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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

Ruth C.,

Plaintiff and Appellant,

v.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Defendant and Respondent.

B283378

(Los Angeles County
Super. Ct. No. XK03756)

APPEAL from an order of the Superior Court of Los Angeles County, Margaret Henry, Judge. Reversed and remanded.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Plaintiff and Appellant.

Mary C. Wickham, County Counsel, and Julia Roberson, Deputy County Counsel for Defendant and Respondent.

In this appeal, Ruth C., a nonminor former dependent who is under age 21, asks us to reverse the trial court's order terminating jurisdiction and remand for further proceedings to permit her to reenter foster care. The Los Angeles County Department of Children and Family Services (Department) acknowledges it erred by asking the juvenile court to find Ruth C. was not eligible to voluntarily reenter dependency jurisdiction. We agree there was error, reverse and remand.

BACKGROUND

In view of the limited issue presented in this appeal, we will summarize only the recent procedural history of this case and none of the facts that led to Ruth C.'s former dependency.

On September 24, 2007, the court asserted dependency jurisdiction over Ruth C. for physical abuse and neglect by her legal guardian. Ruth C. was later adopted. Her parents signed an adoption placement agreement on April 30, 2013, shortly after Ruth C. turned 15 years old.

In March 2016, Ruth C. turned 18 and graduated from high school in Arkansas soon thereafter. In June 2016, all adoptive placement funding terminated. After graduating from high school, Ruth C. moved back to Los Angeles. On June 8, 2016, Ruth C. filed a Welfare and Institutions Code section 388 petition asking to return to juvenile court jurisdiction.¹ The court granted Ruth C.'s petition on July 5, 2016, but the Department moved on October 14, 2016, to set aside the order on the basis Ruth C. was not eligible to reenter foster care.

On January 10, 2017, the court found Ruth C. was ineligible and terminated jurisdiction.

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

This timely appeal followed.

DISCUSSION

We begin by quoting from an opinion of our colleagues in the Fourth Appellate District describing the current law relating to nonminor dependents.

“Before 2008, youths in the foster care system aged out of the system when they turned 18, leading to an epidemic of emancipated youths without the skills and resources to become productive members of society. (Shin, *A Saving Grace? The Impact of the Fostering Connections to Success and Increasing Adoptions Act on America’s Older Foster Youth* (2012) 9 Hastings Race & Poverty L.J. 133, 133-143 (Shin).) In 2008, the federal government enacted the Fostering Connections to Success and Increasing Adoptions Act (the Federal Act), which allowed youths in foster care to continue receiving assistance payments after they turned 18. (Shin, *supra*, at p. 144.) The Federal Act requires that states implementing its programs provide assistance and support in developing a personalized transition plan for all youths before they age out of foster care. (Shin, at p. 145.)

“Effective January 1, 2012, California enacted [the California Fostering Connections to Success Act (the Act) (Assem. Bill No. 12 (2009-2010 Reg. Sess.); Assem. Bill No. 212 (2011-2012 Reg. Sess.))], which extended the California foster care program to age 21 in accordance with the provisions of the Federal Act. (Shin, *supra*, 9 Hastings Race & Poverty L.J. at p. 151.) Before the effective date of the Act, a juvenile court could maintain dependency jurisdiction over a child who had reached the age of majority, but had not yet reached the age of 21 years. (§ 303, subd. (a).) After the effective date of the Act, ‘the court

shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400.’ (§ 303, subd. (b).) Thus, dependent children who would normally ‘ “age out” of the system’ could qualify to receive assistance until they reach 19, 20, or potentially even 21 years of age. (Seiser & Kumli, Cal. Juvenile Courts Practice and Procedure (2012 ed.) Post-Permanency Planning Procedures, § 2.180[5][b], p. 2-534.)” (*In re K.L.* (2012) 210 Cal.App.4th 632, 637.)

In view of the Department’s concession on appeal that Ruth C. is eligible for nonminor dependent assistance, we do not need to go into an exhaustive recitation and discussion of all the statutes that address the eligibility requirements for reentry to dependency jurisdiction. Instead, we will discuss only the two statutes that the parties agree are determinative here.

The parties agree on appeal that Ruth C. was entitled to ask the court to assume dependency jurisdiction because she met the description of a nonminor dependent found in section 388.1, subdivision (a)(4), which provides: “He or she is a nonminor who received adoption assistance payments after attaining 18 years of age pursuant to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 and his or her adoptive parent or parents no longer provide ongoing support to, and no longer receive benefits on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attains 21 years of age.”

Section 11403, subdivision (c) elaborates that a nonminor former dependent may be eligible for reentry pursuant to section 388.1 before she turns 21 years of age if previously she was receiving adoption assistance payments, and her adoptive parents no longer provide ongoing support to, and no longer receive benefits on her behalf after she turned 18.

At the hearing pursuant to section 388.1, the court shall permit reentry if the court finds the nonminor was a dependent when her adoption was finalized; the adoptive parents no longer provide ongoing support to, and no longer receive payment on behalf of, the nonminor; it is in the nonminor's best interests for the court to assume dependency jurisdiction; and the nonminor is under age 21. (§ 388.1, subd. (c)(5).)

The Department's motion to terminate jurisdiction asserted Ruth C. was ineligible for reentry because she was younger than 16 years old when her adoptive placement agreement was signed on April 30, 2013. As legal authority to terminate Ruth C.'s reentry to dependency jurisdiction, the Department relied solely on section 16120, subdivision (d)(3). That statute contains the requirements for a *minor child to obtain adoption assistance program benefits*. Section 16120, subdivision (d)(3) provides a *child* may be eligible for *adoption assistance* payments if she has attained 16 years of age before the adoption assistance agreement became effective. The Department represented to the court that since Ruth C. had not attained 16 years of age before her adoption assistance agreement was signed, she was ineligible to reenter dependency jurisdiction as a nonminor former dependent.

That is plainly an erroneous construction of the law. Nowhere in the statutes specifying the requirements for a nonminor former dependent to reenter dependency jurisdiction is there any mention of the entirely separate requirements for a dependent child to receive adoption assistance benefits. It is immaterial whether Ruth C. began to receive adoption assistance benefits as a child in the foster care system before she turned 16. We agree with Ruth C. that section 388.1, subdivision (c) entitled

her to a hearing to reenter foster care regardless of the age at which her adoption assistance agreement became effective.

Since Ruth C.'s adoptive parents stopped supporting her, and they no longer received adoption assistance payments after she turned 18 and graduated high school, and she is not 21 years old, the trial court must hold a hearing to determine if it is in Ruth C.'s best interests to extend foster care services to her until she attains age 21.

DISPOSITION

The order terminating jurisdiction is reversed. The matter is remanded for further proceedings to permit Ruth C. to reenter dependency jurisdiction, unless changed circumstances during the pendency of this appeal (of which we are unaware) indicate Ruth C. has become ineligible or no longer desires foster care assistance.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

HALL, J.*

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