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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

Guardianship of T.V., a Minor.

2d Civil No. B295857
(Super. Ct. No. 16PR00206)
(Santa Barbara County)

Ronald V. et al.,

Petitioners and Respondents,

v.

Christopher V.,

Objector and Appellant.

Christopher V. appeals from the trial court's order that terminated parental rights to his minor son, T.V., pursuant to Probate Code¹ section 1516.5. Christopher contends the court erred because the evidence did not show that termination was in his son's best interest. We affirm.

¹ All further unlabeled statutory references are to the Probate Code.

FACTUAL AND PROCEDURAL HISTORY²

Guardianship of T.V.

T.V. was born in April 2015. His parents, father Christopher and mother Haley B.,³ had a history of drug use and domestic violence. A few months after T.V.'s birth, Haley was using methamphetamine, oxycontin, and heroin. She was homeless. Christopher was also using drugs. He was no longer in a relationship with Haley, and had only limited interactions with his son.

In May 2016, the trial court appointed maternal great-grandmother Bonita B. and paternal grandparents Ronald and Stacy V. as T.V.'s temporary guardians. The court granted Christopher supervised visitation rights. Five months later, the court appointed Ronald and Stacy as T.V.'s guardians. It extended Christopher's visitation rights, but noted that he was unlikely to visit his son at Ronald and Stacy's home due to his strained relationship with them. The court investigator reported that Christopher continued to use drugs. He had not enrolled in a drug rehabilitation program.

In December, Christopher petitioned the trial court for visitation. He alleged he had not seen T.V. since November, when Bonita moved to Florida. The court ordered visitation at a neutral site. It also ordered Ronald and Stacy to make provisions

² In his briefs, Christopher cites—almost exclusively—only those facts favorable to him rather than all relevant, material evidence. Thus, to the extent he challenges whether substantial evidence supports the trial court's findings, his challenge is forfeited. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 881.) As set forth below, it also fails on the merits.

³ Haley is not a party to this appeal.

for Christopher's drug testing. The court investigator recommended that Christopher maintain his sobriety, complete parenting classes, and pursue better communication with Ronald and Stacy. The investigator also urged Ronald and Stacy to be more flexible with Christopher's visits.

At a March 2017 review hearing, Christopher admitted that he had missed visits with his son. Ronald said those visits Christopher did attend went "okay." Christopher had not enrolled in any programming and was not testing for drug use. The trial court reduced Christopher's visits to biweekly. He agreed to participate in random drug testing.

Prior to a June hearing, Ronald and Stacy filed a declaration stating that Christopher was late to nearly every visit with his son. He often exhibited signs of drug use or withdrawal. He had been arrested. At the hearing, the trial court determined that Ronald and Stacy would have discretion over when and how Christopher's visits would occur.

Christopher petitioned the trial court for additional visitation in April 2018. He alleged Ronald and Stacy had not allowed him to see his son since July 2017. He said he was sober and should be granted partial custody of T.V.

Ronald and Stacy opposed Christopher's request. They said Christopher was arrested in June 2017 for possession of controlled substances, and again the following month for possession of a deadly weapon, possession of controlled substances, and possession of drug paraphernalia. He was later charged with smuggling drugs and drug paraphernalia into jail. His lack of visits was due to his incarceration.

At the hearing on Christopher's petition, the trial court ordered Christopher to be tested for drugs and alcohol. It

also ordered him to enroll in parenting classes, to participate in T.V.'s therapy, and to enroll in anger management classes. The court told Christopher to discuss visitation arrangements with Ronald and Stacy.

The section 1516.5 petition

Based on what they perceived as Christopher's unwillingness to address his sobriety and their need to focus on T.V.'s needs, Ronald and Stacy petitioned to terminate Christopher's parental rights in June 2018. They said that Christopher had declined drug tests, had not enrolled in parenting classes, and had not met with T.V.'s therapist. Christopher acknowledged he had "experienced some temporary parenting challenges due to substance abuse," but claimed he was now drug-free.

Christopher opposed the petition. He claimed he had been drug-free since his release from jail, had completed a substance abuse treatment program, and had obtained full-time work. Ronald and Stacy had previously agreed to let Christopher visit his son after six months of sobriety, but now insisted on one full year. Christopher believed that no matter what he did to satisfy Ronald and Stacy's demands they would continue to thwart his efforts to have a relationship with T.V.

The investigator recommended that the trial court grant the termination petition and permit Ronald and Stacy to adopt T.V. Ronald and Stacy had cared for T.V. for more than two years. They took him to occupational therapy. T.V. needed services for speech delay and behavioral issues, which Ronald and Stacy were providing.

Christopher, in contrast, had not seen his son for more than one year. He had missed several visits, which caused

T.V. to act out. He had not established a meaningful relationship with T.V. and had not completed the recommendations in the guardianship reports.

