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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B292963
(Los Angeles County
Super. Ct. Nos.
17CCJP01196A,
17CCJP01196B,
17CCJP01196C)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

J.B.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Martha Matthews, Judge. Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Aileen Wong, Senior Deputy County Counsel, for Plaintiff and Respondent.

In this juvenile dependency appeal, appellant J.B. (mother) challenges the juvenile court's October 1, 2018 order terminating its jurisdiction and issuing a final custody order.¹ Mother does not argue the juvenile court erred in terminating its jurisdiction over her three minor children. Rather, mother claims the final custody order impermissibly conditioned or limited the family court's authority to modify her custody of, or visitation with, the children. As explained below, although we do not disagree with mother's statement of the law, we disagree the juvenile court violated that law here. Accordingly, we affirm.

BACKGROUND

The factual background is not entirely relevant to the one discrete legal issue mother has raised on appeal. Accordingly, we summarize the factual background only briefly.

¹ This is mother's second appeal arising out of the underlying dependency proceedings. Previously, mother appealed the juvenile court's dispositional orders. Her appointed counsel filed a brief under the authority of *In re Phoenix H.* (2009) 47 Cal.4th 835. The appeal was dismissed in February 2019. (*In re M.R. et al.*, B289244.)

1. Family History

The family consists of mother, father, and their three minor children. At the time the underlying proceedings began, the oldest son M.R. was 12 years old, the younger son N.R. was eight years old, and the daughter K.R. was four years old. Mother and father divorced in 2016. Their relationship was less than amicable, and the children suffered as a result.

Before the instant proceedings began, the family had been the subject of repeated dependency referrals, some substantiated, some not. One common theme in previous investigations was the belief mother used the children as pawns in her contentious relationship with father. There were suspicions that mother coached her children to say things to get father in trouble. Mother also displayed signs of mental or emotional problems. Mother had attempted suicide in the past, had suicidal ideations, and at times suffered panic attacks, during which she considered driving off overpasses with her children in the car. Although initially the children primarily had been living with mother and her boyfriend, the oldest son eventually moved in with father.

2. Underlying Dependency Proceedings

In October 2017, respondent Los Angeles County Department of Children and Family Services (Department) filed the instant Welfare and Institutions Code section 300 petitions on behalf of the children (petitions), the children were detained, and the parents were given monitored visits with the children.² In January 2018, mother and father each filed a waiver of rights and entered no contest pleas to the petitions. The juvenile court sustained counts alleging mother had mental and emotional

² Undesignated statutory references are to the Welfare and Institutions Code.

problems which she did not treat, the two youngest children had behavioral problems and mother was unable appropriately to care for them, father had a criminal conviction for sexually abusing a child and was a registered sex offender, and mother failed to protect the children from father.

The oldest son refused to visit with mother, and sometimes the two younger children did not want to visit with her. Although mother's visits with the children went well overall, at times she struggled to act appropriately with the younger children. She coached the children to say or not to say certain things and she whispered inappropriate things to them that made them feel uncomfortable. Mother also made false accusations against father. She did not seem to grasp the negative consequences of her behaviors. The two older children reported that mother told all the children not to talk to Department social workers or tell them what is happening at home. Mother told the children if they talked to the social workers, the children would not see her again. Despite being told not to do those sorts of things, mother continued.

In March 2018, the juvenile court ordered the children released to father under Department supervision. Mother's monitored visitation continued. The children's behavior improved in father's care and, some months later, the oldest son began visiting with mother.

3. Termination of Jurisdiction, Final Custody Order, and Appeal

On September 24, 2018, the juvenile court held a review hearing. The Department recommended the case be closed with a final custody order granting joint legal custody to mother and father, sole physical custody to father, and monitored visits for

mother. The Department also indicated the therapists working with mother and the children as well as the supporting agency agreed to continue working together after the dependency case closed. In addition, the Department agreed to request funding for mother's therapist and a short-term visitation monitor. The goal of this proposed post-dependency coordination was "to try to resolve the issues that have come up . . . so that a modification could be sought in family court, allowing for unmonitored visits" for mother. The Department, father, and the children agreed to the proposal, but mother objected. Mother did not want the juvenile court to terminate its jurisdiction. Instead, mother wanted the case to stay open so that she could continue to work toward reunifying with her children. She asked for joint physical custody or at the least unmonitored visitation.

After hearing argument, the juvenile court closed the case with a final custody order. The court stated, "I am going to go with the Department's recommendation, which is to close the case on the terms recommended by the Department, but with the rider that is often attached, as to what would constitute good cause to modify the orders, would be that the – I'll just say the professionals working with the family to leave it loose enough, because it may be different people over time believe that monitored visits are no longer necessary. So, if that is true, that in this court's opinion would be good cause to seek a modification in family court." The juvenile court continued, "Now, this court is not in charge of family court. Any party can always seek a modification based on whatever they think is good cause. But at least you'll have a rider to the order saying that that is good cause in this court's opinion."

The court terminated its jurisdiction but stayed its order pending receipt of the final custody order, which was to include “a rider” “specifying that good cause to modify this order to allow [mother] unmonitored visitation would include a statement by the professionals working with the family that monitored visitation is no longer necessary to protect the children.” The court noted mother’s objection to the stated terms of the final custody order. The next day, mother filed a notice of appeal from the court’s September 24 order.

The following week, on October 1, 2018, the juvenile court signed and filed its final custody order. As expected, the order granted joint legal custody of the children to mother and father, sole physical custody to father, and monitored visits for mother. The final custody order also stated, “The suggested good cause for the visits to no longer be monitored would be the professionals working with the family deeming it appropriate to no longer have monitored visits.”

Two days later, mother filed an amended and timely notice of appeal from the juvenile court’s October 1, 2018 order.

