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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re L.Z. et al., Persons Coming Under
the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.Z.,

Defendant and Appellant.

B277294

(Los Angeles County
Super. Ct. No. CK86058)

APPEAL from an order of the Superior Court of Los Angeles County, Annabelle G. Cortez, Judge. Affirmed.

Jack A. Love, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent.

Appellant D.Z. (Mother) appeals from the juvenile court's order at the 12-month review hearing held for her two daughters, Lis. Z. and Lit. Z., pursuant to Welfare and Institutions Code¹ section 366.21, subdivision (f). On appeal, Mother argues that the juvenile court erred in ordering her to attend a sexual abuse awareness program based on a sexual abuse allegation that was first made by Lis. against her stepfather during the dependency proceedings. We affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. Section 300 Petition

Mother has two daughters who are the subject of the current dependency case—Lis. (born October 2007) and Lit. (born March 2012). Mother also has a son (born November 2015) with her husband, C.G. The whereabouts of the fathers of Lis. and Lit. are unknown. Prior to start of the dependency proceedings, Lis. and Lit. resided with Mother and C.G.

On May 29, 2015, the Department of Children and Family Services (DCFS) filed a section 300 petition on behalf of Lis. and Lit., alleging inappropriate physical discipline by Mother. On September 1, 2015, the juvenile court sustained the petition under section 300, subdivisions (a), (b), and (j), and declared both children dependents of the court. The court found that Mother had physically abused Lis. by striking the child's back and face with a belt and inflicting marks and bruises on her, and had inappropriately disciplined Lit. by striking the child's body with a

¹ Unless otherwise stated, all further statutory references are to the Welfare and Institutions Code.

belt and pulling the child's ears. The court further found that Mother's excessive physical discipline of the children caused them pain and suffering, endangered their health and safety, and placed them at risk of serious physical harm.

The juvenile court ordered that Lis. and Lit. be removed from Mother's custody and placed in foster care. The court granted Mother monitored visitation with the children and ordered her to participate in a parenting program and individual counseling to address case issues. The court also ordered that there be no contact between the children and their stepfather, C.G., because Lis. had made statements during the proceedings indicating that C.G. had been sexually inappropriate toward her.

In a related criminal proceeding, Mother was convicted of misdemeanor child endangerment based on her inappropriate physical discipline of Lis. The criminal court ordered Mother to complete community service, a domestic violence program, and a 52-week parenting program.

II. Six-Month Review Hearing

In its March 1, 2016 status review report, the DCFS noted that Lis. and Lit. were residing with their foster mother, G.A., and were scheduled to begin therapy. The children reported that they liked living with G.A., but preferred to reside with Mother. Mother had been attending monitored visits with the children once a week and telephoning them on daily basis. Mother was appropriate during the visits and no concerns had been reported. Mother had completed one-half of her 52-week parenting program and had attended five individual counseling sessions. According to her counselor, Mother recognized the importance of applying non-corporal methods of discipline and was motivated to improve her parenting skills. C.G. continued to reside in the

same home as Mother, and had enrolled in a parenting program to show that he was willing to assist Mother in reunifying with the children. C.G. had attended eight parenting sessions and his counselor reported that he was attentive and responsive in his participation. The DCFS recommended that Mother continue receiving reunification services.

On March 1, 2016, the juvenile court called the matter for the six-month review hearing. The court granted Mother unmonitored visits with the children in a neutral setting subject to her continued participation in her court-ordered programs. The court granted the DCFS the discretion to further liberalize the visits. The court also directed the DCFS to verify that C.G. had moved out of Mother's home, and ordered that C.G. was not to be present during Mother's visits with the children. At Mother's request, the court set the matter for a contested review hearing to be held on June 9, 2016.

III. Section 388 Petition

On April 6, 2016, the DCFS received a referral alleging that Lis. recently had disclosed that she was sexually abused by an unnamed uncle. According to the reporting party, Lis. told her foster mother, G.A., that her maternal uncle and his friend had sexually abused her when she was living with Mother. The reporting party also stated Lis. previously had disclosed that she was sexually abused by her "dad," but she called different people "dad" and the identity of that individual was never confirmed.

In response to the referral, the DCFS arranged for Lis. to undergo a forensic interview on April 22, 2016. Lis. indicated during the interview that she had been sexually abused by an older man and a younger man, but she did not disclose their identities. On May 6, 2016, Lis. underwent a forensic sexual

examination, and disclosed to the doctor that C.G. had touched her one time under her clothing when she was four years old.

