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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

J.S.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E055514

(Super.Ct.Nos. J240050 & J240051)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Barbara A.

Buchholz, Judge. Petition denied.

Brian Huerter for Petitioner.

No appearance for Respondent.

Jean-Rene Basle, County Counsel, and Jeffrey L. Bryson, Deputy County
Counsel, for Real Party in Interest.

Petitioner J.S. (father) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging the juvenile court's order terminating reunification services as to his children, D.S. and B.S. (the children), and setting a Welfare and Institutions Code section 366.26¹ hearing. On April 23, 2012, this court stayed the section 366.26 hearing, pending further order. We lift the stay.

Father now contends that San Bernardino County Children and Family Services (CFS) failed to provide him with reasonable reunification services. We deny his writ petition.

FACTUAL AND PROCEDURAL BACKGROUND

On April 1, 2010, Los Angeles County Department of Children and Family Services (the department) filed a section 300 petition on behalf of the children.² D.S. was one year old and B.S. was less than one month old. The petition alleged that the children came within the provisions of section 300, subdivisions (a) (serious physical harm), (b) (failure to protect), and (j) (abuse of sibling). The petition included the allegations that mother struck D.S. in the face, and that father failed to provide adequate parental supervision. Father was incarcerated at the time. The juvenile court detained the children in foster care.

¹ All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

² Father and the children's mother (mother) both resided in Los Angeles County at the time.

Jurisdiction/Disposition

The social worker filed a jurisdiction/disposition report on April 29, 2010, and reported that the children were placed with the paternal grandparents on April 12, 2010. The social worker reported that the family came to the department's attention on March 28, 2010, when it received a call from the police. The police had received a referral concerning a one-year-old child found wandering alone. Further investigation revealed that he was a possible victim of abuse. Mother later admitted that she struck D.S.'s face with an open hand. The social worker recommended that the court declare the children dependents of the court, and that father and mother be provided with reunification services.

At the jurisdiction hearing on May 3, 2010, the court found true amended allegations under section 300, subdivision (b), and it struck the other allegations under subdivisions (a) and (j). The amended allegations stated that mother inappropriately and physically disciplined the child by striking his face with her hand, and that she failed to provide adequate supervision of the child, which resulted in him wandering the streets alone. The court declared the children dependents of the court and removed them from mother's custody. The court ordered her to participate in reunification services. Because father was absent and in custody, his disposition hearing was continued to June 14, 2010.

The social worker later filed a status report on father, informing the court that father was sentenced to county jail for possession of a dirk or dagger on May 5, 2010. He was expected to be released in September 2010.

At the disposition hearing on June 14, 2010, father was not present, but was represented by counsel. The court found father to be the presumed father of the children. It also stated that father was a “nonoffending” parent on the petition. The court nonetheless removed the children from his custody and ordered that reunification services be provided. The court ordered him to complete a parenting education program, and comply with his probation and criminal court orders. The court also ordered monitored visitation for him.

Six-month Status Review

The social worker filed a six-month status review report on November 2, 2010. The report stated that father was released from custody on July 29, 2010. While incarcerated, he had completed 60 hours of parent education, and 60 hours of a cognitive skills program. Father was currently on probation, with conditions that included seeking and maintaining gainful employment or attending school, counseling, drug testing, attending Narcotics Anonymous/Alcoholics Anonymous meetings, and participating in a work release program. The social worker provided referrals to father to attend individual counseling, but father stated that he did not need counseling, and did not want to attend. The social worker also contacted him monthly and provided him with additional reunification services, such as monthly bus passes, continued support to comply with court orders, weekly visitation, referrals for financial assistance, referral to a family reunification program, referrals for homeless assistance, referrals for counseling services, and collateral contacts.

Father's visits with the children began almost immediately upon his release. His visits were monitored by staff members at the department's office in Pomona. Two monitors reported some concerns to the social worker, including that father let one of the children hit him on the head and dig his nails into his back, and father let the child play with the drinking faucet and throw water all over the office floor. The social worker noted that, even though father had completed a parenting class, it did not appear that he had fully developed an understanding of appropriate parenting.

The social worker reported concerns about father's parenting skills, housing situation (he and mother were evicted and were now renting a room), his limited resources, and possible mental health issues.

A six-month review hearing was held on November 2, 2010. Father's counsel contended that the status review report "[made] it look like father [was] ordered to complete individual counseling and all of these other programs." However, father's case plan consisted of a parenting class, which he completed while he was incarcerated, and complying with his probation terms. She noted that father just enrolled in another parenting class. Counsel also noted that the department was recommending that father complete an anger management class. The court ordered services to be continued and visitation to change to four hours a week, but stated that it was not ordering anger management.

12-month Status Review

The social worker filed a 12-month status review report on May 3, 2011. The social worker stated that, during the past reporting period, the department's monitors had

observed inappropriate parenting from the parents. Although they had both completed a parenting program, neither parent had learned the skills needed to parent the children. Father was “extremely angry and controlling.” The social worker stated that father was very difficult to work with and refused to accept services or guidance from the department. The social worker recommended that reunification services be terminated and a section 366.26 hearing be set.

