Filed 8/26/02 In re Taylor F. CA4/2

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re TAYLOR F., a Person Coming Under the Juvenile Court Law.	
SAN BERNARDINO COUNTY DEPARTMENT OF CHILDREN'S SERVICES, Plaintiff and Respondent, v. TIMOTHY F., Defendant and Appellant.	E031191 (Super.Ct.No. J174198) O P I N I O N

APPEAL from the Superior Court of San Bernardino County. Arthur A. Harrison and Donna Gunnell Garza, Judges. Affirmed.

Melissa A. Chaitin, under appointment by the Court of Appeal, for Defendant and Appellant.

Alan K. Marks, County Counsel and Phebe W. Chu, Deputy County Counsel, for Plaintiff and Respondent.

Lori A. Fields, under appointment by the Court of Appeal, for Minor.

Timothy F., hereafter father, appeals from the trial court's order terminating his parental rights to his then 14-month-old son, Taylor. Father's only claim in this appeal is that by placing Taylor in Texas in the home of his maternal grandmother, the Department of Children's Services (DCS) and the trial court prevented father from visiting Taylor and thereby effectively precluded him from establishing the beneficial relationship exception to termination of parental rights set out in Welfare and Institutions Code section 366.26 (c)(1)(A).[1] Father's claim is meritless, for reasons we explain below.

FACTUAL AND PROCEDURAL BACKGROUND

The pertinent factual and procedural details are undisputed. Taylor was two months old when he was hospitalized in February 2001 with bilateral fractures of both femurs, tibias, and fibulas and possible fractures to his right arm and various ribs. DCS filed a section 300 petition that alleged Taylor had been severely physically abused by his mother and father. At the detention hearing the trial court ordered Taylor detained outside his parents' home in a confidential placement and further ordered supervised weekly visitation between Taylor and his parents. By the time of the jurisdiction hearing, father and mother were in jail, having been arrested and charged with child abuse.[2] At the contested disposition hearing on an amended section 300 petition, the trial court

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

[2] Father was incarcerated from April 26, 2001, to May 10, 2001. According to the social worker's report, father pled guilty to child abuse/endangerment and was sentenced to 180 days in jail to be served on weekends.

denied reunification services to both parents pursuant to section 366.26, subdivisions (b)(5) and (c), in accordance with the social worker's recommendation. The trial court set the selection and implementation hearing for December 18, 2001.

In November 2001, the social worker submitted an ICPC packet in which the ICPC office in Texas approved placing Taylor in that state in the home of his maternal grandmother. The maternal grandmother had adopted Taylor's older brother Thomas who as a three-week-old infant had been removed from the custody of mother and father based on their neglect. Mother and father had been living in Washington at the time. The maternal grandmother had requested custody of Taylor and also stated her desire to adopt the infant. The trial court had placed Taylor with the maternal grandmother in Texas on October 31, 2001.

Because father objected to the out-of-state placement, the trial court held a special hearing on the issue. At that hearing, father argued, among other things, that the placement would interfere with his ability to visit Taylor and thereby establish a beneficial relationship with the child which, in turn, would preclude the trial court from terminating father's parental rights. The trial court noted father's objections and found that it was in Taylor's best interest to be placed in Texas in the home of his maternal grandmother and with his sibling.

At the contested selection and implementation hearing in February 2002, father again argued that placing Taylor in Texas had prevented father from visiting with Taylor and that in turn precluded father from establishing a beneficial relationship with the child.

The trial court found that it was likely Taylor would be adopted and terminated both parents' parental rights.

DISCUSSION

Father contends that DCS and the trial court unduly deprived him of an opportunity to develop a positive relationship with Taylor in that DCS failed to arrange visitation for father and the trial court interfered with father's visitation by authorizing Taylor's placement in Texas. As a result, father contends he was precluded from establishing the so-called "beneficial relationship" exception to termination of his parental rights and, therefore, the trial court improperly terminated his parental rights. DCS contends that father in effect is challenging the out-of-state placement order, a challenge father waived by failing to appeal from that order. We agree with DCS.

In dependency proceedings, the dispositional order is the final judgment and it is the first order from which an appeal can be taken. (*In re Meranda P*. (1997) 56 Cal.App.4th 1143, 1150; § 395.) All orders subsequent to the dispositional order, with one exception not applicable here, are then appealable orders. (*In re Meranda P*., *supra*, 56 Cal.App. 4th at p. 1150.) A postjudgment order that is not appealed in a timely manner becomes final and binding. (*Ibid*.) To be timely, an appeal must be filed no later than 180 days after an appealable order is entered in the minutes of the court. (Cal. Rules of Court, rule 2.)

Father did not file an appeal from the trial court's order authorizing Taylor's placement with his maternal grandmother in Texas. That order was entered November

15, 2001 and the 180-day time period within which to file an appeal from that order has expired. Although father's appeal from the order terminating his parental rights was filed within 180 days after the out-of-state placement order, that notice of appeal pertains only to the order terminating parental rights. "Since the notice of appeal limits the power of the reviewing court, an order from which an appeal has not been taken will not be reviewed." (*Hardin v. Elvitsky* (1965) 232 Cal.App.2d 357, 363.) In short father cannot directly or indirectly challenge the trial court's out-of-state placement order because father has not timely appealed that order.

The remaining aspect of father's claim is that DCS failed to provide visitation and thereby precluded father from establishing a relationship from which Taylor would continue to benefit. There are several defects in this aspect of his claim, the first of which is that the record does not support father's assertion. The social worker testified at the section 366.26 hearing that he arranged visits for father and Taylor each time father requested one. Father denied the social worker's statement in his testimony but did not provide any particulars to support the denial. Instead, he stated that he had only seen Taylor three to four times between August and October. Father apparently would have had the trial court infer not only that the number of visits was inadequate but also that DCS was responsible for the dearth of visits. Father's bald assertion, unsupported by any substantiating evidence, is insufficient to support the noted inference.

More importantly, however, father simply is incorrect in his view that DCS had any obligation to promote any aspect of his relationship with Taylor. When reunification

services are terminated, or as in this case denied at the outset, the focus of the dependency process is then exclusively on the child's interest in securing a safe and stable relationship in a new home. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) Simply put, neither the court nor DCS had an obligation toward father after reunification services were denied. Although the trial court authorized visitation between Taylor and his parents, those visits were for Taylor's benefit, not father's, and presumably directed at easing the infant's transition from his birth parents and into a new and stable home.

Accordingly, for each of the reasons discussed, we reject father's claim of error in this appeal.

DISPOSITION

The order terminating father's parental rights is affirmed.

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McKINSTER

J.

We concur:

RAMIREZ

P.J.

HOLLENHORST

J.