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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

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

B293418
(Los Angeles County
Super. Ct. No. 18CCJP02904)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JOLENE J.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles
County, Kristen Byrdsong, Commissioner. Affirmed.

Melissa A. Chaitin, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Respondent.

Jolene J. (mother) appeals from the juvenile court's order terminating dependency jurisdiction and granting Lennox L. (father) sole custody of their daughter J.J. Mother contends the court abused its discretion when it denied her request to continue the disposition hearing. She also contends termination of jurisdiction is not supported by substantial evidence, and the court abused its discretion by awarding father sole custody of J.J.¹ We disagree and affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

J.J. (born January 2009) and her brother (born May 2001) and sisters (born October 2002 and December 2015, respectively) came to the attention of the Los Angeles Department of Children and Family Services (DCFS) in April 2018 after mother and J.J.'s step-father got into a physical altercation in front of the children. DCFS also reported mother had physically abused the children between 2013 and 2018.

Detention and Jurisdiction

DCFS filed a section 300 petition on May 7, 2018. The operative first amended petition (FAP) alleged all four children were at risk under Welfare and Institutions Code section 300, subdivisions (a) and (b).² At the detention hearing, the juvenile court removed J.J. and her siblings

¹ Neither father nor DCFS has filed a brief in this appeal.

² Undesignated statutory references are to the Welfare and Institutions Code.

and placed them with maternal grandmother, with monitored visitation and family reunification services ordered for mother.

In a jurisdiction report, J.J. reported she was physically abused by mother and had witnessed mother abuse her siblings and fight with step-father.³ Three weeks after the children were detained, mother threatened to kill J.J.'s older siblings; the court granted a temporary and then permanent restraining order to protect them and maternal grandmother.

Unaware of J.J.'s unhealthy living environment, father traveled from his home in Belize to visit with J.J. in June 2018. After learning of the pending dependency case, father engaged DCFS and made plans to take J.J. to Belize. J.J. was excited for the trip, as she loved father and enjoyed visiting with him. The court authorized travel between June and August 2018.

During a June 2018 interview with DCFS, father stated he would pursue sole custody of J.J. "if [mother] cannot get it together and the court feels it is not safe for my daughter to be with her." DCFS reported father as non-offending, gainfully employed, and willing and able to care for J.J. DCFS contacted the Belize Department of Human Services to obtain a child welfare check on father and an international home study.

³ J.J.'s siblings, who were also interviewed for the jurisdiction report, reported witnessing mother give J.J.'s older sister a black eye, later telling the children to "lie to the CPS people and say she ran into a cabinet door."

At the jurisdiction hearing on July 31, 2018, the court sustained the FAP under section 300, subdivisions (a) and (b), and father requested a contested disposition regarding possible termination of jurisdiction. The court set a disposition hearing for September 19, 2018.

One week before the disposition hearing, DCFS received two reports from the child abuse hotline that the children were being abused and neglected by maternal grandmother. During a follow-up interview, maternal grandmother stated she believed mother was behind the allegations.

Due to the ongoing conflict and unstable living environment, father informed DCFS he wanted to care for J.J. full-time. Although it was inclined to recommend a home-of-parent father order, DCFS was still awaiting the international home study, which was scheduled to be completed by September 30, 2018.

Disposition

On the day of the disposition hearing on September 19, 2018, DCFS filed a last minute information for the court. In it DCFS reported father was concerned that mother was manipulating J.J. by telling the child it was her fault the children were removed from mother's care. In an interview, J.J. agreed mother had told her "to say things cause . . . then I will be able to go back home." Suddenly, J.J. cried and stated, "I don't want to go with my dad," because "I will miss my family, like my brother and my sisters."

After reviewing the last minute information, the court called the matter for disposition. Mother's stand-in counsel requested a continuance because mother's lead attorney was not present, and the last minute information contained conflicting evidence regarding J.J.'s wishes to live with father. Counsel for DCFS also sought a continuance but premised its request on the outstanding home study.

Following a sidebar conference, J.J.'s counsel stated, "after speaking with my client and discussing the possibility of being released to her father today, it's my position that there is no legal basis for the court to find a detriment. [¶] My client is feeling very torn between the two parents, but the information that was provided in today's last minute is not accurate of my client's wishes at this moment." The court subsequently denied the requested continuances and proceeded to the disposition hearing.

