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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

D.W.,

Petitioner,

v.

THE SUPERIOR COURT OF
HUMBOLDT COUNTY,

Respondent;

HUMBOLDT COUNTY DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Real Party in Interest.

A134134

(Humboldt County
Super. Ct. Nos. JV050138 &
JV100138)

I.

INTRODUCTION

Petitioner D.W., the mother of eight-year-old T.B. and two-year-old S.N. (the minors), seeks extraordinary writ review pursuant to California Rules of Court, rule 8.452, to vacate the order of respondent juvenile court terminating reunification services and setting a hearing to terminate her parental rights in accordance with Welfare and

Institutions Code section 366.26.¹ In seeking extraordinary writ review, petitioner primarily contends she substantially complied with her case plan and that the minors should have been returned to her custody; or alternatively, that she should have received more time to work on reunification. She also seeks relief from an order decreasing her visitation. We find none of these contentions have merit, and we deny the petition.

II.

FACTS AND PROCEDURAL HISTORY

Petitioner has an extensive history of contact with the Humboldt County Department of Health and Human Services (the Department) due to her longstanding substance abuse problem, including heroin, and domestic violence in the home. The older minor, a boy, was born in 2003. On June 30, 2005, petitioner left the two-year-old minor, T.B., at her sister's home. The minor arrived at his aunt's home with a black eye, a bruise above his eyebrow, and a severe diaper rash that extended up his back. The minor was so covered with head lice that they crawled onto his aunt when she was bathing the boy. The minor was detained. When the jurisdictional hearing went forward in October 2005, the court did not sustain the petition and the minor was returned to petitioner's care.

On November 12, 2006, petitioner telephoned her sister asking for help. She said that she had hit the minor in the face because he would not leave her alone. The sister contacted the Department. Petitioner said that she used as much heroin as she could on a daily basis. She reported that the last time she had used heroin was on November 11, 2006, and that since her high wore off, she had been sick. She said that when she is sick, she gets angry easily and hurts the minor.

¹ All statutory references are to the Welfare and Institutions Code. The issues in this petition relate solely to the minors' mother. Therefore, we have focused our discussion on facts and issues pertaining to her parental rights and have omitted many aspects of this case that are relevant to each of the minor's fathers. We note that the presumed father of the older minor, T.B., has filed a separate writ petition challenging the court's decision to deny him reunification services and set a hearing to terminate his parental rights. (*D.B. v. Humboldt County Superior Court* (A134135).)

The Department once again detained the minor on November 12, 2006. On November 14, 2006, a petition was filed containing allegations pursuant to section 300, subdivisions (b) and (g). On December 12, 2006, the court took jurisdiction over the minor. The minor was placed with foster parents. At a disposition hearing held on January 30, 2007, petitioner was offered reunification services to address her mental health, substance abuse, anger management, and parenting issues.

In February 2007, petitioner was sentenced for possession of a controlled substance. On March 21, 2007, she was arrested for a probation violation. On May 1, 2007, she was arrested and charged with possession of a controlled substance for sale. She was also charged with a violation of probation. In July 2007, she was again arrested and charged with a violation of probation. It was determined that petitioner should remain in custody for three months before she entered residential treatment. On October 22, 2007, petitioner was released from custody and entered a residential treatment program.

On January 15, 2008, at the 12-month review hearing, the court continued reunification services for petitioner. By August 2008, petitioner had graduated from residential treatment, was participating in aftercare, and was doing well on probation. On October 1, 2008, the court terminated the dependency and granted sole physical custody of the minor to petitioner.

Petitioner gave birth to the minor's half-sister, S.N., in 2009. The minor son reported to school personnel that domestic violence was occurring in the home between petitioner and the baby's father. The minor indicated that he did not want to go home. By August 2010, petitioner was living in a camp trailer outside her sister's home. Her sister believed petitioner continued to use drugs. When the matter was investigated, petitioner reluctantly told the social workers that she was an addict and in need of help.

On September 28, 2010, the Department filed petitions containing allegations pursuant to section 300, subdivisions (b), (g), and (j) as to both the seven-year-old minor and his 13-month-old half-sister. The children were detained and placed together in a foster home. On October 20, 2010, the court sustained the petitions. A disposition

hearing was scheduled for November 2, 2010. The court ordered reunification services for petitioner.

In a report prepared for the six-month review hearing, social worker Tara Riddle reported that petitioner was only a few weeks away from graduating from a residential treatment program. The social worker reported that petitioner was working diligently to complete the requirements of her reunification plan and was visiting regularly with the minors. However, she still needed to satisfy the requirement of participating in a parenting program. Also, following graduation from the drug treatment program, petitioner was to continue participating in aftercare at Humboldt Recovery Center.

