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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re C.B., A Person Coming
Under the Juvenile Court Law.

B275433

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK99762)

Plaintiff and Respondent,

v.

R.B.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Teresa Sullivan, Judge. Affirmed.

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

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, and Sarah Vesecky, Senior Deputy
County Counsel, for Plaintiff and Respondent.

* * * * *

Mother R.B. appeals from the juvenile court's orders of May 10, 2016, denying her Welfare and Institutions Code section 388¹ petition without a hearing, and terminating parental rights to her then seven-year-old son C.B. Mother filed the section 388 petition on the date set for the section 366.26 hearing. We find any claim of error in the termination of parental rights has been waived because mother provides no argument or authority in her appellate briefs demonstrating that the court erred. We find the court did not abuse its discretion in denying the section 388 petition without a hearing and affirm the orders.

BACKGROUND

C.B. came to the attention of the Los Angeles County Department of Children and Family Services (Department) most recently at age four, in May 2013, during an investigation by the Department of a report of sexual and physical abuse of C.B.'s half sister. C.B. had been living with his paternal grandmother since birth, although he sometimes stayed with mother in transient housing.

On October 4, 2013, the court sustained petition allegations that the father of C.B.'s half sister inappropriately disciplined her, and mother was unable to protect her, which placed both children at risk of harm. The court removed C.B. from mother's custody and ordered him suitably placed. The court ordered reunification services for mother, including a parenting class, mental health counseling, and individual counseling to address case issues. Mother's counseling sessions were to address appropriate parenting, anger management, domestic violence, sexual abuse awareness, and depression. The court further

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

ordered mother to participate in a psychiatric evaluation and take all prescribed medication. Mother was to have monitored visitation with C.B. who had been placed with paternal great aunt, J.A.

Mother's criminal history included three convictions of theft and a conviction of fraud to obtain aid (welfare fraud), grand theft and perjury. Arrests for inflicting corporal injury on a spouse/cohabitant and for violating a restraining order did not result in convictions. In December 2013, mother advised the social worker she was in violation of probation in her case of welfare fraud and grand theft for failing to complete the court ordered 1,000 hours of CalTrans service. She received a sentence of three years to be served in county jail and was ordered to turn herself into custody on February 19, 2014.

While mother was in custody, the Department reported that mother spoke with C.B. by telephone. Mother was unable to complete parenting classes while she was in custody because of "some issues in the classroom setting." The correctional staff involved in offering educational programs for inmates told the Department social worker they had suggested mother take anger management classes due to some of the issues that mother had experienced with other inmates.

Mother appeared in custody at a status review hearing on January 23, 2015. Her counsel had requested a contested hearing, but since mother remained incarcerated and had not completed the case plan, mother submitted on the Department's recommendation to terminate her reunification services. The court terminated reunification services for mother.

Mother was released from custody in July 2015, and the juvenile court ordered she was to have monitored visits with C.B.

once a week for three hours. C.B.'s paternal grandmother agreed to monitor the visits. Mother met with a Department social worker in August 2015 to discuss the concerns of the paternal grandmother and paternal great aunt regarding mother having an anger problem. Mother denied she had an anger problem. But, she admitted showing up at the paternal great aunt's home unannounced and wanting a visit with C.B. She also admitted there were times when she raised her voice at both of them.

The Department stated in its January 2016 status review report that mother had sporadic visits with C.B., monitored by paternal grandmother. C.B. was thriving in the home of his paternal great aunt, who wanted to adopt him. The adoptive home study was approved April 19, 2016. C.B., who was then seven years old, told the Department social worker "that he is accepting of being adopted by his caregiver, but that he wants to continue having regular visits with his mother and father. [C.B.] stated that he thinks being adopted by his caregiver is 'normal' and 'positive.'" C.B.'s paternal grandmother reported that mother's visits were infrequent and sporadic, and mother was a habitual "no show" until March 2016. After that, mother consistently made herself available for monitored visits with C.B. for a couple hours on Tuesdays.

The section 366.26 hearing was first set for May 22, 2015. It was continued for various reasons to September 16, 2015, January 20, 2016, April 20, 2016, and May 10, 2016. On May 10, 2016, mother filed a section 388 petition, which the court denied without a hearing, finding it was not timely and did not show changed circumstances.

The facts alleged in mother's section 388 petition regarding changed circumstances were these: "Mother was incarcerated for

the entire length of the reunification period. Since her release [from] custody in July 2015, mother is now able to demonstrate full compliance with her case plan. Mother completed 60 hours of parenting instruction in May 2015. See the attached Exhibit A. Mother has also been managing her mental health with the help of a psychiatrist since November 2015 and receiving ongoing individual therapy. See Exhibit B.” Exhibit A is a certificate of completion of 60 hours of parenting instruction. Exhibit B is a letter dated April 12, 2016, from a psychologist with Hillview Mental Health Center, stating that since November 2, 2015, mother had been “utilizing medication support services with her psychiatrist” and “targeted case management services with her case manager.” The letter stated mother began individual therapy on February 26, 2016, and had attended five sessions. The letter reported that mother “has been actively working on developing and utilizing effective coping strategies to reduce and manage symptoms of depression and PTSD.” The letter concluded by stating that no completion date of therapy services had been determined.

