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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re P.W., a Person Coming Under the
Juvenile Court Law.

2d Juv. No. B241022
(Super. Ct. No. J068279)
(Ventura County)

VENTURA COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

MICHAEL W.,

Defendant and Appellant.

Michael W. (father) appeals orders of the juvenile court denying his motion to reinstate reunification services and terminating his parental rights. (Welf. & Inst. Code, §§ 388, 366.26.)¹ He contends the court erred when it denied his petition to restore reunification services because his sobriety constituted a change of circumstances and he contends he did not receive adequate visitation after services were terminated to establish a parental bond. We affirm.

¹ All statutory references are to this code unless otherwise stated.

FACTUAL AND PROCEDURAL BACKGROUND

Father and mother² had a history of substance abuse. In April 2011, the Human Services Agency (HSA) removed their daughter, P.W., from the home after officers found drug paraphernalia while conducting a probation search. Both parents were incarcerated for one month.

P.W. was a healthy 10-month-old. She had no developmental problems. Father had been present for her birth. He was 26 years old and suffered from addiction. He told the social worker he had no previous substance abuse treatment.

At the May 2011 jurisdiction and disposition hearing, the parents did not contest the allegations of the section 300 petition. The court declared P.W. a dependent child of the court and ordered reunification services to both parents. Father was required to participate in drug treatment and parenting services. He was granted weekly visits. The court warned the parents that they would have only six months to participate in reunification services before their parental rights could be terminated.

From May to August, father did not participate in any services or otherwise address his case plan. He participated in 5 of 17 visits offered to him when he was not in jail. The visits were positive. In August 2011, he was arrested for being under the influence of methamphetamine.

From August until the end of October 2011 father was incarcerated. He declined visits during his incarceration. In October, he was transferred to a work furlough facility to complete his jail term. He first contacted the social worker to resume visitation on December 6, 2011. He was offered 11 weekly visits and missed 2. One was canceled because P.W. was sick.

During November 2011, father participated in weekly therapy sessions. As part of the work furlough programs, he participated in programming

² Mother is not a party to this appeal.

that included substance abuse counseling, relapse prevention, and parenting classes. From October 27 to November 28 he was randomly tested for drugs and tested negative each time. He reported daily for his work furlough assignment and his participation was good. Service providers noted his commitment to continuing with treatment.

In December 2011, the court conducted a six-month review hearing. The court terminated services to both parents and set the matter for a 366.26 hearing. In February, father was released to a sober living facility.

In the first months of her dependency, P.W. had been moved between foster homes three times. The final foster family now wished to adopt her. The court granted the foster parents de facto parent status in March 2012.

At the end of March 2012, father filed a petition to modify the court's order to restore reunifications services to him based on his sobriety, his participation in services, and a positive bond with his daughter. (§ 388.) In April 2012, the court heard and denied father's petition to restore reunification services and terminated parental rights pursuant to section 366.26.

Father had been in a sober living facility for about six months. The director testified that he was sober and had been engaging in all required activities. Father testified he had eight months of sobriety. He was on probation and had no violations. He planned to continue living in the sober living facility for another four months. He was required to do so as a condition of release from jail. He was employed by a moving company. He tried to make his visits with P.W. positive, and he tried to teach her the colors and to count. He missed her and realized his mistakes. He was sincerely committed to sobriety.

HSA reported that father had attended 80 percent of his weekly visits with P.W. The visits were positive and nurturing. A social worker testified that father was engaging and nurturing during visits. P.W. was happy, pleasant, and on target developmentally. P.W. was attached to her foster parents, with whom she had now lived for eight months.

DISCUSSION

Section 388 permits a parent to petition for modification of an order in a dependency proceeding upon showing changed circumstances. Subdivision (d) of that section requires the court to order a hearing "[i]f it appears that the best interests of the child may be promoted by the proposed change of order" The parent must demonstrate (1) a genuine change of circumstances or new evidence, and that (2) revoking the previous order would be in the best interests of the child. (*In re C.J.W.* (2007) 157 Cal.App.4th 1075, 1079.) The procedure comports with due process. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 307.) We review denial of a section 388 petition under the abuse of discretion standard. (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685.)

The court did not abuse its discretion when it found no change of circumstances had been demonstrated that would cause the proposed modification to be in P.W.'s best interests. After reunification services are terminated, the court must concentrate its efforts on the child's placement and well-being. (*In re Marilyn H., supra*, 5 Cal.4th at p. 307.) Father had been sober for eight months, but his recovery was compulsory and closely supervised. He had not demonstrated sobriety outside of a structured environment, and had not participated in services during the first five months of P.W.'s dependency. He began participating in services just one month before the six-month review hearing. He achieved sobriety and participated fully in those programs for eight months but he was subject to re-incarceration upon relapse. He expressed a sincere commitment to continuing sobriety and to P.W. But his period of recovery was short. The court did not abuse its discretion when it determined there was no evidence of such a significant nature to require modification. (*In re Mickel O.* (2011) 197 Cal.App.4th 586, 615.)

Father contends the court was foreclosed from terminating parental rights based on its finding that the parent-child relationship exception did not apply because the amount of visitation afforded to him was inadequate to support their parent-child relationship. (§ 366.26, subd. (c)(1)(B)(i).) The weekly visits afforded

to father met the "minimum level" of visitation to which a parent is entitled after reunification services are terminated. (In re *Hunter S.* (2006) 142 Cal.App.4th 1497, 1504-1505.)

DISPOSITION

The orders appealed from are affirmed.

NOT TO BE PUBLISHED.

GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Ellen Gay Conroy, Judge
Superior Court County of Ventura

Roni Keller, under appointment by the Court of Appeal, for
Defendant and Appellant, Michael W.

Leroy Smith, County Counsel, Oliver G. Hess, Assistant County
Council, for Plaintiff and Respondent, Ventura County Human Services Agency.