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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re J.T., a Person Coming Under
the Juvenile Court Law.

B279487
(Los Angeles County
Super. Ct. No. DK12207)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.T.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Natalie P. Stone, Judge. Affirmed.

Annie Greenleaf, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Brian Mahler, Deputy County Counsel, for Plaintiff and Respondent.

R.T. (Father) appeals from the dependency court's order, entered at the six-month review hearing, continuing dependency jurisdiction over his minor daughter, J.T. Father contends the juvenile court applied the wrong legal standard in determining whether to maintain its jurisdiction and, applying the correct standard, substantial evidence did not support the order. We disagree, and accordingly affirm.

BACKGROUND

In May 2015, L.S. (born in 1998), reported that her mother physically abused her and her sister J.T. (born in 2008) and her brother T.S. (born in 2000). Department of Children and Family Service (DCFS) removed the children from their mother's care. (Welf. & Inst. Code, § 300.)¹

On July 1, 2015, Father, who was then living in Nevada, responded to DCFS's communication to him, stating that he had been looking for J.T. Father had been in contact with J.T. from her infancy until she was 2 or 3 years old, and wanted custody of her. On September 17, 2015, Father informed DCFS that he was recuperating in a Las Vegas rehabilitation center after having been shot during a robbery in which he was the victim. Father also informed DCFS that he had a criminal history. In a January 6, 2016 filing, DCFS informed the juvenile court that Father was living in a two-bedroom home "in good condition." Paralyzed from the waist down, Father had a caregiver, but was able "to complete many tasks himself."

On January 13, 2016, the juvenile court ordered J.T. placed with Father.² On May 16, J.T. began individual therapy and

¹ Unless otherwise noted, further statutory references are to the Welfare and Institutions Code.

“collateral therapy” with Father. During the June 6, 2016 collateral session with the therapist, Father asked the therapist for support in the home environment to improve J.T.’s listening skills and assist her in following rules and directions. Father also told DCFS that “he needs more education regarding parenting” J.T., and he believed that the counseling services were “a valuable resource as he attempts to adjust to being a full time parent.” On July 13, 2016, the social worker reported that J.T. was progressing well in Father’s care. Father reported that he would continue to make sure J.T. received the necessary services to assist her in adjusting to changes related to school and her living environment.

On March 28, 2016, J.T.’s mother began to participate in a mental health treatment program combining parenting, anger management, and counseling. By mid-September 2016, the mother had attended 25 sessions of a parenting and counseling course, 14 sessions of an anger management class, a 10-week domestic violence course, and 11 mental health and therapy sessions. The mother’s social worker/course facilitator informed DCFS that the mother had agreed to continue in the mental health treatment program to address her anger triggers. On June 24, 2016, the mother had a successful, monitored visit with J.T., who had previously refused to meet with her mother. In the July 13, 2016 Status Review Report, the social worker noted that she was “impressed” with the mother’s “dedication of late” and anticipated that she “can parent effectively in the future.”

² Where the juvenile court removes a child from the home of an offending parent (§ 361.2, subd. (e)), the juvenile court must place the child with the nonoffending, noncustodial 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.” (§ 361.2, subd. (a).)

The juvenile court began the September 21, 2016 six-month review hearing by stating that “[w]e’re here for the contested [section 366].21[, subdivision] (e) review hearing.” Father’s counsel requested termination of jurisdiction and placement of J.T. with Father, pointing out that Father was the nonoffending parent a live-in caregiver assisted Father and that J.T. was doing “extremely well” in Father’s care. Mother requested an order returning J.T. to her custody or unmonitored visits.

DCFS and counsel for the minor agreed that J.T. should remain with Father, but requested the juvenile court maintain jurisdiction and order family reunification services for J.T.’s mother and family maintenance services for Father.

The juvenile court agreed and retained jurisdiction, finding that: “continued supervision of the [child] is necessary” and also conditions continued to exist which justified retaining jurisdiction or those conditions would likely occur if the court withdrew its supervision. The court ordered J.T. to remain with Father, conjoint counseling for J.T. and her mother, two-hour per week unmonitored visits with her mother, and family reunification services for J.T. and her parents.

Father timely appealed from the order continuing jurisdiction over J.T.

DISCUSSION

Father contends the juvenile court erred in continuing jurisdiction. He asserts that the court erred in applying the standard of section 364 instead of section 366.21, subdivision (e) in determining whether to terminate jurisdiction, and that in any event, substantial evidence does not support continuing jurisdiction under section 366.21 because it was uncontroverted that J.T. was “doing extremely well” in Father’s care. We find no error.

We agree with Father that the applicable standard in determining whether the juvenile court should continue jurisdiction over a child differs depending on the child's then placement. Section 364 governs when a child is in the physical custody of his or her parent or guardian. (§ 364, subd. (a).) Under section 364, the juvenile court may retain jurisdiction if a preponderance of evidence establishes "that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn." (§ 364, subd. (c).)

Where, as here, however, a child *has been removed* from a custodial parent and placed with a noncustodial parent, section 366.21, subdivision (e) governs the retention of jurisdiction. In order to retain jurisdiction under section 366.21, unlike section 364, the juvenile court need only determine that supervision is still necessary. (See *In re Chantal S.* (1996) 13 Cal.4th 196, 204 [when deciding whether to terminate jurisdiction over a child placed with a noncustodial parent, the juvenile court is not required to inquire whether conditions that originally supported jurisdiction still exist]; § 361.2, subd. (b)(1).) And the juvenile court so expressly found: "[C]ontinued supervision of the [child] is necessary." That finding meets the requirement of section 361.2.

Father, however, urges that substantial evidence does not support the juvenile court's determination that continued supervision was still necessary. We disagree.

Although it is undisputed that J.T. was doing well in Father's care, the record also shows that Father recognized a need for continued supervision. Father acknowledged that he and J.T. had benefitted from reunification services and expected to gain from continued reunification services. In June 2016, Father had told DCFS that "he needs more education regarding parenting" his daughter, and requested help from the therapist to improve J.T.'s

listening skills and assist her in following rules and directions. Thus, the record supports the juvenile court's conclusion that continued jurisdiction is necessary because it will give Father and J.T. the time and the tools to learn how to live together.

DISPOSITION

We affirm the juvenile court's September 21, 2016 order continuing dependency jurisdiction over J.T.

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ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

LUI, J.