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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B278929
(Super. Ct. No. 1506221)
(Santa Barbara County)

SANTA BARBARA COUNTY CHILD
WELFARE SERVICES,

Plaintiff and Respondent,

v.

LINDA B.,

Defendant and Appellant.

Linda B. (Mother) appeals an order of the juvenile
court denying her family reunification services pursuant to the

provisions of Welfare and Institutions Code section 361.5, subdivisions (b)(10) and (b)(11).¹ We affirm.

FACTUAL AND PROCEDURAL HISTORY

On September 14, 2016, in response to an anonymous referral to Santa Barbara Child Welfare Services (CWS), a social worker and two sheriff's deputies visited a store in Buellton that was formerly a lavender plant business. Mother and her seven-year-old daughter K.C. were inside the store. The front room of the store contained trash, dirty clothes, and spoiled food, and emanated a strong marijuana odor. Inside, deputies found marijuana plants, two small bags of methamphetamine, a methamphetamine pipe with methamphetamine residue, and paraphernalia to manufacture concentrated cannabis. Outside and directly behind the store, deputies found marijuana plants growing in plant pots.

Mother displayed symptoms of recent methamphetamine use -- rapid speech, inability to stay still, and lack of eye contact. She admitted that she had used methamphetamine the previous night. K.C. was later tested for exposure to drugs. Hospital laboratory tests revealed the presence of methamphetamine and theobromine in K.C.'s body.

K.C. informed the investigating social worker that she was not enrolled in or attending school. She also stated that she and Mother harvested lavender plants on the property. K.C. appeared unclean and reported that she had not bathed for several weeks.

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

CWS detained K.C and on September 16, 2016, filed a dependency petition on her behalf. Among other things, CWS alleged that K.C. was at risk of serious physical harm due to Mother's drug possession and drug abuse; K.C. had no provision for support due to Mother's recent arrest and subsequent incarceration; and Mother's parental rights to another child were terminated in 2004 after she failed reunification efforts. (§ 300, subds. (b), (g), (j).)

On September 19, 2016, the juvenile court held a detention hearing. It found a prima facie case regarding the dependency petition, placed K.C. in the temporary care and custody of CWS, and set the matter for a jurisdiction and disposition hearing.

Following the detention hearing, the CWS social worker recommended that Mother enter an inpatient drug treatment program. Mother resisted the recommendation of inpatient treatment, but did receive an assessment at the Turning Point treatment facility. The drug counselor at that facility recommended that Mother receive treatment for both mental illness and drug addiction at the Recovery Point Good Samaritan program.

During October 2016, Mother visited K.C. and, on two occasions, fell asleep and appeared to be under the influence of drugs during the visits. Mother also missed many scheduled visits with K.C. and frequently did not return telephone calls from the CWS social worker or the drug treatment program employees.

CWS later filed a disposition report recommending that Mother not receive family reunification services pursuant to section 361.5, subdivisions (b)(10) and (b)(11). The

recommendation rested upon Mother's failure to reunify with her child C.S., and the termination of her parental rights concerning that child. The earlier dependency involved Mother's 2004 arrest for driving under the influence, possession of a stolen vehicle, possession of drug paraphernalia, reckless driving, and evading a police officer. Mother led pursuing police officers on a high speed chase in a truck she had stolen; C.S., a seven-month-old infant who had a positive laboratory test for cocaine at birth, was a passenger in the truck during the pursuit.

On November 3, 2016, the juvenile court held a contested jurisdiction and disposition hearing regarding K.C. Mother subsequently submitted to jurisdiction but challenged CWS's recommendation regarding bypass of family reunification services.

At the hearing, Mother testified that in 2004, she received a four year eight month prison sentence regarding C.S. Mother stated that she was homeless and lacked transportation, but she had scheduled appointments with two drug treatment programs for the day following the disposition hearing. Mother also professed willingness to comply with the requirements of a reunification services plan.

The juvenile court received prior CWS reports into evidence and took judicial notice of the 2003-2004 dependency file involving C.S. Following argument by the parties, the court sustained the allegations of section 300, subdivisions (b) and (j) of the dependency petition. It also concluded that the provisions of section 361.5, subdivisions (b)(10) and (b)(11) applied and that Mother failed to establish that providing family reunification

services was in K.C.'s best interest pursuant to section 361.5, subdivision (c)(2).

Mother appeals and contends that she established with sufficient evidence that family reunification is in the best interests of K.C. Father is not a party to this appeal.

DISCUSSION

Mother argues that the juvenile court abused its discretion by not ordering CWS to provide her with family reunification services. She relies upon her intent to participate in future services as well as K.C.'s obvious love for and attachment to her.

Section 361.5, subdivision (a) generally provides that a parent in a dependency proceeding shall receive family reunification services whenever his or her child is removed from parental custody. (*D.T. v. Superior Court* (2015) 241 Cal.App.4th 1017, 1033.) Subdivision (b) sets forth exceptions, commonly referred to as bypass provisions, to this general rule. (*D.T.*, at p. 1033.) Bypass provisions reflect the legislative acknowledgement that reunification services may be fruitless in particular circumstances. (*Ibid.*) When the court determines a bypass provision applies, the general rule favoring reunification is replaced with a legislative presumption that reunification services would be an unwise use of governmental resources. (*In re Allison J.* (2010) 190 Cal.App.4th 1106, 1112.)

Section 361.5, subdivisions (b)(10) and (b)(11) permit the juvenile court to bypass services to a parent who has previously failed to reunify with a sibling or half-sibling, or who has previously had a sibling or half-sibling removed from his or her care and parental rights terminated. Upon such a finding, the court "shall not order reunification" for the parent "unless

the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.” (§ 361.5, subd. (c)(2); *In re Allison J.*, *supra*, 190 Cal.App.4th 1106, 1115.) A determination of “best interest” requires consideration of, among other things, the parent’s current rehabilitation efforts, fitness, and history; the seriousness of the problem that led to the dependency; the strength of the parent-child and caretaker-child bonds; and the child’s need for stability and continuity. (*Allison J.*, at p. 1116.) A best interest finding requires a likelihood that reunification services will succeed and that parent-child reunification is possible. (*Ibid.*)

Sufficient evidence supports the finding of the juvenile court that Mother did not establish that family reunification was in K.C.’s best interest. (*D.T. v. Superior Court*, *supra*, 241 Cal.App.4th 1017, 1032-1033, fn. 10 [parent bears the burden of establishing the best interest provision of section 361.5, subdivision (c)(2)].) Mother has a long history of substance abuse. She lost her parental rights to C.S. in 2004 due to that substance abuse and her criminal acts of evading police officers in a stolen truck in which infant C.S. was a passenger. Twelve years later, law enforcement officers found methamphetamine and marijuana in the lavender plant store; Mother was then under the influence of methamphetamine and toxicology tests established the presence of methamphetamine in K.C. Following K.C.’s detention, Mother did not attend an inpatient substance abuse program, remain in contact with CWS, or attend most visits with K.C. Mother continued to ingest prescription opiates and denied that she had an illegal drug problem. Although K.C. obviously loved Mother, a child’s love for a parent cannot be the sole basis for a best interest

finding. (*In re William B.* (2008) 163 Cal.App.4th 1220, 1229.)
Mother did not establish a likelihood that reunification services
will succeed and that reunification with K.C. is possible. (*In re
Allison J.*, *supra*, 190 Cal.App.4th 1106, 1116.)

The order is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Arthur A. Garcia, Judge

Superior Court County of Santa Barbara

Janette Freeman Cochran, under appointment by
the Court of Appeal, for Defendant and Appellant.

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