DISCUSSION

Mother raises one issue on appeal. She claims the juvenile court impermissibly dictated the circumstances under which the family court could modify the juvenile court’s final custody order.

1. Applicable Law and Standard of Review

At the close of a dependency case, the juvenile court may do what the court did here and enter a final custody order determining custody of and visitation with the minor children. (§ 362.4, subd. (a).) The final custody order—sometimes called an “exit order”—may either be filed in a preexisting family law case involving the family or be the basis for opening such a case.

(§ 362.4, subds. (b) & (c); *In re Cole Y.* (2015) 233 Cal.App.4th 1444, 1455.) The juvenile court’s final custody order “shall be a final judgment and shall remain in effect after that jurisdiction is terminated.” (§ 302, subd. (d).) The family court may modify the final custody order only upon a finding “that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.” (§ 302, subd. (d).) The juvenile court cannot dictate how or when the family court may modify a final custody order. (*In re Cole Y., supra*, 233 Cal.App.4th at p. 1456.)

As the parties correctly note, generally we review a juvenile court’s decision to terminate jurisdiction and enter a final custody order for an abuse of discretion. (*In re C.M.* (2019) 38 Cal.App.5th 101, 104; *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300 (*Bridget A.*).

In this case, however, we consider a purely legal issue. We are asked to interpret the juvenile court’s final custody order to determine whether it improperly conditioned or limited the family court’s authority to modify mother’s custody of or visitation with her children. For this, we apply the de novo standard of review. (*In re Marriage of Richardson* (2002) 102 Cal.App.4th 941, 949; *In re C.M., supra*, 38 Cal.App.5th at p. 108; *Bridget A., supra*, 148 Cal.App.4th at p. 301.) In addition, the following standards guide our review: “The meaning and effect of a judgment is determined according to the rules governing the interpretation of writings generally. [Citations.] “[T]he entire document is to be taken by its four corners and construed as a whole to effectuate the obvious intention.” [Citations.] “No particular part or clause in the judgment is to be seized upon and given the power to destroy the remainder if such effect can be

avoided.’ ” [Citations.] [¶] Where an ambiguity exists, the court may examine the entire record to determine the judgment’s scope and effect. [Citations.] The court may also “ ‘refer to the circumstances surrounding the making of the order or judgment, [and] to the condition of the cause in which it was entered.’ ” ” (*In re Marriage of Richardson*, *supra*, 102 Cal.App.4th at pp. 949–950.)

2. The juvenile court did not err.

Mother relies primarily on *In re Cole Y.*, *supra*, 233 Cal.App.4th 1444. In that case, the juvenile court terminated its jurisdiction and entered a final custody order governing custody of the minor child and ordering monitored visitations for the father. (*Id.* at p. 1451.) The juvenile court also “ordered Father to complete a drug program and to participate in a parenting program and individual counseling.” (*Ibid.*) Although the juvenile court stated, “ ‘And with regards to any liberalization of [Father’s] visits, the family court can determine that when they see fit,’ ” the juvenile court also stated, “ ‘[I]n order to modify the court’s orders, . . . Father will have to complete . . . a full drug program with weekly testing, a parenting program and individual counseling.’ ” (*Ibid.*)

Division One of this district reversed the final custody order “to the extent it conditioned the family court’s modification of the juvenile court’s custody and visitation exit order upon proof of Father’s completion of drug and parenting programs and counseling.” (*In re Cole Y.*, *supra*, 233 Cal.App.4th at p. 1446.) The court explained the issue concerned “the allocation of jurisdiction between the dependency and family courts.” (*Id.* at p. 1456, fn. 4.) The court held section 302 did not authorize the juvenile court “to condition the family court’s modification of the

exit order upon Father’s completion of [specified programs or events].” (*Id.* at p. 1456.) Rather, before modifying a final custody order, section 302 requires the family court to make two specific findings—namely, “a significant change of circumstances since the juvenile court issued the order” and “modification of the order is in the best interests of the child.” (§ 302, subd. (d).)

We do not disagree with mother that the principles discussed in *In re Cole Y.* apply in this case. However, contrary to mother’s position, we conclude as a matter of law the juvenile court did not violate those principles. In contrast to the order at issue in *In re Cole Y.*, the final custody order here did not condition or limit the family court’s authority to modify the order. As noted above, the final custody order stated, “The suggested good cause for the visits to no longer be monitored would be the professionals working with the family deeming it appropriate to no longer have monitored visits.” By its terms, this is a suggestion, not a mandate. The final custody order does not require mother to do anything before seeking modification before the family court. Similarly, it does not require the family court to act or not act based on some future event. This differs from the mandatory language used in *In re Cole Y.*, *supra*, 233 Cal.App.4th at page 1451, where the juvenile court stated the father “ ‘will have to’ ” complete certain tasks “ ‘in order to modify the court’s orders.’ ”

To the extent the final custody order is ambiguous with respect to future modifications, the record reveals the juvenile court did not intend to, nor did it, intrude on the family court’s jurisdiction. (*In re Marriage of Richardson*, *supra*, 102 Cal.App.4th at pp. 949–950.) At the September 2018 review hearing, the juvenile court expressed its “opinion” that monitored

visits would no longer be necessary to protect the children if the professionals working with the family stated as much. The juvenile court was quick to add, “[T]his court is not in charge of family court. Any party can always seek a modification based on whatever they think is good cause.” In light of the plain language of the final custody order as well as the record before us, we conclude the juvenile court did not err in expressing its opinion and including a suggestion in the final custody order as to what might constitute good cause to modify mother’s visitation.

DISPOSITION

The October 1, 2018 order is affirmed.

NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

ASHMANN-GERST, J.

HOFFSTADT, J.