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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re CALEB J., a Person Coming Under the Juvenile Court Law.	
SOLANO COUNTY DEPARTMENT OF HEALTH AND SOCIAL SERVICES, Plaintiff and Respondent, v. M.B. et al., Defendants and Appellants.	A132522 (Solano County Super. Ct. No. J40137)

M.B. (Mother) and A.J. (Father) appeal from an order terminating their parental rights to their one-year old son, Caleb, contending the evidence does not show they are unfit parents, as due process requires. We disagree and affirm the juvenile court's order.

FACTUAL AND PROCEDURAL BACKGROUND

Caleb was taken into protective custody less than three weeks after his birth in April 2010. In May 2010, the Solano County Department of Child Welfare Services (the Department) filed a dependency petition, which was later amended to allege: (1) that Mother abused methamphetamines during pregnancy, and her untreated substance abuse interfered with her ability to adequately care for Caleb; and (2) that Father left Caleb with

an unrelated caretaker, who could no longer care for him, and had failed to make arrangements for his care thereafter. (Welf. & Inst. Code, § 300, subd. (b).)[1]

The juvenile court held a detention hearing on May 11, 2010. Prior to the hearing, the Department submitted its report indicating that Mother and Father, who had been together for seven years, were homeless and unemployed. The report noted that Mother tested positive for amphetamines at Caleb's birth[2] and that she admitted using drugs until she was four-months pregnant. Mother denied more recent drug use.

According to the report, Mother was bonding well with Caleb and informed the social worker that Father was involved in raising the child. Mother told the worker that they needed formula but had baby clothes and supplies. Mother also indicated that Fighting Back Partnership, Vallejo was helping her and Father obtain an apartment.

When Mother was discharged from the hospital she said she and Caleb were going to stay at a motel. The next day, she called the social worker and reported that she did not have money to remain at the motel and was going to be homeless. The social worker provided Mother with information regarding two shelters, but Mother called back and said she did not want to stay at a shelter. She informed the worker that she had obtained money for another couple of days at a motel. The social worker opined that Mother " 'sounded high.' "

Two days after leaving the hospital, Mother was arrested on charges of burglary and forgery. She and Father were evicted from their motel for nonpayment, and motel staff reported that Father was drunk and took three hours to leave. Their room was "filthy."

Four days later, the social worker found Father at another motel, but Caleb was not with him. Father explained that his sister, Patricia, kept Caleb during the day.

Patricia informed the social worker that she was Father's good friend, not his sister, and that Caleb stayed with her every day. She reported that she had a stroller and

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

2 Caleb was not tested for drugs at birth.

playpen, diapers, baby clothes, and formula, as well as a note from Father authorizing her to seek medical care for Caleb, if necessary. She told the social worker she would care for Caleb while Mother was in jail. Patricia's friend, Darlynn, also assisted in providing care for Caleb. Caleb stayed with the mother of Darlynn's friend from May 3 to May 6, 2010.

On May 6, 2010, Patricia reported that she could no longer care for Caleb. She said she had not seen or heard from Father since she spoke to the social worker a week earlier and was out of formula and baby supplies. That afternoon, the Department took Caleb into protective custody.

The detention report also indicates that Mother was arrested in January 2010 for burglary and fictitious checks and that Father has another child who was taken into protective custody in March 2010.[3]

At the detention hearing, Mother stated that she had been released from jail and was living with Father at a motel.[4] Noting that Father was present at the child's birth and signed the birth certificate, Mother identified him as Caleb's father. Father did not attend the hearing. The court appointed counsel for Caleb and each parent and ordered Caleb detained. Pending the jurisdictional hearing, the court ordered drug testing and supervised visitation for the parents.[5] The court continued the detention hearing as to Father, deferring a presumed father finding until he filed a parentage form.

On June 1, 2010, the court held a detention hearing as to Father and a jurisdictional hearing as to Mother. In the Department's report, filed prior to the hearing,

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[3] The report notes two 1998 referrals for this child based on allegations of neglect by her mother and violence by Father in her presence, as well as a 2003 referral for neglect, based on Father's failure to obtain medical care when the child was bitten by his dog while unattended outside. Father said he had not seen the child for several years because her mother called the police whenever he tried to see her.

