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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re J.R., et al., Persons Coming Under the
Juvenile Court Law.

B259149

(Los Angeles County
Super. Ct. No. DK04136)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

P.C.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant.

Terence M. Chucas, under appointment by the Court of Appeal, for Respondent E.R.

No appearance for Plaintiff and Respondent Department of Children and Family Services.

P.C. (mother) appeals the juvenile court's order terminating jurisdiction over her son J.R. (born August 2004) and her daughter N.R. (born July 2006), and issuing an exit order granting sole legal and physical custody of the children to their father, E.R. (father). Mother contends that the juvenile court "should have retained jurisdiction in order to determine which parent would have been the better caretaker in the best interests of the children." We reject the contention and affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

In May 2013 the Department of Children and Family Services (Department) received a referral that six-year-old N.R. had been physically abused by mother when she hit the child in the face with a hair brush. During the investigation, the Department learned that mother had been diagnosed with major depression and was taking medication to manage her condition. As a result of this referral, the Department offered voluntary services to mother, including in-home visits by a parenting coach and regular visits by the social worker, designed to address mother's underlying anger issues which had led to the physical abuse of N.R. During an in-home visit by the parenting coach on March 12, mother lost her temper and, in a fit of anger, ordered the parenting coach out of her house. The social worker then came to the home and learned, among other things, that in response to her anger at the parenting coach, mother had hit J.R. on the leg. The social worker took the children into protective custody.

On March 17, 2014, the Department filed a Welfare and Institutions Code¹ section 300 petition on behalf of J.R., N.R., and their half sister J.L.² (born August 2012). The petition alleged that mother had hit N.R. in the face with a hair brush, and had hit J.R. on the leg. These two incidents formed the basis of allegations under section 300, subdivisions (a), (b), and (j).

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

² Orders with respect to J.L. are not before us on this appeal.

At the March 17, 2014, detention hearing, the juvenile court found that Ramon L. was J.L.'s presumed father. Although mother had named father as the father of her two older children, the court held in abeyance paternity findings as to J.R. and N.R. pending notice to father; at a subsequent hearing, father was found to be the children's presumed father. The juvenile court found that the Department had presented a prima facie case that all three children were as described by section 300, subdivisions (a), (b) and (j), that a substantial danger existed to the physical or emotional health of the children, that reasonable efforts had been made to prevent the children's removal from the home, and that there were no reasonable means to protect the children without removing them from mother's care. The children were ordered detained. Mother was granted monitored visits with the children, while father was to have unmonitored visits; the Department was given discretion to release J.R. and N.R. to father. J.L. was ordered released to Ramon L., while the two older children were detained in shelter care. J.R. and N.R. were subsequently placed with their maternal uncle.

On May 27, 2014, the Department filed an amended petition, which was identical to the original petition except that a fourth count was filed under section 300, subdivision (b), alleging that mother had mental and emotional problems including suicidal ideation and a diagnosis of severe depression. At the May 27, 2014, hearing, the juvenile court released J.R. and N.R. to father on the condition that he cooperate with Department. The matter was continued to July 31, 2014.

At the continued jurisdiction hearing, the juvenile court sustained, under subdivisions (a), (b) and (j), the allegation that mother hit N.R. with a hair brush; the court also sustained the subdivision (b) count alleging that mother had mental health problems which rendered her unable to care for the children. The remaining counts were dismissed. The disposition hearing was scheduled for September 22, 2014.

At the disposition hearing, the juvenile court removed J.R. and N.R. from mother's custody and placed them with father. The court ordered mother to participate in parenting education and individual therapy to address issues of past sexual abuse and anger management, and to continue to take medication as prescribed by her psychiatrist.

Although the Department recommended continued jurisdiction, the juvenile court terminated jurisdiction over J.R. and N.R., but stayed that order until the custody/exit order was filed.

The custody/exit order was filed on September 26, 2014. Under the terms of that order, father was awarded legal and physical custody of J.R. and N.R. Mother was to receive monitored visits.

Mother filed a notice of appeal on September 22, 2014.

DISCUSSION

Mother contends the juvenile court erred when it terminated jurisdiction and gave father sole custody of their two children. We see no error.

The juvenile court's order to terminate jurisdiction over J.R. and N.R., as well as the custody/exit order issued concurrently therewith, are discretionary orders. “[A] reviewing court will not disturb that decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) “The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” (*Id.* at pp. 318-319.) The juvenile court has broad discretion to decide what means will serve a child's best interests and to fashion appropriate orders. (*In re Corey A.* (1991) 227 Cal.App.3d 339, 346.)

Section 361.2 provides: “(a) When a court orders removal of a child pursuant to [s]ection 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of [s]ection 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the 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); *In re John M.* (2006) 141 Cal.App.4th 1564, 1569-1570; *In re Marquis D.* (1995) 38

Cal.App.4th 1813, 1827-1829.) When a nonoffending, noncustodial parent requests custody, the court may grant that parent custody subject to the supervision of the juvenile court, in which case the court may order that reunification services be provided to the parent from whom the children are being removed, or terminate jurisdiction with a family law exit order. (§ 361.2, subd. (b).)

Here, the juvenile court made its jurisdictional findings against mother and removed the children from her custody. Mother does not challenge the removal order on appeal. Father requested custody of his two children. Father was supportive of mother's efforts to reunify, and was willing to do anything he could to help her reunify, including monitoring her visits. However, father did not believe that juvenile court jurisdiction was necessary in order for the children to be safe in his care, and so he asked that the dependency case be closed.

“[W]hen a nonoffending noncustodial parent requests custody under section 361.2, subdivision (a), he or she is requesting sole legal and physical custody of a child. However, the court may not immediately grant that parent sole legal and physical custody. The court must first determine whether it would be detrimental to the child to temporarily place the child in that parent's physical custody. If there is no showing of detriment, the court must order the [a]gency to temporarily place the child with the nonoffending noncustodial parent. The court then decides whether there is a need for ongoing supervision. If there is no such need, the court terminates jurisdiction and grants that parent sole legal and physical custody.” (*In re Austin P.* (2004) 118 Cal.App.4th 1124, 1134-1135.)

At the time the juvenile court made its decision terminating jurisdiction, the children had been living with father for four months and were doing well. There was no evidence in the record that the children's placement with father posed a detriment to the children's safety, protection, or physical or emotional well-being. Indeed, mother conceded that father was a “good father.” In short, the juvenile court did not abuse its discretion when it awarded custody of J.R. and N.R. to father and terminated jurisdiction.

DISPOSITION

The orders of the juvenile court are affirmed.

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GOODMAN, J.*

We concur:

MOSK, Acting P.J.

KRIEGLER, J.

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