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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re I.R., a Person Coming Under the
Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.B.,

Defendant and Appellant.

E056662

(Super.Ct.No. J242090)

OPINION

APPEAL from the Superior Court of San Bernardino County. Cheryl C. Kersey,
Judge. Affirmed.

Liana Serobian, under appointment by the Court of Appeal, for Defendant and
Appellant.

Jean-Rene Basle, County Counsel, and Dawn M. Messer, Deputy County Counsel,
for Plaintiff and Respondent.

A.B. (Mother) appeals the order dismissing the dependency proceeding and granting custody of I.R. (the child) to J.R. (Father) under a family law order. This case was originally filed in Orange County by the Orange County Social Services Agency (OCSSA). After the child was placed with Father in Barstow, the case was transferred to the San Bernardino County Children and Family Services (the Department). The juvenile court granted custody to Father and dismissed the dependency with family law orders. As a result, Mother's reunification services were terminated, and she was granted monthly visitation. Mother now complains in this appeal as follows:

1. The juvenile court violated her due process and equal protection rights when it permitted the Department to circumvent the strict requirements of Welfare and Institutions section 388, subdivision (c)¹ by allowing early termination of her reunification services without the proper hearing and findings.

2. The juvenile court abused its discretion by refusing to grant Mother's request for a continuance, as good cause existed under section 352.

I

PROCEDURAL AND FACTUAL BACKGROUND

A. *Detention*

According to the detention report filed on January 19, 2010, by OCSSA, the child was born in July 2007. Mother presented herself at an Orange County welfare office

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

regarding welfare benefits. At that time, the child was observed to have several marks on his body. During a subsequent examination, it was discovered that he had 27 marks on his body that included scars, a healed burn, several bruises, and hyper-pigmented marks. Some of the marks appeared to have been inflicted, and others may have resulted from lack of supervision by Mother. An examining doctor concluded that the child was a “battered child.” Mother was arrested on January 13, 2010, for child endangerment. The child was detained by OCSSA and placed in a group home.

Mother had a history of substance abuse. She had filed a restraining order against Father because he had threatened to kill her, and she did not know how to contact him. Father was found and admitted threatening to kill Mother because she refused to allow him to see the child. He was on “control[led] supervision” through a parole office in Victorville from a conviction of making criminal threats in 2008. Father wanted custody of the child. Father had tried to visit with the child, but Mother never returned his calls.

Mother initially denied causing any injuries to the child but later admitted that she hit him with a belt on his bottom and thigh. She later said that she hit or “popped him” with a ruler on the thigh. When the child was asked about some of his injuries, he responded, “Mommy whopping.”

The maternal grandmother (Grandmother) was interviewed and reported that each time Mother brought the child to her home, he had a new scar. She suspected Mother was abusing the child, and it appeared that he was afraid of her. Grandmother also believed that Father was violent.

On January 15, 2010, a section 300 petition was filed against both parents. It alleged under section 300, subdivision (a) that the child suffered or there was a substantial risk that he would suffer serious physical harm at the hands of Mother and Father. It was alleged that Father reasonably should have been aware of the physical abuse and neglect by Mother; however, Father was not allowed by Mother to see the child. It was additionally alleged that there was a failure to protect pursuant to section 300, subdivision (b).

A detention hearing was held on January 19, 2010. Father was named the presumed father. Father was not present and lived in Barstow. He wanted custody and visitation. The juvenile court found a prima facie case and ordered the child be detained and remain in the custody of OCSSA. Monitored visitation was granted for the parents.

B. Jurisdictional/Dispositional Reports

As of the jurisdictional/dispositional report filed on February 10, 2010, the child had been placed with Grandmother. While in the group home, he had been hitting and yelling at the other children. During an interview, the child repeatedly said “son of a bitch” when he did not get what he wanted. The child was fearless and would touch anything.

On January 21, 2010, Grandmother was interviewed a second time. She had seen Mother hit the child with objects, including a spatula. She believed some of the marks came from Mother hitting the child with a belt. Mother had told the child on one occasion that she hated him. The child had hit and spit on Grandmother since he was

placed with her on January 28, 2010. He also used profanity. Mother tested positive for opiates on February 18, 2010.

The jurisdictional/dispositional hearing was conducted on February 23, 2010. Father and Mother both admitted the allegations in the section 300 petition. The juvenile court found the allegations true. Mother was granted six visits per month. She was given money for gas and for classes. Father was allowed two visits a week for two hours to be held in Barstow. The contested dispositional hearing was continued to March 23, 2010.