[4] On May 7, 2010, Mother pleaded no contest to the forgery charge and was placed on three years probation.

[5] The record does not indicate that Father submitted to drug and alcohol testing. The petition initially included an allegation that Father's substance abuse periodically interfered with his ability to care for Caleb, but this allegation was later dismissed.

the social worker states that Mother admitted using methamphetamine from April 2008, until she learned she was pregnant. Mother's urine screen was negative, but a hair strand analysis was positive for methamphetamine and amphetamines. Mother denied having a drug problem, claiming a friend put drugs in her coffee. Her test results, however, were not consistent with this explanation.

The court sustained the petition as to Mother and gave the Department discretion to allow unsupervised and overnight visits and place Caleb with her. Father did not appear, and Mother said he had to work that day. His attorney had not been able to reach him.

On June 17, 2010, the court held a jurisdictional hearing as to Father and a disposition hearing as to both parents. In a report submitted prior to this hearing, the Department recommended removal of the child, noting that the parents had attended every visit with Caleb but that a high risk of abuse and neglect remained, given his age, Mother's substance abuse, and the parents' inability to meet his basic needs. The Department recommended reunification services for Mother, but not for Father until he was deemed the presumed father. The Department submitted case plans for both parents, which they signed on June 3, 2010. Mother's case plan required her to remain drug-free and comply with all urine and hair strand substance abuse tests. Moreover, upon testing positive for drugs, Mother was required to obtain a substance abuse assessment and comply with all recommendations resulting from the assessment. The case plan identified an objective of consistent and adequate parenting for Caleb and required both parents: (1) to complete a parenting program and demonstrate the skills they learned during visits with Caleb; (2) to attend his medical appointments; and (3) to show they could schedule a medical appointment and get him there. Last, the case plan required the parents to obtain and maintain a stable and suitable residence. The report indicates that the parents were given a list of housing resources.

After consideration of the Department's report, the court adjudged Caleb a dependent of the court and removed him from his parents' custody, finding a substantial danger if he were returned. (See § 361, subd. (c)(1).) The court ordered reunification

services for Mother, as set forth in the case plan. Father did not appear, and Mother again reported he had to work. The court made a jurisdictional finding as to Father, but did not order reunification services because he had not filed a statement of parentage. The court ordered unsupervised visitation and gave the Department discretion to permit overnight and extended visits. The court set a six-month review for December 14, 2010, and advised Mother: "[B]ecause of the age of Caleb, you have to reunify within six months. If you don't, there's a danger of losing your parental rights," noting this also applied to Father.

Father was taken into custody in the summer of 2010 on a bench warrant for failing to appear on forgery charges. He was released from jail in September 2010, and began attending visits with Caleb on September 8, 2010. On September 16, 2010, he submitted the parentage form at a special interim review hearing, and the juvenile court deemed him the presumed father and offered him reunification services. The court advised the parents that their parental rights could be terminated if they did not reunify by the December 14, 2010 six-month review, and that they would only be granted additional time if they complied with their case plans.

A November 24, 2010 report for the six-month review indicates that the Department had held three permanency team meetings to emphasize to Mother and Father the importance of participating in services and make sure they understood what was at stake. Still, they had made minimal progress toward alleviating the causes requiring out-of-home placement. They were still homeless and unemployed. They said they were staying with a friend and applying for jobs. They said they had saved $300 of the $350 required for "A Place to Live in Vallejo," a housing assistance program for homeless families, and would have the remainder shortly.

