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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B277890
(Super. Ct. No. 1395727)
(Santa Barbara County)

SANTA BARBARA COUNTY
CHILD PROTECTIVE
SERVICES,

Petitioner and Respondent,

v.

P.M.,

Guardian and Appellant.

P.M., the maternal grandmother of 13-year-old A.M.,
appeals from a juvenile court order terminating appellant's
guardianship (Cal. Rules of Ct., rule 5.620(e); Welf. & Inst. Code,

§ 728, subd. (a))¹ after the court sustained a petition alleging that A.M. was the victim of commercial sex trafficking (§ 300, subd. (b)(2)). The trial court terminated the probate guardianship based on clear and convincing evidence that it was in the best interests of the child. (§ 728, subd. (a).) We affirm.

Procedural History

A.M. was sexually abused as a young child and the victim of non-consensual sex before she was reunited with her presumed biological father in 2013.² The presumed father was unable to handle A.M. and sent her to live with appellant who was appointed A.M.'s legal guardian by a Stanislaus County probate court in 2014.

A.M. continued her sexual activities, used drugs, and eloped many times. On January 12, 2016, appellant reported that A.M. had run away and was using drugs, hanging out with gangs, and was being human trafficked. The police report noted that A.M. had run away from home five times in the last four months.

A.M. was arrested on January 14, 2016 at appellant's home and under the influence of a controlled substance. She said

¹ All statutory references are to the Welfare and Institutions Code unless otherwise stated.

² In 2012, A.M. was removed from the care and custody of her biological mother (J.M.) who suffered from substance abuse and mental health issues. Mother appealed the jurisdiction and disposition orders. We affirmed the judgment in an unpublished opinion of which we take judicial notice. (B241081.) On 2013, the juvenile court terminated reunification services for the biological mother, placed A.M. with her presumed father, and transferred the case to Stanislaus County.

that she met a human trafficker on Facebook, was forced to use methamphetamine, and was sexually assaulted and “pimped out” to other men. A.M. told the police that she “slept” with at least 15 men over the past month.

On February 5, 2016, Santa Barbara County Child Welfare Services (CWS) filed a dependency petition alleging that A.M. was the victim of commercial sex trafficking and that appellant was unable to protect the child. (§ 300, subd. (b)(2).) A.M. was detained and placed in several group homes but ran away. After the trial court sustained the petition at a contested jurisdiction hearing on September 1, 2016, it granted a motion to terminate the guardianship. (§ 728, subd. (a).)

Failure to Protect

Appellant argues that the evidence does not support the finding that she failed to protect A.M. (§ 300, subd. (b)(2).) Section 300, subdivision (b)(2) provides that the juvenile court may assert jurisdiction where, as here, the child has been “sexually trafficked.” The second prong of section 300, subdivision (b)(2) requires a showing that the “parent or guardian failed to, or was unable to, protect the child” (*Ibid.*) The trial court may consider past events in deciding whether the child needs the court’s protection. (*In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216.)

Appellant contends that A.M.’s incorrigible behavior was the result of inadequate parenting and foster care abuse. Citing *In re Precious D.* (2010) 189 Cal.App.4th 1251, appellant argues that a parent’s/guardian’s inability to supervise an incorrigible child does support a section 300, subdivision (b) jurisdiction finding. In *Precious D.*, a 17-year-old runaway had sexual relations with adult men despite mother’s best efforts to

protect her. (*Id.* at pp. 1254-1258.) The Court of Appeal reversed the jurisdictional order because the mother did everything she could to protect the child. “[P]arental unfitness or neglectful conduct must be shown in order to assert dependency court jurisdiction under that part of section 300(b) providing for jurisdiction based on the parent’s ‘inability . . . to adequately supervise or protect the child.’” (*Id.* at p. 1254.) Assuming that *Precious D.* was correctly decided (contra *In re R.T.* (2015) 235 Cal.App.4th 795 [188 Cal.Rptr.3d 373], review granted June 17, 2015, S226416), appellant’s case is factually different.