On March 23, 2010, an addendum report was filed for the disposition hearing. The child was in behavioral therapy. His behavior was improving. Father was participating in reunification services. He was doing well in classes. Mother twice tested positive for opiates and missed one drug test. All other tests were negative. Mother had refused to enter a substance abuse program. Visitation between Father and the child had been successful.

The disposition hearing was held on March 23, 2010. Six months of reunification services were granted to Mother and Father. Visitation was granted to both.

A notice of change of order (section 388 petition) was filed in August 2010 to reduce visitation for Father to monthly visits. Father had been arrested on July 14, 2010. The change was granted. Mother also filed a change order to reduce her visitation with the child in Barstow to help cut down the wear and tear on her car. The request was granted.

C. *Six-Month Status Review Report and Hearing*

On September 14, 2010, OCSSA filed a status review report. On June 9, 2010, the child had been placed with the maternal uncle. Mother had obtained full-time employment. The charges of child endangerment had been dropped on August 3, 2010. Father had been arrested during the reporting period for stalking a female by calling and texting her.

The child had exhibited some behaviors that caused concern, including eating nonfood items such as dirt and soap. He was also very aggressive. He showed a lack of maturity and did not make eye contact. The child had been dismissed from his preschool for encopresis (soiling himself).

The child was removed from Grandmother because she felt she could not adequately care for him. She had returned to work full time. She also found him unmanageable in that he yelled, cussed, hit, spit, and had tantrums. The maternal uncle would be helped by Grandmother.

Mother had been participating in services, including individual therapy, a parenting class, and anger management. Father was also participating in individual therapy. He had graduated from the anger management and parenting classes. Mother had monitored and unmonitored visitation with the child. She was attentive and appropriate. Father had several monitored and unmonitored visits. Visits had been appropriate up until his arrest on July 14, 2010. Father wanted custody. OCSSA was

concerned about Father's arrest and an apparent unauthorized overnight visit that was made possible by Grandmother.

At the six-month review hearing, conducted on September 22, 2010, Mother and Father were granted six additional months of reunification services. OCSSA continued to pay for services and transportation for both Mother and Father.

D. *Twelve-Month Status Review Report and Hearing*

The child remained in the care of the maternal uncle. Father had been released from prison on October 13, 2010, and was living alone in a trailer. The child's behavior had improved, and he had been reenrolled in preschool. He needed ongoing counseling but showed no developmental delays. He still suffered anxiety and was susceptible to stress. Both Mother and Father were reported to have made moderate progress on their case plans. Mother had missed some drug tests and tested positive for alcohol.

During one visit with Mother, despite her asking the child if he needed to use the restroom, he urinated in his pants. He called Mother a "son of a bitch" when she tried to change his clothes. During two other visits, the child had temper tantrums and could not be calmed down by Mother. He cried the entire time he was transported back to the maternal uncle's house. The child had also called Mother stupid and told her to shut up, but she had responded appropriately.

Father's visitation was appropriate, but he had missed a visit because he did not want it to be monitored. His home was assessed, but it was a trailer parked at a junk yard; it was not suitable for the child.

Due to Mother's missed drug tests, and one positive test for alcohol, OCSSA could not recommend that the child be returned to her care. Father could not take custody due to his arrest and incarceration and his limited resources to care for the child. OCSSA recommended six additional months of services and that an 18-month review hearing be set. Family reunification was the permanent plan.

An addendum report was filed on January 25, 2011. Mother continued to participate in services but had not completed her substance abuse program. OCSSA was recommending she receive unmonitored overnight visits. She was compliant with drug testing.

At the review hearing on January 27, 2011, the juvenile court authorized overnight visits for Mother. The juvenile court found that the progress by Mother and Father was moderate. Reunification services were continued for another six months.

E. *Eighteen-Month Review and Hearing, Continuances, and Transfer to San Bernardino County*

During a monitored visit between Father and the child, the child was very defiant but Father was able to control him. The child did not want to leave Father at the end of the visit. During a second visit, the child again did not want to leave Father. Father had been defiant at times with OCSSA but was keeping up his visitation.

