Filed 5/31/12 In re Darren S. CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re DARREN S. et al., Persons Coming Under the Juvenile Court Law.	B234624 (Los Angeles County Super. Ct. No. CK81687)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent, v. JOSHUA S., Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County. Terry T. Truong, Juvenile Court Referee. Affirmed.

Ernesto Paz Rey, under appointment by the Court of Appeal, for Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and Aileen Wong, Deputy County Counsel, for Respondent.

Joshua S. (father) appeals from a juvenile court visitation order, contending the court abused its discretion by not granting him unmonitored visits with his children, Darren S., age 4, and Breanna S., age 2. We conclude father fails to show any error, insufficiency of the evidence or abuse of discretion, and therefore affirm.

BACKGROUND

Father's family has a short but extensive history with the Los Angeles County Department of Children and Family Services (DCFS or the department). They were referred to DCFS in 2008 on allegations of general neglect and again in 2009 on an allegation that Darren had ingested motor oil. Voluntary family maintenance and preservation services were offered, but the parents were not responsive to them.

In 2010, Darren and Breanna were detained when Darren, then 23 months old, was found wandering alone in the middle of the street. Darren was observed to have light facial bruising, which his mother, Jeannie C. (mother) first said was caused by rug burns but later admitted was caused when she slapped Darren because he had spilled his bottle of formula and then dragged him by the foot across the carpet.

Father has an admitted history of methamphetamine and alcohol abuse and an extensive arrest record, with convictions in 2006 for transporting a controlled substance and 2010 for possession of a dirk or dagger. He and mother were at times homeless, and his parents reported that although father and mother lived with them at one time, after numerous episodes of irrational behavior—hysterical yelling regarding such things as baths, haircuts, housecleaning, and care of the children, they were no longer welcome in the house. On March 10, 2010, father's father wrote a letter to DCFS in which he stated, "My son has had numerous episodes of mental instability some of which I believe was due to drug usage. . . . My son suffers from paranoia and delusions due to his use of Methamphetamines, other drugs and alcohol."

Reunification services were offered to mother and father, including monitored visitation, counseling, and parenting classes, but DCFS reported that they were "extremely difficult to work with and refuse[d] to accept services or guidance from DCFS." Nevertheless, at the six-month review hearing on November 2, 2010, the

juvenile court found that father was in partial compliance with his court-ordered case plan and ordered that monitored visits continue in the DCFS office or a DCFS approved location. Father was stricken from the Welfare and Institutions Code section 300 petition.

Over the next several months, the DCFS visitation log revealed the following: At a visit in the DCFS on December 1, 2010, father rolled a cigarette in the lobby, "making a mess with the tobacco." He accepted the monitor's remonstration and said he would clean up the mess. His habit during visits was that "when ever mother would be playing with one of the children [he] would stop playing with the one he [was] currently playing with and take over playing with the child that mother would be playing with . . . ." He several times forced Darren to eat when he was not hungry, and once held him down and wrapped his leg around him when Darren refused to comply with his instructions. He called Darren a "punk," told mother what she could say and not say to the children, and several times told her she could not laugh. He complained that a prohibition against using profanity in front of the children violated his First Amendment rights. On one visit, father spent much of the time forcing Darren to remain in his lap while he read a trigonometry book to him.

On June 28, 2011, at the twelve-month review hearing, the juvenile court again found father was in partial compliance with the case plan, but stated, "I do believe that it would be to [father's] benefit to attend anger management and to undergo a mental health assessment so that the court as well as all counsel can rule out any sort of mental health issue that he may have in this case." DCFS and the children's counsel requested that visitation remain monitored, which the court ordered.

Father appeals from this ruling.

DISCUSSION

Father contends the court abused its discretion when it refused to grant him unmonitored visitation. Specifically, he argues that the court abused its discretion when it linked liberalization of his visits to his participation in a psychological evaluation and anger management counseling.

When a juvenile court terminates jurisdiction in a dependency case it may issue an order for custody and visitation of the dependent child. (Welf. & Inst. Code, §§ 362.4, 364; *In re Chantal S*. (1996) 13 Cal.4th 196, 202-203.) In doing so, it has broad discretion to determine what serves the child's best interests, and its decision will not be reversed absent a clear abuse of that discretion. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300; see also *In re Emmanuel R*. (2001) 94 Cal.App.4th 452, 465 [juvenile court's visitation order reviewed under the abuse of discretion standard].)

Father contends the monitored visitation restriction is unsupported by substantial evidence and constitutes an abuse of discretion. We disagree.

"Visitation is an essential component of any reunification plan. [Citation.] To promote reunification, visitation must be as frequent as possible. [Citation.]" (*In re Alvin R*. (2003) 108 Cal.App.4th 962, 972.) "But a parent's liberty interest in the care, custody, and companionship of children cannot be maintained at the expense of their well-being. [Citation.] While visitation is a key element of reunification, the court must focus on the best interests of the children 'and on the elimination of conditions which led to the juvenile court's finding that the child has suffered, or is at risk of suffering, harm specified in section 300.' [Citation.]" (*In re Julie M*. (1999) 69 Cal.App.4th 41, 50.)

The question is whether the court's determination that the visitation provided is in the best interest of the child exceeded the bounds of reason.

At the twelve-month review hearing the juvenile court stated, "With regards to [father], I recognize the fact that for every positive thing stated about him in the visitation, there's also something negative that is mentioned in the visitation log, and it's unclear to this court whether this is a bias of one person. And given the information I have before me, I am not, at this time, inclined to grant [father] the unmonitored visits."

Despite its dismissing the petition as to father, the juvenile court could reasonably conclude from the circumstances that monitored visitation remained in the children's best interests. Although father visited his children regularly for the most part and interacted with them, he exhibited inappropriate behavior on several occasions. He forced Darren to eat when the child was not hungry, physically forced him to engage in unnecessary

activities, and exhibited some carelessness in his demeanor while in the children's presence. He was domineering to mother and dismissive of her and the social workers. It was therefore within the bounds of reason for the juvenile court to conclude the children would benefit more from monitored than unmonitored visitation.

Father complains the court inappropriately tied liberalization of visitation to his participation in a psychological evaluation and anger management classes. The record reveals no such requirement. The court suggested that father would benefit from an evaluation and anger management classes, but it did not order them and did not suggest that liberalization of visitation would be contingent on them.

DISPOSITION

The order of June 28, 2011 is affirmed.

NOT TO BE PUBLISHED.

CHANEY, J.

We concur:

MALLANO, P. J.

ROTHSCHILD, J.