On May 15, 2016, the children began having unmonitored visits at Mother's home after the DCFS verified that C.G. had moved out of the home. On that day, Mother took the children to a party at a park. According to Lis., as they were walking to the party, Lis. saw Mother's uncle and recognized him as the older man who had molested her. Mother told Lis. to not look at the man and to keep walking. After dropping off a gift at the party, Mother took the children back home.

During a May 26, 2016 interview with Lis., the case social worker asked the child about the disclosure she had made during the forensic examination. Lis. began to cry and confirmed that she had told the doctor the truth. When the social worker asked Lis. if C.G. had touched her inappropriately, Lis. nodded her head to indicate "yes." When asked how many times the touching had occurred, Lis. held up one finger to indicate one time. The social worker also asked Lis. if she wanted to return to Mother's home. In response, Lis. stated: "No, I'm not ready to go back home with my mom. I'm not afraid of my mom. I'm afraid that I will be touched again. I'm scared about that. I want to stay with [G.A.] until I am old enough to defend myself. Just right now I do not want to go back with my mom." G.A. informed the social worker that Lis. had disclosed to her that C.G. would go into her bedroom and touch her inappropriately. G.A. also reported that Lis. had been wetting her bed and having nightmares since the children began having unmonitored visits at Mother's home.

Following the interview with Lis., the social worker spoke with Mother about Lis.'s allegation that C.G. had inappropriately touched her. Mother was upset about the allegation and told the

social worker: “I don’t know what to believe anymore. [Lis.] keeps changing her story. It’s not true what happened.” When asked if she believed Lis., Mother stated that she did not know. Mother also stated that Lis. should have said something from the beginning if the sexual abuse allegation were true.

On June 2, 2016, the criminal court issued a two-year protective order prohibiting any contact between Mother and Lis. The following week, on June 8, 2016, the DCFS filed a section 388 petition on behalf of Lis. and Lit. The DCFS specifically requested that the juvenile court issue an order prohibiting any contact between Mother and Lis. consistent with the criminal protective order. The DCFS also requested that the juvenile court change Lit.’s visits with Mother from unmonitored to monitored in light of Lis.’s recent sexual abuse allegations.

In a supplemental report filed on June 9, 2016, the DCFS recommended that Mother participate in a sexual abuse awareness program. The agency noted that, while Lis. had made inconsistent statements about whether she had been sexually abused and by whom, the child’s demeanor was consistent with that of a sexual abuse victim. The DCFS also noted that, due to Lis.’s young age and the trauma associated with sexual abuse, she might not be able to articulate at that time exactly what had happened to her and who was involved.

IV. Contested Six-Month Review/Section 388 Hearing

On June 9, 2016, the juvenile court held the contested six-month review hearing and the hearing on the DCFS’s section 388 petition. Mother’s counsel advised the court that, in light of the criminal protective order, she was withdrawing her request for a contested hearing on whether the children should be returned to

Mother's home at that time. However, Mother was asking the court to allow her to maintain unmonitored visitation with Lit.

The juvenile court found that continued jurisdiction over the children was necessary and ordered that they remain in their current placement. The court also found that Mother had made substantial progress in her case plan and ordered continued reunification services for her. The court granted the DCFS's section 388 petition with respect to Lis. and issued a no-contact order between Mother and Lis. consistent with the criminal protective order. The court decided to continue the hearing on the section 388 petition with respect to Lit. to allow the DCFS to further investigate Lis.'s sexual abuse allegations. Pending that hearing, the court issued an interim order for monitored visitation between Mother and Lit., and granted the DCFS the discretion to liberalize the visits. The court then set the matter for a 12-month review hearing and a further hearing on the section 388 petition as to Lit. to be held on July 28, 2016.

V. 12-Month Review/Section 388 Hearing

In its July 28, 2016 status review report, the DCFS stated that Lis. and Lit. continued to reside with their foster mother, G.A., and appeared to be doing well in her home. Both children had begun participating in therapy, and the therapist indicated that Lis. had disclosed the sexual abuse allegation, but not the identity of the perpetrator. G.A. reported that Lis. was no longer wetting her bed or having nightmares since she stopped having contact with Mother. Mother had not visited Lit. since the court issued the no-contact order for Lis. because Mother did not want Lis. to feel bad that Mother could visit Lit. but not her. Mother told the case social worker that she wanted both children to be

returned to her care, and that she would continue to participate in her court-ordered programs in order to reunify with them.

