Filed 5/16/17 In re I.L. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re I.L. et al., a Person Coming Under the Juvenile Court Law.	B278218 (Los Angeles County Super. Ct. No. DK05530)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. R.L., Defendant and Appellant.	

APPEAL from an order of the Superior Court of the County of Los Angeles, Robert Draper, Judge. Affirmed.

Maureen L. Keaney, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

A the 18-month/permanency review hearing, the juvenile court terminated reunification services for Rosemary L. (mother) and her almost-17-year-old son, I.L., who remained placed with an adult sibling. Mother appeals. We affirm.

FACTS AND PROCEDURAL BACKGROUND

I.L. and his sister, E.L., are mother and father's[1] youngest children. When these proceedings were initiated, mother and father had been together for 24 years. Their relationship was marred by decades of domestic abuse, particularly when father was intoxicated. One such incident occurred on May 8, 2014. Both children intervened to protect their mother, and father struck then 14-year-old I.L. The police and the Los Angeles Department of Children and Family Services (DCFS) investigated.

The Welfare and Institutions Code section 300 petition was sustained as to both children in July 2014. The children were declared dependents of the juvenile court and placed with mother under a family maintenance plan. A restraining order was issued against father, who was not to reside in the family home and with whom the children were to have no contact.

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[1] Father and E.L. are not parties to this appeal. Dependency over E.L. terminated when she turned 18.

Mother and father violated the restraining order. In February 2015, the children were removed from mother's care and placed with the maternal grandparents. (§ 387.)[2] Mother was then offered reunification services.

I.L.'s aggressive behavior, truancy and marijuana use led to his removal from the maternal grandparents' home and placement in a series of group homes. He ran away from group home placements on several occasions. I.L.'s relationship with mother was at times challenging. Mother reported I.L. "tries to act like his father and verbally mistreats her. . . . The mother stated she understands [I.L.] does that to her because of what he has seen between her and the father (D.V.)."

Mother's family reunification plan focused on raising her awareness of the harm caused by domestic abuse and substance abuse, rebuilding her relationship with I.L., and addressing her mental health and housing issues.

In the summer of 2016, I.L. began an extended "visit" with another, older adult sister and her family. His court-ordered placement, however, remained a group home.

The contested 18-month review/permanency hearing was calendared for August 4, 2016. Mother and her counsel were present on that date. Counsel advised that mother completed her case plan and had "been enjoying unsupervised visits . . . . She's requesting overnights to begin today and requesting a trial regarding return of [I.L.] to her custody." No ruling was made on mother's request for overnight visits, but the court gave DCFS discretion to release I.L. to his adult sibling.

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[2] All statutory references are the Welfare and Institutions Code.

The matter was continued to August 19, 2016. Counsel for DCFS began the hearing by stating, "The recommendation is to terminate family reunification services to mother and monitored visits for mother. I think it's day visits. [¶] And [I.L.] to remain with sister." Mother's counsel did not address the issue of family reunification services. Instead, she confirmed the unmonitored visitation and requested "a contest on the issue of return at this time. [¶] In the interim we're asking for overnight visits in the adult sibling's home." She was also concerned about the DCFS report that a "SnapChat" video showed mother permitting I.L. to spend time with father, in another violation of the restraining order. The adult sister and counsel for mother and minor were in favor of the overnight visits. Actual placement with the adult sister was not possible at that time because her new home had not yet been evaluated; but I.L. remained on the extended visit with her.

The matter was continued once again to September 23, 2016, for mother's contested 18-month/permanency review hearing. After documents were received, DCFS's counsel reiterated the recommendation to terminate family reunification services for mother: "At this time mother has completed, I believe, most of her, if not all, of her case plan. I believe the concern of [DCFS] is that mother failed to make substantive progress in her treatment programs. At this time I do believe mother is out of time."

Mother's counsel responded by asking for I.L.'s return to her client "today. She's been enjoying unmonitored, overnight visits. They have not had any issues during those visits. Mother completed all of her case plan. At this time there is not evidence of a substantial risk of detriment." She then argued the

SnapChat video should not be considered by the court. I.L.'s counsel joined with DCFS in asking that he remain with his adult sister.

The judge then said, "Well it looks to me like the best chance of getting [I.L.] and mother back together may be to terminate services at this point in time and allow them to work through it down the road." The court did not schedule a hearing pursuant to section 366.26 and determined instead to order a permanent planned placement "with a fit and willing relative," i.e., his adult sibling.

Mother's counsel then asked for "some kind of wraparound service in the home or conjoint counseling in the home." Before responding to mother's counsel, court and counsel adjourned to chambers for an unreported discussion. Back on the record, the judge advised "counsel have also given me their different views on the subject. I think that [I.L's] best interest at this point is to terminate reunification services, have [I.L.] continue living with [his older sister] and mother can either file an appeal or a 388." Mother's counsel "object[ed] to the court terminating her services . . . ."

DISCUSSION

The sole issue on appeal is whether the juvenile court erred in terminating mother's family reunification services; mother does not challenge the sufficiency of the family reunification services or appeal from the permanent planned placement of I.L. with his adult sister. DCFS contends mother forfeited the issue by failing to comply with section 352, subdivision (a). We agree.

Family reunification services for children who are over the age of three when removed from a parent's care are generally

limited to 12 months. (§ 361.5, subd. (a)(1)(A).) If the child is not returned to a parent after 12 months of family reunification services, services may be extended another six months. (§ 366.21, subd. (g)(1).) In cases where the family reunification services are extended, "the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his . . . parent." (§ 366.22, subd. (a)(1).)

Per section 352, subdivision (a), counsel for any party may request to "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." The moving party has the burden to demonstrate good cause for the continuance. Procedurally, "[i]n order to obtain a motion for a continuance of the hearing, written notice shall be filed at least two court days prior to the date set for the hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance." (*Ibid.*)

I.L. was declared a dependent child in mid-2014; but he initially remained with mother, who was offered a family maintenance plan. I.L. was removed from mother's custody in February 2015, and mother was then offered family reunification services. She received those services for 19 months, through the September 23, 2016, 18-month review/permanency hearing.

The 18-month review/permanency hearing was conducted on three dates: August 4, August 19, and September 23, 2016. The record is clear, counsel never complied with section 352. She did not file a written notice two days before any of the three dates, nor did she ever make an oral motion for a continuance at

any of the three hearings. Had the 18-month/permanency hearing been continued, family reunification services might have been able to be extended. (§ 366.21, subd. (g).) Without a continuance, however, the juvenile court was required to "order termination of reunifications services to the parent . . . [and] continue to permit the parent . . . to visit the child." (§ 366.22, subd. (a)(3).) Counsel's objection to the order terminating family reunification services, without articulating a legal basis, was insufficient.

Mother has forfeited the argument. (See, e.g., *In re Christopher B.* (1996) 43 Cal.App.4th 551, 558 ["In dependency litigation, nonjurisdictional issues must be the subject of objection or appropriate motions in the juvenile court; otherwise those arguments have been waived and may not be raised for the first time on appeal."].)

DISPOSITION

The order is affirmed.

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DUNNING, J.*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

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* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.