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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B247508
(Los Angeles County
Super. Ct. No. CK69013)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

PATRICIA C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Sherri Sobel, Referee. Affirmed.

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, Melinda A. Green, Associate County Counsel, for Plaintiff and Respondent.

In this dependency case (Welf. & Inst. Code, § 300 et seq.),¹ after removing 14-year-old Isabella C. from Thomas O.'s (Father)² custody, the juvenile court placed Isabella in the home of noncustodial parent, Patricia C. (Mother). Mother appeals from the dispositional order, contending the juvenile court erred in continuing dependency jurisdiction. Mother argues the court should have terminated its jurisdiction at the disposition hearing, after placing Isabella with Mother, because ongoing supervising was unnecessary. We find continued jurisdiction was proper and affirm.

BACKGROUND

On November 7, 2012, the Los Angeles County Department of Children and Family Services (DCFS) filed a dependency petition under section 300, subdivision (b), alleging Father placed his 14-year-old daughter Isabella at risk of physical harm and damage by abusing alcohol and prescription medication, by allowing his partner Monica M., who was a current user of marijuana and methamphetamine, to reside in the home with Isabella, and by having mental and emotional problems resulting in a suicide attempt. The petition included no allegations against Mother.

Detention

As set forth in DCFS's November 7, 2012 detention report, on October 4, 2012, Father was hospitalized after consuming multiple types of prescription medications "with a heavy amount of alcohol" in an attempt to take his own life. Monica found Father in bed unconscious and also found a note from Father explaining how to distribute his property. After receiving a referral about Father's suicide attempt, DCFS allowed Isabella to remain living in the family home with Monica and Monica and Father's four-year-old son (Isabella's half brother). Father and Monica separated after Father's suicide attempt and Father did not return to the family home after he was released from the hospital on October 7, 2012.

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

² Father is not a party to this appeal.

As explained in the detention report, DCFS filed the petition after Monica admitted during an October 25, 2012 interview with a DCFS social worker that she had “recently” used marijuana and had used ““speed”” two days before the interview. Monica told the social worker she had a history of substance abuse but had been sober for the past six years during her relationship with Father. Although DCFS detained Isabella from Father, it allowed Isabella to continue to live with Monica, who had agreed “to enter a treatment program immediately.” On October 29, 2012, Monica submitted to a drug test and the result was negative. Father’s October 25, 2012 drug test also was negative.

According to the detention report, in 2007, when Isabella was nine years old, DCFS filed a prior dependency petition involving Isabella with allegations against Mother, including Mother’s violent physical altercations with her male partner, alcohol abuse by Mother’s partner in the presence of Isabella and her two older half sisters (not Father’s daughters), physical abuse of one of Isabella’s half sisters by Mother’s partner, and Mother’s inability to handle the behavioral problems of one of Isabella’s half sisters. At the detention hearing in that 2007 case, Isabella was released to Father. In June 2008, the juvenile court terminated dependency jurisdiction with a family law order awarding Father sole physical custody of Isabella. Isabella had lived with Father from June 2008 until Father’s suicide attempt in October 2012.³

As set forth in the November 7, 2012 detention report, on October 7, 2012, Isabella told a social worker she “gets along really well” with Father and Monica and liked living with Monica. Isabella also “stated that she used to live with her mother,” but “things were more stable at her father’s home and she feels more secure” there. Isabella “denied any knowledge of any drug use in [Father and Monica’s] house by anyone.” On October 25, 2012, Isabella told another social worker she did not want to live with Mother, although she described Mother as “a great mother” and stated she loved Mother.

³ In a November 27, 2012 interview with a dependency investigator, summarized in the December 17, 2012 jurisdiction/disposition report, Father stated he and Mother separated before Isabella’s birth and Isabella lived with Mother until she was nine years old. During those years, Father paid child support and visited Isabella.

