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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B237353
(Super. Ct. No. J-1300176)
(Santa Barbara County)

SANTA BARBARA COUNTY CHILD
WELFARE SERVICES,

Plaintiff and Respondent,

v.

L.B.,

Defendant and Appellant.

L.B., the mother of B.G., appeals an order of the juvenile court which denied family reunification services for her with her son. (Welf. & Inst. Code, § 361.5, subd. (b)(11).) We conclude, among other things, that substantial evidence supports the finding that family reunification services should be denied because L.B. did not make a reasonable effort to treat her drug abuse problem. We affirm.

FACTS

In 1999, three of L.B.'s children were removed from her "care and custody by the Ventura County Department of Children and Family Services" when her youngest child "tested positive for cocaine at birth." At that time L.B. was on "methadone

maintenance" and she "admitted using cocaine." Her parental rights to those minors were terminated in 2001, and the children were adopted.

L.B. moved to Santa Barbara. She gave birth to her son B.G. in 2003. The Santa Barbara County Child Welfare Services (CWS) received a "neglect" referral from a person concerned about B.G.'s "welfare," who said L.B. had stated that she decided to give birth "in Santa Barbara County because they are not as strict with drug users as Ventura County."

In January 2009, B.G. went to a neighbor's home and said L.B. left him home alone. In the early morning hours of the next day, the neighbor went to L.B.'s home after hearing B.G. screaming and discovered L.B. was not there. CWS intervened after learning that L.B. was not caring for B.G. and "may be using drugs." L.B. agreed to participate in "Voluntary Family Maintenance Services."

On December 1, 2009, CWS learned that L.B. did not pick up B.G. at his school. She claimed she was "ill." That was the third time this happened.

On September 15, 2010, a neighbor heard B.G. screaming. The child was home alone. L.B. went to the hospital without finding someone to care for him.

On January 20, 2011, B.G. missed two days of school. L.B. told CWS that she was "checking herself into a detoxification facility and the child will be staying with friends."

On July 16, 2011, a CWS worker went to L.B.'s home. L.B. was unconscious. When an ambulance arrived, she was "very groggy with slurred speech." Police entered the home and found "an empty container, labeled Methadone." When they checked L.B.'s cell phone, they "observed that most of the contacts in the cell phone belong to known drug users." L.B.'s home was in "a deplorable state," and "there were clothes strewn all over the floor and . . . the kitchen contained very little food." CWS determined L.B.'s "substance abuse places the child at risk of abuse and neglect." A worker "transported [B.G.] to an emergency out of home placement."

CWS received medical records that reflected that L.B. had a "narcotic overdose," tests revealed the presence of "benzodiazepines," and her medical condition

was exacerbated by "drug abuse." Her doctor said L.B.'s medical condition involved "opiate dependence."

L.B.'s apartment manager told police that L.B.'s behavior "has been a frequent problem in the apartment complex." He found L.B. "asleep in various places in the apartment complex, including the laundry room and on the floor outside of her apartment." When L.B. sleeps in these places, B.G. is "always . . . inside the apartment, unattended." The manager told police he "frequently sees random people come over to [L.B.'s] apartment and stay for very short periods of time before leaving."

An elementary school official told CWS that parents have "commented about [B.G.'s] home being the local 'meth house.'" He said "the years of neglect and frequent school absences have left [B.G.] far below grade-level."

B.G.'s father petitioned to "terminate dependency" or to grant him reunification services. He said he separated from L.B. who "has continued to abuse various substances."

L.B. told Martha Hines, a "Children's Services Screener," that in 2009 she became "addicted to pain medication." Hines said L.B. had "tangential speech, disorganized thinking, was often teary and was hard to follow" in answering questions. L.B.'s description of her drug abuse history was "convoluted and confusing." She mixed combinations of drugs and her report of "her current psychotropic medication regiment was confusing."

CWS recommended that L.B. not receive reunification services. It said L.B. has "an extensive criminal history," which includes burglary, theft, issuing checks with insufficient funds, "driving under the influence of drugs and alcohol," "being under the influence of a controlled substance," possession of "controlled substance paraphernalia," and giving a false identity to a peace officer. L.B. "failed to provide" CWS "with any information documenting her participation in a substance abuse program." Her "chronic abuse of drugs means that [she] is at a high risk of continued use or relapse," and reunification is "at odds with the child's need for a stable home." L.B.

"has not made reasonable efforts to treat the problems that led to the removal of [her] children [in 2001] as her ability to parent continues to be affected by drug abuse."

At the disposition hearing, CWS introduced all of its reports and attached evidentiary exhibits into evidence without objection.

L.B. testified she "changed [her] whole life around" after the termination of her parental rights to her three children 11 years ago. She goes "to counseling" to address her "problems with drugs." After a surgery, she used "painkillers" and it "was becoming a problem." She used methadone she obtained from a methadone clinic. She provided proof to CWS that she attended substance abuse treatment programs.

Emilio Handall, the principal at B.G.'s elementary school, testified B.G. came to school "regularly with dirty shirts," "very greasy" hair, and "long and filthy" fingernails. He was "hungry . . . on a regular basis." B.G.'s kindergarten teacher complained he "was being neglected." Because B.G. missed school, Handall made visits to L.B.'s residence to "get him to school." When he went there, he saw that the front yard was "strewn with trash." He found "dirty plates" and "dirty utensils" inside the home, and the home had a "musty" odor. Handall was familiar with the behavior of substance abusers because his "sibling" had that problem. L.B. was "noticeably" jittery and "obviously impaired." During a conversation she did not realize that her breast was exposed because she was "impaired." He believed methamphetamine was being used at L.B.'s residence. B.G. stayed with him for a couple of weeks while L.B. "rehabbed" because she stated she could not care for him at the time." L.B. showed no "interest in how [B.G.] was doing in school." Handall thought that "[B.G.] staying with his mother would be an incredible tragedy."