Unlike *Precious D.*, appellant’s neglect and lack of supervision played a significant role in A.M.’s behavioral problems which included substance abuse, aggression, sexual activity, running away, and gang affiliations. Appellant let A.M. come and go as she pleased. While under appellant’s care, A.M. eloped with a man she met on the internet and was sexually exploited. All of it had a toll on A.M. who suffered from depression, anxiety, mood swings, substance abuse, and suicidal ideations. In December 2015, appellant took A.M. to a police station and said that she was not able to care for A.M. The officer who intervened with the family in the past reported emotional abuse between appellant and A.M.

In January 2016, CWS received a referral that A.M. was missing. When the police found A.M., she was under the influence of methamphetamine and said that she had been “pimped out” by her boyfriend. Santa Barbara County Mental Health Services Department recommended that A.M. be placed in a high level group home that specialized in treating sexually exploited children.

Appellant, however, could not focus on A.M.'s treatment and believed that the trial court, CWS, and the police were covering things up. Appellant claimed that a child welfare worker had trafficked A.M. and that the trial court judge knew about it.³ CWS referred appellant to a therapist which would be beneficial to A.M.'s treatment, but appellant refused.

After A.M. absconded from a group home in Fullerton on February 14, 2016, appellant allowed A.M. and her 19-year-old boyfriend to live at her house. The police did not find A.M. until April 26, 2016. The boyfriend told the police that he moved into the home two weeks earlier and that appellant was "okay" with it.

A.M. absconded from a third group home in June 2016 and lived with appellant from June 27, 2016 through July 14, 2016. After A.M. was placed in a fourth group home, she absconded again. Appellant was aware of A.M.'s whereabouts but failed to inform CWS or the police. Appellant encouraged A.M. to visit her biological father so that A.M. could find out who he was and see him beat his wife. A.M. did visit her father and "tripp[ed] out" on LSD while there. It was later discovered that appellant allowed A.M.'s mother, a drug user, to live with A.M. before and after the dependency petition was filed.

The evidence shows that appellant failed to supervise A.M., refused to cooperate with the police and CWS when A.M. ran away, and isolated A.M. from professional help and treatment. Substantial evidence supports the finding that A.M.

³ Appellant filed an affidavit to disqualify the trial judge, alleging that he was biased and mishandled the earlier dependency matter. (Code Civ. Proc., § 170.1.) The motion to disqualify was denied on June 20, 2016.

was a sexually exploited child and that appellant failed to or was unable to protect the child. (§ 300, subd. (b)(2).)

Reunification Services

Appellant argues that the trial court erred in terminating the guardianship before the disposition hearing and not ordering reunification services. Section 728, subdivision (a) provides that the trial court may grant a motion to terminate a guardianship at any stage of the dependency proceeding, as early as the detention or jurisdiction hearing. (See Cal. Rules of Ct., rule 5.620(e); *In re Merrick V.* (2004) 122 Cal.App.4th 235, 253; *In re Xavier R.* (2011) 201 Cal.App.4th 1398, 1414.)

Here the trial court terminated the guardianship without reunification services. It did not err. Although section 361.5, subdivision (a) provides that a guardian has a right to reunification services, it does not trump the juvenile court's authority to terminate a guardianship. "Notwithstanding the mandatory language of section 361.5, subdivision (a), a predependency or Probate Code guardianship may legally be terminated before reunification services are offered to the guardian." (*In re Merrick V.*, *supra*, 122 Cal.App.4th at p. 253.)

Best Interests of the Child

Appellant's assertion that the evidence does not support the order terminating her guardianship is without merit. The best interest of the child is the sole criterion for termination of a guardianship and must be established by clear and convincing evidence. (*Guardianship of L.V.* (2006) 136 Cal.App.4th 481, 491; *In re Z.F.* (2016) 248 Cal.App.4th 68, 73.) Appellant failed to protect A.M. from sex trafficking, permitted an adult to have sexual relations with A.M. and move into the house, failed to advise CWS and law enforcement of A.M.'s

whereabouts, and encouraged A.M. to live with her biological father so that A.M. would see him beat his wife. The trial court reasonably concluded that it was in A.M.'s best interest to terminate the guardianship. (*In re Guardianship of L.V., supra*, at p. 488 [applying abuse of discretion standard of review.]

The judgment (jurisdiction order and section 728 order terminating guardianship) is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Arthur A. Garcia, Judge

Superior Court County of Santa Barbara

Jack A. Love, under appointment by the Court of
Appeal, for Guardian and Appellant.

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