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COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

C.A.,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Real Party in Interest.

D062123

(San Diego County
Super. Ct. No. J518061)

PROCEEDINGS for extraordinary relief after reference to a Welfare and Institutions Code section 366.26 hearing. Carol Isaacson, Judge. Petition denied; request for stay denied.

C.A. seeks writ review of a juvenile court order terminating reunification services relating to her minor son, Jace W., and setting a Welfare and Institutions Code section 366.26¹ hearing. She contends the court erred by not continuing reunification services to the 18-month date. We deny the petition and her request for a stay of the hearing.

FACTUAL AND PROCEDURAL BACKGROUND

Jace was born in March 2011 with a positive toxicology for methamphetamine and other drugs. C.A. admitted a history of drug abuse; she used drugs and alcohol during her pregnancy; received little prenatal care; and had previously engaged in domestic violence with Jace's father, Anthony W. The San Diego County Health and Human Services Agency (Agency) filed a petition in the juvenile court under section 300, subdivision (b), and detained Jace in out-of-home care.

C.A. was on probation as a result of a domestic violence incident with Anthony W. She and Anthony W. continued to have regular contact in violation of a restraining order. C.A. received referrals for domestic violence and substance abuse treatment. Agency offered her supervised visits with Jace twice a week, but she chose to visit only once a week. At a jurisdiction and disposition hearing, the court sustained the allegations of the petition, declared Jace a dependent, removed him from parental custody and placed him in foster care. The court ordered C.A. to participate in reunification services, including domestic violence treatment, a medication evaluation, individual therapy, parenting education and substance abuse treatment.

¹ Statutory references are to the Welfare and Institutions Code.

During the first reporting period, C.A. was marginally compliant with domestic violence treatment and drug treatment. She relapsed on methamphetamine. Her visits with Jace were positive. The court ordered six more months of services for her.

In its report dated April 24, 2012, Agency recommended the court terminate C.A.'s reunification services and set a section 366.26 hearing to select and implement a permanent plan for Jace. Although C.A. had completed parenting education, she was terminated from domestic violence treatment because of poor participation. She had not complied with drug treatment, relapsed on methamphetamine several times and became ambivalent about addressing her drug problem. The social worker assessed the risk to Jace as high, and believed there was no substantial probability Jace would be returned to C.A.'s custody by the 18-month date. C.A. had not used the skills she learned to change her parenting or to put Jace's needs before her own. She still needed to participate in drug treatment and apply skills to avoid relapse.

At a 12-month hearing on June 7, 2012, the court received in evidence Agency's reports and the stipulated testimony of social worker Kyle Leonard, who reported C.A. attended three additional domestic violence counseling sessions since the last report was prepared. After considering the evidence and arguments of counsel, the court found returning Jace to C.A.'s custody would create a substantial risk of detriment to his safety and well-being. The court also found Agency provided C.A. with reasonable services, but she made only minimal progress with her case plan and there was no substantial probability Jace would be returned to her custody by the 18-month date. The court terminated services and set a section 366.26 selection and implementation hearing.

C.A. filed a petition for review of the court's orders and requested a stay of the section 366.26 hearing. (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452.) This court issued an order to show cause, Agency responded and the parties waived oral argument.

DISCUSSION

C.A. contends the court erred by terminating her reunification services. She asserts that even though she previously struggled with some aspects of her case plan, she has re-enrolled in substance abuse treatment and domestic violence treatment, completed parenting classes, and has used her visits with Jace to build a loving mother-child relationship with him.

A

"Whenever a minor is removed from parental custody, the juvenile court must, in the absence of certain specified exceptions, order the social worker to provide services to the parent for the purpose of facilitating reunification of the family." (*In re Jesse W.* (2007) 157 Cal.App.4th 49, 59.) Reunification services for a parent of a dependent child under the age of three are generally limited to six months, but may be extended to the 12-month date. (§§ 361.5, subd. (a)(1)(B); 366.21, subd. (e).) Court-ordered services may be extended to a maximum of 18 months after the child was originally removed from parental custody under a heightened showing there is a substantial probability the child will be returned to the parent's custody and safely maintained in the home by that time. (§§ 361.5, subd. (a)(3); 366.21, subd. (g)(1); *In re T.G.* (2010) 188 Cal.App.4th 687, 695.) In considering whether there is a "substantial probability" of return to warrant extending services to the 18-month date, the court must find: (1) the parent has

consistently and regularly contacted and visited the child; (2) the parent has made significant progress in resolving problems that led to the child's removal from the home; and (3) the parent has shown "the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being and special needs." (§ 366.21, subd. (g)(1)(A), (B) & (C).)

Although the Legislature recognizes some parents who still pose a risk of detriment at the 12-month hearing could, with additional time, successfully rehabilitate and reunify, it "has set a very high hurdle for continuing the case beyond 12 months." (*A.H. v. Superior Court* (2010) 182 Cal.App.4th 1050, 1060.)

Where, as here, the court is required to make factual findings, we review its decision for substantial evidence. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 689-690; *In re B.D.* (2008) 159 Cal.App.4th 1218, 1232.) We do not consider the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if there is substantial evidence supporting a contrary finding. (*In re Baby Boy L.* (1994) 24 Cal.App.4th 596, 610; *Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1346.) On appeal, the parent has the burden of showing there is no evidence of a sufficiently substantial nature to support the court's finding or order. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.)

B

Here, the evidence showed C.A. consistently and regularly visited Jace. (§ 366.21, subd. (g)(1)(A).) However, there was no showing C.A. made significant progress in addressing the protective issues that led to Jace's removal from her custody -- drug abuse and domestic violence -- or that she has the capacity and ability to complete the objectives of her treatment plan and provide for Jace's safety and well-being. (§ 366.21, subd. (g)(1)(B) & (C).)

C.A. enrolled in a drug treatment and relapse prevention program in March 2011, and her compliance was fair to poor. Between December 2011 and April 2012, C.A. had numerous unexcused absences and did not drug test on many occasions. In March, she relapsed on methamphetamine, and said she was ambivalent about treatment. Less than a month before the 12-month hearing, C.A. again tested positive for methamphetamine. By the time of that hearing, she had not developed a relapse prevention plan and could not identify the triggers that caused her to relapse.

Further, C.A. had not completed treatment for domestic violence as required by her case plan. She waited seven months before enrolling in the program and was terminated for excessive absences. Although C.A. recently resumed participating in domestic violence treatment and had attended six out of 52 sessions as of June 7, it was not possible for her to complete the program by the 18-month hearing, which was only three months away.

C.A. had not made significant progress in addressing the protective issues and she did not show she would be able to complete treatment and provide for Jace's safety and

well-being before the next hearing. (*A.H. v. Superior Court, supra*, 182 Cal.App.4th at p. 1063.) Substantial evidence supports the court's order terminating C.A.'s reunification services and setting a section 366.26 hearing.

DISPOSITION

The petition is denied. The request for stay is denied.

McDONALD, J.

WE CONCUR:

HUFFMAN, Acting P.J.

HALLER, J.