DISCUSSION

Adequate Findings

L.B. claims the trial court did not make findings on the required statutory grounds. We disagree. In its Findings and Orders After Dispositional Hearing, it found that "reunification services" are "denied" as "provided in Welf. & Inst. Code, § 361.5(b),

by clear and convincing evidence." It found L.B. was "a person described in Welf. & Inst. Code, § 361.5 (b)(11)." There was no error.

Substantial Evidence

L.B. contends the evidence is insufficient to support the trial court's finding that she did not make reasonable efforts to treat her drug abuse problem. (Welf. & Inst. Code, § 361.5, subd. (b)(11).) We disagree. "An order denying reunification services is reviewed for substantial evidence." (*R.T. v. Superior Court* (2012) 202 Cal.App.4th 908, 914.) Welfare and Institutions Code section 361.5 subdivision (b)(11) provides, in relevant part, that reunification services do not have to be provided where "the parental rights of a parent over any sibling or half sibling of the child had been permanently severed, . . . and that, according to the findings of the court, this parent *has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling* or half sibling of that child from the parent." (Italics added.)

The reasonable effort to treat standard "is not synonymous with 'cure.'" (*R.T. v. Superior Court, supra*, 202 Cal.App.4th at p. 914.) But "'to be reasonable, the parent's efforts must be more than 'lackadaisical or half-hearted.'"" (*Ibid.*) "We do not read the 'reasonable effort' language in the bypass provisions to mean that *any* effort by a parent, even if clearly genuine, to address the problems leading to removal will constitute a reasonable effort and as such render these provisions inapplicable." (*Ibid.*) "It is certainly appropriate for the juvenile court to consider the *duration, extent and context* of the parent's efforts" (*Ibid.*)

L.B. claims she did not abuse drugs and took reasonable efforts to address her prior drug abuse problems that led to her loss of parental rights in 2001.

But the trial court could reasonably infer that L.B. had a continuous drug abuse problem from 1) her history as reflected in the CWS reports; and 2) the July 2011 medical records which reflected a "narcotic overdose," the presence of "benzodiazepines," and a medical condition exacerbated by "drug abuse." L.B. claims these test results were defective without confirmation by a "more specific methodology." But she waived this claim by not objecting when CWS introduced these records (*People*

v. Nolan (2002) 95 Cal.App.4th 1210, 1216), and she produced no evidence to challenge the methodology.

Moreover, L.B. told Hines she was addicted to pain medication and had mixed combinations of drugs. On January 20, 2011, L.B. told CWS that she had to go to "a detoxification facility." Hines said L.B. was "at extremely high risk for current drug abuse" and "continued neglect of the child." Most of the "contacts in [L.B.'s] cell phone belong to known drug users." CWS had to remove B.G. from L.B.'s home because of her "substance abuse." CWS worker Heather Race said L.B.'s "substance abuse was affecting her ability to parent [B.G.] for quite some time." The court could rely on these facts from the CWS reports. (*In re Jonique W.* (1994) 26 Cal.App.4th 685, 698.) Handall's testimony showed L.B.'s addiction problems had a harmful impact on B.G.

The trial court also could find L.B. did not make reasonable efforts to treat her drug abuse problem. Race said L.B. presented no proof of attendance at drug abuse treatment programs. L.B. told CWS that she went to COPE for drug rehabilitation and to 12-step meetings. But when Race asked for the name and phone number of her COPE manager, L.B. was unable to provide it. She also could not provide CWS with 12-step attendance cards and she would not sign a release of information for the COPE program. L.B. said she provided the information. But the trial court resolved this conflict against her. We do not decide credibility. (*Church of Merciful Saviour v. Volunteers of America, Inc.* (1960) 184 Cal.App.2d 851, 856; *Lohman v. Lohman* (1946) 29 Cal.2d 144, 149.) The court could find L.B. did not attend these treatment programs. (*In re Jonique W., supra*, 26 Cal.App.4th at p. 698.)

L.B. claims she was "progressing nicely" until she had surgery and was "confronted with a problem posed by prescription pain killers." She argues this led her to properly seek methadone maintenance from a clinic. But she relies on her own testimony which the court did not have to accept (*Lohman v. Lohman, supra*, 29 Cal.2d at p. 149), and it could infer it was contradicted by facts in CWS reports that impeached her credibility. (*In re Jonique W., supra*, 26 Cal.App.4th at p. 698.) Hines said L.B.'s "account of her substance abuse history" was "convoluted" and unreliable. L.B. suggests

that being on methadone maintenance from a clinic is progress. But she was also on methadone maintenance when her parental rights were terminated for her three children a decade ago. L.B. has not shown the trial court erred.

The order denying reunification services is affirmed.

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GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Thomas R. Adams, Jr., Judge
Superior Court County of Santa Barbara

Anne E. Fragasso, under appointment by the Court of Appeal, for
Defendant and Appellant.

Dennis A. Marshall, County Counsel, Gustavo E. Lavayen, Chief Deputy,
for Plaintiff and Respondent.