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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re I.H. et al., Persons Coming Under the Juvenile Court Law.	B240363
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Respondent, v. S. J. et al., Appellants.	(Los Angeles County Super. Ct. No. CK79876)

APPEALS from a judgment of the Juvenile Court of Los Angeles County. Veronica McBeth, Acting Judge. Appeals dismissed.

Julie E. Braden, under appointment by the Court of Appeal, for Appellant S.J.

Eliot Lee Grossman, under appointment by the Court of Appeal, for Appellant R.H.

No appearance for Respondent.

In dependency proceedings on March 29, 2012, the Los Angeles Superior Court, Veronica McBeth, Acting Judge, terminated the parental rights of S.J. (Mother) and R.H. (Father) over their daughter I.H. (age 5-1/2) pursuant to Welfare and Institutions Code section 366.26, and ordered I.H. placed for adoption as the permanent plan.[1] The court also struck paragraph b-1 and sustained paragraphs a-1, b-2, b-3, and j-1 of the section 300 petition regarding the parents' son A.J. (age 4-1/2 months); it found A.J. to be a person described by subdivisions (a), (b), and (j) of Welfare and Institutions Code section 300; and it ordered reunification services for the parents with respect to A.J.

BACKGROUND

On October 20, 2009, I.H., then three years old, had been taken into protective custody by a Department of Human Services social worker, following a history of domestic violence allegations, a referral alleging a number of incidents of domestic violence involving her parents, and at least one incident involving I.H. A November 4, 2009 Juvenile Dependency Petition under section 300 alleged that I.H. comes within juvenile court jurisdiction under subdivision (b) of section 300. Paragraphs b-1 and b-2 both alleged serious physical harm and a risk of future harm to I.H. resulting from the parents' failure or inability to protect her from Father's domestic violence, and the parents' history of domestic violence.

At a November 5, 2009 detention hearing in Bakersfield, the Kern County Superior Court found R.H. to be I.H.'s presumed father, ordering I.H. detained with supervised visitation by her parents. At the December 17, 2009 detention/jurisdiction hearing, the section 300 petition's allegations were found to be true, reunification services were ordered, visitation was continued, and various counseling, parenting classes, and drug tests were ordered. At the six-month review hearing in July 2010, the Kern County Superior Court found that Father had made minimal progress with minimally acceptable efforts, and that Mother had made moderate progress with moderately acceptable efforts. The case was transferred to Los Angeles County Superior

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[1] All statutory citations are to the Welfare and Institutions Code.

Court as a result of the parents' relocation from Bakersfield to Compton, and I.H. was placed in a foster home in Compton.

Various progress reports and hearings between September 2010 and March 2012, showed the parents' sporadic participation in the court's reunification plan orders, with minimal compliance by Father, and somewhat better compliance by Mother. In January 2012, without objection from Father, the court ordered Father to stay 100 yards away from Mother. A January 2011 status report indicated a change to I.H.'s placement due to behavioral problems, Father's arrest in September 2010 and release in December 2010 on probation and his recent arrest for making violent threats, and both parents' missed drug tests and failure to enroll for substance-abuse counseling.

At the 12-month review hearing on January 11, 2011, the court found that Mother was in partial compliance with her case plan and ordered continuation of family support services. At a March 2011 progress hearing, the court ordered unmonitored visits with I.H. for Mother, without Father's presence. Progress reports in May and June 2011 noted that Father had stated and shown his unwillingness to complete his parenting and domestic violence programs, had missed five drug tests, and had one positive test for marijuana. While both parents talked frequently with I.H. on the phone, neither had visited her after early May, and neither had participated in any programs. At the 18-month review hearing in July 2011, the court terminated family reunification services, and set a section 366.26 hearing.

On November 30, 2011, the Department of Children and Family Services filed a section 300 petition with regard to A.J., born November 7, 2011. It alleged the parents' history of domestic violence and failure to protect A.J. from their domestic violence (¶¶ a-1, b-3, j-1); Mother's history of drug use (¶ b-1); and Father's history of substance abuse.[2] (¶ b-2). At a November 30, 2011 detention hearing for A.J., the court found R.H. to be the presumed father and ordered A.J. detained with monitored visits for the parents.

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[2] Mother had tested positive for marijuana when she was approximately three months pregnant with A.J., but since then had tested negative (with one missed test).