According to the report, Mother had unsupervised visits with Caleb in July and August 2010. Due to her failure to comply with her case plan, however, the Department became concerned that she was bringing Caleb around known substance users and limited

visitation to supervised visits.[6] The report indicates, that, of 10 substance abuse tests between September 1, 2010, and November 1, 2010, she was a no-show for six tests, had two diluted tests, and tested positive for alcohol once. She started pretreatment groups in October 2010, and had a substance abuse assessment on October 28, 2010, but still denied she had a problem and needed treatment. She was offered a spot in a 12-week substance abuse program but declined, claiming her schedule did not allow her to commit.[7]

The report noted that Mother had attempted to contact the program to which she and Father were referred for parenting classes, but the referral was delayed due to the program's relocation.

Despite the parents' lack of progress, the Department recommended in its report that the court continue reunification services, based on their regular visits with Caleb. Mother and Father took turns holding him, changed his diapers, fed him, and engaged with him through play. They had developed a bond with Caleb, who recognized their faces and smiled and laughed when he saw them. The social worker said Mother and Father were intelligent, capable, and loving.

The social worker noted that Mother was very nurturing and had all the tools necessary to comply with her case plan, but refused to participate in services and accept her substance abuse problem. Although Father was working towards a closer bond with his son, the social worker expressed concern that he was not able to make decisions and parent Caleb independently. She noted that, while Father expressed a desire for Caleb's return, he had not made any efforts regarding his other dependent child. The report notes Caleb's vulnerability and his need for structure, stability, and parents capable of consistently and safely meeting his needs.

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[6] Mother and Father reported that they had taken Caleb to a friend's motel room during their unsupervised visits with him.

[7] Mother said she believed her case plan had to be completed by the six-month review and declined treatment because it extended beyond that date.

Mother was later removed from the drug testing program after missing four consecutive drug tests.

Caleb's counsel opposed the Department's recommendation, and the court set a contested hearing for February 3, 201l.

Two days before the contested hearing, the Department filed an addendum report recommending that the court terminate reunification services to both parents and set a section 366.26 hearing to determine a permanent plan for the child. The Department set forth several reasons for changing its recommendation. The report indicates that the parents had not shown their willingness or ability to participate in services and had made no progress toward mitigating the factors that led to dependency. Mother and Father were still $150 short of the $350 needed for "A Place to Live in Vallejo." They were enrolled in a parenting course that began January 18, 2011, but missed the first class, claiming they could not find the building. Mother had missed three intake appointments for substance abuse treatment and failed to drug test three times since December 27, 2010. On January 21, 2011, she refused to submit to hair strand testing, and the drug testing center questioned her urine sample, recommending observation of future samples.

A contested hearing was held on February 3, 2011. Two social workers testified, and the Department's six-month review report and addendum were admitted. One social worker testified that, on February 1, 2011, she attempted to visit Mother and Father at the address they had given, but they were not there. The worker noted that a resident of that address did not recognize their names. Mother told the worker that she and Father were staying at a motel and their friends were helping them pay for it. The parents had attended one parenting class on January 25, 2011, but missed two others. The social workers said Mother had not shown a willingness to engage in services, despite frank conversations about the consequences of failing to do so. She had failed to drug test 18 times since May 2010, and had been referred to two substance abuse programs but never began treatment. On the day of the hearing, Mother gave a urine sample but refused hair strand testing.

In discussing Father's progress in being able to safely parent the child, the social worker stated that he had "not sought independently to have custody of Caleb despite the Department's urging for him to make a decision if [Mother] was not going to complete her case plan objectives." Father had been given an opportunity to step up and take responsibility for Caleb on his own, but chose not to do so.[8] The social worker also noted that Father was still residing with Mother and had not intervened in the dependency proceedings for his other child.

The juvenile court found return of the child would create a substantial risk of detriment. (See § 366.21, subd. (e), 1st para.) The court said: "This is a case where the parents have not made enough of an effort to become engaged in services at all." The court noted that services were not ordered for Father until September 2010, but found the delay was due to his "lack of effort . . . to become engaged in the process and to make an effort himself to control what happens in this case." Finding that both parents had failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court terminated reunification services and set the matter for a section 366.26 hearing in June 2011. (See § 366.21, subd. (e), 3rd para.; Cal. Rules of Court, rule 5.710 (c)(1)(D).)