In its report, the DCFS noted that Mother had completed 47 of the 52 parenting program sessions and had attended nine individual counseling sessions. Mother's counselor reported that Mother was accepting responsibility for her conduct, displaying non-abusive behaviors, and working on rebuilding trust with her children. The counselor also stated that the focus of Mother's individual counseling was on the emotional distress, depression, and anxiety she continued to experience as a result of Lis.'s sexual abuse allegation against C.G. Given Lis.'s disclosure of sexual abuse and statement that she did not want to return to Mother's home, the DCFS recommended that Mother participate in a sexual abuse awareness program.

On July 28, 2016, the juvenile court held the 12-month review hearing for both children and the hearing on the DCFS's pending section 388 petition regarding visitation with Lit. At the outset of the hearing, counsel for Mother requested that the matter be set for a "contest regarding return." In response, the court explained that Lis. could not be returned to Mother's custody at that time due to the two-year criminal protective order that was in effect. The court indicated that it would make findings regarding the need for continued jurisdiction as to Lis., and would set the matter for a contested hearing as to Lit.

With respect to Lis., the juvenile court found that continued jurisdiction over the child was necessary and ordered that Lis. remain suitably placed in foster care. The court granted Mother monitored telephone contact with Lis. a minimum of two to three times per week based on a recent modification to the criminal protective order that allowed for such telephone contact.

The court also ordered continued reunification services for Mother and scheduled an 18-month review hearing for Lis.

With respect to Lit., the court set the matter for a contested hearing regarding whether the child should be returned to Mother's custody. The court then addressed the DCFS's pending section 388 petition requesting that Mother's visitation with Lit. be changed from unmonitored to monitored visits. Counsel for the DCFS argued that Mother's visits should be monitored due to the concerns about Mother's ability to protect Lit. from the risk of sexual abuse posed by C.G. Alternatively, counsel for the DCFS asked the court to order that any unmonitored visits occur in a neutral setting and subject to a written schedule to allow for unannounced checks by the DCFS, that C.G. not be present during the visits, and that Mother attend a sexual abuse awareness program. Counsel for the DCFS reasoned that a sexual abuse awareness program for Mother was necessary to protect Lit. from the risk of harm because Mother lacked insight into Lis.'s sexual abuse allegations, remained married to the alleged perpetrator, and "continue[d] to essentially call [Lis.] a liar." Counsel for the children asked that Mother's visits with Lit. remain unmonitored, but joined in the DCFS's request that Mother participate in a sexual abuse awareness program. Counsel for Mother argued that the court should maintain unmonitored visitation for Lit. and decline to order any additional programs because Mother had been cooperative and compliant with her case plan and had acted appropriately in her visits with the children.

After hearing the argument of counsel, the juvenile court denied the DCFS's section 388 petition as to Lit. and ordered that Mother's visitation with Lit. remain unmonitored. However, the

court adopted the safety measures proposed by the DCFS for unmonitored visitation, including ordering that C.G. continue to have no contact with the children and that Mother participate in a sexual abuse awareness program. With respect to the order for a sexual abuse awareness program, the court stated: “[A]t this point that seems to be a barrier in terms of having [Lit.] return to [Mother’s] care. . . . The goal is to reunify her. It’s not necessarily fair to [Mother] at this stage to say that if she doesn’t finish this whole sexual abuse awareness class by November then that’s going to be a barrier to reunify. . . . I’m ordering it not so that it serves as a barrier, but rather so if she’s actively participating then that way it can facilitate reunification. . . . [T]hat’s the intent of the court today that as long as [Mother’s] cooperating and participating, that the court’s intent is not for that to serve as a barrier to reunification. So if she’s otherwise compliant, and attending, and she’s actively participating, and learning, . . . it’s going to be an assessment of the substantive progress, not how many classes she’s attended or not.” Following the juvenile court’s orders at the 12-month review hearing, Mother filed an appeal.²

² At the 18-month review hearing held on May 8, 2017, the juvenile court terminated its suitable placement order for Lis. and Lit., and ordered that both children be placed in the home of Mother under the supervision of the DCFS. The court did not terminate or modify its prior order that Mother attend a sexual abuse awareness program. On this court’s own motion, we take judicial notice of the juvenile court’s May 8, 2017 minute order. (Evid. Code, §§ 452, subd. (a), 459, subd. (a).)