On May 3, 2011, the parents requested to set the matter contested. Father’s counsel confirmed with the court that father’s case plan only required him to complete a parenting education class. The court noted the report reflected that father did not get anything out of the parenting class he took and stated that it would benefit him to take another parenting course. The court ordered the department to provide him with another referral and set the next hearing for June 28, 2011.

At the June 28, 2011 hearing, father’s counsel informed the court that father had almost completed two parenting classes, and his monitored visits had gone well. The court ordered the department to continue providing reunification services, and ordered family counseling. The court set the 18-month review hearing for October 4, 2011. At the end of the hearing, the court ordered the matter transferred to San Bernardino County, at mother’s request. Mother and father had moved to Ontario. The matter was accepted by the juvenile court in San Bernardino County on August 11, 2011.

18-month Status Review

On September 9, 2011, CFS requested a continuance of the 18-month review hearing, to allow more time because of the recent transfer. The new social worker

informed the court that she met with the parents on August 11, 2011. She gave them referrals for counseling and random testing, and they started visits soon after the transfer. The court continued the hearing to December 9, 2011.

In an 18-month status review report, the social worker recommended that services be terminated and a section 366.26 hearing be set. The social worker reported that father completed two parenting education programs, but still lacked the necessary skills to parent the children. During visits, father became upset with D.S., which caused D.S. to become more defiant. Father appeared to be unable to understand or comfort D.S.'s emotions. He also did not appear to understand the developmental stages of children.

The social worker further reported that father had been engaged in individual counseling services since September 13, 2011, and he was focusing on conflict management and dealing with his feelings related to the removal of his children. His counselor said he had nine sessions, but would benefit from more. He completed a 12-hour parenting course on November 3, 2011. In addition, the social worker reported that father started random drug testing on August 18, 2011, and had seven tests with negative results. Father also provided CFS with certificates of completion for a parent education class, a cognitive skills program, a sheriff's prerelease program, and a probation department substance abuse program.

As to visitation, the social worker reported that father missed all scheduled visits in May 2011, two visits in July 2011, and several visits in August 2011.

At the contested 18-month review hearing, the court heard testimony from several witnesses, including father. The court stated that it reviewed all the documents in the

case and observed and assessed the credibility of the witnesses presented. The court noted that, as a result of the transfer, it gave the parents additional time to complete services, and that the parents received 22 months of services. The court found that the parents had been provided with reasonable services, but failed to make substantive progress in their case plans. The court further found that custody with the parents would be detrimental to the children, and there was no substantial probability that the children could be returned to them within the statutory timeframe. The court terminated reunification services and set a section 366. 26 hearing.

ANALYSIS

There Was Substantial Evidence to Support the Court's Finding That Reasonable Services Were Provided to Father

Father complains that CFS did not provide him with reasonable services. He asserts that he was out of custody by the six-month review hearing and had completed his parenting class, but he was demonstrating some “problematic behaviors,” and CFS failed to “take the necessary steps to address [his] erratic behavior.” Father claims that his case plan was not modified to deal with these unspecified problems. We conclude that father was provided with reasonable services.

A. Standard of Review

“[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court’s finding that reasonable services were provided or offered. [Citations.]”

(Angela S. v. Superior Court (1995) 36 Cal.App.4th 758, 762.)

B. There Was Substantial Evidence to Support the Court's Finding

We have reviewed the record and find father's argument unavailing. The court ordered father to complete parenting education, and comply with his probation and criminal court orders. The court also ordered monitored visitation for him. The record reveals that father was offered a plethora of services, including monthly bus passes, continued support to comply with court orders, weekly visitation, referrals for financial assistance, referrals for homeless assistance, referrals for counseling services, and collateral contacts. The social worker contacted him monthly to offer assistance. Furthermore, father's visits with the children began almost immediately upon his release from custody. His visits were monitored by department staff members.

After the matter was transferred, the new social worker met with the parents and gave them referrals for counseling and random testing. The visits started soon after the transfer. Father eventually participated in individual counseling, completed another parenting course, and participated in random drug testing. Father was even given 22 months of services. We note that father never complained his services were inadequate.

Father now asserts that, at the time of the transfer, the case plan was modified to include counseling and another parenting class and that, after the nine counseling sessions he completed, he showed progress, and his parenting skills were improving. He concludes that these improvements support his position that the provision of reasonable services "from the inception of the case would have assured a more positive result for this family." We disagree. In the six-month report, the social worker stated that she provided referrals for father to attend individual counseling, but he stated that he did not need

counseling, and did not want to attend. In the 12-month review report, the social worker stated that father was extremely difficult to work with and refused to accept services or guidance from CFS. Therefore, rather than showing that CFS failed to provide reasonable services, the record reveals that father either failed to fully take advantage of the services offered to him, or he simply failed to make substantive progress with the services that were provided.

We conclude that there was sufficient evidence to support the court’s finding that father was provided with reasonable services.

DISPOSITION

The writ petition is denied.

The previously ordered stay is hereby lifted.

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HOLLENHORST
Acting P. J.

We concur:

RICHLI
J.

KING
J.