Father filed a writ petition seeking review of the juvenile court's February 3, 2011 order. This court denied the petition on the merits on April 26, 2011. (*A.J. v. Superior Court of Solano County* (Apr. 26, 2011, A131146) [nonpubl. opn.].)

The Department filed its report for the section 366.26 hearing on May 19, 2011. The report indicates that the parents had not shown they had completed parenting classes, resolved their housing issues, or addressed Mother's substance abuse. The social worker noted that they had not followed through with "A Place to Live in Vallejo" and declined a referral to the Vallejo Family Resource Center for housing assistance, opting to find a

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[8] The social worker said she told the parents in September or October 2010: ". . . if one of the parents was not complying with their case plan that they both independently needed to make a decision to step forward and take responsibility and do what needed to be done so the child could be returned to one of them . . . ."

place on their own. In mid-April 2011, Mother said they had found housing on Webb Street, but failed to provide a copy of the lease and a certificate showing completion of a parenting class, as promised, before the social worker prepared her report.

In addition, the report notes that Mother failed to appear for a drug test on March 9, 2011, and was dropped again from the call list. Mother told the social worker she was no longer drug testing but was attending AA/NA meetings. The social worker noticed small pin marks on Mother's knuckles and did not find them consistent with her explanation that she received the marks while cleaning a friend's home.

With respect to visitation with the child, the report indicates that the parents missed four of 12 visits between April 21 and May 10, 2011. The social worker said they sometimes appeared "transient," as they carried a large garbage bag and had a slight odor. At the end of visits, Caleb did not cry or become unsettled and transitioned to his caregivers with no problem.

Father had "done nothing else [other than attending visits] to ensure he is able and willing to care for the minor." The social worker opined that Father had not shown he was able to care for Caleb or even said he wanted Caleb in his care.

The social worker said the parents had not shown an ability to meet Caleb's basic needs due to their lack of income and resulting homelessness, as well as Mother's substance abuse and related criminal charges.[9]

Several days before the section 366.26 hearing, Mother moved under section 388 to modify the court's order terminating reunification services. According to Mother, she had made "significant strides" in her case plan, by completing a parenting class, attending AA/NA meetings, and obtaining stable housing. She noted her deep attachment to Caleb and said she "is the best person to care for him for the rest of his life." Father later joined in the section 388 motion.

On June 20, 2011, the juvenile court decided the section 388 motion and held a hearing under section 366.26. The court heard the section 388 motion first. Mother

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[9] Both parents had failed to maintain contact with their probation officers, resulting in the issuance of bench warrants.

testified that she and Father had decided not to live at the Webb Street address and moved into a three bedroom, one and a half bath house at 539 Springs Road on May 1, 2011. She provided an unsigned one-year lease that commenced May 1, 2011, with a monthly rent of $480, attaching receipts for the security deposit and the May and June 2011 rent.

Mother also provided a certificate showing completion of 36 hours of parenting skills training on April 15, 2011. She said the online parenting course cost $98, and she borrowed a friend's computer to complete it.

Mother also provided sign-in sheets showing attendance at 68 AA/NA meetings from December 22, 2010 to April 24, 2011. Mother stated that she attended AA/NA meetings in May and June 2011, but could not find the May sign-in sheets and did not have the ones for June with her. She testified that she had a sponsor and was working on Step Six, but she could not recall the earlier steps.[10] Mother said she opted to attend meetings instead of a treatment program for "financial reasons" and could not afford drug testing after services were terminated.

Mother testified that she and Father had done their best to attend visitation with Caleb, but they did not have transportation, as they no longer received bus passes after services were terminated and half of the visits were moved from Vallejo to Fairfield.

Regarding employment, Mother said she was still searching for a job but that Father had been employed for two weeks and his employment would continue for the foreseeable future. She said they planned to parent Caleb together.

