Filed 4/17/17 In re I.L. CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re I.L., a Person Coming Under the Juvenile Court Law.	2d Juv. No. B277072 (Super. Ct. No. J070235) (Ventura County)
VENTURA COUNTY HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. G.L. and B.L., Defendants and Appellants.	

G.L. (father) and B.L. (mother) appeal from the juvenile court's order terminating parental rights to their infant daughter, I.L. (Welf. & Inst. Code, § 366.26.)[1] Appellants

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

contend that the beneficial parent-child relationship bars the child's adoption. (§ 366.26, subd. (c)(1)(B)(i).) We affirm.

Background

In August 2014, I.L.'s eight-month old sister, G., died from a severe skull fracture and four brain bleeds. Appellants claimed that G. was napping, rolled faced down into a pillow, and stopped breathing. G.'s doctors reported that the injuries were non-accidental. After G. was hospitalized, mother told father that she dropped G.

When I.L. was born in October 2014, Ventura County Human Services Agency (HSA) detained the infant and filed a petition for failure to protect (§ 300, subd. (b)), death of a child by abuse or neglect (§ 300, subd. (f)), and abuse of a sibling (§ 300, subd. (j)). I.L. was placed with her maternal grandparents who provided a loving home and wanted to adopt.

The jurisdiction/disposition hearing was continued until the Ventura County Medical Examiner issued an autopsy report stating that the etiology and manner of death was undetermined. Doctor Todd Flosi, Director of Inpatient Pediatrics at Ventura County Medical Center disagreed with the Medical Examiner's findings. Doctor Flosi opined, as did the doctors who treated G. that G. was the victim of abusive head trauma.

In July 2015, the trial court sustained the amended petition and ordered reunification services and visitation. At the 18-month review hearing, the trial court found that appellants had not adequately participated in family counseling and grief support, that appellants failed to provide accurate information to their clinicians, and that mother had not benefited from parent

education. The trial court terminated services and set the matter for a contested permanent plan hearing.

Appellants filed section 388 petitions to reinstate services, which had been denied by the trial court. At the section 366.26 hearing, HSA reported that a sudden change in I.L.'s home, environment, and caregivers would traumatize the child. The trial court found that the parent-child beneficial relationship exception to adoption did not apply (§ 366.26, subd. (c)(1)(B)(i)) and terminated parent rights.

Beneficial Relationship Exception

Appellants argue that the trial court erred in finding that the parent-child beneficial relationship exception to adoption does not apply. We review for substantial evidence and determine whether the trial court abused its discretion. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315.) "Because a parent's claim to such an exception is evaluated in light of the Legislature's preference for adoption, it is only in exceptional circumstances that a court will choose a permanent plan other than adoption. [Citation.]" (*In re Scott B.* (2010) 188 Cal.App.4th 452, 469.)

To establish the parent-child relationship exception, appellants must show they maintained regular contact and visitation, and that I.L. would benefit from continuing the relationship. (§ 366.26, subd. (c)(1)(B)(i); *In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) It is a two prong test. "The exception applies only where the [trial] court finds regular visits and contact have continued or developed a significant, positive, emotional attachment from child to parent." (*Ibid.*) Appellants maintained regular visitation but made no showing that severing "the natural parent-child relationship would deprive [I.L.] of a

substantial, positive emotional attachment such that the child would be *greatly* harmed. [Citations.]" (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466.)

The existence of a beneficial relationship is determined by the age of the child, the portion of the child's life spent in parental custody, the quality of the interaction between parent and child, and the child's particular needs. (*In re Angel B.*, *supra*, 97 Cal.App.4th at p. 467; *In re Amber M.* (2002) 103 Cal.App.4th 681, 689.) The parent must show "more than frequent and loving contact, an emotional bond with the child, or pleasant visits. [Citation.]" (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 229; see *In re Derek W.* (1999) 73 Cal.App.4th 823, 827 ["parent must show that he or she occupies a 'parental role' in the child's life"].)

I.L. was detained at birth, has been raised by her maternal grandparents, and looks to them as her primary caregivers. The infant has never lived with appellants or called them "mommy" or "daddy." Appellants described the supervised visits as happy and loving. However, the social worker reported that the visits lacked the depth necessary to establish a parent-child beneficial relationship. The worker also reported that the visits were pleasant but more like "play dates" because appellants have never been the child's primary caregivers. I.L. referred to her prospective adoptive parents as "mama" and "papa," and was closely bonded to them. HSA was concerned that if I.L. was returned to appellants, they "would not allow the maternal grandparents or the maternal aunt, or cousins to visit the child. [Appellants] would, in turn, lose a vital support system and the child would lose the relationships with [her] maternal relatives. Without a solid support system in place, [appellants]

could potentially be faced with additional stress and become overwhelmed that I.L. . . . wants to go to her home, the home that she has lived in for almost two years now."

Based on I.L.'s age and needs, the trial court reasonably concluded that the benefits of continuing the parent-child relationship did not outweigh the permanency of stability of an adoptive placement that I.L. so badly needs. (*In re Angel B.*, *supra*, 97 Cal.App.4th at p. 468.) It is a "'quintessentially'" discretionary decision but not a close call. (*In re Bailey J.*, *supra*, 189 Cal.App.4th at p. 1315.) "The reality is that childhood is brief; it does not wait while a parent rehabilitates himself or herself. The nurturing required must be given by someone, at the time the child needs it, not when the parent is ready to give it." (*In re Debra M.* (1987) 189 Cal.App.3d 1032, 1038.)

Disposition

The judgment (order terminating parental rights and selecting adoption as the permanent plan) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Tari L. Cody, Judge

Superior Court County of Ventura

Cristina Gabrielidis, under appointment by the Court of Appeal, for Appellant Father.

Mary Elizabeth Handy, under appointment by the Court of Appeal, for Appellant Mother.

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