Isabella wanted to live in Father's home with Monica and remain at her current high school where she was in ninth grade. Isabella represented "her grades were good and she was not getting into trouble at school." On October 25, 2012, Mother told a social worker she wanted Isabella to live with her. At that time, Mother "stated that she is willing to rent an apartment near Isabella's school, so she can reside with her." In the detention report, DCFS listed an address for Mother in Van Nuys.

At the November 7, 2012 detention hearing, Mother requested the juvenile court release Isabella to her. Mother's counsel explained Mother was currently staying at her parents' house and had been having overnight weekend visits there with Isabella for the past two months. Mother's counsel added: "She's [Mother] in agreement with Isabella remaining at [Monica]'s house." Father's counsel and Isabella's counsel joined in Mother's request to have Isabella released to Mother. Isabella's counsel commented: "She [Mother] is nonoffending under the petition. If the Department thought she was such a risk, I don't know why they didn't include her in any of the allegations. Mother's counsel's completely correct. My client has been enjoying weekend overnight visits for months now with Mother and without incident . . . [.]" Counsel for DCFS objected to Mother's request that Isabella be released to her, citing Mother's "extensive history" of referrals to DCFS. The juvenile court detained Isabella from Father and released her to Mother. The court advised Mother that social workers could come to Mother's home "at any time of the day or night" to check on the living situation. The court ordered "Mother to be available for unannounced visits." The court ordered monitored visitation and reunification services for Father.

Jurisdiction

In the December 17, 2012 jurisdiction/disposition report, DCFS reported Isabella was living with Monica. According to Monica, on November 7, 2012, the day the juvenile court released Isabella to Mother at the detention hearing, Mother dropped off Isabella at Monica's home. The following weekend, Isabella stayed with Mother at Mother's parents' home in West Hills. Isabella also stayed with Mother in West Hills over the Thanksgiving holiday from November 22 through November 25, 2012. On

November 25, 2012, Mother dropped off Isabella at Monica's and went to live with her adult daughter in Arvin, California (near Bakersfield). On November 27, 2012, Mother made an unannounced visit to Monica's home because Isabella had informed Mother that a dependency investigator was coming to the home. Mother told the investigator she had obtained employment through a staffing agency at a company in Arvin called Caterpillar Warehouse. Mother also stated: "I have to work on getting stable right now. I won't be able to see [Isabella] on the weekends for the first time in years." Mother explained: "I want to work, then get a place of my own, then I want [Isabella] to be with me." Isabella told the investigator she wanted to stay with Monica so she could continue going to the same high school. On November 27, 2012, Father told the investigator he wanted Isabella placed with him. DCFS recommended the juvenile court declare Isabella a dependent of the court and order her suitably placed.

In the jurisdiction/disposition report, DCFS stated Mother had given Monica's address in Van Nuys as her own at the time of the detention hearing. Monica told the dependency investigator Mother had never lived at that address. When the investigator asked Mother why she had provided Monica's address, Mother responded: "The lawyer wrote that address. I don't know why." Mother confirmed she was living with her parents in West Hills at the time of the detention hearing. When the investigator asked Mother why she did not provide the West Hills address to the juvenile court, Mother responded: "Because my parents just wanted me there if I was with [Isabella]. . . ."

As set forth in the jurisdiction/disposition report, Father informed DCFS that Mother had commenced custody proceedings in the summer of 2012. According to Father, Isabella spent that summer with Mother, and Mother decided she wanted custody of Isabella. Mother retained a lawyer. Father agreed that Isabella could live with Mother so long as Isabella "kept up with school." On August 5, 2012, the "final court date" after six hearings, Mother decided she wanted Isabella to live with Father because she did not believe Isabella listened to her. Mother dropped her bid for custody.

At a pretrial resolution conference on December 17, 2012, the juvenile court ordered a Christmas visit for Mother and Isabella in Arvin during Isabella's school

vacation. The court commented Mother “is a perfectly fine parent to this child[. While there have been some issues in the past regarding a relationship here, at this point [Mother] is ready, willing, and able to have her child.” The court ordered DCFS to interview Mother and prepare a supplemental report regarding Mother’s living situation. Isabella remained released to Mother although she was still living with Monica.

