

Filed 9/28/18 In re J.P. CA2/8

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.P. et al., Persons Coming
Under the Juvenile Court Law.

B285824

(Los Angeles County
Super. Ct. No. DK22946)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.R.,

Defendant and Appellant;

S.P., SR.,

Respondent.

APPEAL from an order of the Superior Court of
Los Angeles County, Emma Castro, Juvenile Court Referee.
Affirmed.

Suzanne Davidson, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

Leslie A. Barry, under appointment by the Court of Appeal,
for Respondent.

At the jurisdiction/disposition hearing, the juvenile court
granted nonoffending presumed father, S.P, Sr., sole physical
custody of his two children, J.P. and S.P., and terminated
jurisdiction as to them. M.R. (mother) appeals. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mother and father were never married and have not lived
together for some time. They are the parents of two children, J.P.
and S.P., currently nine and five years of age. When the incident
giving rise to these dependency proceedings occurred, the
children and their younger half sister, D.C., were residing with
mother and D.C.'s birth father (O.C.). The children saw father
regularly and lived with him and his girlfriend for several
months before the evening in question.

At approximately 8:00 p.m. on April 17, 2017, mother's
verbal argument with O.C. turned physical. O.C. struck mother,
knocked her to the ground, and then lifted her up by the neck in
an attempt to strangle her. He let go, and mother ran to her car
and locked herself inside. O.C. punctured at least one of the
vehicle's tires with a knife as she sat inside. She called 911.

When officers arrived, O.C. continued to brandish the knife
and implored them to shoot him. Toddler D.C. was near O.C.

during the standoff. J.P and S.P. were not noted in the police report as being present, and the appellate record does not indicate where they were at that hour. O.C. was arrested. Mother refused medical assistance.

Social workers with the Department of Children and Family Services (DCFS) were not able to locate mother or the three children after the incident. They interviewed O.C. while he was in custody. He admitted D.C. was present during his arrest and acknowledged he had been drinking and was under the influence of methamphetamine when he engaged in the altercation with mother.

On May 17, 2017, social workers spoke with father and his girlfriend, who reported all three children had been living with them for approximately three weeks. Mother appeared at their door “in the middle of the night” and asked if the children could spend the night. She never returned, and father and the girlfriend did not know where she was. DCFS initiated dependency petitions as to all three children, with allegations that domestic violence between mother and O.C., O.C.’s drug use, and mother’s failure to protect the children from him placed the children at risk of serious physical harm. (Welf. & Inst. Code, § 300, subds. (a) & (b).)¹ There were no allegations against father.

Father brought the children to juvenile court for the detention hearing. Mother’s whereabouts were still unknown. Father desired to have all three children reside with him. The juvenile court ordered J.P. and S.P. released to father. As father

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

had no familial relationship with D.C., however, she could not stay with him and her half siblings until a background investigation was conducted. She was detained in the home of her paternal grandmother.

DCFS amended the petition on July 12, 2017, to add another section 300, subdivision (b) allegation based on mother's methamphetamine use. Again, there were no allegations against father.

The contested jurisdiction/disposition hearing was conducted on July 17 and 18, 2017. The juvenile court received various reports into evidence; mother was the only witness to testify.

Mother was homeless at the time of the hearing. She denied making the statements the police officers attributed to her in their report. She initially denied there had ever been domestic violence between her and O.C., but finally conceded O.C. shoved her on the night the police intervened. Testimony concerning her use of methamphetamines was inconsistent. When asked if she and father "ever use[d] methamphetamines together," her response was "yes." No more testimony was elicited on that topic.²

The juvenile court found "mother's testimony to not be in the least bit credible" and sustained four of the five counts in the first amended petition under section 300, subdivisions (a) and (b),

² The jurisdiction/disposition report did include father's admission that he smoked methamphetamine on one occasion only, and that was with mother in 2007, before J.P. was born.

as to all three children.³ In terms of disposition, counsel for DCFS and the children agreed J.P. and S.P. should be placed with father, but urged the juvenile court to retain jurisdiction and offer him a family maintenance plan. DCFS's counsel noted father is "nonoffending but he does admit to a history [of drug use]." (See fn. 2.)