Mother asked the court to return C.B. to her custody or, in the alternative, reinstate reunification services and grant her unmonitored overnight visits.

After the court denied mother’s section 388 petition, the court held the section 366.26 hearing and, among other findings and orders, terminated parental rights. Mother filed a timely notice of appeal from the order terminating parental rights and denying her section 388 petition without a hearing.

DISCUSSION

1. Mother Has Waived Her Right to Appeal Termination of Parental Rights.

Although mother filed a notice appealing the termination of parental rights and the denial of her section 388 petition, she only provided argument in her appellate briefs concerning the denial of her section 388 petition. Accordingly, any claim of error as to the termination of parental rights has been waived. (Cal. Rules of Court, rule 8.204(a)(1)(B); *Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852 [“When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived.”]; *Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466, fn. 6 [“Issues not raised in an appellant’s brief are deemed waived or abandoned.”].)

2. The Court Did Not Abuse Its Discretion by Denying Mother’s Section 388 Petition Without a Hearing.

“Section 388 permits ‘[a]ny parent or other person having an interest in a child who is a dependent child of the juvenile court’ to petition ‘for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court’ on grounds of ‘change of circumstance or new evidence.’ (§ 388, subd. (a).)” (*In re Lesly G.* (2008) 162 Cal.App.4th 904, 912.) A parent must “establish[] by a preponderance of the evidence that (1) new or changed circumstances exist, and (2) the proposed change would promote the best interest of the child. [Citation.] The parent bears the burden to show both a ‘“legitimate change of circumstances” ’ and that undoing the prior order would be in the best interest of the child. [Citation.]” (*In re S.J.* (2008) 167 Cal.App.4th 953, 959.)

“ ‘ “Since the interest of a parent in the companionship, care, custody, and management of his [or her] children is a compelling one, ranked among the most basic of civil rights [citations], the state, before depriving a parent of this interest, must afford him [or her] adequate notice and an opportunity to be heard. [Citations.]” ’ [Citation.] [¶] . . . When a parent makes a prima facie showing of changed circumstances under section 388, he or she has a due process right to a full and fair hearing on the merits. [Citation.] . . . [Citation.] However, a parent’s right to due process is ‘limited by the need to balance the “interest in regaining custody of the minors against the state’s desire to conclude dependency matters expeditiously” ’ [Citation.] Accordingly, in dependency proceedings, ‘[t]he court must control all proceedings with a view to quickly and effectively ascertain[] the jurisdictional facts and all information relevant to the present condition and welfare of the child.’ [Citation.]” (*In re Hunter W.* (2011) 200 Cal.App.4th 1454, 1463-1464.)

“ ‘ [I]f the liberally construed allegations of the petition do not make a prima facie showing of changed circumstances and that the proposed change would promote the best interests of the child, the court need not order a hearing on the petition. [Citations.] . . . ’ [Citation.] [¶] The appellate court ‘ “will not disturb [a] decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].” ’ [Citation.]” (*In re Mary G.* (2007) 151 Cal.App.4th 184, 205.)

The juvenile court did not abuse its discretion here. Mother’s last-minute section 388 petition did not demonstrate there were any new or changed circumstances. The certificate of completion of a parenting class and the letter showing mother

had begun to receive mental health services do not establish a prima facie case that her circumstances had changed, or that the proposed changes would be in the best interests of C.B. (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 205.) In the three years between the removal of C.B. and the filing of the section 388 petition, mother was in custody much of the time, and when not in custody, she only sporadically visited C.B. until March 2016. Though C.B. enjoys his once-weekly, two-hour visits with mother and wants to continue to visit with her, he has never resided with mother. He had been visiting regularly with mother for less than two months at the time mother filed her section 388 petition. He has been flourishing in the home of his prospective adoptive mother and paternal great aunt, J.A., with whom he has resided throughout these dependency proceedings.

The petition had insufficient evidence indicating that reinstating mother's reunification services, in a case that had been pending for three years at the time the petition was filed, would benefit C.B. (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 206 ["'A petition which alleges merely changing circumstances and would mean delaying the selection of a permanent home for a child to see if a parent . . . might be able to reunify at some future point, does not promote stability for the child or the child's best interests. [Citation.]'"]; accord, *In re Casey D.* (1999) 70 Cal.App.4th 38, 47.) In the years the case had been pending, mother had never had C.B. returned to her care, and never had unmonitored visitation with him. Mother's petition did not show that granting additional reunification services would do anything other than further delay permanency for C.B.

DISPOSITION

The juvenile court's May 10, 2016 orders denying mother's section 388 petition without a hearing and terminating parental rights are affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.