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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re A.B., a Person Coming
Under the Juvenile Court Law.

B289302

Los Angeles County
Super. Ct. No. 17CCJP00767A

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,
Plaintiff and Respondent,

v.

SANDRA C.,
Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Philip L. Soto, Judge. Affirmed.

Anne E. Fragasso, under appointment by the Court
of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, Stephanie Jo Reagan, Principal
Deputy County Counsel, for Plaintiff and Respondent.

Sandra C. (mother) appeals the juvenile court's disposition order placing her daughter A.B. in the custody of A.B.'s presumed father. We affirm.

The Los Angeles County Department of Children and Family Services (DCFS) filed a petition on October 2, 2017. The petition alleged under Welfare and Institutions Code¹ section 300, subdivisions (a) and (b), that mother and her male companion K.J. had a history of violent altercations. On September 27, 2017, K.J. threw a bottle at mother and pushed her while she held seven-year-old A.B. in her arms, and threw a table, vacuum cleaner, and stroller at mother. Mother had failed to protect A.B. during prior violent altercations with K.J., whom she allowed to live in the home with A.B. Mother attempted suicide on the day of the altercation and was hospitalized, and her mental and emotional condition endangered A.B. Mother abused prescription medication and marijuana, which also endangered A.B.

The juvenile court detained A.B. at a hearing on October 3, 2017, placing her in foster care with monitored visitation for mother. J.D., a man mother had listed as A.B.'s father on a parentage questionnaire, was an alleged father. A.B. was later placed with a friend of mother's.

At a hearing on November 29, 2017, the court stated that the name of another man, D.B. (father), appeared on A.B.'s New York birth certificate, and the court ordered him evaluated for possible placement. Father told DCFS he had believed he was A.B.'s biological father, until she was eighteen months old, and he was very interested in taking care of her if she did not go

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

back to mother. Father appeared at a hearing on January 31, 2018, and the court found he was A.B.'s alleged father.

Both mother and father were present with counsel at the jurisdiction hearing on February 2, 2018. Father had filed a parentage statement. He was present at A.B.'s birth and signed the birth certificate, and A.B. lived with him until she was two years old. Mother then left with the child and was hard to find, frequently changing addresses. Mother and A.B. visited father a few times a year, and stayed with him for a week in 2017. He continued to send mother money when she contacted him about A.B. The court declared father the presumed father.

Mother signed a waiver of rights and entered a no contest plea to two counts under section 300, subdivision (b), which alleged that the domestic violence between mother and K.J., and mother's mental and emotional problems, endangered A.B.'s health and welfare. The court found jurisdiction over A.B. and gave father unmonitored visitation.

At the disposition hearing on March 29, 2018, DCFS recommended that A.B. be released to father in New York. Mother's counsel objected that sending A.B. to live with father would interfere with her relationship with A.B., and the court responded that mother had not cooperated with DCFS or the court, and father was a noncustodial, nonoffending parent. The court removed A.B. from mother under section 361.2 and released A.B. to father, who would pick her up from the caregiver a week later. Mother had monitored visitation with discretion to liberalize. The court ordered DCFS to provide mother with housing assistance and a psychological assessment, and to assess in its next report closing the case with a juvenile custody order.

Mother filed this timely appeal from the jurisdiction and disposition orders.

DISCUSSION

Mother does not challenge the court's jurisdictional findings or its removal of A.B. from her custody. She argues only that because DCFS provided the court with "virtually no information about father," the court abused its discretion when it placed A.B. in his custody.

A noncustodial parent has statutory and constitutional rights to the care and custody of his child. (*In re Liam L.* (2015) 240 Cal.App.4th 1068, 1080.) Section 361.2, subdivision (a), provides:

"When a court orders removal of a child pursuant to Section 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 Section 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."

The party opposing placement of the child with a nonoffending parent has the burden to show, by clear and convincing evidence, that the child will suffer harm if the nonoffending parent is given custody. (*In re C.M.* (2014) 232 Cal.App.4th 1394, 1402.)

We review a placement order for an abuse of discretion. (*In re Sabrina H.* (2007) 149 Cal.App.4th 1403, 1421.)

Under section 361.2, once the juvenile court removed A.B. from mother's custody (an order she does not challenge), the court was required to place A.B. with father, unless mother met her burden to show that A.B. would suffer detriment if placed with father. Mother did not argue detriment at the disposition hearing. The only evidence of detriment mother points to on appeal is a letter from her aunt by marriage, stating "the person on the birth certificate is seeking custody of [A.B.]. I don't understand why. That man physically beat [mother] while pregnant. And has never had a relationship with [A.B.]."

" 'Clear and convincing evidence requires a high probability, such that the evidence is so clear as to leave no substantial doubt.' " (*In re John M.* (2006) 141 Cal.App.4th 1564, 1569-1570.) Mother never stated that father had abused her. Although the aunt's letter also states father had no relationship with A.B., father stated that A.B. lived with him for her first two years, and mother and A.B. visited a few times a year. The statements in the letter were not evidence so clear as to leave no substantial doubt that placing A.B. with father would cause detriment to A.B. The court did not abuse its discretion in placing A.B. with father.

DISPOSITION

The dispositional order is affirmed.

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EGERTON, J.

We concur:

EDMON, P. J.

DHANIDINA, J.