At the hearing, the parties disputed whether placing J.J. with father would be detrimental to her well-being. DCFS requested a seven-day stay if the court issued a home-of-parent father order. The court found by clear and convincing evidence that it would be detrimental to the safety, protection, or well-being of J.J. to be in the custody of mother and step-father, and ordered J.J. released to the home of father under the supervision of DCFS with monitored visitation for mother. The court stayed the order for seven days and set a juvenile custody order hearing for September 28, 2018.

Custody Order Hearing and Termination of Jurisdiction

The day before the custody order hearing, DCFS filed a last minute information attaching a completed child welfare check and international home study. The reports found father had no adverse findings on the child welfare check and was “economically stable and fit to care for his child. He has also been a source of support for the child since birth and has been active in her life thus far. Officer finds [father] has the ability to provide his child with a stable home environment.” DCFS agreed J.J. should be placed in father’s care.

At the custody order hearing, the court issued an order granting father sole legal and physical custody of J.J. with monitored visits for mother. Having filed the order, the court lifted its stay and terminated jurisdiction for J.J.

Mother filed a timely notice of appeal.

DISCUSSION

Denial of Requested Continuance

Mother contends the court abused its discretion when it denied her request to continue the disposition hearing. We disagree.

Continuances are discouraged in dependency cases. (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 604.) The juvenile court may grant a continuance upon a showing of good cause if the continuance is not contrary to the minor’s best interests. (§ 352, subds. (a)(1), (b).) When considering the minor’s interests, the court must give “substantial weight to a minor’s need for prompt resolution of his or her custody status, the need to provide children with stable environments,

and the damage to a minor of prolonged temporary placements.” (*Ibid.*; see Cal. Rules of Court, rule 5.550(a).) The court must hold a disposition hearing within 60 days after the detention hearing unless “exceptional circumstances” warrant a continuance. (§ 352, subd. (b).)

We review an order denying a continuance for abuse of discretion. (*In re A.B.* (2014) 225 Cal.App.4th 1358, 1366.) A juvenile court abuses its discretion if its decision is “arbitrary, capricious or patently absurd.” (*Ibid.*) We give broad deference to the juvenile court’s decision and interfere only if we find, under all of the evidence viewed most favorably in support of the ruling, that no juvenile court could reasonably have made that ruling. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.)

On this record we conclude the juvenile court did not abuse its discretion when it denied mother’s requested continuance. As of June 2018, the parties were fully apprised J.J. could be placed with father. They had ample time to investigate whether J.J. wished to live with father. Any continuance beyond the already expired statutory deadline would further interfere with J.J.’s need for a stable environment and resolution of her custody status. (§ 352, subd. (b); see *In re Giovanni F.*, *supra*, 184 Cal.App.4th at p. 604.)

Nevertheless, mother contends the court abused its discretion because (1) her principal attorney was not present; (2) DCFS submitted a report with conflicting evidence regarding J.J.’s desire to live with father; and (3) DCFS did not have the results from the international home study. None of these arguments establish good cause warranting a continuance.

With regard to mother's first argument, she and stand-in counsel were present at the disposition hearing and competently argued the issues. "The mere absence of a party standing alone is insufficient to compel the court to grant a continuance." (*Young v. Redman* (1976) 55 Cal.App.3d 827, 831; *D.E. v. Superior Court* (2003) 111 Cal.App.4th 502, 512.) Surely, if mother's absence from the hearing is insufficient to warrant a continuance, so too would the absence of her principal attorney, particularly when mother was present and represented by competent counsel.

As to mother's second argument, we agree the juvenile court may properly consider J.J.'s wishes to live with father. (See *In re Nickolas T.* (2013) 217 Cal.App.4th 1492, 1507.) Mother could—and did—argue there was conflicting evidence regarding J.J.'s wishes. Mother could have called J.J. to testify at the disposition and custody order hearings, but she elected not to do so. (See § 358, subd. (b).) The court was fully apprised of the conflicting evidence and was in the best position to decide that question of fact. (*In re Michael G.* (2012) 203 Cal.App.4th 580, 584.) In light of mother's manipulation of J.J., the court could reasonably infer J.J.'s stated disinclination toward living with father was caused by mother's undue influence. (See *In re Albert T.* (2006) 144 Cal.App.4th 207, 216 [all reasonable inferences are drawn in support of lower court's determination].)

