

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re BROOKLYN S., A Person Coming
Under the Juvenile Court Law.

KERN COUNTY DEPARTMENT OF
HUMAN SERVICES,

Plaintiff and Respondent,

v.

K.S.,

Defendant and Appellant.

F066319

(Super. Ct. No. JD129083)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Kern County. Jon E. Stuebbe,
Judge.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and
Appellant.

Theresa A. Goldner, County Counsel, and Kelli R. Falk, Deputy County Counsel,
for Plaintiff and Respondent.

-ooOoo-

* Before Kane, Acting P.J., Franson, J., and Peña, J.

INTRODUCTION

K.S. (mother) appeals from the juvenile court's order at the disposition hearing placing her daughter, Brooklyn S., with Brooklyn's maternal grandparents. Mother contends the juvenile court abused its discretion in its placement of Brooklyn. We disagree and affirm the juvenile court's order.

FACTS AND PROCEEDINGS

On July 16, 2012, the Kern County Department of Human Services (department) filed a juvenile dependency petition pursuant to Welfare and Institutions Code section 300, subdivision (b),¹ alleging that Brooklyn, then six years old, was at substantial risk of serious physical harm or illness due to mother's inability to adequately supervise or protect Brooklyn. The petition alleged mother left Brooklyn at a neighbor's home without the neighbor's knowledge, only fed Brooklyn once a day, and that Brooklyn was found wearing dirty clothing and her hair was matted. The petition further alleged that mother attempted suicide in April 2009, was paranoid, and was mentally unstable.

Brooklyn was released to the custody of her maternal grandfather, John S., and step-grandmother, Nikki S. Mother telephonically agreed to the initial release of Brooklyn to John S. Brooklyn told social workers that her grandparents were typically her primary caregivers.

John S. indicated to social workers that mother was a chronic drug user and over the past few years her mental health had deteriorated. Mother's home went into foreclosure and was sold. John S. believed mother was homeless and moving from place to place. Mother confirmed she had been evicted from her home. Although John S. was willing to take Brooklyn, he would not let mother live with them. On July 17, 2012, the juvenile court found a prima facie case at the detention hearing.

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

Mother's two older children lived with John and Nikki S. Mother did not have a good relationship with her father and stepmother and asserted that her stepmother put things in her father's head. When social workers first encountered Brooklyn, she was dirty and dressed in dirty clothes. Brooklyn told social workers that she had one meal per day. Brooklyn's meal the day she was detained was a hotdog and juice. Mother's most recent residence had dirty carpets and there was the very strong odor of animal feces and garbage. The center island in the kitchen had food and kitchen utensils, and was infested with ants.

Mother denied using drugs. Mother attempted suicide in 2009. Brooklyn reported that since they had been evicted from their home four months earlier, she and her mother had lived in 30 different places. Brooklyn reported that although she did not know what drugs were, her mother smoked something that she rolled and called "rollies." Brooklyn also saw mother smoke "in a pipe" and used other people's pipes.

Mother's older children were living with the maternal grandparents for the previous four years. Mother's older daughter, who was 16 years old, reported that the grandparents did not use drugs, there was no violence in the home, the home was always clean, and the two children were always fed. Mother's older son also reported that his grandparents do not use drugs and he had never witnessed violence in their home. The maternal grandparents had no history with child protective services.

Mother declined requests from the department to take drug tests. Brooklyn told social workers that mother hated Nikki S. and frequently said that she was "going to kill Nikki."

At the jurisdiction hearing on August 14, 2012, the juvenile court found the allegations of the department's petition to be true.

Mother declined several drug tests in July and early August 2012. In late August 2012, mother tested positive for methamphetamine on one occasion and had a second

presumed positive test for presence of amphetamine. Mother had another positive test for methamphetamine in late October 2012. An older child reported that mother accused that child of stealing her marijuana. Mother refused to authorize the department's request that she release her medical records concerning her suicide attempt.

A clinician, Dr. Gary Longwith, evaluated mother's mental health and concluded that she suffered from a depression disorder and a mood disorder. Mother also suffered stress syndrome from a prior medical procedure. Dr. Longwith did not recommend that Brooklyn be placed with mother until she had a suitable residence, a means of financial support, started treatment with a psychiatrist, was compliant with taking prescribed medications, and complied with court and department recommendations.

The social worker noted that John and Nikki S. were very active in Brooklyn's life and remained interested in maintaining that bond with her. The couple was in the process of obtaining a guardianship for Brooklyn's half-siblings. Brooklyn's father indicated that he was not in a stable living environment and suggested that Brooklyn be placed with her maternal grandparents. He also indicated mother was mentally unstable and paranoid that her family members were out to get her.

Brooklyn was placed in a foster home. Mother was dissatisfied with this placement and wanted Brooklyn removed from foster care. Mother did not want Brooklyn placed with John and Nikki S. because according to mother they would turn Brooklyn against mother. Mother claimed that John S. was a drug addict and abusive. A Team Decision Meeting was held in August 2012 to discuss Brooklyn's placement. At that time, mother was in favor of having Brooklyn placed with John S. Brooklyn later told social workers that she was very happy once she was finally placed with her grandparents.

