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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B288440
(Super. Ct. No. J071051)
(Ventura County)

VENTURA COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

M.D.,

Defendant and Appellant.

M.D. (Mother) appeals the juvenile court's order that terminated her parental rights and selected adoption as the permanent plan. (Welf. & Inst. Code,¹ § 366.26.) She contends the court erred when it found that the beneficial parent-child

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

relationship exception to adoption did not apply. (§ 366.26, subd. (c)(1)(B)(i).) We affirm.

FACTUAL AND PROCEDURAL HISTORY

In late 2015, G.D., then five years old, underwent surgery to remove a malignant brain tumor and to install a drainage shunt. Mother declined post-surgery radiation treatment for G.D., despite the neurologist's recommendation. Hospital personnel explained that, without radiation, intensive follow-up appointments would be necessary to monitor any tumor regrowth and the shunt in G.D.'s brain.

Mother did not take G.D. to any of his scheduled medical appointments over the next six months. She did not return phone calls from the hospital. In June 2016, hospital personnel reported Mother to the Ventura County Human Services Agency (HSA). At the urging of HSA staff, Mother took G.D. to a medical appointment later that month. An MRI revealed that his tumor had regrown and spread. His shunt was no longer working. G.D. required another surgery.

The juvenile court removed G.D. from Mother's care to ensure that his medical needs were properly met. HSA staff granted Mother unrestricted access to her son, and recommended reunification services. G.D. remained hospitalized for the next six weeks.

G.D. went to live in a foster home upon release from the hospital. Three weeks later, he went to live with his maternal aunt and grandfather. In September, G.D.'s aunt gave HSA seven days' notice that she was no longer willing to care for him. She rescinded her notice a few days later. She said she was willing to adopt G.D.

The juvenile court ordered reunification services for Mother in November, and permitted her to move in with her son, sister, and father the following month. In February 2017, Mother was asked to leave the home because she was not following her father's house rules. When HSA located her in March, she was homeless. She said she was not interested in resuming services. She visited G.D. sporadically. She said it did not matter if her sister adopted G.D.

HSA recommended early termination of services. Mother did not contest that recommendation. She supported her sister's desire to adopt or take legal guardianship of G.D.

G.D. remained with his aunt in his grandfather's home. In May, the aunt again said she no longer wanted to care for G.D., but agreed to keep him until his last day of kindergarten. Mother remained homeless.

G.D. went to live in a foster home. He said he liked it there. His foster father allowed him to contact Mother and his aunt.

Mother petitioned the juvenile court to reinstate services in October, arguing that a change in circumstances warranted a modification of the court's previous order. She had enrolled in community college and mental health services. She was willing to follow her father's house rules. She was looking for a job. She was willing to register for parenting classes.

G.D.'s therapist recommended the court deny Mother's petition, terminate parental rights, and permit G.D.'s foster father to adopt him. G.D., then seven years old, was doing well in his foster home. He wanted to live with his foster father. The foster father was willing to permit future contact with G.D.'s biological family.

At the section 366.26 hearing, the social worker testified that Mother was unwilling to care for G.D. despite her ability to do so. She chose not to follow her father's house rules. There were concerns that she hit G.D.

The social worker also testified that G.D. was "very affected" by his aunt's rejection. G.D. said multiple times he wanted to live with his foster father. He called him "Dad." The foster father had received training to deal with G.D.'s medical needs, and was willing to adopt him and let him continue contact with his biological family. G.D. was thriving in his care.

Mother testified that she wanted her son back. She said the situation in her father's home was now stable. She had completed her case plan, was becoming financially independent, and was furthering her education. She would soon be able to care for G.D. without depending on others.

The juvenile court determined that Mother did not show a genuine interest in reunification. Although she established a change in circumstances, she did not show that she would not abandon her son again. It was in G.D.'s best interest to remain in a stable home.

The juvenile court found that the beneficial parent-child relationship exception to adoption did not apply. G.D. was happy living with his foster father. Given his medical needs, he needed permanency. The court terminated Mother's parental rights.

DISCUSSION

Mother contends the juvenile court erred when it terminated her parental rights because she showed the existence of a beneficial relationship with G.D. We disagree.

If the juvenile court finds clear and convincing evidence that it is likely a child will be adopted, it must terminate parental rights unless it “finds a compelling reason for determining that termination would be detrimental to the child.” (§ 366.26, subd. (c)(1)(B).) Termination will be detrimental if the parent shows that “the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) “A beneficial relationship is one that ‘promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.’ [Citation.]” (*In re Amber M.* (2002) 103 Cal.App.4th 681, 689.) Whether a beneficial relationship exists is determined by “[t]he age of the child, the portion of the child’s life spent in the parent’s custody, the “positive” or “negative” effect of interaction between parent and child, and the child’s particular needs.’ [Citation.]” (*Ibid.*)

Because the parent bears the burden of showing a beneficial relationship exists, our review is limited to “whether the evidence compels a finding in favor of the [parent] as a matter of law.” (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1528.) Specifically, we review whether the “evidence was (1) ‘uncontradicted and unimpeached’ and (2) ‘of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.’ [Citation.]” (*Ibid.*) Only in an “extraordinary case” will a parent meet this burden. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.)

This is not an extraordinary case. G.D. is seven years old. He has spent more than two years of his life under the care of people other than Mother. While he had generally positive interactions with Mother during their supervised visits,

the social worker said Mother was unwilling to provide for G.D.'s special needs.

In contrast, G.D.'s foster father received training to respond to G.D.'s medical needs. He was willing to adopt him. G.D. called him "Dad" and wanted to live with him. And the foster father was willing to permit G.D. to maintain contact with his biological family, contrary to Mother's assertion. Against this evidence, Mother's relationship with G.D. and her progress with her case plan, financial independence, and education do not compel a finding in her favor as a matter of law. (See, e.g., *In re Helen W.* (2007) 150 Cal.App.4th 71, 81 [beneficial relationship exception inapplicable where children spent more than two years with current caregiver, despite mother's maintenance of regular visits]; *In re Dakota H.* (2005) 132 Cal.App.4th 212, 229-231 [exception inapplicable where, despite mother's loving relationship with child, prospective adoptive father understood child's special needs and could provide stable home].)

Mother counters that severing G.D.'s relationship with his biological family would greatly harm him. But it was his biological family who rejected him: Mother did not contest early termination of services. She then wanted her sister to adopt G.D., but her sister was unwilling to care for him.

In re S.B. (2008) 164 Cal.App.4th 289, on which Mother relies, is not to the contrary. The father there had consistent visitation with his child and fully complied with his case plan. (*Id.* at pp. 300-301.) Here, in contrast, Mother missed several visits and did not contest termination of services. The court below based its decision on G.D.'s medical needs, happiness with his foster father, and need for a permanent, stable home.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Tari L. Cody, Judge

Superior Court County of Ventura

Aida Aslanian, under appointment by the Court of
Appeal, for Defendant and Appellant.

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