The status review report was filed on July 5, 2011. It was recommended that reunification services be terminated as to both parents and that a section 366.26 hearing be scheduled. The child's therapist reported that he was making improvements. The

maternal uncle reported the child continued to be defiant and did not get along well with other children. He had observed tension between Mother and the child. Both Mother and Father were reported to make moderate progress with services. They both continued to participate in services.

Mother had been inconsistent with visitation but was allowed unmonitored visits on the weekends. Father was appropriate and on time for visits. OCSSA reported that Mother had not been consistent in visitation, and she could not control the child. There was not enough progress in the relationship between Mother and the child. Father was visiting regularly but did not have adequate housing. Neither parent was equipped to take custody of the child.

Several additional addendum reports were filed. The maternal uncle was reporting concern regarding unmonitored visits between Mother and the child in that the child was agitated after the visits, and Mother could not control him. During an unmonitored visit on July 17, 2011, in San Bernardino County, the child had bit Mother. Mother bit the child back and left marks. The incident was being investigated by the San Bernardino County Sheriff's Department and the Department. A section 388 petition was filed by OCSSA to change visitation to monitored visits. Father had requested that the child be placed with him at the 18-month review hearing.

On August 11, 2011, Father was granted overnight visits with the child. Father had obtained a full-time job and had moved into a new residence. On August 1, 2011, the 18-month review hearing was continued to September 14, 2011.

An interim review report was filed on August 24, 2011. Overnight visits between Father and the child had gone very well. The child reported to the maternal uncle that he had a “fun time” when he returned from the visits. Despite this, OCSSA recommended that reunification services be terminated at the 18-month review hearing because Father was not ready to take custody of the child; the maternal uncle was willing to adopt or be the legal guardian.

Several other addendum reports were filed. Mother had not been visiting with the child because a monitor for the visits could not be found. Mother had missed several drug tests. Father was continuing to see a therapist to control his anger. The child’s behavior continued to improve at school and at day care. He wanted to live with Father.

The 18-month review hearing was held on September 22 and 23, 2011. Teresa Stevens, a social worker, testified. Father also testified.² After the testimony, Father signed a conditional release of the child to his custody under an intensive supervision program. He agreed to participate in wraparound services. The juvenile court ordered a 30-day continuance. During the 30 days, the child would be placed in Father’s custody. Mother’s current visitation was to be maintained. The 18-month review hearing was continued to October 26, 2011. Mother’s counsel stated that Mother did not want the child returned to Father’s custody. The juvenile court ordered the completion of the hearing for October 26, 2011, at 8:30 a.m.

² Their testimony does not have any relevancy to the issues raised on appeal.

During the 30 days, Father made some contact with OCSSA, but his cellular telephone had numerous problems. He also failed to bring the child to a visit with Mother. Mother had been inconsistent in contacting OCSSA. A wraparound meeting was conducted, and Father was very receptive to assistance in parenting. He was receiving financial assistance. The child continued to report he wanted to live with Father. Visits to the home showed that Father had been improving in parenting and that the child was making improvements at home and school.

A visit with Mother and the child had gone well until the end of the visit when the child threw a temper tantrum and tried to hit and bite her. At another visit, the child told Mother that he loved her and wanted to go with her. Although OCSSA commended Father for establishing a stable home, arranging schooling, ensuring proper medical care, and improving his parenting skills, it recommended that reunification services should be terminated.

At the hearing on October 27, 2011, the trial court continued the 18-month review hearing to November 3, 2011, to give Father additional time to show he could take custody of the child. Father was to make the child available for visits with Mother.

During the 30 days, Father was discharged from parole stemming from the criminal-threat conviction. There was no visit with Mother during the reporting period because the child had an asthma attack the night prior to the visit. Father contacted OCSSA every day and was participating in wraparound services. Father reported that the child exhibited behavioral problems after a visit with Mother.

During a visit with Mother on October 23, 2011, the child cried, spit at Mother, kicked her, and threw tantrums. During a visit on November 7, 2011, the child threw a tantrum and started kicking Mother when she tried to wipe his runny nose. The monitor had to intervene. The child had a second temper tantrum that lasted 10 minutes. Mother missed drug testing the entire month of October 2011. Father complained that temper tantrums by the child were due to visitation with Mother. The matter was continued to December 2, 2011.

In an addendum report filed on November 30, 2011, the recommendation was changed to the child remaining with Father under family maintenance and that a six-month review hearing be set. It was recommended that reunification services for Mother be terminated. During the reporting period, Father had continued to comply with all the court's orders.