After reciting that father had been the noncustodial parent and desired custody of his children, the juvenile court found "[b]y clear and convincing evidence . . . that placement with [father] would not be detrimental to the children's physical and emotional well-being." The juvenile court's minute order also provided, the "conditions which would justify the initial assumption of jurisdiction under [§ 300] no longer exist and are not likely to exist, if supervision is withdrawn. The court terminates jurisdiction with a juvenile custody order." The custody order granted mother and father joint legal custody, sole physical custody to father, and monitored visitation for mother. The monitor needed to be someone other than father, but approved by father. (§ 362.4, subd. (c).)⁴

³ D.C. is not a subject of this appeal. She was declared a dependent child and placed with her paternal grandmother. Mother was given a case plan that included reunification services as to D.C.

⁴ If no custody orders already exist and no family law proceedings are pending in the superior court when juvenile court jurisdiction is terminated, the juvenile court may make custody orders, commonly referred to as "exit orders." Exit orders "may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. . . . The clerk of the superior court [in the county where the parent resides] shall, immediately upon receipt, open a file,

Mother timely appealed.⁵

DISCUSSION

Mother challenges only the termination of jurisdiction over J.P and S.P. She contends retention of jurisdiction was in the children's best interests and the failure to do so resulted in the prejudicial denial of reunification services for her as to J.P. and S.P.

Section 361.2, subdivision (a) requires that a child removed from a custodial parent be placed with the noncustodial parent "who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child." The juvenile court then has the option to make legal and physical custody orders, establish a visitation schedule for the parent from whom the child was removed, and terminate dependency jurisdiction. (§ 361.2, subd. (b)(1).)

As this court has held, "When deciding whether to terminate jurisdiction, the court must determine whether there is a need for continued supervision, not whether the conditions that justified taking jurisdiction in the first place still exist." (*In re Janee W.* (2006) 140 Cal.App.4th 1444, 1451.) The juvenile court made both findings here, but our concern is with the conclusion that continued supervision was not necessary for J.P and S.P.

without a filing fee, and assign a case number." (§ 362.4, subd. (c).)

⁵ DCFS advised this court by letter that it would not file a brief in this court.

As a reviewing court, we do not substitute our judgment for that of the juvenile court. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.) Rather, we defer to the juvenile court's assessment of the evidence and review the appellate record to determine if substantial evidence supports the ruling. (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.) The finding that there was no need for continued supervision of J.P. and S.P. was supported by substantial evidence. Speculation that father would benefit from services and his admission that he used methamphetamine on one occasion a decade earlier did not constitute evidence that would compel the juvenile court's retention of jurisdiction over J.P. and S.P. (*In re J.S.* (2011) 196 Cal.App.4th 1069, 1079.)

The termination of jurisdiction necessarily meant mother would not be offered reunification services vis-à-vis J.P. and S.P. That circumstance alone was not a reason to maintain jurisdiction over these two children, particularly as the juvenile court maintained jurisdiction over D.C., with mother to receive reunification services as to that child. (*In re J.S.*, *supra*, 196 Cal.App.4th at p. 1082.)

Finally, exit orders were particularly important for mother, father, and the children. Mother and father were never married and no formal custody orders were in place before the juvenile court acted. It will be many years before J.P. and S.P. are adults. In the meantime, it is in the children's best interests to have easily verified custody orders in place. Father resides in a nearby county, where, by statute, the custody orders should now be on file. (§ 362.4, subd. (c).) Any modification of the custody orders may be accomplished through the family law court, rather than requiring a return to the juvenile court in Los Angeles County.

DISPOSITION

The order of the juvenile court is affirmed.

DUNNING, J.*

We concur:

RUBIN, Acting P. J.

GRIMES, J.

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