In a January 8, 2013 interim review report, DCFS discussed a social worker’s December 19, 2012 visit to Arvin to assess Mother’s living situation. Mother was at work at the time of the visit so the social worker spoke with Mother’s adult daughter Christina (Isabella’s half sister) and Christina’s husband, who lived in the two-bedroom apartment with their two minor children. Two or three days before the social worker’s visit, Isabella came to live with Mother at Christina’s apartment, where Mother had been living since she moved to Arvin at the end of November 2012. Mother and Isabella slept on a mat on the living room floor. Around the time Isabella moved in, Christina and her husband argued and he moved out of the apartment. He was present at the time of the home visit, however. Christina reported two incidents of domestic violence between her and her husband, one in 2007 and one in 2010, during which she called the police. Christina’s husband informed the social worker he was arrested in 2007 for felony possession of methamphetamine and had completed a Proposition 36 program in 2010, and was currently on probation for driving with a suspended driver’s license. According to Christina and her husband, Mother had paid a deposit for an apartment and Mother and Isabella would be moving out of Christina’s apartment on January 1, 2013.

During the December 19, 2012 visit, the social worker interviewed Isabella. As set forth in the January 8, 2013 interim review report, Isabella told the social worker “she feels comfortable with her mother” and “she and her mother have always had a connection/bond with each other.” Isabella stated she lived with mother until she was nine years old, and “never lost contact with her mother” after the juvenile court placed her with Father in the prior dependency case. Mother always called Isabella and had unmonitored visits with her. According to Isabella, during the time she lived with Father in Van Nuys, Mother picked her up every week for a weekend visit.

As stated in the January 8, 2013 interim review report, the social worker had a telephone conversation with Mother while Mother was at work, presumably during the December 19, 2012 home visit. Mother worked the swing shift at the warehouse from 12:00 to 11:00 p.m. Mother confirmed she had paid a deposit for an apartment and was going to move there with her adult son Brian (Isabella's half brother) and Isabella. Brian was unemployed and Mother planned to help him until he was able to move out on his own.

At the January 8, 2013 jurisdiction hearing, Father appeared, submitted a waiver of rights form, and pleaded no contest to amended allegations in the petition regarding his alcohol and prescription drug abuse (count b-1), allowing Monica to reside in the home with Isabella even though Monica was using marijuana and methamphetamine (count b-2), and Father's mental and emotional problems resulting in a suicide attempt (count b-3). The juvenile court sustained these allegations and declared Isabella a dependent of the court. Mother and Isabella did not appear at the hearing.

At this hearing, DCFS's counsel argued against Isabella's placement with Mother, stating "Mother was not candid with the Department about where she was living" at the time of the detention hearing, and citing Mother's plans to move to a new home after DCFS made a visit to assess to her living situation. Isabella's counsel joined in DCFS's argument against placement with Mother, stating "Isabella just went up to live with Mother a couple weeks ago, during the holidays. I want to make sure it's stable." Mother's counsel explained she checked the court file and verified that she wrote Mother's correct address at the time of the detention hearing and not Monica's address. Mother's counsel also stated: "At detention, everyone, including the court, knew that the plan was to have the child released to the Mother, residing in [Monica]'s home." Father informed the court that, during a telephone conversation with Isabella while Isabella was living with Mother in Arvin, Isabella told Father she wanted to return to her old high school and live with Father, but she understood she needed to wait until Father's situation was more stable. The court placed Isabella with Mother, but continued the matter until January 22, 2013. The court ordered DCFS "to verify that [Isabella]'s in a safe, stable

environment” and that she’s enrolled in school. The court stated: “If there is any concern about that, remove her and bring it back.” The court agreed with Mother’s counsel that there were not “any real safety concerns identified at this point,” regarding Isabella’s living situation with Mother.