The social worker testified that she could not conclude with any confidence the parents would be able to maintain the housing they had secured so recently, and that Mother's testimony was not credible, in any case. The social worker stated that she asked the parents at each visit if their job and housing situation had changed, and they always said no. She was not able to find Mother's parenting class online and was concerned that Mother had not addressed her substance abuse issues. Emphasizing the

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[10] Mother said: "I focus on my recovery, not on memorizing what each of the 12 steps are. The 12 steps aren't what help me recover."

child's need for permanency, she said additional reunification services were not in Caleb's best interest.

The juvenile court denied the section 388 motion, finding changed circumstances regarding housing and Mother's parenting course but concluding it was not in Caleb's best interest to provide additional reunification services. Proceeding immediately to a section 366.26 hearing, the court heard testimony from the social worker, who said Caleb was adoptable, had transitioned into an adoptive home on March 21, 2011, and was attached to his adoptive parents. She said Caleb's need for permanency outweighed the positive interaction with Mother and Father during visits and the benefits of maintaining a relationship with them.

The juvenile court found that Caleb was adoptable and terminated the parental rights of Mother and Father. Mother and Father filed timely notices of appeal from the orders denying the section 388 petition and terminating their parental rights.

DISCUSSION

On appeal, Mother and Father assert error only as to the order terminating their parental rights.[11] Father contends it was error to terminate his parental rights in the absence of evidence he is an unfit parent. He argues: "[D]ue process requires . . . that the order terminating parental rights be supported by at least clear and convincing evidence establishing that a parent is unfit to provide for his or her child" and that there is no evidence of unfitness in this case. Mother incorporates this argument by reference and does not assert additional error. (Cal. Rules of Court, rule 8.200(a)(5).)

"Parents have a fundamental liberty interest in the care, companionship and custody of their children. For this reason, they have certain due process protections in juvenile dependency proceedings." (*In re G.S.R.* (2008) 159 Cal.App.4th 1202, 1210, relying upon *Santosky v. Kramer* (1982) 455 U.S. 745, 758 (*Santosky*).) In *Santosky*, the court held that due process requires the state to prove its allegations by clear and

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[11] We therefore deem any error as to the section 388 order waived and do not consider that order. (*In re Ricky H.* (1992) 10 Cal.App.4th 552, 562; *Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466, fn. 6.)

convincing evidence before terminating parental rights. (*Santosky*, pp. 779, 754, 747-748, 751-754 [concluding New York procedures terminating parental rights upon a showing of neglect by " 'a fair preponderance of the evidence' " did not satisfy due process].)[12]

In *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242 (*Cynthia D.*), the California Supreme Court addressed a parent's contentions that, under *Santosky*, California's dependency statutes violate due process because they permit termination of parental rights based on a finding, by a preponderance of the evidence, that return of the child would create a substantial risk of detriment. (*Cynthia D.*, at pp. 245-246, 250.) The court held that the procedure for terminating parental rights under section 366.26 comports with due process, when considered in the context of California's dependency scheme as a whole, and that *Santosky* does not compel the use of an elevated standard of proof. (*Cynthia D.*, at pp. 253, 254-256.) The court explained: "By the time dependency proceedings have reached the stage of a section 366.26 hearing, there have been multiple specific findings of parental unfitness. . . . [T]he grounds for initial removal of the child from parental custody have been established under a clear and convincing standard [citation]; in addition, there have been a series of hearings involving ongoing reunification efforts and, at each hearing, there was a statutory presumption that the child should be returned to the custody of the parent. [Citations.]" (*Cynthia D.*, at p. 253.) By the time a juvenile court considers termination, "the evidence of detriment is already so clear and convincing that more cannot be required without prejudice to the interests of the adoptable child . . . ." (*Id.* at p. 256.) Thus, where the court has made the findings necessary to remove the child at the disposition hearing and to overcome the presumption

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[12] *Santosky* did not purport to require a finding of parental unfitness in proceedings to terminate parental rights, addressing only the standard of proof in such proceedings. The court noted, however, that victory by the state "entails a judicial determination that the parents are unfit to raise their own children," and suggested a showing of unfitness may be constitutionally required. (*Santosky*, *supra*, 455 U.S. at p. 760 & fn. 10, citing *Quilloin v. Walcott* (1978) 434 U.S. 246, 255.)

