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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re C.M., a Person Coming
Under the Juvenile Court Law.

2d Juv. No. B296728
(Super. Ct. No. J071675)
(Ventura County)

VENTURA COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

A.B.,

Defendant and Appellant.

A.B., the maternal cousin and prospective adoptive parent of C.M., appeals an order removing C.M. from appellant's home based on the finding that removal is in the child's best

interest. (Welf. & Inst. Code, § 366.26, subd. (n)(3)(B).)¹ We affirm.

Procedural History

In 2017, C.M. tested positive for opiates and amphetamine at birth. Ventura County Human Services Agency (HSA) placed C.M. with appellant after the infant was discharged from the hospital. Appellant lived in a farmhouse on a vineyard with her uncle in Monterey, and had to obtain resource family approval (RFA) as a foster parent.² The uncle worked on the vineyard and was a hunter.

In 2018, the trial court sustained a petition for child neglect, bypassed services, and terminated parental rights. (§ 366.26.)

In September 2018, a social worker made an unannounced home visit and was offered a seat on the living room couch. The social worker felt a lump under the sofa pillows and discovered that he was sitting on the end of a rifle. A handgun and ammunition were on the kitchen table. C.M.'s bedroom and crib were cluttered with objects that posed a safety hazard. There were other concerns. Appellant had not obtained

¹ All statutory references are to the Welfare and Institutions Code.

² A resource family is “an individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria” established by statute and the State Department of Social Services. (§ 16519.5, subds. (c), (d).) After the applicant has met the designated criteria, he or she receives “resource family approval” and is “considered eligible to provide foster care for children in out-of-home placement and shall be considered approved for adoption and guardianship.” (*Id.*, subd. (c)(4)(A).)

counseling or medical resources for the infant, as was required by RFA plan.

On October 5, 2018, an Emergency Response Social Worker visited the home and notice three gun safes. Two safes were locked but the third gun safe was open. C.M.'s crib and bedroom was cluttered, and appellant had a black eye. Appellant denied that there was domestic violence in the home.

In November 2018, the social worker made an unannounced visit and discovered that appellant had taken C.M. to Santa Paula to visit the maternal grandmother. Appellant did not tell the social worker that she was traveling out of Monterey County as required by the RFA plan. Appellant was instructed to meet with a social worker in Oxnard on November 30, 2018 but failed to keep this appointment. Appellant said she was in Soledad and had left Santa Paula because a verbal dispute between the maternal grandmother and the grandmother's boyfriend scared C.M.

HSA filed a section 387 supplemental petition to remove C.M. alleging that appellant's neglect and actions posed a substantial risk of harm to the infant. Following a contested hearing, the trial court sustained the supplemental petition and removed C.M. from appellant's home.

Substantial Evidence

Appellant contends that the trial court erred in finding that it was in C.M.'s best interest to order the removal. (§ 366.26, subd. (n)(3)(B); *Wayne F. v. Superior Court* (2006) 145 Cal.App.4th 1331, 1341-1342.) We review for substantial evidence and are precluded from reweighing the evidence or expressing an independent judgment on the evidence. (*In re Laura F.* (1983) 33 Cal.3d 826, 833.)

“The purpose of the California dependency system is to provide maximum safety and protection for dependent children, and to ensure their physical and emotional well-being. (§ 300.2.) The Legislature has declared it is state policy to facilitate the proper placement of every child in residential care in a placement that is in the best interests of the child. [Citation.]” (*T.W. v. Superior Court* (2012) 203 Cal.App.4th 30, 42-43.) In furtherance of that policy, the Legislature enacted section 366.26 subdivision (n) “to strengthen the juvenile court’s oversight and to protect the stability of children after parental rights are terminated Section 366.26, subdivision (n), represents ‘a paradigm shift in the standards to be applied to agency decisions in the narrow category of posttermination removal of children from designated prospective adoptive placements and gives to the court the wide discretion previously afforded the adoption agencies to determine whether the placement is in the best interest of the child.’ [Citations.]” (*Id.* at p. 44.)

The evidence shows that removal is in C.M.’s best interests. In February and March 2018, a social worker visited the home and saw a handgun and ammunition clips on an end table. Appellant was asked to store the items in a safe place, away from the toddler. In September 2018, a rifle was found under the sofa pillows and a handgun and ammunition were under some overalls in the kitchen. C.M.’s crib and bedroom were cluttered with objects.

In October 2018, social workers saw an unlocked gun safe. C.M.’s crib and bedroom were once again cluttered with objects (stuffed animals, blankets, and a trampoline), and the house had tables and decorations made out of “pointy deer

antlers” that posed a risk of harm to the child. During a January 15, 2019 visit, the social worker found C.M.’s crib filled with objects and the crib mattress was positioned too high and posed a risk of harm to C.M.

The evidence further shows that appellant suffered from mental and emotional problems that affected her ability to care for C.M. Appellant was traumatized by a prior sexual assault and was concerned about her inability to get pregnant. Appellant shared a bed with her uncle and was lonely, but denied that she was romantically involved with the uncle. HSA reported that appellant had difficulty processing and understanding the social worker’s conversation and instructions. Appellant had problems activating C.M.’s Medi-Cal coverage and did not follow through with the resources provided. Nor did appellant enroll C.M. in a program for prenatally drug exposed children or contact Medi-Cal for counseling, a required element of the RFA plan.

Appellant also took C.M. to Santa Paula without informing the social worker. While in Ventura County, appellant failed to show for a scheduled appointment with a Ventura County social worker. Appellant said that she had to leave because the maternal grandmother and grandmother’s boyfriend quarreled and scared C.M. And there were other problems. During a Family Team Meeting, appellant became upset, shook all over, covered her ears with both hands, and took long deep breaths to clam down. Appellant said she “can’t do this right now” and told everyone to “leave her alone.”

In November 2018, the State Department of Social Services denied appellant’s application to become a resource family based on unsafe conditions in the home. Appellant cannot

reapply for 12 months, and without the RFA approval, may not adopt C.M. (§ 16519.5 subds. (a) & (c).)

Appellant loves C.M. but lacks the ability to provide for the toddler's health, safety, and stability. Without RFA approval, the trial court had no choice but to remove the child from appellant's home.³ After parental rights are terminated and the child is found to be adoptable, the trial court has a duty "to . . . expedite the permanent placement and adoption of the child." (§ 366.3, subd. (g)(12).) So too here.

Disposition

The judgment (order removing C.M. from appellant's home) is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

³ Section 16519.5, subdivision (c)(3) provides: "There is no fundamental right to approval as a resource family. Emergency placement of a child pursuant to Section 309 or 361.45, or placement with a resource family applicant pursuant to subdivision (e), does not entitle an applicant approval as a resource family."

Tari L. Cody, Judge

Superior Court County of Ventura

Susan H. Ratzkin, for Defendant and Appellant.

Leroy Smith, County Counsel, Joseph J. Randazzo,
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