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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B280016
(Super. Ct. No. J069598)
(Ventura County)

VENTURA COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

A.C. (Mother) appeals from an order terminating her parental rights and setting adoption as the permanent plan for her daughter, C.C. (Welf. & Inst. Code, § 366.26.)¹ Mother contends adoption is not the appropriate plan because the

¹ All statutory references are to the Welfare and Institutions Code.

beneficial parental relationship exception applies. (§ 366.26, subd. (c)(1)(B)(i).) We affirm.

BACKGROUND

The Ventura County Human Services Agency (HSA) removed C.C. from her parents' care in 2013 when she was eight years old. The trial court sustained allegations of drug abuse against both parents and verbal abuse against Father.² Mother and Father did not succeed with court ordered reunification plans. The trial court terminated reunification services in 2014, denied Mother's subsequent petition to reinstate services, and selected long-term foster care as the permanent plan. We affirmed. (*In re C.C.* (Oct. 25, 2016, B269294) [nonpub. opn.] (hereafter our prior opinion).)

Mother continued with regular one-hour weekly supervised visits. In 2015, HSA placed C.C. with her current foster family. In 2016, it petitioned to change C.C.'s permanent plan to adoption with the foster family. C.C., then 12 years old, wanted them to adopt her. The social worker, C.C.'s counsel, and the court-appointed advocate all supported adoption. Mother opposed adoption on the ground that severing her relationship with C.C. would be detrimental to C.C. Father did not contest the change.

C.C. was in her seventh placement. She had been there more than a year, her special educational needs were being met and she was thriving. The foster parents had completed an adoptive home study and were committed to adoption.

The court conducted an evidentiary hearing pursuant to section 366.26. Mother testified about her close relationship with C.C. In the eight years before removal, Mother was very

² Father is not a party to this appeal.

involved in C.C.'s care and education. By the time of trial, Mother had been sober for more than three years, was attending AA meetings biweekly, and was in regular therapy. Mother consistently takes a long bus ride to attend her weekly visits with C.C. She testified that C.C. is happy to see her. Mother brings snacks to the visits and they play video games, watch movies, and talk. In the past they also made craft projects during visits.

The court received all of HSA's reports without objection, the details of which are discussed in our prior opinion. In the years since removal, C.C. was returned to her Mother's care once for a 60-day visit, but it was terminated when Mother gave Father access to C.C. and left C.C. in the care of a sibling who exposed her to sexually explicit videos.

The case worker who supervises Mother's visits testified that Mother attends consistently, is appropriate, and shows affection, but C.C. only occasionally shows affection toward Mother and is quiet during visits. C.C. used to play games during visits but now watches videos on an iPad with Mother. When she and Mother part, C.C. does not usually respond to Mother's hugs and expressions of love. When C.C. returns to her foster home, she calls for her foster parents and initiates hugs with them.

DISCUSSION

Substantial evidence supports the trial court's determination that the beneficial relationship exception does not apply. (*In re Marcelo B.* (2012) 209 Cal.App.4th 635, 642.)

Where, as here, reunification has not succeeded, the trial court must conduct a hearing to establish a permanent plan for a "stable, permanent home[]" for the child. (§ 366.26, subd. (b).) If the child is adoptable, adoption is the presumptive

permanent plan and parental rights should ordinarily be terminated. (§ 366.26, subd. (b)(1).) “[A]doption should be ordered unless exceptional circumstances exist, one of those exceptional circumstances being the existence of such a strong and beneficial parent-child relationship that terminating parental rights would be detrimental to the child and outweighs the child’s need for a stable and permanent home that would come with adoption.” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.)

It is the parent’s burden to show exceptional circumstances exist. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 574.) Factors include the child’s age, the portion of the child’s life spent with the parent, positive and negative effects of their interaction, and the child’s needs. (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 811.) “Because a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child’s needs, it is only in an extraordinary case that preservation of the parent’s rights will prevail over the Legislature’s preference for adoptive placement.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.) A friendly or familiar relationship is not enough. (*Ibid.*) And it is not enough to show “the child would derive *some* benefit from continuing a relationship maintained during periods of visitation with the parent.’ [Citation.]” (*In re Marcelo B., supra*, 209 Cal.App.4th at p. 643.) The showing is especially difficult to make where, as here, the parent has not advanced beyond supervised visitation. (*In re Casey D., supra*, 70 Cal.App.4th at p. 51 [substantial evidence supported a finding there was no beneficial relationship although it was undisputed that the mother was loving and appropriate toward the child during visits].)

Mother is loving and caring and has maintained regular and appropriate supervised visits. But substantial evidence supports the trial court's determination that the benefit of these friendly visits does not outweigh the stability that adoption offers. C.C. has spent the last 4 of her 12 years outside Mother's care. The first eight years of her life with her parents were tumultuous and stressful. When Mother had an opportunity for a long-term visit with C.C., she did not protect her. The case worker testified C.C. does not show interest in the visits with Mother and only occasionally shows affection toward her. Mother points out that this is consistent with normal preteen behavior toward parents, but we defer to the trial court's resolution of competing inferences. (*In re Casey D.*, *supra*, 70 Cal.App.4th at pp. 52-53.)

C.C.'s need for stability is great. She told a social worker that her parents "weren't able to do the things they needed to, to keep me safe." She wrote a note to her parents asking them not to stop "fighting for" her, but told a social worker "[t]hat was a long time ago," and said now "I don't want her to fight for me." C.C.'s therapist told the social worker that C.C. "has maintained for several months that she does not want to go back" to her parents and "would be happy to have her forever home with her current prospective adoptive parents." The court-appointed advocate reported that adoption with C.C.'s foster parents was in her "absolute best interest." She said C.C. was thriving and was on the honor roll at school. C.C.'s counsel told the court that C.C. had "kind of given up on" her parents providing the stability she needs. C.C. endured six placements before finding her current stable and loving foster home.

This case is unlike *In re Scott B.* (2010) 188 Cal.App.4th 452, 467, in which the 11-year-old child wanted to live with his mother and tried to run away from his foster parents, or *In re S.B.* (2008) 164 Cal.App.4th 289, 295, in which a psychologist testified to potential harm if the relationship was terminated based on a bonding study. C.C. wants to be adopted by her foster parents and no expert testified about a strong parental bond. This case is also unlike *In re Brandon C.* (1999) 71 Cal.App.4th 1530, 1538, in which substantial evidence supported the trial court's decision to place the child in long-term guardianship with the grandmother, who testified a continuing parental relationship would benefit the child.

Substantial evidence supports the trial court's conclusion that the detriment of terminating the parental relationship is outweighed by the benefits adoption offers C.C. "[A] child should not be deprived of an adoptive parent when the natural parent has maintained a relationship that may be beneficial to some degree but does not meet the child's need for a parent." (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.)

DISPOSITION

The order is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Tari L. Cody, Judge

Superior Court County of Ventura

Lori Siegel, under appointment by the Court of
Appeal, for Defendant and Appellant.

Leroy Smith, County Counsel, Joseph J. Randazzo,
Assistant County Counsel, for Plaintiff and Respondent.