Disposition

In a January 22, 2013 interim review report, DCFS discussed Mother and Isabella’s living situation in Arvin. They had moved into a two-bedroom apartment with Mother’s adult son Brian who was unemployed. On January 8, 2013, the dependency investigator called Mother and asked if Isabella was enrolled in school. Mother stated she had an appointment the next day at Arvin High School. Mother wanted Isabella to complete an independent studies program, but explained she “needed a doctor’s note” for the program and “Isabella’s [M]edi-[C]al coverage was ‘on hold.’” Mother planned to make a call the next day, to a telephone number her “welfare worker” had provided, regarding the Medi-Cal hold. Mother also stated she had an appointment on January 9, 2013 to obtain food stamps. Mother gave the investigator her new address.

As set forth in the January 22, 2013 interim review report, on January 9, 2013, the dependency investigator made a follow-up call to Mother. Mother informed the investigator the gas had been turned off in her apartment, and “she would contact the landlord to fix the problem.” Mother then requested a referral for family preservation services. Mother had made a previous request for such services, explaining she wanted access to funds and assistance with housing. Both times DCFS informed Mother she was not eligible for family preservation services from Los Angeles County because she now resided in Kern County. The investigator told Mother if the dependency case were transferred to Kern County a social worker might refer Mother for family preservation services. Regarding Isabella’s school enrollment, Mother stated “she kept the appointment at Arvin High School,” and she was in the process of requesting a doctor’s note that would say, “‘independent studies would be better for her [Isabella] because she was bullied really bad.’” The investigator inquired about Medi-Cal coverage and food stamps. Mother stated she left a message regarding the Medi-Cal hold issue. Mother

also stated she had been approved for food stamps and had a food stamps card, but the balance on the card was \$0. Mother added, “I’ll work on that tomorrow.” Mother also informed the investigator that the address she provided the day before was not the correct address for her new apartment. Mother gave a new address with a different street name and a different building number.

In the January 22, 2013 interim review report, DCFS also discussed a social worker’s January 10, 2013 visit to Mother’s new apartment. When the social worker arrived, Mother’s adult daughter Christina was there with her husband and two sons. Christina explained she and her family were there to visit Isabella and Brian. Christina stated Mother was at work. The social worker observed that the apartment was clean, furnished and had electricity. There were two bedrooms and one bathroom. Mother and Isabella shared a bedroom with a queen size bed. Brian slept on the floor in the other bedroom. The social worker observed food in the kitchen cabinets and a “small amount of food items and milk in the refrigerator.” Brian told the social worker Mother had resolved the issue with her food stamps and there should be money on her card the following day. Brian also stated Mother called the gas company to have the account transferred to her name and someone from the gas company would come to their apartment on January 15, 2013 to turn on the gas. There was no hot water in the apartment because the gas was turned off. The social worker inquired about Isabella’s Medi-Cal coverage and Brian explained that the coverage had been transferred from Los Angeles County to Kern County and had been “activated again by Kern County.” Brian told the social worker he had a medical marijuana card due to his insomnia. Brian stated the last time he smoked marijuana was three or four weeks before. He agreed he would smoke it outside and away from the apartment.

During the January 10, 2013 home visit, the social worker spoke with Isabella, who “appeared physically health[y], clean, well groomed and dressed clean,” as stated in the January 22, 2013 interim review report. In response to an inquiry from the social worker regarding her school enrollment, Isabella stated Arvin High School would allow her to begin a home study program after it received her records from her former high

school and medical records regarding her recent physical examination. Isabella also stated, “she gets along well with her brother, she has no problems to report to [the social worker] and she feels safe living at home with her mother and her brother.”