At the hearing on December 5, 2011, Father was given custody of the child. Mother was not present. Mother was to be referred to a parent mentor. The matter was continued to June 5, 2012, for a six-month review hearing. A "transfer out" hearing to San Bernardino County was scheduled for December 12, 2011.

OCSSA filed a report on December 8, 2011. It recommended transfer of the case to San Bernardino County and that Mother receive enhancement services. Mother had been appointed a parent mentor. According to a minute order filed on December 15, 2011, the Orange County juvenile court transferred the case to San Bernardino County

since the child was legally residing in Barstow. The six-month review hearing was vacated.

F. *Proceedings in San Bernardino County*

An order was filed by the juvenile court in San Bernardino County noting that a social worker at OCSSA had recommended termination of services to Mother but that there was no specific order to that effect. Mother was receiving enhancement services, which was explained by someone from OCSSA as meaning that Mother may participate in services without financial assistance.

The San Bernardino County juvenile court accepted the transfer of the case. Mother was to receive visitation. The matter was continued for an appearance review on February 9, 2012, and for a semi-annual review on June 5, 2012. A hearing was conducted on December 29, 2012. Mother was appointed counsel. The Department noted that, based on the information from Orange County, the services for Mother had not been terminated at the 361.22 hearing. The Department was not sure of Mother's status. The Department recommended a hearing in 30 days to resolve her status. Mother was allowed weekly visits with the child. The court would address services at the next hearing.

An appearance review report was filed on January 30, 2012. It was recommended that the child remain with Father and that reunification services be terminated for Mother. The child at first did not want to visit with Mother but had become more comfortable when he realized Father would pick him up. It was reported that Mother had been

receiving reunification services since January 19, 2010, and had completed services by the 18-month review hearing, but the child was not returned to her. The Department noted that Mother's visits with the child still needed to be monitored.

At the appearance review on February 9, 2012, the child was continued in custody of Father, and Mother was granted visitation. The June 5, 2012, hearing continued as a semi-annual review hearing. The Department recommended termination of services to Mother, but the juvenile court noted, "[W]e are at an appearance review." The Department argued that Mother was receiving enhancement services and that it was not even sure she had a case plan. The Department was also asking to reduce Mother's visitation to twice per month for two hours each visit.

Mother's counsel stated that Mother was concerned she did not have enough contact with the social worker. Mother wanted to keep weekly visits and would provide her own transportation. She wanted counseling with her and the child. The juvenile court ordered twice monthly visits with transportation assistance from the Department and authorization for two additional visits per month if she could transport herself to those visits.

A hearing was held on March 29, 2012. Mother was present. The Department noted that the recommendation for the June 5 review hearing would be dismissal with custody to Father and a family law order. The juvenile court requested that a family law order accompany the review report. On April 24, 2012, it was recommended by the Department that the case be dismissed by packet with a family court order pursuant to

section 362.4 with the review hearing being unnecessary. Mother objected to dismissal of the case with a family law order giving custody to Father.

On May 23, 2012, the matter was called on Mother's written objection to the dismissal for a family law order. Mother was not present and was reported to be out of the country. At the hearing, Mother's counsel indicated Mother objected to supervised visits.

The juvenile court asked if services had been terminated as to Mother. Mother's counsel responded, "[A]t the two two hearing I believe the worker recommended termination of services to Mother. But the discovery that I have indicated, there was no order terminating services. I don't know if that happened after it got here or not." The juvenile court then indicated that Mother was not present, and it should just sign the dismissal order. Mother's counsel objected on Mother's behalf and requested a hearing on the issue of Mother's objection to Father's custody. Minor's counsel objected to unsupervised visits because Mother bit the child during the last unmonitored visit.

The juvenile court did not see any "valid reason" to continue the case or send it to mediation. Mother's counsel stated, "I've already made my argument, your Honor. Mom's remedy really is to go to family law court if she doesn't like the family law order, to be quite frank but, it's my obligation to at least request trial or mediation."

The juvenile court denied the requests for mediation and a continuance. It signed the custody order and stated that Mother would have to continue with supervised visitation, two times per month. The case was dismissed and transferred to family law

court. Mother filed a timely notice of appeal from the grant of custody to Father pursuant to a family law order.

