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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

E.H.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE  
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES  
AGENCY et al.,

Real Parties in Interest.

G046811

(Super. Ct. No. DP020407)

O P I N I O N

Original proceedings; petition for a writ of mandate to challenge an order of the Superior Court of Orange County, Jane Shade, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Law Office of J. Michael Hughes and Lawrence A. Aufill for Petitioner.

Nicholas S. Chrisos, County Counsel and Karen L. Christensen, Deputy County Counsel for Real Party in Interest, Orange County Social Services Agency.

Law Office of Harold LaFlamme and Yana Kennedy for Real Parties in Interest the Minors.

\* \* \*

E.H., also known as E.R., the out-of-state father in this dependency case (father), petitions this court for a writ of mandate to overturn the juvenile court's order at the 18-month review denying him further reunification services. Substantial evidence supported the trial court's decision that he was offered reasonable reunification services and that placement of his two preteen daughters with him would have been detrimental to them. Accordingly, we deny his petition.

## I

### FACTUAL AND PROCEDURAL BACKGROUND

#### *A. Background and First Six Months of Dependency*

Father and D.R. (mother) were married in 1998 and divorced by 2004. At the time of the marriage, father was 18 years of age, and, according to a family friend, quite immature. The couple had three children: Ethan R., born in 1998, L.R., born in 1999, and B.R., born in 2000. The oldest child, Ethan, is not the subject of this dependency petition.

After the divorce, father had virtually no contact with the children after he started a new relationship with a woman who objected to father having any involvement with his family. In 2004, father relocated to Missouri to live with his sister. Ethan reported father changed his name to avoid paying child support.

By the fall of 2010 father was still living in Missouri. Mother, unable to care for the two girls, decamped to Bakersfield, leaving the children with her sister Dawne. In early October 2010 police raided Dawne's home, where they learned the two

girls were being used to run drugs to customers parked outside the residence. Officers arrested eight people after finding heroin and methamphetamine were in the residence. The two girls were taken into protective custody. At the time father's whereabouts were unknown.

The juvenile court established jurisdiction over L.R. and B.R. by the end of November 2010. The Orange County Social Services Agency (SSA) located father in Missouri. The court gave him presumed father status and formally added him to the mother's case plan. At this time his occupation was machine laborer.

As it related to father, the case plan required counseling, parenting education, and a maximum of two monitored phone calls a week, each limited to one hour, but the assigned social worker could limit the phone calls to a duration of 10 minutes each. SSA initiated an evaluation under the ICPC (Interstate Compact on the Placement of Children, see Fam. Code, § 7900 et seq.). By the first week of December father called the girls weekly from Missouri.

By mid-March 2011 father had relocated to Kansas, identified available counseling services, and had completed a parenting class. Less than two months later, in early May 2011, father found employment as a "cardboard handler." He resided with his sister in her two-bedroom house. His phone calls to the girls had "fluctuated" with his changing work hours, compounded by the two-hour time difference between Kansas and California. A social worker characterized father's compliance with the case plan to that point as "moderate." Father had finished a parenting education class in Missouri and had attended bi-weekly counseling sessions. A social worker observed it would take time for father to rebuild a relationship with his daughters because his only contact occurred during monitored phone calls, which were limited to 10 minutes a week. Father's calls were sporadic, however. He called the older girl L.R. once in March and twice in April, and according to the social worker, father had "very little phone contact" with the younger daughter B.R.

*B. The 6-Month Review and the Following Summer*

Father traveled to California for the six-month review in mid-May 2011. He saw his daughters twice -- three hours at a local shopping mall, plus a supervised visit at the home of Mabel S., a family friend and the current caretaker. Father spent the evening and the next morning with his two girls. That night he made dinner, the children watched cartoons, and he put them to bed. Father returned the children to the caretaker the next morning. That evening was the most contact father would have with his daughters during the 18-month reunification period.

At the six-month review the court ordered SSA to “evaluate the appropriateness of a summer visit for the children with the father.” Minors’ attorney urged father and mother to become more engaged with their children “because we’re not seeing a lot of involvement.”

In mid-May father moved to Delaware with his sister so she could pursue a job opportunity. His new residence had three bedrooms, with room for the girls. Father had also found new work as an auto mechanic, but working only from 7 a.m. to 1 p.m. He hoped his daughters could visit him in the summer because he was eager to establish a relationship with them. His sister offered to pay the cost of airline tickets for the girls. The girls, however, were hesitant to travel to Delaware, both claiming a fear of flying.

The ICPC evaluation was still pending; no summer visit came about. (Social workers in Delaware would still be working on the ICPC evaluation by the time of the 18-month review in April of the following year.) Meanwhile, the girls suffered through several placements with different caretakers from August 2011 to early November 2011.

Neither child took to the uncertainty well. While in detention at the sibling assessment facility the girls were “talking back and being rude,” and threatened to “refuse foster care placement.” During this period father had difficulty placing phone calls to the children, ostensibly because they were “busy with activities.” There were several

instances in this period when the girls refused to accept father's calls. At the August 30 status conference father complained to the court by telephone that he had been given only a limited opportunity -- from 7 to 8 p.m. -- to talk to his daughters at a county sibling assessment facility. SSA eventually found a stable environment for the children when the maternal grandmother and her husband agreed to act as caretakers.

