Filed 4/3/18 In re Noah F. CA2/2

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re NOAH F., a Person Coming Under the Juvenile Court Law.	B283635 (Los Angeles County Super. Ct. No. DK11208)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. D.N., Defendant and Appellant.	

APPEAL from a judgment of the Superior Court of Los Angeles County. D. Zeke Zeidler, Judge. Affirmed.

D.N., in pro. per., for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

D.N. (mother) filed a notice of appeal challenging the juvenile court's judgment terminating her parental rights to Noah F. (Noah, born Oct. 2013) "and all appe[a]lable findings and orders made by the [juvenile] court on March 16, 2017." (Welf. & Inst. Code, § 366.26.)[1] Mother's appellate briefs are inadequate, and, in any event, the judgment is supported by the appellate record. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This family came to the attention of the Department of Children and Family Service (DCFS) on May 6, 2015, when it received a referral alleging that mother had been brought to the emergency room to be treated for a gunshot wound to her foot and that she was heavily intoxicated due to alcohol and Xanax consumption. The referral alleged that the shooting occurred at the family home.

Social workers went to the family home and met with Noah's maternal grandfather. The child was dirty. The home was in disarray; the floors were dirty, and the home had a strong stench of dog urine. The maternal grandfather reported that Noah's father, Kenny F. (father),[2] and two male friends had engaged in an altercation, leading to gunshots being fired at the home.

The child was detained and placed with Mariette C. (Mariette).

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[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

[2] Father is not a party to the appeal.

On May 11, 2015, DCFS filed a section 300 petition on behalf of Noah, alleging that he was at risk because mother uses opiates, prescription drugs, and alcohol, rendering her unable to care for the child. At the jurisdiction/disposition hearing on July 15, 2015, mother pled no contest. The section 300 petition was amended and then sustained; Noah was declared a dependent of the court; and the juvenile court removed him from his parents' custody. Mother was granted reunification services.

The dependency proceedings continued, with various progress report hearings. On November 17, 2016, the juvenile court held the section 366.22 hearing. It found mother in partial compliance with her case plan. At the conclusion of the hearing, it terminated mother's reunification services and set a hearing pursuant to section 366.26.

The juvenile court held the section 366.26 hearing on March 16, 2017. It listened to testimony from mother and the maternal grandfather, and then entertained oral argument. Mother's counsel argued that mother had developed a bond with her son and seemed to be able to provide a safe home. Noah's counsel argued that the evidence did not establish a parental-bond exception to the termination of parental rights. Counsel pointed out that Noah had been with Mariette for most of his life and had been stable there. "[W]hatever bond the mother has with Noah [did not] outweigh[] the well-being that he would gain from a parental home with the current caregiver."

The juvenile court found by clear and convincing evidence that Noah was adoptable and that return to his parents would be detrimental. It further found that although mother had maintained regular and consistent visitation and contact with Noah, "it ha[d] not been shown to outweigh the benefits of

permanence and adoption, to the extent that it has created a parental role and relationship." The juvenile court terminated mother and father's parental rights.

Mother timely filed a notice of appeal from the juvenile court's March 16, 2017, order.

DISCUSSION

In addressing an appeal, we begin with the presumption that a judgment or order of the trial court is presumed correct and reversible error must be affirmatively shown. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) California Rules of Court, rule 8.204(a)(1) requires citations to the appellate record and to legal authority. "'"An appellate brief 'should contain a legal argument with citation of authorities on the points made. If none is furnished on a particular point, the court may treat it as [forfeited], and pass it without consideration.' [Citation.]" [Citation.] It is not the function of [the Court of Appeal] to comb the record looking for the evidence or absence of evidence to support [a party's] argument. [Citations.]'" (*Garcia v. Seacon Logix, Inc.* (2015) 238 Cal.App.4th 1476, 1489.)

Mother's appellate briefs are woefully inadequate. While she makes numerous assertions, many do not pertain to the appealable judgment—namely the judgment following the order terminating her parental rights. And she offers no citations to the appellate record. On this ground alone, we could affirm the judgment.

For the sake of completeness, we note the following: To the extent mother purports to challenge findings made at the jurisdiction/disposition hearing, including her claim that she has "no problem with alcohol or drugs," and the removal of Noah from her custody, those objections are barred. Mother did not timely

appeal from the juvenile court's jurisdictional findings[3] and orders nor any of the interim status review hearings maintaining the suitable placement order. She also did not file a writ petition from the juvenile court's findings and orders made at the section 366.22 hearing in which it terminated family reunification services and set the section 366.26 hearing. Thus, we do not have jurisdiction to review those findings. (*In re Pedro N.* (1995) 35 Cal.App.4th 183, 189, disapproved in part on other grounds in *In re Isaiah W.* (2016) 1 Cal.5th 1, 7; *In re Elizabeth M.* (1991) 232 Cal.App.3d 553, 563; *Jennifer T. v. Superior Court* (2007) 159 Cal.App.4th 254, 259 [an order setting a section 366.26 hearing may be reviewed only by petition for extraordinary writ].)

Mother asks that we instruct the juvenile court to return Noah to her custody. If mother wanted the juvenile court to consider returning Noah to her custody, she was required to file a section 388 petition prior to the section 366.26 hearing. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) She offers no legal authority that allows us to direct the juvenile court, at this stage of the proceedings, to return the child to her.

Mother's reliance upon Family Code section 3011 is misplaced; that statute only applies to a proceeding described in Family Code section 3021, which does not include juvenile dependency proceedings. (See, e.g., *In re Chantal S.* (1996) 13 Cal.4th 196, 205–213.)

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[3] Even if mother had timely filed a notice of appeal challenging the juvenile court's jurisdictional findings, her appeal would have been precluded because she pled no contest to the amended section 300 petition that the juvenile court sustained. (*In re Troy Z.* (1992) 3 Cal.4th 1170, 1179–1182.)

Mother further contends that DCFS erred by failing to serve her with a warrant when it detained Noah. A warrant is not required if there are exigent circumstances. (§ 306, subd. (a)(2).) Even if DCFS had erred, that issue is moot given the subsequent juvenile court proceedings, including the juvenile court's detention findings and orders, its order sustaining the amended section 300 petition, its various review orders, and its order terminating mother's parental rights. (*In re Julien H.* (2016) 3 Cal.App.5th 1084, 1088, fn. 7.)

Next mother argues that her rights under the Human Rights Act were violated because she was unable to "speak in court," was unable to cross-examine witnesses who were called to testify against her, and was denied permission to call Noah as a witness. She is mistaken. She testified at the March 16, 2017, hearing, and was therefore not denied the opportunity to "speak in court." No witnesses were called to testify against her. And, her attorney never asked the juvenile court to call Noah as a witness.

Finally, to the extent mother is arguing that her bond with Noah was sufficient to satisfy the beneficial parent-child relationship exception to terminating parental rights (§ 366.26, subd. (c)(1)(B)(i)), we cannot agree. While mother's visits with Noah were consistent and appropriate, frequent and loving contact is insufficient without more to overcome the presumption in favor of adoption. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 229.) There was no evidence that mother occupied a parental role or that Noah relied on her to meet his emotional, physical, or educational needs. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1417–1419.) Under these circumstances, the juvenile court

rightly terminated mother's parental rights and freed him for adoption.

DISPOSITION

The judgment is affirmed.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT