

Filed 1/5/26 In re Olivia F. CA2/4

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re OLIVIA F., a Person Coming
Under the Juvenile Court Law.

B343918
(Los Angeles County
Super. Ct. No. 23CCJP02515C)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ERNESTO F.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Mark A. Davis, Judge. Dismissed.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and Appellant.

Dawyn R. Harrison, County Counsel, Kim Nemoy,
Assistant County Counsel, Brian Mahler, Deputy County
Counsel, for Plaintiff and Respondent.

INTRODUCTION

In November 2023, the court declared Olivia F. (now five years old) a juvenile dependent based on sustained allegations of domestic violence and father's substance abuse. (See Welf. & Inst. Code, § 300, subd. (b).)¹ The court removed the child from father's custody and placed her with mother. It ordered family maintenance services for mother and monitored visitation and reunification services for father.

At judicial review hearings in May and August 2024, the juvenile court found continued jurisdiction necessary and ordered additional reporting on father's progress in drug testing and counseling. Father appeared via WebEx at these hearings.

Although father was provided notice of the third review hearing on December 2, 2024, he did not appear. Father's appointed counsel requested "a continuance to allow [father] to be present" without providing a reason for his absence. The court denied the request and heard argument on final disposition.

Father's counsel argued that the court should grant father's request for a home of parent order and "at the very least, he is asking for liberalized visitation and for him to be able to have at least unmonitored day visits to start." Counsel noted father was

¹ Subsequent references to statutes are to the Welfare and Institutions Code.

close to completing his case plan. Mother's counsel expressed her concern about father's sobriety, as he had not completed any substance abuse programs and had inconsistent testing results. She also had concerns about his living situation. Consistent with requests made by DCFS and the child, the court terminated jurisdiction with mother retaining sole physical custody, the parents sharing joint legal custody, and monitored visitation for father. The court stayed termination of jurisdiction pending receipt of a juvenile custody order. Requests to modify the custody order could be made in family court.

On December 4, 2024, the court held a nonappearance juvenile custody order hearing. After filing the custody order, the court lifted the stay terminating jurisdiction.

On February 3, 2025, father filed a notice of appeal from "the findings and order of the court" from the December 2 hearing. Specifically, he contends the order denying the continuance request at the December 2 hearing should be reversed.

DISCUSSION

Father did not file his appeal within 60 days after the December 2 juvenile court order he contests, raising a question as to the timeliness of the appeal. In their briefing, the parties did not address whether father's appeal was timely taken.

This court requested supplemental briefing on timeliness of father's appeal. (See *Jennings v. Marralle* (1994) 8 Cal.4th 121, 126 [the court must raise jurisdictional issue on own initiative].) Father argues his appeal is timely because the December 2 order denying a continuance "is part and parcel of the findings and

orders of the juvenile court” on December 4, 2024. DCFS takes no position.

We must dismiss father’s appeal as untimely. (*Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56; *Estate of Hanley v. Hanley* (1943) 23 Cal.2d 120, 123.) A written notice of appeal from a juvenile dependency order must be filed within 60 days after “the making of the order being appealed.” (Cal. Rules of Court, rule 8.406(a)(1).) As a post-judgment order, the order denying the continuance request was immediately appealable. (See *In re A.K.* (2017) 12 Cal.App.5th 492, 501 [subject to exception not applicable here, all orders after disposition are directly appealable]; see also §§ 352, subd. (a), 395, subd. (a)(1).) As such, the December 2 order was “separate and apart from the stayed order” terminating jurisdiction two days later. (*In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1246–1247, 1251 [order denying continuance request and staying termination of parental rights *not* part of later order lifting stay]; but see *In re R.F.* (2021) 71 Cal.App.5th 459, 467–468 [subsequent judgment “incorporated” prior nonappearance review hearing order discharging child as dependent].) Father may not challenge the December 2 order through the December 4 order, which is not identified in his notice of appeal. (See *In re Melvin A.*, *supra*, at p. 1251; *In re J.F.* (2019) 39 Cal.App.5th 70, 74–75; *In re S.B.* (2009) 46 Cal.4th 529, 532.)

We note father’s appellate contention lacks merit. Continuances in dependency cases are granted only upon a showing of good cause and when consistent with the child’s interests. (§ 352, subd. (a).) We would review the denial of a continuance for abuse of discretion. (*In re Karla C.* (2003) 113

Cal.App.4th 166, 180.) Father has not provided any explanation for his absence or grounds establishing good cause. Thus, there has been no showing that the trial court abused its discretion in denying the request. (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 585.)

DISPOSITION

The appeal from order denying a continuance is dismissed.

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MORI, J.

We concur:

COLLINS, Acting P. J.

TAMZARIAN, J.