The department recommended that mother receive reunification services, parenting and child neglect programming, substance abuse treatment, mental health

counseling, psychotropic medication evaluation, and submission to random drug testing. The department recommended weekly visitation for mother.

In a supplemental report, the department stated that John and Nikki S. obtained a temporary guardianship over Brooklyn's older half siblings. When informed by a social worker that Brooklyn had been placed with her grandparents, mother explained that she could not deal with them. Mother accused Nikki S. of having an antisocial disorder and stalking her.

On December 7, 2012, mother testified that until recently, she had lived in her home for 15 years. Mother was employed for intervals of five years with two businesses in Bakersfield. When there was a layoff from her more recent job, mother went back to school and obtained an Associate of Arts degree in business. Mother was concerned that Brooklyn was not attending her original elementary school because of her ties with friends there.²

Mother also explained her concerns about Brooklyn being placed with her maternal grandparents. Mother stated that one older child broke an arm and another did not have dental care for the first three years of living with the grandparents.

Mother stated she was concerned about the ability of her father and stepmother to take care of Brooklyn and the two older children. Also, mother's stepmother did not like mother and mother feared this would spill over to Brooklyn. Mother described Nikki S. as a bully. Brooklyn's placement with the grandparents also made mother's depression and anxiety worse. Mother acknowledged that John S. loved her children.

The juvenile court found clear and convincing evidence that the allegations of the petition were true and removal of Brooklyn from the physical custody of mother was

² The department reported that Brooklyn had missed 80 days of school (16 days were excused absences), could not name any friends from her old school, and expressed no reservations about changing schools.

necessary for her protection. The court found the department complied with the case plan by making reasonable services available. The court ordered Brooklyn's continued placement with her grandparents but noted the department should monitor the situation to insure there was no alienation problem occurring. The court ordered reunification services for mother, adopting the department's reunification plan.

DISCUSSION

Mother contends the juvenile court abused its discretion in placing Brooklyn with the maternal grandparents because they are hostile to mother's reunification efforts. We reject mother's contention.

When a juvenile court orders the placement of a minor outside the parent's home, its determination is reviewed on appeal for abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318 (*Stephanie M.*); *In re Sabrina H.* (2007) 149 Cal.App.4th 1403, 1420-1421.) The juvenile court's ruling is not disturbed on appeal unless an abuse of discretion is clearly established by a showing that the juvenile court's ruling has exceeded the limits of legal discretion by making a determination that is arbitrary, capricious, or patently absurd. (*Stephanie M., supra*, 7 Cal.4th at p. 318.) The appropriate test for abuse of discretion is whether the juvenile court exceeded the bounds of reason. When two or more inferences can be reasonably deduced from the facts, the reviewing court has no authority to substitute its decision for that of the juvenile court. (*Id.* at pp. 318-319.)

Subdivision (a) of section 361.3 provides: "[i]n any case in which a child is removed from the physical custody of his or her parents pursuant to section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative" Further placement criteria in section 361.3, subdivision (a) include the best interests of the child; the wishes of the parent, relative

and/or child; the nature and duration of the relationship between the child and relative; and the placement of siblings in same home.

In situations where section 361.3 is applicable, the statute does not create an evidentiary presumption that placement with a relative is in the child's best interests. Rather, the juvenile court is to consider whether placement with the relative is appropriate in light of the relative's ability to provide a secure and stable environment for the child. (*Stephanie M., supra*, 7 Cal.4th at pp. 320-321; *In re Andrea G.* (1990) 221 Cal.App.3d 547, 556-557.)

Mother argues at length that the juvenile court abused its discretion to place Brooklyn with the maternal grandparents because they wanted to interfere with her reunification plan, the adequacy of the grandparents' care of her two older children, Brooklyn's change of schools and her ties to her old school, Nikki S.'s hostile attitude toward mother, and mother's description of Nikki S. as a bully.

Mother, however, ignores the abundant evidence in the record that supports the juvenile court's decision to place Brooklyn with her maternal grandparents. When Brooklyn was initially detained, she already viewed her grandparents as her primary caretakers. Mother often left Brooklyn with John and Nikki S. Also during the initial detention, mother allowed John S. to take Brooklyn home with him. Although Brooklyn was later placed in a foster home, she was happy when John and Nikki S. resumed custody of her. During a Team Decision Meeting in August 2012, mother was in favor of John S. having custody of Brooklyn rather than a foster parent.

John and Nikki S. had recently acquired temporary guardianship of Brooklyn's two older half-siblings and Brooklyn was reunited with them. There was also evidence indicating that contrary to mother's assertion during the detention hearing, Brooklyn was not attached to her old school. The juvenile court included a component to its order that the department keep an eye on things to insure that there was not an alienation issue

occurring between Brooklyn and mother. Mother often relegated her parenting role to John and Nikki S.

In sum, there is no evidence that the juvenile court abused its discretion in placing Brooklyn with her maternal grandparents, or that its order was arbitrary, capricious, or exceeded the bounds of reason. In effect, mother is requesting this court reweigh the evidence adduced by the juvenile court. We decline her invitation to do so. (*In re Laura F.* (1983) 33 Cal.3d 826, 833; *In re G.M.* (2010) 181 Cal.App.4th 552, 564.)

DISPOSITION

The orders of the juvenile court are affirmed.