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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re S. L., a Person Coming Under the
Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

WILLIE L.,

Defendant and Appellant.

G047936

(Super. Ct. No. DP021652-001)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Richard Y. Lee, Judge. Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Appellant.

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

* * *

S.L. was born in May 2010. Her father is appellant Willie L., her mother Ashley C. We have already met Ashley in a previous appeal, dealing with M.L., another child of Ashley and Willie. M.L. was born two years after her older sister S.L. In *Ashley C.* we denied Ashley's petition for a writ of mandate vacating an order made in January 2013 that reduced Ashley's visitation with M.L. – who was in the dependency system because Ashley was abusing methamphetamine at the time of her birth – in the wake of the termination of reunification services to Ashley.

The theme of drug abuse also turns out to be the leitmotif in Willie's appeal concerning S.L. About six months after S.L.'s birth, around March 2011, Willie was arrested and convicted of driving under the influence. Because of his extensive criminal record, he went to prison and would remain there until December 8, 2011. In the meantime, in September 2011, Ashley was arrested for driving under the influence, which resulted in S.L.'s being made a dependent of the juvenile court on November 16, 2011.

Upon his release, Willie met with a social worker on December 30, 2011, and agreed to a reunification plan that included, among other things, attendance at a drug program and random observed urine testing. During that reunification period, Willie was able to visit S.L. on weekends and his visits, as a social worker would later describe them, were "very appropriate." But other than "appropriate" visits on weekends, Willie made absolutely no progress on his reunification plan. He enrolled in no drug treatment classes, no DUI classes, and no parenting classes. He didn't even contact any of the drug treatment programs until May. He was not tested.

Willie appeared at the six-month review on June 11, 2012 and his testimony was basically a compendium of the difficulties he faced in trying to comply with both the juvenile court reunification plan and the conditions of his parole. He and Ashley had been evicted from a residence in March. Thereafter he stayed with Ashley

and her father in Orange County a couple of days a week, and the rest of the time he stayed with his mother or his brother in Los Angeles County.

He admitted at the six-month review he had given priority to the conditions of his criminal parole over the juvenile court reunification plan. Speaking of the criminal parole he said, “I know if I don’t do what they ask, they will lock me up, no hesitation.” Even so, at least two warrants were issued for Willie’s arrest during this period because he failed to enroll in any DUI classes, attendance at which were apparently also a condition of his criminal probation.

Willie never found a transitional living home. Communications difficulties with his social worker meant he only got a bus pass twice. He couldn’t seem to get anything done through the social worker, so decided to wait for his court date “to see if there was a way that you all” – apparently referring to everyone then present in the courtroom – “can handle it for me.” He had some sort of mix up (the exact nature of which is not quite clear from the bare record) with the color code for drug testing, so didn’t test.

And so it was not surprising the court terminated reunification services at the June 2012 six-month review. Even so, the trial judge offered Willie some hope, by telling him, on the record “you can petition this court to perhaps reconsider offering reunification services to you again.”¹

Willie brought no such petition. About seven months went by until a section 366.26 hearing² occurred on January 8, 2013.

Willie was not there. When the case was called his attorney told the court: “Your honor, the father called me, he is not present, he called me at [10] o’clock this morning and indicated to me that he couldn’t find a ride to court, that the bus ride is over

¹ Indeed, a review of the reporter’s transcript shows the trial judge was commendably attentive to the proceedings, to the point of noting on the record how “charming” Willie appeared on the stand.

² All statutory references in this opinion are to the Welfare and Institutions Code.

three hours and he doesn't have the ability to get here. So he would like the matter continued. ¶ I can't assure the court that if the court continued it to another day that the same problem will not occur. ¶ Unfortunately the father is, as in [sic] the report indicates to [sic] today, living between homes with relatives and friends and relies on transportation from friends and he just had no one to bring him to court today and so I don't know if he would be able to line up any reliable source of transportation if we picked a new date, but I will submit that to the court."

The trial judge denied the requested continuance and terminated Willie's parental rights to S.L. This appeal followed, in which the sole issue is the claim the trial judge abused his discretion by not continuing the case, particularly since Willie had not previously requested any continuances.

The trial court did not abuse its discretion in denying the continuance, particularly in light of the proffered reason for the continuance – an inability to get to court – and the previous excuses Willie had offered at the six-month review for his failure to even begin to comply with his reunification plan – an inability to get to drug counseling sessions, DUI classes, or *whatever*. Willie's fundamental problem of rootless transience had not changed since the six-month review, as shown by his counsel's admission that she could not guarantee his appearance even if a continuance were granted.

Indeed, the denial was doubly reasonable because of the contrast between juvenile dependency law and other civil law on the subject of continuances. In most civil law situations, continuances may be granted for good cause, and professional courtesy in stipulating to accommodate an opposing attorney's schedule is actually encouraged. (See *Pham v. Nguyen* (1997) 54 Cal.App.4th 11, 15-16 ["Continuances play a legitimate role in keeping a law practice manageable. Thus . . . we would encourage trial courts . . . to 'accommodate' counsel whenever it is not 'impractical' to do so."].)

By contrast, juvenile dependency law is time-intensive; each day and month in a child's life is literally irreplaceable. (See *In re Cristella C.* (1992) 6 Cal.App.4th 1363, 1366 [““Children should not be required to wait until their parents grow up.””].) Accordingly, the statute governing continuances in juvenile law displays a distinct tilt against continuances. Not only are continuances abjured if they are *contrary* to the *child's* interest, but the juvenile court's attention is directed to factors that militate against any continuance sought by a parent, namely the child's need for prompt resolution, a stable environment, and avoiding prolonged temporary placements.³ California appellate courts have connected those dots and have declared, “Continuances should be difficult to obtain.” (*Jeff M. v. Superior Court* (1997) 56 Cal.App.4th 1238, 1242.) We note Willie makes no argument any delay would have been in *S.L.*'s interest.

We need only add that any possible error was obviously harmless under the facts of this case. The evidence at the six-month review demonstrated that – for whatever reason – Willie has simply not been able to get his act together in terms of having enough stability in his life to even begin to establish a meaningful parental relationship with *S.L.* (See § 366.26, subd. (c)(1)(B)(i) [parental bond exception to termination].) The burden of establishing his continued presence in his child's life would confer a substantial benefit on that child was borne by Willie. The fact Willie *still* was shuttling between the homes of friends and relatives as of the section 366.26 hearing amply demonstrates he could not have carried that burden, even if he had been present. (*In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1252 [noting a parent who claims an exception to adoption at the

³ Section 352, subdivision (a) provides: “Upon request of counsel for the parent, guardian, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held, provided that no continuance shall be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.”

section 366.26 hearing has the burden of proof of establishing by a preponderance of evidence that the exception applies].)

The order is affirmed.

BEDSWORTH, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.