Filed 12/21/17 In re A.B. CA2/4

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re A.B., a Person Coming Under the Juvenile Court Law.	
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. D.B., Defendant and Appellant.	B283401 (Los Angeles County Super. Ct. No. CK55952)

APPEAL from an order of the Superior Court of Los Angeles County, Debra L. Losnick, Commissioner. Affirmed.

Daniel G. Rooney, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary Wickham, County Counsel, R. Keith Davis, Assistant County Counsel and David Michael Miller, County Counsel, for Plaintiff and Respondent.

Appellant D.B. (Mother) appeals the order of the juvenile court terminating reunification services at the 12-month review hearing in the absence of her 17-year-old daughter A.B., who had been AWOL (absent without leave) from her group home placement for approximately two weeks at the time of the hearing. Mother contends the court lacked current information about A.B.'s condition necessary to select an appropriate permanent plan. We conclude Mother forfeited the issue by failing to object at the hearing or seek a continuance, and that in any event, the court had before it sufficient information to support its ruling. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A.B., then 16, came to the attention of the Department of Children and Family Services (DCFS) in December 2015, when Mother reported she was a chronic runaway who refused to listen to adult authority and could not be

disciplined.[1] Mother also reported A.B. was physically abusive to a younger sibling and was not regularly attending school.[2] A.B. said she did not want to live with Mother or follow her rules; Mother asked that A.B. be detained from her care.[3]

A.B. was detained and placed in Dream Catcher Group Home (Dream Catcher). Between December 2015 and February 2016, Mother did not contact DCFS to request visits, and A.B. did not request visits with Mother. Nonetheless, DCFS recommended that reunification services be offered Mother, as well as unmonitored visits. The court found jurisdiction appropriate based on Mother's inability to provide appropriate care and supervision due to A.B.'s behavioral problems, allowed unmonitored visitation, and directed Mother to obtain individual counseling and to participate in joint counseling with A.B. when appropriate.

A.B. initially reported being comfortable at Dream Catcher and getting along well with the other minors housed there. She began making progress in therapy. In April 2016, before conjoint therapy could begin, she was discharged from Dream Catcher due to aggressive behavior

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[1] A.B. and two siblings had been the subject of a dependency proceeding in 2004, in which the court found that Mother had physically abused the children. The children were returned to Mother, and the proceeding was terminated in 2008.

[2] A.B. had recently been convicted of battery and had been ordered to perform community service.

[3] A.B.'s father is dead.

toward staff and peers and moved to Rosemary Group Home (Rosemary). After the move, Mother and A.B. had more contact. Mother expressed interest in conjoint therapy with her daughter. However, the move from Dream Catcher to Rosemary disrupted A.B.'s individual therapy, and Rosemary delayed restarting therapy due to A.B.'s hectic spring and summer school schedule.[4] In August 2016, DCFS recommended an additional six months of reunification services for Mother. The court ordered the additional services.

In August and September 2016, A.B. appeared amenable to joint counseling, and Mother and A.B.'s counselor attempted to schedule an individual session, preliminary to initiating joint counseling. Mother was unable to meet during that period due to her work schedule. In October, A.B. and Mother got into an argument, and A.B. changed her mind about participating in joint counseling with Mother. The counselor concluded conjoint counseling should not begin until A.B. was in a less combative state of mind. Mother herself expressed ambivalence about participating, due to A.B.'s "negative and explosive responses towards her."

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[4] In addition, during her stay at Rosemary, A.B. was moved internally multiple times due to "serious behavioral issues, such as threatening other residents as well as staff." In June, A.B. was diagnosed with a "depressive disorder," and prescribed medication.

In December 2016, A.B. announced she was ready for joint counseling, although she did not believe it would result in her return to Mother's care. One session was held on January 5, 2017. A few days later, A.B. was moved back to Dream Catcher.[5] In February 2017, A.B. learned Mother had attempted to interfere with her return to Dream Catcher, and said she wished to remain in her out-of-home placement until she became emancipated. The caseworker, noting that Mother had rarely visited A.B., even during the holidays, concluded that due to the time that had passed since the detention and the infrequent contact between Mother and A.B., the mother-daughter relationship had deteriorated too much to expect reunification. DCFS recommended terminating reunification services at the upcoming 12-month review hearing.

In February 2017, A.B.'s CASA (Court Appointed Special Advocate) reported A.B. was doing well at Dream Catcher and in her classes. A.B. told the CASA she was happy with her placement and her school. She had, however, missed multiple classes without excuse, and begun to express suicidal ideation. In addition, she had left the group home without permission on one occasion, and on another returned late from an outing. A.B. said she was

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[5] During her stay at Rosemary, A.B. repeatedly expressed a desire to return to Dream Catcher because she preferred the Los Angeles school she had attended when living in that group home to the Pasadena schools near Rosemary.

angry with Mother and believed Mother had made little effort to reunite. She no longer wished to have a relationship with Mother.