On January 14, 2013, the dependency investigator made another follow-up call to Mother, as discussed in the January 22, 2013 interim review report. Mother told the investigator she had been laid off from her job on January 11, 2013 and had applied for unemployment benefits on January 12, 2013. Mother also stated she had an appointment at Arvin High School on January 16, 2013 regarding Isabella’s school enrollment, and had faxed a release form to Isabella’s former high school. Isabella was not yet enrolled in school. Mother reported Isabella’s Medi-Cal coverage was still on hold and Mother did not yet have access to food stamps. Mother had left a message for her case worker. On January 14, 2013, the investigator called the apartment manager for Mother’s apartment and the manager “stated that mother does have a rental agreement.”

At the January 22, 2013 disposition hearing, Mother testified by telephone on her own behalf. Mother stated, on January 21, 2013, the day before the hearing, she e-mailed documents to California Pacific Charter Schools to enroll Isabella in the online school. Isabella had not yet been enrolled. Mother believed Isabella should participate in the online school until the end of the school year because she had experienced bullying at her junior high school (but not at the high school she attended while she lived with Father and Monica) and had “high anxiety” about moving to a new school. Mother stated she would provide documentation to DCFS demonstrating that this online school was “an approved homeschool.”

Mother further testified that her food stamps account had been activated. When her counsel asked when that had occurred, Mother responded, “they actually deposited to get them today.” Mother also indicated that Isabella’s Medi-Cal coverage was “active and working.” Mother was unsure about the status of the unemployment benefits for which she had applied. She stated she had been employed by the warehouse from November 19, 2012 until she was laid off earlier in January 2013. Before that, she worked at a temporary telemarketing job for a few months until around October 2012.

Mother testified that she “just signed a lease” for her apartment and that the gas had been turned on in her apartment on January 14, 2013.

At the disposition hearing, Isabella’s counsel stated “Mother’s situation is marginal,” but indicated she was “comfortable” with the juvenile court placing Isabella with Mother and terminating jurisdiction because she did not perceive “any safety concerns.” Isabella’s counsel represented that Isabella felt safe with Mother and wanted to stay with Mother. DCFS’s counsel argued the court should order Isabella suitably placed and continue jurisdiction, citing the discrepancy regarding Mother’s address at the time of the detention hearing; that Mother dropped off Isabella to live with Monica after Isabella was released to Mother at the detention hearing; that Mother initially gave an incorrect address for her new apartment in Arvin; that the new apartment did not have gas for a time; that Mother was unemployed; that Isabella was not enrolled in school and Mother had not demonstrated the prospective online school was accredited; and that Mother had not shown there were valid reasons to keep Isabella home and not send her to public school. DCFS believed “there is definitely a safety issue” regarding Isabella’s placement with Mother. Mother’s counsel asked the court to terminate jurisdiction.

The juvenile court ordered Isabella removed from Father and placed with Mother. The court declined to terminate jurisdiction, but stated it would transfer the matter to Kern County if a party filed a section 388 petition making that request. The court ordered Mother “to ensure that [Isabella] is enrolled in school” and “to have stable housing.” The court also ordered referrals for Father. The court continued the matter for six months for a hearing regarding termination of dependency jurisdiction.

Case Transfer

On January 29, 2013, Isabella’s counsel filed a section 388 petition requesting that the matter be transferred to Kern County. Mother filed an objection to the petition. Mother argued, “because of [Mother]’s multiple residences and tenuous connection to Kern County, California, DCFS policy does not support transferring the case to Kern County.” Mother also argued a transfer is not in Isabella’s best interest because Mother “hopes to be able to allow Isabella to attend her original school, back in Los Angeles

County next school year.” On February 25, 2013, the juvenile court ordered the matter transferred to Kern County.

DISCUSSION

Mother contends the juvenile court erred in declining to terminate dependency jurisdiction at the January 22, 2013 disposition hearing after placing Isabella with Mother.