of return at subsequent status reviews, due process does not require evidence of unfitness at the section 366.26 hearing.[13]

In this case, the court made the requisite finding of detriment to the child by clear and convincing evidence before initially removing Caleb from his parents' custody at the disposition hearing. (See § 361, subd. (c)(1) ["There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home . . ."].) In addition, at the six-month review hearing, the court made the necessary finding of detriment to overcome the statutory presumption requiring return of the child to the parents. (See § 366.21, subd. (e), 1st para. [return "unless the court finds, by a preponderance of the evidence, that the return of the child to his . . . parent . . . would create a substantial risk of detriment to [his] safety, protection, or physical or emotional well-being . . ."].) Accordingly, the requirements of due process were satisfied in this case.

Relying on *G.S.R.*, *supra*, 159 Cal.App.4th at p. 1212 and *In re P.C.* (2008) 165 Cal.App.4th 98, appellants contend these findings of detriment do not establish parental unfitness because they "were directly related to . . . poverty . . ." and "based exclusively on risks associated with . . . poverty . . . ." In *G.S.R.*, the court stated: "[P]overty alone, even abject poverty resulting in homelessness, is not a valid basis for assertion of juvenile court jurisdiction. As the Legislature expressly stated in section 300, subdivision (b), 'no child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. . . .' Put differently, indigency, by itself, does not make one an unfit parent and 'judges [and] social workers . . . have an obligation to guard against the influence of class and life style biases.' (*In re Cheryl E.* (1984) 161

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[13] "[T]he purpose of the section 366.26 hearing is not to accumulate further evidence of parental unfitness and danger to the child, but to begin the task of finding the child a permanent alternative family placement." (*Cynthia D.*, *supra*, 5 Cal.4th at p. 253, fn. omitted.) "[I]n order to terminate parental rights, the court need make only two findings: (1) that there is clear and convincing evidence that the minor will be adopted; and (2) that there has been a previous determination that reunification services shall be terminated." (*Id.* at pp. 249-250.) The juvenile court made both findings in this case.

Cal.App.3d 587, 607 . . . .)" (*G.S.R.*, at p. 1212; accord, *P.C.*, at p. 98.) Father maintains the court's initial disposition was "based on his decision to leave Caleb in the care of a friend, and his subsequent failure to ensure that the friend had adequate supplies . . . [b]ut [he] was homeless and unemployed, and therefore incapable of doing more to provide for the minor at that time." In addition, he argues that "he simply did not have the resources to comply with the housing component of his case plan."[14] The record reveals, however, that the court's findings were not based solely on the parents' indigency.

At the outset, we observe that Mother and Father did not appeal from the June 2010 disposition order or seek writ review of the February 3, 2011 detriment finding.[15] These findings are therefore final and may not be relitigated on appeal from the section 366.26 order terminating parental rights. (*In re Janee J.* (1999) 74 Cal.App.4th 198, 206 [" 'an unappealed disposition or postdisposition order is final and binding and may not be attacked on an appeal from a later appealable order' "]; *Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501, 1507, fn. 3 [failure to comply with the writ conditions of section 366.26, subdivision (*l*)(2), forecloses review of the findings subsumed within an order setting the case for a section 366.26 hearing]; see *Janee J.*, at pp. 213-214 [alleged error in failing to make unfitness finding at section 366.26 hearing was improper attempt to relitigate the merits of order terminating reunification services, which could not be reached on appeal from the section 366.26 hearing].)

To the extent this argument is not merely a challenge to the court's earlier detriment findings, it fails nonetheless. The juvenile court's detriment finding at the disposition hearing did not arise out of the parents' poverty; it was based on Mother's substance abuse and Father's lack of judgment in leaving his two-day old son with unrelated caregivers for at least a week, without monitoring the child's care and well-being. In addition, at the six-month review, the court found detriment after concluding

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[14] Father does not discuss the court's detriment findings as to Mother. To the extent his contentions apply to her, we consider them in evaluating her due process claim.

