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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.A.,

Defendant and Appellant.

B259836

(Los Angeles County
Super. Ct. No. CK97023)

APPEAL from an order of the Superior Court of Los Angeles County. Tony L. Richardson, Judge. Affirmed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel and Jacklyn K. Louie, Deputy County Counsel, for Plaintiff and Respondent.

Mother T.A. appeals from the juvenile court's six-month review order continuing the custody of daughter Z.R. with her foster parents. We affirm because there is sufficient evidence that returning the minor to mother at that time posed a substantial risk of harm to the girl.

FACTS AND PROCEDURAL HISTORY¹

In December 2013, the juvenile court sustained the allegations of a petition filed by the Los Angeles County Department of Children and Family Services alleging that one-year-old Z.R. was at substantial risk of serious harm because mother T.A. and father D.R. had a history of drug abuse that left them unable to properly care for the child. (Welf. & Inst. Code, § 300, subd. (b).)² The minor was then placed in foster care.

We affirmed the jurisdictional and dispositional orders. (*In re Z.R.* (Dec. 31, 2014, B253782) [nonpub. opn.].)³ The evidence from that proceeding showed that mother tested positive for marijuana when Z.R. was born, although the child did not have marijuana in her system. Mother's use of cocaine and marijuana led to the loss of five other children in previous Arizona dependency proceedings. Mother also had a history of prostitution convictions, including one that occurred while the jurisdictional petition was pending.

At the six-month review hearing in October 2014 (§ 366.21, subd. (e)), the juvenile court found that it was in Z.R.'s best interests to keep her with her foster parents because there was a substantial risk of harm to the child's emotional well-being if she were returned to mother at that time. The court's primary concern was the minor's

¹ As with most dependency proceedings, this one has a lengthy and detailed history. We recount only those facts necessary to our decision.

² All further undesignated section references are to the Welfare and Institutions Code.

³ Father was not a party to that appeal, and is not a party to this one either.

history of severe emotional problems and the trauma that might ensue from an abrupt transition from foster care.

When the minor was detained she suffered from post-traumatic stress disorder (PTSD). Although a July 2014 report by the department noted that the minor was happy and developmentally age-appropriate, the child's therapist pointed out several disturbing behavior patterns related to PTSD: pulling her own hair; pinching herself; trying to eat sand and other inappropriate items; clinginess; and smearing herself with her own feces while in bed. Z.R. had developed a secure attachment with her foster parents that provided her "*with the structure, predictability, and nurturance she needs in order to reach optimal development across domains.*" The foster parents were interested in adopting the girl if reunification were unsuccessful.

According to the July 2014 report, there was a very high risk to the child if she reunified with mother at that time. Mother had given birth to another child. She had missed some of her random, court-ordered drug tests. She had not yet enrolled in court-ordered parenting classes, and was in partial compliance with the court's orders.

By the time of the review hearing in October 2014, however, mother had moved toward full compliance with the court's orders, had successful unmonitored visits with Z.R., and was in the process of securing suitable living quarters in a shelter program. Even so, the minor's therapist and the department both strongly recommended that the minor remain with her foster parents for the time being.

In a September 2014 letter, the therapist wrote that Z.R. still exhibited signs of PTSD, as evidenced by risky, self-harming behavior that occurred during transitions or unexpected changes to her schedule. The child's behavior had improved greatly since her time in foster care, and the foster parents had given the minor "the structure, predictability, and nurturance she needs in order to reach optimal development." Disrupting her placement at that time would place Z.R. at risk of "developing Reactive Attachment Disorder, thus impacting her development across all domains."

The department's last minute information report to the court said the therapist recommended "that the transition out of foster care be slow and methodical so it's not

traumatic for her.” The department therefore recommended that Z.R. remain in foster care while mother completed her drug treatment program and secured adequate housing. Mother testified at the October 2014 review hearing that she was not aware of her daughter’s diagnosis, although she had spoken with the therapist before.

The juvenile court found it would be premature to give mother custody of Z.R. at that time because the transition posed a substantial risk of emotional harm to the child. This was based on the therapist’s reports about the child’s needs and the fact that the child had lived most of her life outside of mother’s home. The court ordered that reunification services continue and said it would follow any future recommendation that the child be returned to mother so long as there was no risk of detriment.

DISCUSSION

At the six-month review hearing, the court must return the child to the parent’s physical custody unless the department proves by a preponderance of the evidence that doing so would create a substantial risk of detriment to the child’s physical or emotional well-being. (§ 366.21, subd. (e).) We apply the substantial evidence standard when reviewing the juvenile court’s custody order at a status hearing. Under that standard, we view the evidence most favorably to the prevailing party and indulge in all legitimate and reasonable inferences to uphold the court’s ruling. (*In re Mary B.* (2013) 218 Cal.App.4th 1474, 1483.)

Among the factors the trial court was required to consider was the extent to which mother participated in reunification services. (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400.) Reduced to its essence, mother contends that the court should have returned the minor to her custody because she had made great strides in compliance with her case plan, was on the verge of obtaining appropriate housing, and, through her recent visits, had established a strong and loving bond with the child. She also contends that Z.R. “was not a child suffering from emotional distress or serious acting out behavior.” Instead, she contends that the child was doing well and exhibited normal, age appropriate behavior. Mother argues that she was just as capable of following the therapist’s

recommendation as the foster parents, and that placing the girl in her custody could well alleviate any concerns about the child developing an attachment disorder.

Mother's contentions are not well founded. Mother relies on *Jennifer A. v. Superior Court* (2004) 117 Cal.App.4th 1322 (*Jennifer A.*) to show that her imperfect compliance with the court's case plan did not warrant continued placement of Z.R. in foster care. In that case, the children were detained because mother had left them alone in a hotel room. Over the course of the proceedings, the mother fully complied with all of the court's reunification orders except for a handful of missed drug tests. Those missed tests were the basis for an order terminating her reunification services, an order that was reversed on appeal in part because mother had substantially complied with the case plan, and in part because drug use was not a basis for taking jurisdiction over the children. (*Id.* at pp. 1326-1328, 1383-1384.)

Mother's reliance on *Jennifer A.* is misplaced. First, as the juvenile court in this case noted, it did not find that mother was in compliance with her case plan, and the evidence showed that mother's compliance lagged until a relatively short period before the review hearing.

Second, and most important, the juvenile court's placement order had little to do with mother's case plan compliance, resting instead on Z.R.'s mental health issues and the need to transition her back to mother slowly. Mother's contentions concerning this issue are either unsupported by, or contrary to, the evidence. Nothing in the record contradicts the therapist's statements concerning the continuing, albeit improved, nature of the child's emotional problems, the beneficial effect of the foster parents' care, or the high risk of emotional harm to the child from an abrupt or premature transition back to mother's custody. On this record we conclude there was ample evidence to support the court's finding that returning the child to mother at that point posed a substantial risk of harm to the child's emotional and physical well-being.

DISPOSITION

The six-month review hearing order that continued the minor's placement in foster care is affirmed.

OHTA, J. *

WE CONCUR:

BIGELOW, P. J.

FLIER, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.