Ronald and Stacy's evidence

At the hearing on the section 1516.5 petition, Stacy testified that she and Ronald had cared for T.V. since he was about 10 months old. She believed adoption was in T.V.'s best interest because she and Ronald were able to provide for his special needs. T.V. suffered from a variety of physical and behavioral issues, reacted violently to sensory stimuli, and was unable to self-regulate. He needed consistency and structure to control his behavioral and emotional problems.

Stacy said that she and Ronald attempted to work with Christopher on a visitation plan. Christopher was initially receptive, but was later unwilling to agree to the suggested plan. He also refused drug tests and refused to treat the underlying causes of his addiction. There was domestic violence between him and Haley. He refused to visit his son in Ronald and Stacy's home. He did not ask how his son was doing or about his particular needs. In Stacy's opinion, termination of Christopher's parental rights would "keep chaos out of [T.V.'s] life."

Ronald testified that he and Stacy met with Christopher several times to discuss his drug use. Christopher consistently refused to submit to drug testing. He continued to use alcohol and marijuana. His relationship with Haley involved both drug use and domestic violence.

Ronald attempted to tell Christopher about T.V.'s special needs. After hearing Ronald's explanation, Christopher responded, "Well, he is three, isn't he? That's how three-year-olds are." Christopher never again inquired about T.V.'s needs.

A clinical psychologist testified that T.V. suffered from disruptive behavior disorder, and had difficulty regulating his mood. Inconsistencies in T.V.'s life presented problems. The psychologist recommended that Ronald and Stacy establish consistent routines for T.V. Others could participate in his treatment, so long as he had the same routine each day.

An occupational therapist testified that she had worked with T.V. since August 2018. T.V. needed patterns in his day or would experience uncontrollable rage. He had features that fell on the autism spectrum, such as delayed speech, impaired social interactions, and a lack of impulse control. Maintaining a consistent daily routine was essential for T.V. A treatment regimen could be successful with more than one caretaker only if the caretakers collaborated and kept T.V.'s routine consistent. The therapist was willing to work with Christopher to teach him T.V.'s regimen.

Another occupational therapist testified that she had worked with T.V. since August 2018 to help him adapt to new environments. T.V. had delays in his fine and gross motor skills. He was hypersensitive to light and noise. When stimulated, T.V. became fearful and had a fight-or-flight response. These issues required ongoing treatment. Subjecting T.V. to significant changes in his environment or having multiple caregivers could negatively impact his progress.

A drug addiction specialist testified that Ronald and Stacy sought her assistance in 2014 to help Christopher with his drug problem. Christopher denied that he had a problem and was unwilling to speak to the therapist. Her role thus changed to helping Ronald and Stacy cope with the loss of their son to addiction. Based on Christopher's blaming Ronald and Stacy for

his lack of a relationship with T.V. and his drug addiction, the specialist opined that Christopher had not fully dealt with his addiction issues.

Christopher's evidence

Christopher testified that he had been drug-free since February 2018, when he began a drug rehabilitation program. He tested positive for marijuana the following April, but claimed that was due to the “clean-out period” from his prior use. He had held a steady job since March, and started counseling in June.

Christopher admitted he had not enrolled in a parenting program, had not contacted T.V.'s therapist, had not participated in anger management classes, and had not submitted a hair follicle drug test, as the trial court had ordered. But he was now willing to do so. He wanted to see T.V. for himself to determine if his son had special needs.

A marriage and family therapist testified that, in general, it was possible to establish a bond between a child and alienated parent. Visitation could be successful if supervised by a professional who prioritized the child's safety and emotional well-being. A person's unwillingness to permit such a visit could undermine reunification and be detrimental to the child. It would be important for the parent to take parenting classes before such visitation occurred.

The trial court's decision

The trial court determined that adoption was in T.V.'s best interest. Ronald and Stacy had cared for T.V. since May 2016. T.V. had inconsistent contact with his father, and had not seen him since July 2017. While Christopher had begun to address his substance abuse issues, there was “no indication” that he had tried to repair his relationship with Ronald and

Stacy. He viewed their guardianship as a “temporizing procedure before [T.V. was] returned to his care.”

Ronald and Stacy provided “exemplary care” for T.V. and created a “strong family bond” with him. They sought services for T.V. and developed a “stable and regular program of discipline and feedback” for him. They enrolled him in a preschool for children with special needs. These programs and services helped T.V. make progress, but he continued to need “the steadying presence of [Stacy] and the consistency provided in the familiar home of [her and Ronald].” Any changes to T.V.’s environment would have to be introduced gradually.

Permitting Ronald and Stacy to adopt T.V. “would solidify [his] gains without disabling the possibility of a future relationship with” Christopher. But removing him from their home would have a “devastating effect.” It was also “unrealistic in any presently foreseeable timeline.” Only adoption could provide the consistency and stability that T.V. required.