Nevertheless, the social worker expressed concern that petitioner's "decision-making is not always appropriate or in the best interest of her children." This assessment was substantiated by petitioner's disclosure that she was three months pregnant. According to petitioner, the pregnancy resulted from a one-time encounter with the father of her minor daughter, with whom she had a physically abusive relationship. At the six-month review hearing, the court continued petitioner's reunification services and set a 12-month review hearing.

When petitioner moved out of the residential treatment program on August 19, 2011, she did not participate in aftercare at Humboldt Recovery Center as planned. Instead, she moved in with her parents, who themselves have a history of substance abuse.²

Shortly thereafter, on August 22, 2011, petitioner submitted to a drug test as required by her criminal court probation. Petitioner knew that the test would show that she had used drugs and she discussed the test with her probation officer a few hours after testing. Her probation officer advised her to move out of her parents' house immediately and to move into a clean and sober house. Petitioner moved into the Spring Street clean and sober house on August 23, 2011.

² Petitioner was removed from her parent's custody at age 3 and was placed in foster care and remained a dependent until age 18 due to her parents' substance abuse.

As expected, the drug test was positive for opiates, and because drug use violated her probation, petitioner was arrested and jailed on August 29, 2011. Petitioner claimed that the drug usage resulted from her taking Vicodin, a prescription pain reliever, at her parents' home. However, her probation officer indicated that petitioner tested positive for "total morphine." That is, the test results could only be attributed to poppy seeds, heroin, or morphine. The officer explained that nine times out of ten, a positive test result indicates heroin usage.

Upon her release from jail on September 12, 2011, petitioner immediately returned to her clean and sober residence. She also enrolled in an aftercare program at Healthy Moms, a program that provides services for mothers with substance abuse issues.

The social worker submitted a report to the court for the 12-month review hearing. In her report, the social worker recommended termination of reunification services and the setting of a hearing pursuant to section 366.26. She wrote that petitioner herself felt that she needed an additional six months of reunification services before the minors could be safely returned to her care. Petitioner expressed concern regarding her readiness to live outside a residential treatment center. In her assessment, the social worker believed that petitioner's continued relationship with a man who physically abused her, as well as her difficulty disclosing the truth regarding her poor decisions, raised a substantial probability that the minors could not safely be returned to petitioner's care by the next review hearing.

The 12-month permanency planning hearing commenced on December 1, 2011. Testimony was taken over the course of several days. During her testimony, petitioner explained that her substance abuse started around age 11 (she was currently 32 years old) after she was sexually abused while in foster care. She started "using really bad" in her teens after she ran away and became homeless. She started using methamphetamine on a daily basis when she was around 12, and she began using heroin "[e]very day, all day" when she turned 18.

Through her participation in services, she testified she's "starting to realize it's not just about me because . . . it seems like it's been about me for a long time." Petitioner

claimed she had “learned from my mistakes. I know what I’ve done. . . . I know the type of men I pick. . . . I know what I put my kids through. I know I use drugs to deal with my issues in my past. I’m taking responsibility for it now.”

She informed the court that if her children were returned to her custody, she planned to move with them into a private room at the clean and sober house where she currently resided. Petitioner had obtained a position as a housekeeper at a Eureka motel and had been working there for almost seven months. She said that her baby was due in a month, but she planned to keep on working as a housekeeper after the birth. Petitioner intended to rely on her mother to provide childcare while she was working.

In her testimony, the social worker listed factors leading her to conclude that returning the minors to petitioner’s custody would be detrimental to their wellbeing and that petitioner’s reunification services should be terminated. In particular, she cited petitioner’s longstanding history of drug addiction and relapse, her inability to maintain long and significant periods of being drug free, and her inability to complete all of the components of her case plan, including participation in a parenting class. Furthermore, petitioner still “struggles” with her own mental health. The social worker also testified that she considered petitioner’s history of being in relationships with violent men, petitioner’s criminal history, as well petitioner’s own history of abuse as a child. The social worker opined that petitioner could not adequately parent her children independently without relapse if she were living outside of a treatment program.

Based upon the foregoing, the juvenile court determined that: (1) the Department had provided reasonable services; (2) petitioner was in partial compliance with her case plan; (3) the minors could not be returned to her custody because of a substantial risk of detriment to their physical/emotional well-being; and (4) there was no substantial probability that the minors could be returned to her care by the statutory deadline even if reunification services were extended. The court terminated reunification services, and ordered that petitioner’s visitation with the minors be reduced over the few months leading up to the permanency planning hearing. The court then set a permanency planning hearing pursuant to section 366.26 for April 2, 2012.

III. DISCUSSION

A. Decision Not to Return the Minors to Petitioner's Custody

Pursuant to section 366.21, subdivision (f), at the 12-month hearing, the juvenile court was required to order the return of the minors to petitioner, unless it found “by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child.” (*Ibid.*) “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.” (*Ibid.*)

While petitioner acknowledges that “the Court made a finding that the children’s return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child,” she argues the court “lacked evidence sufficient to support such finding.” She claims she has corrected the problems requiring court intervention, as evidenced by the fact that she has “complied with and completed [her] Case Plan, with limited exceptions.” She also points out that “[s]he drug tested at drug court twice a week for over a year” and that during that time, “she only tested positive once” Quoting from the court’s decision in *David B. v. Superior Court* (2004) 123 Cal.App.4th 768, petitioner suggests that a juvenile court, in assessing a parent’s ability to care for a child, should “ ‘look[] for passing grades . . . , not straight A’s.’ ” (*Id.* at p. 790.)

The substantial evidence standard of review applies to a “juvenile court’s finding that returning the children to the mother’s custody would be detrimental. . . .” (*Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625.) “We do not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. Rather, we draw all reasonable inferences in support of the findings, consider the record most favorably to the juvenile court’s order, and affirm the order if supported by substantial evidence even if other evidence supports a contrary conclusion. [Citation.] The appellant has the burden

of showing the finding or order is not supported by substantial evidence. [Citation.]” (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.)

As recounted in great detail in her petition, we do not doubt that petitioner has made an effort to substantially comply with the requirements set out in her reunification plan. She has participated in a residential drug treatment for seven months and in group and individual counseling. She attends Narcotics Anonymous meetings on a daily basis. She has maintained consistent and appropriate visitation with the minors. She has found a job and has arranged for the minors to reside with her at a clean and sober house if they are returned to her custody. She testified she has been “trying to get as much support as I can get from anyone I can get it to work out my issues.”

However, the fact that petitioner has made substantive progress in her case plan during the year leading up to the 12-month review hearing does not mandate returning the minors to her custody. As explained by the court in *In re Dustin R.* (1997) 54 Cal.App.4th 1131: “[S]imply complying with the reunification plan by attending the required therapy sessions and visiting the children is to be considered by the court; but it is not determinative. The court must also consider the parents’ progress and their capacity to meet the objectives of the plan; otherwise the reasons for removing the children out-of-home will not have been ameliorated.” (*Id.* at p. 1143.) Stated another way, the court must evaluate not only whether the parent is currently capable of providing an adequate home for the child, but whether he or she is likely to “be able to maintain a stable, sober and noncriminal lifestyle for the remainder of [the child’s] childhood.” (*In re Brian R.* (1991) 2 Cal.App.4th 904, 918.)

Petitioner argues that “a single isolated” dirty drug test, when viewed “within the context of her overall progress towards recovery” is insufficient evidence to show that the minors were in any danger of harm if they were returned to her custody. In support of her argument, petitioner relies on *Rita L. v. Superior Court* (2005) 128 Cal.App.4th 495 (*Rita L.*). In *Rita L.*, the child tested positive for amphetamine at birth. (*Id.* at p. 498.) After the child’s removal, the mother consistently tested clean and participated in her court-ordered treatment program. (*Id.* at p. 499.) Close to the 12-month hearing, the

mother had a headache and her adult daughter gave her a prescription tablet of Tylenol with codeine. (*Id.* at p. 501.) On the following day, the mother tested positive for codeine. (*Ibid.*) The juvenile court terminated the mother’s reunification services and set the matter for a section 366.26 hearing. (*Id.* at p. 503.)

In reversing the juvenile court’s order, the appellate court held that the mother’s one dirty drug test, when viewed in the context of the entire case, did not constitute substantial evidence that the return of the child presented a substantial risk of detriment. (*Rita L.*, *supra*, 128 Cal.App.4th at p. 506.) The appellate court criticized the juvenile court for “treating this incident as simply ‘a dirty drug test’—as though all dirty tests are the same. They are not. And the particular dirty test at issue in this case, arising as it did from Rita’s ingestion of a single prescription pain killer to combat a headache—in the absence of any prior listing of prescription drug abuse—was simply insufficient to justify the court’s conclusion that [the child] could not safely be returned to her custody.” (*Ibid.*)

Though petitioner, like the mother in *Rita L.*, tested positive after taking a medication prescribed for someone else, any factual similarity to petitioner’s case ends there. The mother in *Rita L.* did not use a drug she had abused in the past but instead took a prescription pain fighter, “slept off her headache and then resumed her life—going to work, reporting her mistake, and then drug testing the next day.” (*Rita L.*, *supra*, 128 Cal.App.4th at p. 506.) In contrast, petitioner has a documented history of abusing the prescription medication at issue, Vicodin, and was arrested for the relapse and incarcerated.³ Most importantly, the juvenile court in *Rita L.* refused to return the mother’s child to her based *solely* on her one positive drug test result. (*Id.* at p. 505.) Otherwise, the juvenile court considered the mother “a veritable superstar of the reunification process.” (*Ibid.*) In our case, the juvenile court did not believe the minors could be safely returned to petitioner’s care for numerous reasons besides the positive

³ We also note that while petitioner attributed the positive drug test result to ingestion of a prescribed medication, Vicodin, there was also evidence that the false positive result was the result of her administering an opiate, such as heroin.

drug test—including petitioner’s repeated cycle of drug use, severe parental neglect, choosing violent domestic partners, and achieving reunification and then relapse—which were factors not present in *Rita L.*

Furthermore, in assessing the risk of safely returning a child to a parent’s custody, the court may consider whether the parent requesting the return of the children maintains relationships with persons who pose a risk of detriment to the child. (See generally *Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705, 708.) It can reasonably be inferred that petitioner has minimized the risk to the minors posed by her ongoing relationship with her daughter’s father, who was extremely abusive to her, because at the time of the 12-month review hearing she was one month away from giving birth to his child. The resumption of her relationship with her past abuser, even after her children were placed in foster care, signals that petitioner was unable to understand the impact of her past behavior on the minors or the significance of her choices on their wellbeing.

In conclusion, although the record here contains evidence favorable to petitioner, substantial evidence supports the juvenile court’s finding that return would “create a substantial risk of detriment to the safety, protection, or physical or emotional well-being” of the minors. (§ 366.21, subd. (f).) Although petitioner testified she had learned her “triggers” for substance abuse, such as different smells or words, there was no evidence she would be able to maintain her sobriety without the support of a drug treatment program or without the threat of immediate incarceration resulting from a failed drug test. Petitioner herself admitted to the social worker that she believed that she needed another six months of reunification services before the minors could be safely returned to her care. So while the juvenile court recognized the progress petitioner made, the court could reasonably conclude much more hard work and self-examination remained before the minors would be safe in petitioner’s care.

B. Decision to Terminate Reunification Services

We next consider section 366.21, subdivision (g)(1), which allows the juvenile court to extend reunification services at the 12-month review hearing if it finds that there is a substantial probability the children can be returned to parental custody within 18

months of the date the children were physically removed from parental custody. In order to find a substantial probability of return, the juvenile court must make three findings set forth in subparts A through C of section 366.21, subdivision (g)(1), as follows: (A) the parent consistently and regularly contacted and visited the children; (B) the parent made significant progress in resolving the problems that led to the children's removal; and (C) the parent demonstrated the capacity and ability to complete the objectives of the treatment plan and provide for the children's safety, protection, and physical and emotional well-being. (§ 366.21, subd. (g)(1)(A)-(C).) In this case, petitioner argues that she met each of the three requirements set out in section 366.21, subdivision (g)(1)(A)-(C) and that "she should have been provided about five months more months [*sic*] [of reunification services] until the 18-month date"

We review the juvenile court's order terminating reunification services for substantial evidence, resolving all conflicts in favor of the court and indulging in all legitimate inferences to uphold the court's finding. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1020.)

Here, it is undisputed that petitioner regularly visited her children, so section 366.21, subdivision (g)(1)(A) is met. The critical question is whether petitioner has made significant progress in resolving the problems that led to the minors' removal and whether she has demonstrated the capacity and ability to complete her case plan and safely parent her children. (§ 366.21, subd. (g)(1)(B)-(C).) Although petitioner did visit regularly and did participate in court-ordered programs, we find that the trial court's decision not to extend services beyond 12 months was supported by substantial evidence in this record.

As recounted in great detail above, the record reflects that throughout petitioner's history as a parent, she has struggled with a pattern of serious substance abuse and ongoing domestic violence with different partners. The Department, at several points in time, has intervened and removed the older minor from petitioner's custody. However, each time, after working to regain custody, petitioner has never succeeded in maintaining custody.