On March 29, 2012, the court heard petitions under section 388 for modification of I.H.'s detention order, and under section 366. 26 for termination of parental rights and permanent placement; as to A.J., it heard a petition for adjudication under section 300.

The court denied the request for a modification of the orders as to I.H. under Section 388, noting that "Mother has done some things, but it's way late in the game. I would say any progress that Mother has made is outweighed by [I.H.]'s needs for permanency." After hearing testimony from Mother and arguments from counsel for Mother and Father against termination of their parental rights, and argument from I.H.'s appointed counsel favoring termination of parental rights, the court found under section 366.26 that I.H.'s return to her parents would be detrimental.[3] The court terminated Mother's and Father's parental rights, and named I.H.'s current caretakers as her prospective adoptive parents. The court expressed its view that an order terminating parental rights "it's probably one of the most difficult things to do in court[,] . . . especially when recently Mother has been making significant efforts." But in this case, where I.H. had six different placements since her October 2009 removal from her parents' home, her best interests outweigh other factors. "I don't think there is any kind of programs or anything that we could do that would be better for her than the permanence we can find through adoption."

With respect to A.J., the court found that there exists substantial danger to his physical health, that he is suffering severe emotional damage, and that there is no reasonable means to protect him without his removal from his parents' physical custody; that reasonable efforts have been made to prevent or eliminate the need for his removal

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[3] Father, who was then in custody, had been present in court that morning, but had requested that he be returned to jail on the 11 a.m. bus, despite his knowledge that he would miss the hearing that afternoon.

I.H.'s appointed counsel argued that her relationship with her parents "remains unresolved" as a result of her having witnessed her parents' domestic violence. Mother "has had a lot of chances in this case," with some 22 months of reunification services; yet "she had allowed Father to have unmonitored contact with [I.H.] that was against the court orders." Despite the parents' ties with [I.H.] since her detention, their admittedly close bond with her "does not outweigh the child's need for stability."

from his parents' home; that his placement and case plan are necessary and appropriate; that Mother has made substantive progress; that the likely date for his permanent placement would be September 27, 2012; and that reasonable services have been provided. The court struck the allegations of paragraph b-1 of the petition, sustained the allegations of paragraphs a-1, b-2, b-3, and j-1, declared A.J. to be a dependent child of the court under subdivisions (a), (b), and (j) of section 300, and ordered that his detention and placement with his paternal aunt should continue.

Mother and Father each appealed from the court's orders.[4] Their appointed counsel each filed an opening brief raising no issues and asking this court to grant their respective clients time to file briefs in pro. per. The court has received no further communications from Mother. In a July 27, 2012 letter, Father denied the reported domestic violence; expressed his heartbreak at having I.H. removed from his and Mother's custody; described his and Mother's efforts to comply with the domestic violence, parenting, and substance abuse classes ordered for them by the court; recounted their close attachments and activities with I.H. at their monitored visits; and pleaded for "one more chance at doing my classes and [whatever] they want, to have my children back into my custody" after his anticipated release from jail in early 2013.

DISCUSSION

In *In re Sade C.* (1996) 13 Cal.4th 952, 981-982, our Supreme Court held that in an appeal from a juvenile court order affecting parental rights, when appointed counsel for the parent files a brief raising no issues, the appellate court is not required to review the entire record to determine whether there are arguable issues on which to raise an appeal. In *In re Phoenix H*. (2009) 47 Cal.4th 835, the high court held that in such a case the Court of Appeal has the discretion to permit the parent to personally file a brief, but only upon a showing of good cause that an arguable issue does, in fact, exist. (*Id*. at p. 844.) After reviewing the facts recounted in the briefs of appointed counsel for each of

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[4] Father's appointed counsel has indicated that he does not appeal from the jurisdictional and dispositional orders with respect to A.J.

the parents, and Father's letter to this court, we find no good cause that an arguable issue for appeal does, in fact, exist. Accordingly, we decline to permit Father or Mother to personally file an additional brief, and we dismiss the appeals.

DISPOSITION

The appeals of Father and Mother from the March 29, 2012 judgment of the Superior Court are dismissed.

NOT TO BE PUBLISHED.

CHANEY, J.

We concur:

ROTHSCHILD, Acting P.J.

JOHNSON, J.