When a juvenile court removes a minor from one parent and places the minor with a noncustodial parent under section 361.2, subdivision (a), “the court may not terminate jurisdiction until it analyzes whether ongoing supervision of the child is necessary.” (*In re Austin P.* (2004) 118 Cal.App.4th 1124, 1129.) “While placement of the child with the formerly noncustodial parent may not be detrimental, there may be some concern that: this parent will turn around and relinquish the child to the other parent after the termination order; or this new custodial parent may need services. Also, the formerly noncustodial parent may not want long-term custody. Alternatively, the court may anticipate that with the appropriate reunification services, the child will be able to return to the home of the original custodial parent. It is also possible that . . . the court may see a need to provide services short of reunification for the child’s best interests. Thus, supervision may be appropriate in lieu of or before terminating jurisdiction.” (*In re Sarah M.* (1991) 233 Cal.App.3d 1486, 1496-1497, disapproved on other grounds in *In re Chantal S.* (1996) 13 Cal.4th 196, 204.)

In reviewing a juvenile court’s order continuing jurisdiction, case law does not make clear whether the substantial evidence or abuse of discretion standard applies. (*In re Austin P.*, *supra*, 118 Cal.App.4th at pp. 1134, 1135 [“substantial evidence showed a need for continuing supervision”; “Father has not established that the court abused its discretion by continuing its jurisdiction over Austin”].) We need not decide this issue because we would uphold the disposition order under either standard.

Mother argues evidence of her financial instability and her plan for Isabella’s education did not support the juvenile court’s decision to continue dependency jurisdiction. Regardless of whether these are valid reasons to continue dependency

jurisdiction, other substantial evidence in the record supports the court's decision, as discussed below.

Continued jurisdiction was proper so the juvenile court could determine whether Isabella's placement with Mother was a stable situation. Isabella had only lived with Mother for about a month by the time of the disposition hearing. The record indicates Mother had fought for custody of Isabella in the past and then changed her mind. According to Father, in the summer of 2012, a few months before these proceedings commenced, Mother initiated custody proceedings and then dropped them because she decided Isabella did not listen to her and should live with Father. After the juvenile court released Isabella to Mother at the November 7, 2012 detention hearing, Mother dropped off Isabella at Monica's home and moved to Kern County. Assuming the juvenile court was aware Mother planned to turn Isabella's care over to Monica—as Mother argues—there is no indication Mother informed the court or DCFS that she planned to move to Kern County. Shortly before the detention hearing, Mother told the social worker she wanted Isabella to live with her and she was “willing to rent an apartment near Isabella's school.”

After the juvenile court placed Isabella with Mother at the disposition hearing, Mother objected to the case being transferred to Kern County. Mother cited her “multiple residences and tenuous connection to Kern County” and that “she hopes to allow Isabella to attend her original school, back in Los Angeles County next school year.” Given Mother's admitted difficulty maintaining stable housing, Isabella's desire to attend her former high school in Los Angeles County, and Mother's past fickle behavior regarding custody of Isabella, it was not an unlikely scenario that Mother would drop off Isabella to live with Father or Monica. Continued jurisdiction was appropriate to see whether Mother could maintain custody of Isabella on a full-time basis and not only for a short period of time. Isabella had not lived with Mother on a full-time basis since 2007.

The juvenile court ordered reunification services for Father and Father made clear he wanted to reunify with Isabella. During these proceedings, Isabella expressed a desire

to live with Father and continue to attend the same high school. Isabella did not express a desire to live with Mother until she understood the court would not permit her to live with Father or Monica. Isabella had lived with Father from the time she was nine years old until the time these dependency proceedings commenced when she was 14 years old. Continued jurisdiction was appropriate given the strong possibility of reunification with Father.

For the foregoing reasons, substantial evidence supported the juvenile court's decision to continue dependency jurisdiction. The court did not abuse its discretion.

DISPOSITION

The January 22, 2013 disposition order is affirmed.

NOT TO BE PUBLISHED.

CHANNEY, J.

We concur:

ROTHSCHILD, Acting P. J.

JOHNSON, J.