DISCUSSION

On appeal, Mother challenges the juvenile court's order directing her to attend a sexual abuse awareness program. Mother contends that the court exceeded its authority in ordering an additional program at the 12-month review hearing because the program was unnecessary for Mother to reunify with Lit. We conclude, however, that the juvenile court acted well within the scope of its authority and discretion in requiring Mother to participate in a sexual abuse awareness program as part of her reunification plan.

Under section 362, “[w]hen a child is adjudged a dependent child of the court . . . , the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child” (§ 362, subd. (a).) Additionally, “[t]he juvenile court may direct any and all reasonable orders to the parents . . . of the child who is the subject of any [dependency] proceedings . . . as the court deems necessary and proper to carry out the provisions of this section,” including orders “to participate in a counseling or education program.” (§ 362, subd. (d).) The case plan ordered by the court should be appropriate for each individual family based on facts relevant to that family, and should be designed to eliminate the conditions that led to the dependency in the first instance. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1229; see also § 362, subd. (d) [“[t]he program in which a parent . . . is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the child is a person described by Section 300”].) ““The juvenile court has broad discretion to determine what would best serve and protect the child’s interests and to fashion a dispositional order accordingly. On appeal, this determination cannot be reversed

absent a clear abuse of discretion.” [Citation.]’ [Citation.]” (*In re Daniel B.* (2014) 231 Cal.App.4th 663, 673.)

Mother argues that the order requiring her to attend a sexual abuse awareness program was not designed to eliminate the conditions that led to her children being declared dependents of the court because the sustained section 300 petition was based solely on findings regarding her excessive physical discipline of the children, and did not include any allegations of sexual abuse. However, “the juvenile court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children. [Citations.] Instead, the court may consider the evidence as a whole.” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311; see *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1008 [“when the court is aware of other deficiencies that impede the parent’s ability to reunify with [the] child, the court may address them in the reunification plan”].)

In this case, the record reflects that Lis. first alleged inappropriate sexual conduct by her stepfather, C.G., shortly before the jurisdiction and disposition hearing. At disposition, the juvenile court ordered monitored visitation for Mother and no contact between the children and C.G. Later in the proceedings, Lis. made additional allegations of sexual abuse. Although the child was inconsistent in her statements about the nature of the abuse and the identity of the perpetrator, she disclosed to several individuals, including her foster mother, the doctor who performed a forensic examination, and the case social worker, that C.G. had sexually molested her when she was residing in Mother’s home. Lis. also expressed that she did not want to return to Mother’s home until she was old enough to defend

herself because she was afraid she would be molested again. In interviewing Lis. about her allegations, the case social worker found that the child's demeanor was consistent with that of a sexual abuse victim. In light of this evidence, the juvenile court reasonably could have concluded that it was necessary to issue additional orders at the 12-month review hearing to address the recent sexual abuse allegations made by Lis. and to help Mother learn to protect her children from the risk of sexual abuse.

Mother also asserts that requiring her to attend a sexual abuse awareness program was unnecessary for her to reunify with Lit. because her actions showed that she could protect her children from the risk of sexual abuse without participating in any additional programs. Mother notes that, at the time of the 12-month review hearing, she was in compliance with her case plan, had acted appropriately during all of her visits with the children, and had taken steps to ensure the children were not exposed to any of alleged perpetrators of the sexual abuse, including C.G. However, the record also shows that Mother remained skeptical of Lis.'s allegation that C.G. had sexually molested her, and appeared to disbelieve the child. When the case social worker spoke with Mother about the allegation, Mother stated: "I don't know what to believe anymore. [Lis] keeps changing her story. It's not true what happened." Mother also suggested that, if the allegation were true, Lis. would have disclosed the sexual abuse when it first occurred.

Accordingly, while it is undisputed that Mother had been cooperative with the DCFS and compliant with her case plan, the juvenile court reasonably could have concluded that Mother was unable to fully appreciate the risk of harm that C.G. posed to her children or to fully understand how to best protect her children

from that risk. The court also made clear that its order was not intended to be a barrier to reunification, but rather was designed to facilitate the reunification process by helping Mother learn to protect her children from the risk of sexual abuse so that they could be safely returned to her care. On this record, the juvenile court did not exceed its authority or abuse its discretion in ordering Mother to attend a sexual abuse awareness program.

DISPOSITION

The juvenile court's July 28, 2016 order directing Mother to attend a sexual abuse awareness program is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.