[15] Although Father filed a petition for a writ of review of the juvenile court's February 3, 2011, order, he did not assert error as to the court's detriment finding.

the parents had not participated regularly and made substantive progress in their case plans, which required them not only to obtain stable housing, but also to complete a parenting course, and required Mother to drug test and comply with recommended treatment. (See § 366.21, subd. (e), 1st para. ["The failure of the parent . . . to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental"].) Mother and Father had not complied with any of these requirements, and Father had done nothing to demonstrate that he could adequately parent Caleb without Mother.

Here, unlike *G.S.R.* and *P.C.*, the parents' inability to afford suitable housing was not the sole reason for terminating their parental rights. (*G.S.R.*, *supra*, 159 Cal.App.4th at pp. 1212, 1214; *P.C.*, *supra*, 165 Cal.App.4th at p. 105.) And, significantly, in each of those decisions, the court condemned the county's efforts to terminate parental rights for failing to obtain suitable housing, without providing services to assist the parent in doing so. (*G.S.R.*, at p. 1213; *P.C.*, at p. 106.) The Department provided housing resources to Mother and Father on multiple occasions. As noted above, they declined this assistance, and opted to use their limited resources to stay in a motel rather than to qualify for housing.[16]

Father offers several additional arguments in support of his claim of error, which we find unavailing. First, he contends his failure to complete a parenting course does not support a finding of unfitness because he was not provided access to classes until just

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[16] *G.S.R.* is distinguishable in any event. In that case, the father had never been given notice and a meaningful opportunity to address the issue of his parental fitness. (*G.S.R.*, *supra*, 159 Cal.App.4th at pp. 1211, 1213 [nonoffending, noncustodial parent not named in the dependency petition, whose sons were removed based on their mother's conduct alone].) Here, Mother and Father were both offending parents and had notice their fitness to parent was at issue. Although *P.C.* involved the rights of an offending parent, the court noted that the mother had completed required parenting classes and counseling and corrected all the problems that led to the assertion of jurisdiction and the later findings of detriment were based solely on an inability to find suitable housing. (165 Cal.App.4th at pp. 106, 101, 105, 99 ["If [she] had not completed her case plan and corrected her behavior, we would agree that the court's continued findings of detriment were tantamount to a finding of parental unfitness"].) That is not the case here.

before the six-month review, missed only two classes, and could not have completed the course by the hearing in any case. The critical issue, however, is not whether he and Mother completed the course by the six-month review, but whether they attended the classes available to them. The record also indicates that they missed two of three classes, and previously failed to attend classes in May 2010.

Father argues, in any case, that his failure to attend parenting classes does not show unfitness because his parenting skills were not deficient. He relies on *G.S.R.*, in which the court held the father's failure to attend A.A. meetings did not support a finding of detriment because "there is no evidence [his] sobriety was ever in issue during this case, nor any evidence his failure to attend meetings posed a danger to the boys." (159 Cal.App.4th at p. 1213.) But the father in that case was a nonoffending parent, and the county had never established he had a continuing substance abuse problem that posed a risk to his children or impacted his ability to care for them. (*Id.* at pp. 1212 & fn. 2, 1213.) Here, Caleb was initially removed because of the risk posed by Father's lack of judgment, which the case plan addressed by requiring parenting classes. Contrary to his assertion, his ability to hold, feed, and play with Caleb during visits does not preclude a finding of detriment based on his failure to comply with this requirement. Adequate parenting requires more than knowing how to feed and entertain a child, and the scope of a parenting class is not so limited. His minimal commitment to the case plan reflects upon his ability to consistently parent his son, in any event.

Finally, Father contends his continued relationship with Mother did not support a finding of unfitness because he "was never asked to separate from [her]," and "[i]t is entirely possible that, if asked to do so, [he] would have . . . ." The record belies this assertion and does not show he provided care for Caleb in Mother's absence or made progress in his ability to consistently do so.

DISPOSITION

The judgment is affirmed.

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Jenkins, J.

We concur:

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McGuiness, P. J.

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Pollak, J.