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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

LEANN S.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES
AGENCY et al.,

Real Parties in Interest.

G050193

(Super. Ct. No. DP022738)

O P I N I O N

Original proceedings; petition for a writ of mandate/prohibition to challenge an order of the Superior Court of Orange County, Dennis J. Keough, Judge. Petition denied.

Lawrence A. Aufill for Petitioner.

No appearance for Respondent.

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

Law Office of Harold LaFlamme and Jess Ann Hite for the Minor.¹

* * *

In this petition for extraordinary relief, the petitioner contends the trial court erred when it determined the mother was offered or provided reasonable reunification services. We deny the petition.

I

FACTS

M.S. was born in 2003. M.S. has two siblings, one born in 1998 and the other in 2001. Douglas S. is the presumed father of all three children. The petitioner, Leann S., is the mother of all three.

On June 27, 2012, one of M.S.'s siblings was taken into protective custody by the Orange County Sheriff's Department due to allegations of physical and emotional abuse and general neglect, and the mother was arrested and charged with child abuse. M.S. and the other sibling were also taken into protective custody.

That same day, a temporary restraining order was granted, which prohibited the mother from coming within 100 yards of the family home or the children or the father "due to the concerns regarding the mother's verbally and physically abusive tendencies." The child who was the subject of the mother's abuse "is convinced that he has Parkinson's disease, Lupus, and [Asperger] disorder because the children's mother told

¹ Minor's counsel filed a letter brief stating: "Counsel held the same position at the hearing as that of SSA and will join in the argument proffered thereby."

him repeatedly that he is showing the signs and symptoms of said disorders” although none of these conditions were diagnosed by a medical professional.

A social worker report states the mother who has an extensive psychiatric history, including hospitalizations, “has instigated and engaged in verbal arguments with the children’s father, Douglas S[.], which on multiple occasions escalated into physical violence to include but not limited to slapping the children’s father on both sides of his face and ears, hitting the father on top of his head and in his chest area and pushing, in the presence of the children Orange County Sheriffs department responded to the family’s home approximately thirty seven times due to frequent incidents of domestic violence in the home.”

Both parents twice received voluntary family services. The social worker’s report states: “Said services included but were not limited to counseling, parent educations services, and respite care. Despite these services the children’s mother and the children’s father continue to engage in behaviors that place the children at risk of emotional and physical harm.”

In June 2013, the juvenile court made a finding that reasonable services had been offered or provided, and ordered Orange County Social Services Agency (SSA) to “maximize the services to mother,” because it would be in the best interests of M.S. In October 2013, the court again found reasonable services had been ordered.

A social worker reviewed the mother’s case plan with her. She was provided with a psychiatric evaluation. She was offered referrals to counseling, but refused them. She was also provided with bus passes and housing resources. In December 2013, the social worker reported the mother’s cooperation with the case plan and efforts and progress were reported as “minimal.”

The social worker’s report to the court in advance of the 18-month hearing, filed on December 9, 2013, states the mother “remains unemployed and reports she is

unable to seek employment due to her numerous physical ailments” she remains transient. Another report states the mother committed three felonies on December 26, 2013 and February 21, 2014: grand theft auto, unlawful taking of a vehicle and buying or receiving stolen vehicle or equipment.

At times, the mother left voice messages for her case worker that ranged from screaming to crying to gasping for breath. One message included: “You know, everything is the mother’s fault. I’m no schizophrenic, as the report says. I’m not, one bit. I don’t have a personality disorder. And I’m over it. I’m over fighting to stay alive. I’m over it. I wake up in the beautiful world that God has given to this world and I wake up with my eyes still pounding over [one of the other children] and [the] father. And I love everyone. And I am over it.”

Regarding M.S. and her two siblings, the same report states: “Sibling placement is not appropriate due to the following: The children present with extreme jealousy and sibling rivalry. It appears there is a need for separate placements and each placement requires ongoing supervision. The children demonstrate aggressive behavior towards one another. This was observed with the children [M.S.’s two siblings] resided at Orangewood Children and Family Center. As a result, the children were placed in separate rooms. Further, the child, [M.S.], is observed to be physically aggressive with her [sibling] during the visits. In addition, when all the children were placed with their father, all three children’s behaviors were erratic and chaotic. All three children were reported to be yelling, screaming, and hitting one another.” At one point, M.S. was hospitalized after threatening a coach and the father with a nine-inch cleaver.

The report filed on December 9, 2013 also states: “No relatives have come forth.” All three children were placed in foster homes.

Regarding the mother, the report sums up: “The undersigned and [other social workers] made numerous attempts to guide and focus the children’s mother in

regards to visits with the children. However, the children's mother indicates SSA's expectations of her are unrealistic. The children's mother believes she should be able to talk to the children about their father in a negative manner, their dependency Court case, and the mother's health issues. The children's mother admits she should not talk about SSA in a negative manner, but expressed that she is unable to when she is upset with SSA. As a result of the children's mother's continued erratic and problematic behaviors during the visits, the visits were reduced to four hours per week. There were two instances where the special officer was called to intervene to terminate the visits because the children's mother refused to follow the advice and redirections of the monitor. Further, the undersigned has received reports from the various individuals who monitor the visits that they feel physically threatened by the children's mother and therefore unsafe when they are alone with her. Due to the children's mother's continued behaviors during the visits, the undersigned was unable to consider returning the children to her care."

The 18-month report concluded: "[T]he undersigned respectfully recommends terminating reunification services and long term foster care for the children . . . with a continued goal of returning the children to their father On behalf of the child, [M.S.], the undersigned believes that due to the child's age and minimal behaviors while placed in foster care, that the child is adoptable."

At the 18-month hearing in May 2014, county counsel requested the juvenile court to terminate services and set a hearing under Welfare and Institutions Code, section 366.26.

On May 15, 2014, the juvenile court found by a preponderance of evidence that pursuant to Welfare and Institutions Code, section 366.22, subdivision (a), return of the child to the parents would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The court further found by

clear and convincing evidence that reasonable services had been provided or offered. The court terminated reunification services. The court found that, “because the child is not a proper subject for adoption at this time and has no one currently willing or appropriate to accept legal guardianship” a hearing under Welfare and Institutions Code, section 366.26 is not in the best interest of the child. The court stated the permanent plan of a less restrictive foster setting is appropriate.

II

DISCUSSION

“[W]henever a child is removed from a parent’s or guardian’s custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child’s mother and statutorily presumed father or guardians.” (Welf. & Inst. Code, § 361.5, subd. (a).) “[I]n reviewing the reasonableness of the reunification services provided by the Department, we must also recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances. [Citation.]” (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) “We conclude that at the 18-month review hearing a preponderance of the evidence standard of proof applies to the reunification services issue, and the court’s order is supported by substantial evidence.” (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 590-591.) A court’s finding reasonable reunification services had been offered or provided is subject to review for substantial evidence. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010.)

Under the circumstances we find in this record, we conclude substantial evidence supports the juvenile courts finding the mother was provided or offered reasonable circumstances. We find no error.

III
DISPOSITION

The petition is denied.

MOORE, J.

WE CONCUR:

O'LEARY, P. J.

FYBEL, J.