The court set April 5, 2017 for the contested 12-month review hearing. On March 17, A.B. ran away from Dream Catcher and could not be located. The court issued a protective custody warrant. A.B. remained in contact with her CASA and was reportedly living with friends in Los Angeles. A.B. told the CASA she was upset because Mother was invited to participate in team meetings, but had not demonstrated, through visits or phone calls, that she cared about their relationship.

Although A.B. remained in contact with the CASA, she had not been located by the April 5 review hearing. Her counsel appeared, along with Mother, Mother's counsel, and DCFS's counsel. No party raised objections to going forward with the hearing in A.B.'s absence. Mother's counsel argued in favor of additional reunification services. She pointed out that Mother had participated in making educational decisions for A.B. and had kept in contact with the caseworker. She said Mother was concerned about A.B.'s safety and contended A.B. would be safer if returned to Mother's home. A.B.'s attorney joined DCFS in arguing in support of terminating reunification services. Counsel saw no likelyhood that A.B. could be safely returned to Mother in six months, "given the dynamic, given [A.B.'s] position, given

[A.B.'s] age."[6] Expressing confidence that A.B. would return to the placement, the court terminated reunification services and ordered DCFS to provide permanent placement services.[7] It did not set a Welfare and Institutions Code section 366.26 hearing due to A.B.'s age. Mother appealed.

DISCUSSION

Mother contends the court committed procedural error when it held the April 5, 2017 hearing in A.B.'s absence, and that its orders were made in a "factual vacuum" and "in a manner that might not best serve [A.B.'s] long term interests." As respondent points out, however, Mother did not object to holding the hearing in A.B.'s absence or seek a continuance until A.B. could be located. Accordingly, she has forfeited this issue. (See *In re A.A.* (2012) 203 Cal.App.4th 597, 605-606; *In re Elijah V.* (2005) 127 Cal.App.4th 576, 582.)

Moreover, the authorities cited by Mother do not support her contention that the juvenile court erred by proceeding with the hearing during the brief period A.B. was AWOL. In *In re Claudia S.* (2005) 131 Cal.App.4th 236, the mother and children were in Mexico, and the father was not

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[6] A.B. was 17 and a-half at the time. She turned 18 in November 2017, while this appeal was pending.

[7] We granted a request for judicial notice from respondent indicating A.B. was located and returned to her placement in May 2017.

present when the court conducted the detention, jurisdictional, dispositional and review hearings. Moreover, the court had not appointed counsel to represent the parents. When the family resurfaced later, the children were immediately placed in foster care without further investigation or hearing. The Court of Appeal concluded all hearings after the detention hearing "constituted a continuing charade played out for the benefit of no one," and were held in violation of the parents' right to due process. (*Id*. at pp. 250-251.) In *In re Baby Boy M*. (2006) 141 Cal.App.4th 588, the mother gave her infant to his biological father within days of his birth, and the father took the boy out of state. The juvenile court asserted jurisdiction and made dispositional orders without any further information about the boy's circumstances. The Court of Appeal reversed due to lack of evidence that California courts had subject matter jurisdiction over the boy. (*Id*. at pp. 599-602.) Here, Mother was represented by counsel who advocated on her behalf at the hearing, and there was no question that the court had subject matter jurisdiction.[8]

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[8] Mother also cited *In re F.S*. (2016) 243 Cal.App.4th 799. But there, the appellate court affirmed a removal order made in the absence of the mother and child, who had moved to Texas while the proceeding was pending. (*Id.* at pp. 801, 808.) On appeal, the child's father argued the child's absence from the state "deprived the court of sufficient information about her then-current condition." (*Id.* at p. 808.) The court disagreed, finding the juvenile court had "sufficient evidence . . . to reliably fashion a dispositional order" based on telephonic communications the

(*Fn. is continued on the next page.*)

It is true that in both *Claudia S.* and *Baby Boy M.*, the courts expressed displeasure at jurisdictional and dispositional orders based on "outdated information gathered before the detention hearing" (*Claudia S.*, *supra,* 131 Cal.App.4th at p. 250) and in the absence of "meaningful information about [the minor's] current condition or living situation." (*Baby Boy M., supra,* 141 Cal.App.4th at p. 602.) Here, however, the court based its ruling on current information about the family acquired in the period before A.B. ran away and information from the CASA, who remained in contact with A.B. at all times. The evidence before the court was sufficient to justify the ruling terminating reunification services. Mother and A.B. had had little contact since her detention. A.B. expressed anger at Mother, and by April 2017 had no desire to participate in joint therapy, which had been stymied up to that time by her intransigence and other circumstances beyond DCFS's control. There was little likelihood A.B. would change her mind in the months remaining before her 18th birthday. Moreover, even were we to return the matter for further services, A.B. is now 18 and free to refuse to participate. (See Welf. & Inst. Code § 361.6, subd. (a) [court may order family reunification services to continue for nonminor dependent "if the nonminor dependent and parent . . . are in

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caseworker and the father had with the mother and the court's knowledge of the family's situation gleaned from presiding over the case for a year. (*Id.* at p. 814.)

agreement"].) In short, the court did not err in conducting the hearing and in ordering termination of reunification services.

DISPOSITION

The order terminating reunification services is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.