DISCUSSION

Christopher contends the trial court abused its discretion when it terminated his parental rights because substantial evidence did not show that adoption was in T.V.’s best interest. We disagree.

A trial court may terminate parental rights to a minor child if: (1) a parent does not have custody of the child, (2) a guardian has had custody of the child for at least two years, and (3) the child would benefit from being adopted by the guardian. (§ 1516.5, subd. (a).) To determine whether the child would benefit from adoption, the court should consider “all factors relating to the best interest of the child,” including the relationships between the child and parent, the child and

guardian, and the child and any siblings. (*Id.*, subd. (a)(3).) It should also consider “the circumstances leading to guardianship, the parent’s efforts to maintain contact with the child, any exigencies that might hamper those efforts, and other evidence of commitment to parental responsibilities.” (*Guardianship of Ann S.* (2009) 45 Cal.4th 1110, 1132.) “Evidence of parental unfitness or that terminating parental rights is the least detrimental alternative for the child is not required.” (*In re Noreen G.* (2010) 181 Cal.App.4th 1359, 1383 (*Noreen G.*).)

Our review of the trial court’s findings is limited. We first determine whether substantial evidence supports the court’s finding that adoption would be in T.V.’s best interest.⁴ (*Adoption of Myah M.* (2011) 201 Cal.App.4th 1518, 1541 (*Myah M.*).) If it does, we then determine whether the court abused its discretion when it terminated Christopher’s parental rights. (*Id.* at pp. 1541-1542.) We will not reverse the court’s decision unless it ““transgresse[d] the confines of the applicable principles of law.”” (*Noreen G.*, *supra*, 181 Cal.App.4th at pp. 1382-1383.)

Substantial evidence supports the trial court’s determination that adoption was in T.V.’s best interest. Ronald and Stacy developed a strong bond with T.V. during the two-plus years he was in their custody, and provided for his special needs. They enrolled him in services for his speech delay and behavioral issues. They took him to occupational therapy. They provided him with a consistent daily routine. And they enrolled him in a preschool for special needs children.

Christopher, in contrast, had no significant relationship with his son. In the months after T.V. was removed from his care, Christopher was late to or missed several visits.

⁴ See *ante*, footnote 2.

He was under the influence of drugs or alcohol during many of the visits he did attend. While he had more recently begun to combat his drug addiction, he had not seen T.V. since July 2017. He had not followed the trial court's orders to enroll in parenting and anger management classes, had not contacted his son's psychologist or his therapists, and had only limited interactions with Ronald and Stacy. And on the rare occasions he did speak with his parents, he did not inquire about his son's needs. The stark contrasts between T.V.'s relationship with Ronald and Stacy and his relationship with Christopher show that T.V. would benefit from adoption. (See, e.g., *Myah M.*, *supra*, 201 Cal.App.4th at pp. 1541-1545 [substantial evidence that adoption was in child's best interest where guardians provided a "safe and secure environment" but parents continued to use drugs]; *Noreen G.*, *supra*, 181 Cal.App.4th at pp. 1383-1384 [adoption in child's best interest where child had "deep attachment" to guardians and guardians provided stable environment].) The trial court's decision to terminate Christopher's parental rights thus did not transgress the confines of the law.

The testimony presented at trial reinforces our conclusion. The therapists said that T.V. required a consistent routine. Significant changes to his environment could be detrimental to his progress. T.V. may be able to continue to progress with multiple caregivers, but any new caregiver must be willing to work with Ronald, Stacy, and the therapists to establish and implement T.V.'s routine. Christopher had not yet shown a willingness to work with his parents, nor had he contacted any of his son's therapists. Permitting T.V. to remain in Ronald and Stacy's care and benefit from the stability of adoption would thus be in his best interest.

Christopher counters that he tried to spend more time with his son, that he had begun to work on his drug addiction, and that he was willing to work with T.V.'s therapists to learn and implement his son's routine. These are all positive steps. But our focus is on T.V.'s well-being, not Christopher's actions. (§ 1516.5, subd. (a)(3); see *Noreen G.*, *supra*, 181 Cal.App.4th at p. 1383.) As set forth above, Christopher did not demonstrate that he could work with Ronald and Stacy to manage T.V.'s special needs. Nor did he show that he could provide for T.V. on "any presently foreseeable timeline." The improvements Christopher made and the actions he took, while laudable, do not show that the trial court abused its discretion when it terminated parental rights. (*Myah M.*, *supra*, 201 Cal.App.4th at p. 1547 [no abuse of discretion to terminate parental rights where father not ready to act as full-time parent].)

DISPOSITION

The trial court's termination order is affirmed.
Ronald and Stacy shall recover their costs on appeal.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Jed Beebe, Judge

Superior Court County of Santa Barbara

Janette Freeman Cochran, under appointment by the
Court of Appeal, for Objector and Appellant.

Jarrette & Walmsley, Robert R. Walmsley and
Marlea F. Jarrette, for Petitioners and Respondents.