II

TERMINATION OF REUNIFICATION SERVICES WITHOUT A PETITION UNDER WELFARE AND INSTITUTIONS CODE SECTION 388, SUBDIVISION (C)(1)(B)

Mother complains that the juvenile court violated her due process and equal protection rights by terminating her reunification services without a section 388 petition being filed and a hearing being conducted. She insists that pursuant to section 388, subdivision (c) she was entitled to a hearing and express findings by the juvenile court before her reunification services could be terminated. She claims that such error was not harmless because there was no new evidence that warranted terminating services, she did not receive reasonable services, and her visits with the child were reduced.

A. *Forfeiture*

Mother claims that her due process rights and her rights to equal protection were violated because she was entitled to hearings and findings under section 388 prior to her services being terminated when Father was granted custody of the child. She also raises for the first time that section 388, subdivision (c) was applicable to the termination of her reunification services almost two years after services were granted. However, Mother never made these arguments in the lower court.

“An appellate court will ordinarily not consider procedural defects or erroneous rulings . . . where an objection could have been, but was not, presented to the lower court by some appropriate method. [Citations.]’ [Citation.]” (*In re Marriage of Hinman* (1997) 55 Cal.App.4th 988, 1002.) Neither Mother nor Mother’s counsel objected to the termination of reunification services at the review hearing where Father was granted custody of the child, and the dependency proceeding was terminated. Although Mother’s counsel objected to Father taking custody, she never stated that reunification services could not be terminated without a section 388 petition, much less that such termination violated Mother’s due process and equal protection rights.

In her reply brief, Mother claims that if we find that she waived her claim, she received ineffective assistance of counsel due to counsel’s failure to raise the objections. In order to address the claim, we must address the merits of Mother’s claim. As will be set forth, *post*, it does not appear that section 388, subdivision (c) would be applicable to this case. Moreover, Mother cannot show prejudice, as the juvenile court would not reasonably have found that she was entitled to continued reunification services.

B. *Termination of Reunification Services*

“When a dependent child is removed from parental custody, the court generally orders services for the family to facilitate its reunification. [Citations.]” (*In re Katelynn Y.* (2102) 209 Cal.App.4th 871, 876.) “A parent, however, has no entitlement ‘to a prescribed minimum period of services.’ [Citation.]” (*Ibid.*) Section 388, subdivision (c) states in pertinent part as follows: “(1) Any party, including a child who is a

dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5”

Section 388, subdivision (c)(1) additionally states that any party may petition for early termination of reunification services, but only if one of two conditions exist: “(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services. [¶] (B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent or guardian’s failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.”

Section 361.5, subdivision (a)(2) provides that a motion pursuant to section 388, subdivision (c) shall be brought to terminate reunification services early. Section 361.5, subdivision (a)(1) provides in relevant part as follows: “Family reunification services, when provided, shall be provided as follows: [¶] (A) Except as otherwise provided in subparagraph (C) [relating to sibling groups of various ages], for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the

dispositional hearing and ending 12 months after the date the child entered foster care as provided in Section 361.49, unless the child is returned to the home of the parent or guardian. [¶] (B) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under three years of age, court-ordered services shall be provided for a period of six months from the dispositional hearing as provided in subdivision (e) of Section 366.21, but no longer than 12 months from the date the child entered foster care as defined in Section 361.49 unless the child is returned to the home of the parent or guardian.”

Sections 361.5 and 388, subdivision (c) provide the vehicle by which a party can seek to have services terminated early (prior to the six-month and 12-month review hearings) but at the same time limits the court’s discretion to terminate services early by requiring a hearing and a finding by clear and convincing evidence that certain circumstances exist, including the substantial likelihood reunification will not occur with a parent. (*In re Katelynn Y.*, *supra*, 209 Cal.App.4th at p. 879.)

It should be noted that section 388, subdivision (c)(1)(3) provides that “[t]he court shall terminate reunification services *during the above-described time periods* only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.”

The plain language of these statutes is clear. Section 388, subdivision (c) only requires a petition under its provisions be filed for early termination of reunification

services. The time period “early” has been limited to the six-month and 12-month periods for reunification services by sections 366.21, subdivisions (e) and (f), and section 361.5, subdivision (a). When services are continued beyond the 12-month period, they are granted pursuant to the discretion of the juvenile court and only if the parent is going to get custody of the minor. The juvenile court can continue the case and court-ordered family reunification services to the 18-month review date only if “there is a substantial probability that the child will be returned to the physical custody of his or her parent” (§§ 366.21, subd. (g)(1), 361.5, subd. (a)(3).) Nothing in the language of the statutes extends the protections set forth in section 388, subdivision (c)(1) beyond the 12-month period. As such, the OCCSA or the Department did not have to file a section 388 petition, and the juvenile court did not have to make findings or conduct a hearing after the initial 12-month period had expired.

