Filed 4/29/05 In re I. G. CA1/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re I. G., a Person Coming Under the Juvenile Court Law.	
BONNIE C., Petitioner, v. SAN FRANCISCO SUPERIOR COURT, Respondent; SAN FRANCISCO COUNTY DEPARTMENT OF HUMAN SERVICES, Real Party in Interest.	A109292 (San Francisco County Super. Ct. No. JD01-3236)

I.

INTRODUCTION

Bonnie C., mother of minor I. G. (Mother), files this petition for extraordinary writ under California Rules of Court, rule 38.1, seeking to vacate the order setting a hearing under Welfare and Institutions Code section 366.26. She claims that she was denied adequate reunification services because visitation with the minor was "limited." We find her claims to be without merit and therefore deny the petition on its merits.

II.

BACKGROUND

The factual and procedural background of this case is set forth in our unpublished opinion in case number A105340, filed January 24, 2005. We do not set forth a complete history of the case here, only the limited background relevant to this writ petition.

I. G., born in 2001, was initially found to come within the provision of section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling) a few days after the child's birth. The petition described Mother's substance abuse, emotional problems, criminal history (including convictions for child cruelty and drug-related offenses), and Mother's failure to reunify with six other dependent children.

On October 11, 2003, I. G. was placed with a maternal cousin in Compton. I. G. moved to decrease visitation. The court granted the motion on October 29, 2003, and ordered monthly visitation for both parents, with transportation costs paid for by the Department. On January 12, 2004, the court terminated reunification services for Mother.

In our opinion in case number A105340, filed on January 24, 2005, we ordered the juvenile court to set a section 366.26 hearing. On February 7, 2005, the juvenile court held a hearing in this matter. As indicated at that hearing, "we are on calendar for a settlement conference on a number of issues, including a 388, parental visitation, and a 366.26 hearing." The court indicated, "We have had brief discussions. I think that we all are on the same page at this point, and I want to reiterate what the agreement is and make the orders so that people are comfortable with it." The court granted the section 388 petition filed by I. G.'s paternal aunt, changing I. G.'s placement from the home of a maternal cousin in Compton to the paternal aunt's home in Concord. The court ordered that the parents continue to have monthly visits with I. G., supervised by the paternal aunt, and weekly telephone calls. Finally, pursuant to our opinion, it issued an order setting the section 366.26 hearing.

III.

DISCUSSION

The only issue raised by Mother in her writ petition is that the court erred in ordering that her visitation with I. G. be on a monthly basis. While Mother discusses her objections to I. G.'s placement in Compton in 2003 and the monthly visitation ordered at that time, she then asserts that the only issue is "the court's continued limitation on visitation between the mother and child." Mother's writ petition, though ostensibly regarding the inadequacy of her reunification services due to the monthly visitation, seeks only that "the court order the reinstatement of the visitation that she had prior to the child being sent to southern California."

The initial problem with this assertion is that Mother has waived this issue. It is apparent from the face of the record that the court's order at the February 7, 2005 hearing regarding visitation was the result of a settlement agreement between the parties. Given that the order was the result of a settlement agreement, Mother did not object at the hearing to the monthly visitation order. Moreover, a rule 38.1 writ petition challenges the setting of a section 366.26 hearing, not an order for visitation after termination of reunification services.

Assuming that Mother has properly raised the issue that setting the section 366.26 hearing was error because reasonable reunification services had not been provided, we review the court's findings for substantial evidence. "['[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered']." (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46.) " ' " '[W]hen two or more inferences can reasonably be deduced from the facts,' either deduction will be supported by substantial evidence, and 'a reviewing court is without power to substitute its deductions for those of the trial court.'. . ." . . . ' [Citation.]" (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

A reunification plan must include visitation which is "as frequent as possible, consistent with the well-being of the minor. ([§ 362].) . . . Visitation may be seen as an

element critical to promotion of the parents' interest in the care and management of their children, even if actual physical custody is not the outcome. (*In re Monica C.* (1995) 31 Cal.App.4th 296, 308-310 . . .)" (*In re Luke L.* (1996) 44 Cal.App.4th 670, 679.) " '[F]ailure to formulate an adequate reunification plan [has] been held to be reversible error under rule 1376(b).'. . ." (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1458, citing *In re John B.* (1984) 159 Cal.App.3d 268, 275.) "[I]n reviewing the reasonableness of the reunification services provided by the Department, we must also recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances." (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969; *In re Misako R., supra*, 2 Cal.App.4th at p. 547.)

When a dependent child is under three years of age, reunification services are usually limited to a period of six months. At the six-month review hearing, on a finding of "substantial probability" that the child will be returned to the parent within the additional period of services, the court may extend services to the 12-month status review hearing. At the latter hearing it may again extend services based on a similar finding, for a period no longer than 18 months from the date of initial removal from the parent's physical custody. (§§ 361.5, subd. (a); 366.21, subds. (e)-(g).)

IV.

DISPOSITION

The petition for writ of mandate is denied on the merits. (§ 366.26, subd. (*l*)(1)(C); Cal. Rules of Court, rule 38.1(d); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).)

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Ruvolo, J.

We concur:

_____
Kline, P.J.

_____
Haerle, J.

A109292, *In re I. G.*