero representing "no relationship" and 10 representing "him having . . . built a relationship with Hannah," he rated their relationship a nine. Hannah reported she enjoyed the visit to Pennsylvania, but she still wanted to live in San Diego. She felt Troy "was rushing her" and "she did not feel completely comfortable" in his home. Hannah said she and Troy "did not have a lot of alone time" during the visit, and she did not know him "much more from visiting him." Hannah noted that almost all of Troy's relatives smoked, and she did not like to be exposed to smoke.²

The social worker believed it would be emotionally detrimental to Hannah to be placed with Troy. Hannah had lost her mother, yet had "broke[n] through . . . , kept her spirit up" and was doing well in foster care. Hannah had a strong support system in San Diego composed of the foster family, friends, the social worker, Jenkins and Hannah's half brother. Hannah was a straight-A student and justly proud of her academic achievement.

The 12-month review hearing was held on January 31, 2012. The court again found it would be detrimental to Hannah to be placed with Troy and continued Hannah's foster care placement.

² Hannah had asthma, but had not had any recent symptoms.

DISCUSSION

At the 12-month review hearing, "[t]he court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment." (§ 366.21, subd. (f).)³ The court here made the detriment finding by clear and convincing evidence.⁴ We conclude substantial evidence (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 974) supports the finding that placing Hannah with Troy in Pennsylvania would have created a substantial risk of detriment to her emotional well-being (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 899).

Troy disappeared from Hannah's life when she was an infant. By the time he reappeared more than 14 years later, she had suffered greatly as a result of Cheri's mental instability, and had had to adjust to a new home and a new school. Shortly after Troy's

³ Although Hannah cannot literally be returned to Troy's custody, section 366.21, subdivision (f), most closely fits the circumstances here. Section 366.21, subdivision (f), applies to a child placed in foster care whose parent is participating in reunification services with the goal of having the child placed with that parent.

⁴ In finding detriment, the court stated: "[O]ne of the major diagnos[e]s that [Hannah] is dealing with is [Posttraumatic] Stress Disorder . . ." Troy complains there was no evidence Hannah had a diagnosis of posttraumatic stress disorder, or still suffered from or displayed symptoms of that disorder. In finding detriment at the six-month review hearing, the court noted Hannah was "working on issues of [posttraumatic] stress disorder." Troy cannot now challenge that statement. Moreover, clearly Hannah suffered stress and trauma in Cheri's care.

reappearance, Cheri died. Hannah showed remarkable strength and perseverance in dealing with these trying circumstances.

After the six-month review hearing, Hannah and Troy became better acquainted. From Hannah's perspective, they were still getting to know each other. She was not sufficiently comfortable in Troy's home to contemplate a move to Pennsylvania. From Troy's perspective, their relationship was strong. When the social worker told Troy that Hannah wished to stay in San Diego, Troy replied he wanted Hannah to be happy and would abide by her wishes. At the 12-month review hearing, however, he argued it was time for Hannah to be placed with him.

The social worker, who had known Hannah since early 2011, believed it would be emotionally detrimental to Hannah to be placed with Troy. Hannah had a strong support system in San Diego. The members of Hannah's support system, particularly Jenkins, the social worker and the foster mother, had regular contact with Hannah and encouraged her to develop and maintain her relationship with Troy. Hannah had no support system in Pennsylvania except Troy, who sometimes worked seven days a week. Although Troy had participated regularly in conjoint therapy with Hannah, he had come to San Diego only twice, even though the Agency had offered to pay his costs for more visits. Troy still had not completed a parenting course. Unlike Hannah's half brother and foster parents, Troy never attended juvenile court hearings, even telephonically.

Stability, the birthright of all children, is of critical importance to a teenager who has experienced years of turmoil. Removing Hannah from the ambit of the persons who helped her through difficult circumstances would have presented a danger to the

emotional well-being she had worked diligently to achieve. This is not, as Troy suggests, a case of the court acceding to a teenager's wishes regarding her living arrangements. (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401-1402.) The juvenile court did not err by denying Troy's request for custody.

DISPOSITION

The order is affirmed.

MCDONALD, Acting P. J.

WE CONCUR:

O'ROURKE, J.

IRION, J.