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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B268554
(Los Angeles County
Super. Ct. No. DK01960)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.W.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

Merrill Lee Toole, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, and William D. Thetford, Deputy County Counsel, for Plaintiff and Respondent.

* * * * *

In this appeal from an order terminating L.W.'s (mother's) parental rights over her daughter A.R., mother's counsel filed an appellate brief identifying no issues. Mother filed a supplemental brief. Because a court "may not terminate a nonoffending, noncustodial mother's or presumed father's parental rights without finding, by clear and convincing evidence, that awarding custody to the parent would be detrimental" (*In re T.G.* (2013) 215 Cal.App.4th 1, 20), we requested further supplemental briefing on the issue of detriment. We received a supplemental record that conclusively showed the juvenile court found it would be detrimental to return A.R. to mother's custody. We now affirm.

BACKGROUND

The juvenile court sustained the following jurisdictional allegations: father (who is not a party on appeal) "engaged in a violent altercation in which [he] brandished a knife in the child's presence." Father had emotional problems including suicidal ideation and had attempted suicide. Father cut his wrists because he was jealous mother was nursing A.R. and not spending time with him.

The Los Angeles County Department of Children and Family Services (DCFS) completed a detention report dated October 24, 2013, that indicated that A.R. remained in "the care of non-offending mother." It further stated that mother was aware she had to protect A.R. by not allowing father in the home. Days later, father was found in mother's home, and A.R. was removed from mother's custody.

The minute order from the dispositional hearing suggested the juvenile court applied the wrong statute in finding that it would be detrimental to remove A.R. from mother's custody. The reporter's transcript from the dispositional hearing was not included in our initial record.

We requested supplemental briefing on the sole issue whether prior to terminating mother's parental rights, the juvenile court found mother was unfit or A.R. would suffer detriment by remaining in mother's custody. A supplemental record and supplemental briefs were filed. The supplemental record showed that, at the dispositional hearing, mother's counsel argued that A.R. could be safely returned to mother's care and that

mother did not pose a substantial risk of harm to A.R. Father's counsel also requested that A.R. be returned to mother's care. The juvenile court rejected the arguments, finding that mother "doesn't seem to totally recognize the father's issues." The court found by clear and convincing evidence that leaving A.R. in mother's custody would pose a substantial danger to her.

Mother did not reunify with A.R., and the court subsequently terminated her parental rights. Mother did not appear at the hearing in which the court terminated her parental rights.

DISCUSSION

The record shows that the juvenile court found it would be detrimental to return A.R. to mother's custody. In mother's counsel's supplemental brief, mother acknowledges that the court made this finding. Because the court found by clear and convincing evidence that it would be detrimental to leave A.R. in mother's custody, this case is distinguishable from *In re Gladys L.* (2006) 141 Cal.App.4th 845, 848, in which the court failed to make that necessary finding.

This case is distinguishable from *In re G.S.R.* (2008) 159 Cal.App.4th 1202, 1212-1213, in which no substantial evidence supported the stated findings of detriment because here the record supported the juvenile court's conclusion. The juvenile court's observations were supported by the evidence in the record showing that mother had allowed father to return to her home after she promised to deny him access to A.R. This evidence supported the court's finding that mother failed to appreciate the seriousness of father's conduct. Mother recognizes this in her first supplemental brief in which she states: "[a] couple days later [after A.R. was detained from father] father is found in mother[']s apartment, [A.R. is] then removed from my custody." There is no merit to mother's challenge to the sufficiency of the evidence to support the juvenile court's finding.

Mother's argument that a separate Welfare and Institutions Code section 300 petition identifying her was necessary to remove A.R. from her care lacks merit. A separate petition naming mother in addition to father was not required in order to remove

A.R. from mother's custody. (*In re Frank R.* (2011) 192 Cal.App.4th 532, 538.) A finding of detriment by clear and convincing evidence "can provide an adequate foundation for an order terminating parental rights." (*Ibid.*; see *In re Z.K.* (2011) 201 Cal.App.4th 51, 65 ["Due process requires that a finding of detriment be made by clear and convincing evidence before terminating a parent's parental rights."].) In short, mother fails to show any error in the termination of her parental rights.¹

DISPOSITION

The order terminating mother's parental rights is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.

¹ Respondent's motion to dismiss is denied.