With regard to mother's final argument, she has not provided authority that precludes a juvenile court from issuing dispositional orders until it receives a completed international home study for a

noncustodial parent.⁴ Notwithstanding, mother has never expressed concern over father's fitness as a parent or articulated a basis that additional delay would have produced evidence that father's home was anything other than appropriate.

Termination of Jurisdiction and Custody Order

Mother contends substantial evidence does not support the juvenile court's order terminating jurisdiction. She also contends the juvenile court abused its discretion by awarding father sole legal custody of J.J. We disagree.

Section 361.2, subdivision (a) provides that "[w]hen a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with

⁴ Mother has consistently classified father's home study as an "International ICPC." However, the Interstate Compact on the Placement of Children only provides for state cooperation in the interstate placement of children; it does not cover placement of children in other countries. (Fam. Code, §§ 7900, 7901.) Though inapplicable in this case, the ICPC does not require a completed home study report prior to placing a child with a noncustodial parent. (See *In re John M.* (2006) 141 Cal.App.4th 1564, 1567, 1575.) The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) governs subject matter jurisdiction for custody proceedings in California, but does not mandate a completed international home study prior to granting custody to a parent who resides outside the United States. (Fam. Code, §§ 3400, 3421, subd. (a).)

that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.”

If the court makes no detriment finding and places the child with the noncustodial parent, it may order the parent to (1) become legal and physical custodian of the child, followed by termination of jurisdiction over the child; (2) assume custody subject to jurisdiction and a home visit within three months; or (3) assume custody subject to supervision of the court with reunification services provided to the custodial parent and/or the noncustodial parent. (§ 361.2, subd. (b).) Subdivisions (b)(2) and (b)(3) contemplate continued jurisdiction only if the court finds a need for ongoing dependency supervision. (*In re Austin P.* (2004) 118 Cal.App.4th 1124, 1135.)

The juvenile court has broad discretion in deciding among the three options in section 361.2, subdivision (b), and need not consider whether ““the conditions still exist which would justify initial assumption of jurisdiction under Section 300.”” (*In re Maya L.* (2014) 232 Cal.App.4th 81, 99; *In re Janee W.* (2006) 140 Cal.App.4th 1444, 1451; see *In re Gabriel L.* (2009) 172 Cal.App.4th 644, 651–652.) We review the factual question whether continued court supervision is necessary for substantial evidence, and review the court’s decision to terminate jurisdiction for abuse of discretion. (*In re A.J.* (2013) 214 Cal.App.4th 525, 535, fn. 7.) When, as here, a juvenile court terminates jurisdiction, it may issue an order for custody and visitation of the dependent child. (§§ 362.4, 364; *In re Chantal S.* (1996) 13 Cal.4th 196, 202–203.) In doing so, it has broad discretion to determine what serves the child’s best interests, and its decision will not be reversed absent a

clear abuse of that discretion. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.)

In this case, mother's arguments depend on whether dependency supervision was necessary at the time the court issued the custody order. The evidence clearly supports the court's finding that it was not. After learning of J.J.'s unhealthy living environment, father intervened and took the necessary steps to ensure his daughter would be safe. The child welfare and home study on father—both completed and reviewed prior to the custody order hearing—clearly demonstrate father was gainfully employed, economically stable, had no prior child welfare history, and had been a source of support for J.J. since birth. Father's home was stable and suitable for the healthy upbringing of a child. In view of these findings, DCFS recommended terminating jurisdiction over J.J. with a home-of-parent father custody order. As a result, we see no legal basis to contest the court's determinations. (Compare *In re Austin P.*, *supra*, 118 Cal.App.4th at pp. 1128, 1134 [continued jurisdiction at the request of DCFS affirmed, given father's sporadic contact with minor, conflict amongst the parents, minor's continued therapy, and noncustodial father's failure to protect the minor].)

As a result of finding continued supervision unnecessary, the juvenile court acted well within its discretion in terminating jurisdiction under section 361.2, subdivision (b)(1), and granting father sole custody of J.J. Though the child's placement in Belize may have a negative impact on her relationship with mother and her siblings, given the ongoing instability and current danger to J.J.'s well-being, substantial evidence supports the finding that J.J.'s placement with

father was in the child's best interests. Should mother seek to modify the custody order after she remediates her underlying issues, she may do so at a later time. (See § 362.4; *In re Chantal S.*, *supra*, 13 Cal.4th at p. 213.)

DISPOSITION

The order is affirmed.

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WILLHITE, J.

We concur:

MANELLA, P. J.

CURREY, J.