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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re J.P. et al., Persons Coming Under the
Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

Julio P.,

Defendant and Appellant;

A.A.,

Defendant and Respondent.

G046052

(Super. Ct. Nos. DP021577,
DP021578, DP021579)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Gary
Bischoff, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Grace E. Clark, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, and Karen L. Christensen, Deputy County Counsel, for Plaintiff and Respondent.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Respondent.

No appearance for Minors.

* * *

The juvenile court did not err when it did not offer reunification services to the father nor when it placed the minors with the mother. We affirm.

I

FACTS¹

On August 23, 2011, minors J.P., now eight years old, R.P., now seven years old and S.P., now four years old, were removed from the home of their paternal grandmother who was their primary caretaker. The father, Julio P., the minors and the grandmother all lived together. Ten days earlier, on August 13, 2011, the father was arrested and cited for being under the influence of a controlled substance.

The court found the allegations of the first amended petition true by a preponderance of the evidence. Those allegations included the following: “As long as the children . . . have resided in the home with their father [Julio P.] and their paternal grandmother . . . there have been acts of domestic violence between their father and

¹ We are aware of rule 8.416 of the California Rules of Court, which shortens the time for record preparation and briefing in appeals terminating parental rights “To permit determination of the appeal within 250 days after the notice of appeal is filed . . .” (Cal. Rules of Court, rule 8.416(e)(1).) In this case, the mother’s due process rights required us to appoint counsel for her after Orange County Social Services Agency (SSA) filed a letter brief indicating it would not oppose the father’s appeal. This unavoidably slowed the process of the appeal so that our opinion was filed beyond the 250 day target.

paternal grandmother, with the children present in the home. The acts of domestic violence between the children's father and paternal grandmother include yelling, using strong language, pushing, verbal and physical fighting, throwing objects, breaking plates, punching objects such as walls and a radiator heater."

Five years earlier, in 2006, Riverside County substantiated general neglect and emotional abuse by the mother, A.A., and the father due to ongoing domestic violence. Allegations in the first amended petition about this prior incident state: "On or about January 24, 2006, allegations of emotional abuse and general neglect to the children [J.P. and R.P.], and the children's half siblings . . . by the mother [A.A.], and the father/stepfather [Julio P.] were substantiated by Riverside County Juvenile Court due to ongoing domestic violence in the home. Voluntary Family Services were provided and the case was open from January 24, 2006, to October 25, 2006. It was closed as the family refused services, placing the children at risk of harm. Specifically, the mother failed to successfully participate in and complete a domestic violence/batterer's treatment program and was dropped from the program due to excessive absences. The mother also failed to participate in the in-home parenting program, thus placing the children at substantial risk in her care."

Prior to the dispositional hearing in the present case, SSA recommended the court find suitable placement for the children, and that the placement not be with either parent. The agency further recommended reunification services be offered to both parents.

After a contested dispositional hearing, the court stated: "The court, in fashioning the subsection or — identifying the subsection to proceed under with respect to [Welfare and Institutions Code² section] 361.2, is in something of a quandary. I don't believe that it would be beneficial to this family to have a situation where these two

² All further statutory references are to the Welfare and Institutions Code.

parents were vying for who gets to have custody of these children. I think that's already caused a great deal of damage to these children, as it is — as was evident by their conduct that's been reported in these reports, and so I don't want to — I think it's inappropriate. [¶] I don't think it's in the children's interest to provide reunification services to the father because, again, that puts it into the context as the — as subsection (3) indicates, services could be provided to both parents, in which case the court shall determine at review hearings held pursuant to section 366 which parent, if either, shall have custody of the child. [¶] I'm concerned about that because I think that that's a dynamic that would not be — would not be helpful to either father's recovery regarding domestic violence issues, nor to the children, who are — so far, have been put in the middle here. [¶] . . . [¶] Subsection (3), that the court will not offer services to the father, but instead, offer services to the mother.”

The minute order states: “Pursuant to 361.3, court will not offer services to father.” But because the reporter's transcript contains the above-quoted detailed analysis regarding section 361.2, we assume the minute order is incorrect with regard to section 361.3.

The post dispositional hearing minute order contains the following entries: “[T]o vest custody with father would be detrimental to child (due to domestic violence; father has difficulty controlling himself with the professional in this matter; that father has substance abuse problem.)” “Court finds to vest custody with mother is required to serve child's best interest.” “Court finds it is not in children's best interest to provide father with reunification services.” “Court offers services to mother.” Because the mother resides in Riverside County, the court ordered the matter transferred to that county.

II

DISCUSSION

Reunification Services for the Father

The father argues that as a matter of law the juvenile court erred when it did not offer him reunification services. He also contends the court did not conduct an analysis under section 361.5.

Section 361.2, subdivision (a) states that when the court orders removal, the court shall determine whether “there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection or physical or emotional well-being of the child.” In this matter, the juvenile court proceeded to follow subdivision (b) of section 361.2 which states the court may order reunification services to the parent who is assuming custody. The court ordered the matter to remain within the jurisdiction of the juvenile court, that services be provided to the mother and that home visits by the social worker be conducted.

“[T]he juvenile court must normally order the social services agency to provide reunification services to the child and the parent. Without such services, a parent whose child has been removed has little hope of ever regaining custody of the child.” (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 751 (dis. opn. of Kennard, J.)). When there is no current need to reunify a family, the goal of the dependency proceeding is simply to eliminate the conditions or factors requiring court supervision. (*In re A.L.* (2010) 188 Cal.App.4th 138, 140-141.) Section 16501, subdivision (h) states that family reunification services are designed for use when a child cannot safely remain at home, but here, while the court determined that to vest custody with the father would be detrimental to the children’s best interests because of the father’s domestic violence, the

children were not ordered to be placed in foster care, but to be placed at home with their mother.

The juvenile court was well within its discretion when it ordered services to the parent who is assuming custody, the mother. Section 361.2, subdivision (b)(3) states in part: “the court may order that services be provided *solely* to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision” (Italics added.)

Under the circumstances we find in this record, we cannot conclude the juvenile court was required to engage in an analysis under section 361.5 or that the father is entitled to services. We find no error.

Placement with the Mother

The father next argues the court abused its discretion when it placed the minors with the mother “because placement with mother was detrimental to the children.” The juvenile court found by clear and convincing evidence “to vest custody with the father would be detrimental to the children and to vest custody with the children’s mother is required to serve the children’s best interest.” With regard to the mother, the court stated: “There’s no evidence in the reports to suggest that she could not properly care for these children and the children, apparently, would like to live with their mom, as well, which I think should work out well.”

In placing the minors with their mother, the court followed the procedures set forth in section 361.2, discussed above. If the noncustodial parent requests custody, the court “*shall* place the child with the parent *unless* it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.” (*In re Z.K.* (2011) 201 Cal.App.4th 51, 70.) We find no error.

III

DISPOSITION

The juvenile court's order is affirmed.

MOORE, ACTING P. J.

WE CONCUR:

FYBEL, J.

IKOLA, J.