*C. The 12-Month Review and Winter of 2012*

By the time of the 12-month review in early November 2011, the Delaware authorities were still evaluating father's residence for suitability. At this point the two girls resided at the sibling assessment facility.

Going into the 12-month review, a social worker again evaluated father's compliance with the case plan as "moderate." Father discontinued counseling in Kansas because he moved to Delaware, but failed to resume treatment. The 12-month review revealed that neither girl wanted to live in Delaware with their father. B.R. explained, "I don't want to live with my dad. I don't know him that well." L.R. found father's phone calls boring, and L.R. expressed frustration that father had not moved back to California to be near them.

Father attended the 12-month review hearing. Although he was in California for an entire week, he visited his daughters twice, spending an hour each time. He did not testify at the 12-month review. The court ordered "SSA to look into additional services for Father to help facilitate a better relationship with children, possibly therapy over the phone."

On November 5, just after the 12-month review, the children were finally placed with their maternal grandmother and her husband in Escondido. By mid-March 2012 the grandmother moved to Dana Point. By all accounts the two girls have thrived in that placement and continued to do so through the 18-month review.

For his part, father found a new job as the holiday season approached. His working hours caused his telephone contact with the girls to become sporadic.

The social worker's report for the 18-month review evaluated father's compliance with the case plan as "minimal." The worker noted father had not reenrolled in counseling due to his new job, his telephone calls to the girls were inconsistent, and he had difficulties working out a schedule for phone calls, resulting in a period where he did not talk to the girls. According to the social worker, father harmed his relationship with his daughters when he posted derogatory comments about the girls' brother on Facebook. L.R. complained talking to father on the phone was still boring, and B.R reported her phone conversations with father were awkward. Both girls expressed disappointment that father sent them Christmas gifts but sent nothing to their elder brother. Telephone contact ceased from February 15 to the 18-month review conducted April 2. Father did not travel to California for the court hearing, though he testified by phone.

#### *D. The 18-Month Review and this Writ Petition*

At the 18-month review father's attorney requested a continuance so that the Delaware home evaluation, still pending, might be completed. The trial court denied the request.

The social worker testified that both girls had "expressed that if they were forced to move with their father, that they would run away." The trial court terminated reunification services, explaining that father failed to take advantage of other means to establish a parental relationship with his daughters, such as sending them "funny cards or drawings or letters." The court noted that father had not benefited from parenting classes and failed to complete his counseling therapy. The court also found reasonable reunification services had been provided. Father then filed this writ proceeding.

## II

### DISCUSSION

Father challenges the sufficiency of the evidence to support the court's determination that returning the children to him would be detrimental to their emotional health. He also challenges the evidence supporting the court's finding that reasonable reunification services were provided.

Both of father's attacks on the order terminating reunification services are necessarily founded on an asserted lack of substantial evidence. (See *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625 [substantial evidence standard of review applied to mother's claim that insufficient evidence supported court's termination order]; *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762 ["We stress again that, with 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."].)

Here, substantial evidence supports the trial court's order. Father had difficulty overcoming the resentment and anger his daughters felt for his abandonment of them years before. Father simply failed to establish a bond with his children, and in the last six months of the 18-months of the reunification period, father's relationship with his two girls actually deteriorated. He managed to affirmatively alienate them by pointedly ignoring their elder brother Ethan at Christmas, then compounded the alienation by posting disparaging remarks about Ethan on Facebook. The two girls expressly rejected living with father, preferring instead to stay with the maternal grandparents, and threatened to run away if sent to live with him in Delaware. After the holidays, father's phone calls to his daughters, never made with regularity, trailed off. He failed to call them at all in the six weeks before the 18-month review, and the negative impression from the telephone relationship (the calls were "boring") had been reinforced. Father had seen his daughters a mere four times during the reunification period. These facts amply

support the court's conclusion no bond existed between father and his children. In contrast, there was a dramatic improvement in the girls' outlook and behavior after the placement with their grandmother and her husband.

Father complains he did not receive reasonable reunification services because SSA failed to arrange conjoint therapy. The social worker placed L.R. and B.R. in counseling to help improve their relationship with father, and authorized conjoint counseling, but only if the counselor deemed it appropriate. The social worker correctly left the decision whether to begin conjoint therapy with the mental health expert, who could better determine whether conjoint therapy could cause emotional harm. This was a balanced and reasonable approach.

It is likewise plain that any conjoint phone therapy would not have changed the outcome. The court's *suggestion* that SSA "look into" conjoint phone therapy was made at the November 2011 12-month review. Given the complexity of issues preventing the formation of a bond between father and his daughters, it is doubtful the short time left before the 18-month review hearing was sufficient to establish a meaningful relationship, even assuming the children's therapist immediately began the process. Father's failure to participate in calls or counseling suggests combining the two would be a pointless gesture.

Given the substantial evidence of detriment and adequacy of services, we cannot find the court's decision to terminate reunification services was unreasonable. (See *In re Brequia Y.* (1997) 57 Cal.App.4th 1060, 1068 [orders terminating reunification services reviewed under abuse of discretion standard].)

Accordingly, we deny the requested petition.

ARONSON, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

IKOLA, J.