Mother contends that in *In re Katelynn Y. ,supra*, 209 Cal.App.4th 871 the court explained that a parent may be offered services past the 18-month review date and that section 388, subdivision (c) was the proper vehicle for termination of services. The case does not hold as such. The issue in the case was whether one parent could have reunification services terminated while the other parent continued with services. The court did not address the language of section 388 and its application when services are terminated over two years after the commencement of the dependency proceedings.

Mother argues the termination of reunification services without a hearing and finding under section 388, subdivision (c) violated her rights to due process and equal

protection. However, as we have found, section 388, subdivision (c)(1) does not apply to the termination of reunification services after the 12-month period. Mother had her prescribed 12 months of reunification services and could not regain custody of the child. The trial court, within its discretion, extended the reunification period. Nothing in the language of the statute requires that after this period, where the trial court's decision to extend services is discretionary, a section 388 petition is required in order to terminate services. Moreover, “[b]ecause reunification services are a benefit, not a constitutional entitlement, the juvenile court has discretion to terminate those services at any time, depending on the circumstances presented. [Citation.]” (*In re Katelynn Y.*, supra, 209 Cal.App.4th at p. 877.) Mother's federal constitutional rights were not violated by the termination of reunification services without first filing a petition under section 388.

Additionally, Mother's due process rights were not implicated in that she had notice that her reunification services might be terminated. A parent in a dependency proceeding is entitled to due process, that is, notice of the proceedings, a hearing, and an opportunity to be heard and object. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 913.) Here, Mother was notified that the juvenile court was going to dismiss the proceedings and grant custody to Father. Although the family law order was not attached to the Department's report, Mother was aware that this was the recommendation based on other reports and hearings. Mother was represented by counsel at the review proceedings. Inherent in the dismissal was the termination of services. No due process violation occurred.

Further, even if the juvenile court was subject to the provisions of section 388, subdivision (c), such error in failing to make the findings and having the hearing was harmless. (*In re A.D.* (2011) 196 Cal.App.4th 1319, 1327 [harmless error analysis applied in dependency proceeding when mother did not receive statutorily mandate notice of hearing at which reunification services were terminated].) As set forth, *ante*, a juvenile court in assessing a section 388 petition seeking to terminate reunification services under its provisions must find by a preponderance of evidence that reasonable services have been offered or provided and, upon a finding of clear and convincing evidence, that inaction of the parents creates a substantial likelihood that reunification will not occur. (§ 388, subdivision (c)(1)(3).)

Here, starting in March 2010, Mother was given numerous reunification services, including counseling, drug testing, anger management, and parenting classes. She was finally granted unmonitored overnight visits. However, these visits had to be terminated because she bit the child. After visits, the child would throw temper tantrums and exhibit behavioral problems that he was not having while in the custody of Father. Mother had already been reduced to enhanced services, which she had to pay for herself. Father had turned his circumstances around and was providing a stable and secure home for the child. No further reunification services would have been granted by the juvenile court to Mother had a section 388 petition been filed.

Based on the foregoing, the juvenile court did not violate Mother's federal constitutional rights by granting custody of the child to Father and thereby terminating Mother's reunification services.

III

DENIAL OF CONTINUANCE

Mother contends that if we deny her claim, then the juvenile court erred by denying her a continuance. She claims the improper procedure in terminating reunification services and her being out of the country constituted good cause under section 352, subdivision (a) to grant her a continuance.

Subdivision (a) of section 352 grants the juvenile court discretion to continue any dependency hearing beyond the time limit within which the hearing is otherwise required to be conducted on a showing of good cause as long as a continuance is not contrary to the minor's interest.

Since we have concluded there was no error in terminating reunification services, it did not constitute good cause to continue the hearing. Mother claims that the continuance was necessary because she was out of the country. However, at the hearing, Mother's counsel provided no information as to why Mother was out of the country. Mother has failed to establish that good cause existed to continue the hearing.

IV

DISPOSITION

The orders of the juvenile court are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RICHLI
J.

We concur:

McKINSTER
Acting P. J.

KING
J.