Since the minors were once again removed from petitioner's custody because of her drug use, petitioner needed to demonstrate progress in attaining and maintaining a drug-free life. In that regard, petitioner's positive drug test was certainly a setback. However, even more significant is the fact that when petitioner relapsed, she had just been discharged from a seven-month residential treatment program. Given the fact that she relapsed immediately upon moving out of the program, the court could conclude that petitioner had not demonstrated the ability to remain drug free outside the confines of the structured environment of a drug treatment program.⁴ Therefore, the court found, and the record supports, that she did not make significant progress in resolving her drug abuse.

In addition to being at a high risk for relapse, petitioner has longstanding issues with anger, posttraumatic stress disorder, and anxiety, stemming from her own sexual abuse as a child. These issues have impeded petitioner's ability to parent her own children. However, she was only beginning to address these issues in counseling. Petitioner herself acknowledged that she had ongoing difficulty distinguishing between reality and nonreality. She testified that she needed to take as much as a one-hour "time-out" to recover from her bouts of anger. She also has a history of postpartum depression, adding to the stress of caring for two children and a newborn baby.

Given petitioner's emotional state, and in light of all that has transpired in the past, the court could reasonably conclude that it was not probable that the minors would be returned to petitioner if reunification services were extended. While petitioner has made progress, there remains great uncertainty over her ability to remain drug free and to provide a safe and stable home for the minors, especially with the added demands of caring for a newborn baby. By the time of the 12-month hearing, petitioner had not made enough progress to even have an overnight visit with the minors. All of these factors support the juvenile court's conclusion that it is extremely unlikely that petitioner would

⁴ The Department's social worker testified that when petitioner was due to be released from the residential drug treatment program, petitioner herself expressed the concern "that she could not safely live outside of a rehab facility and not relapse."

be able to reunify with the minors within the limited time remaining even if reunification services were extended.⁵

C. Reasonable Reunification Services

At the permanency hearing, the court must “also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent” (§ 366.21, subd. (f).) A hearing pursuant to section 366.26 may not be held unless there is clear and convincing evidence that reasonable services have been provided or offered. (§ 366.21, subd. (g)(1), (g)(2).)

In this case, petitioner contends reasonable family reunification services were not provided. In part, petitioner blames the Department for not making it clear that she needed to attend a parenting class and that she needed to use a “communication log” to facilitate communication with the minors’ foster parents. She claims the Department should have been more helpful in finding housing after she was discharged from residential treatment and that the Department took too long in making arrangements for her to get into counseling to address issues arising from her own abusive childhood. She speculates that the Department’s failure to provide additional services during the 12-month reunification period “thwarted [her] ability to adequately address the plan within the statutory time frame.”

“Services will be found reasonable if the Department has ‘identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult’ [Citation.]” (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 972-973.) “[I]n

⁵ Petitioner also makes the claim that in denying additional reunification services, the trial court erroneously used a simple best interest test by comparing the upbringing offered by petitioner with the upbringing offered by the minors’ prospective adoptive family. To the contrary, the court simply noted that both minors “need and deserve stability and permanency.” In any event, the court articulated numerous other findings supporting the order terminating reunification services.

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 reviewing the reasonableness of the services provided, this court must view the evidence in a light most favorable to the respondent. We must indulge in all reasonable and legitimate inferences to uphold the judgment. [Citation.] ‘If there is any substantial evidence to support the findings of a juvenile court, a reviewing court is without power to weigh or evaluate the findings.’ [Citations.]” (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361-1362.)

Here, petitioner’s case plan identified her drug abuse, lack of parenting skills, propensity to get into abusive relationships, criminal history, and emotional volatility as areas where petitioner needed improvement and help. Substantial evidence supports the court’s finding that the Department provided reasonable services to address this daunting array of issues—any one of which could prove a critical barrier to reunification. The Department referred petitioner to outpatient substance abuse treatment. She received housing referrals. Petitioner was also referred for counseling and mental health services. The Department also facilitated regular visitation with the minors, as frequently as three visits per week, including providing supervision. When petitioner had difficulty talking to the older minor about her relapse and pregnancy, the Department’s social worker was present to help facilitate these difficult conversations. The Department’s social worker acted as a support person for petitioner in her criminal case, appearing with her in criminal court. The Department paid the cost of transportation and fees so that petitioner could get the treatment that she needed. Furthermore, the Department monitored mother’s reunification efforts by meeting regularly with her in person to review her progress with the case plan.

Far from failing to “demonstrate good faith efforts,” as claimed by petitioner, this record reflects the Department expended extraordinary efforts on petitioner’s behalf over the long history of this case. Petitioner’s complaints about various shortcomings in the services that were provided does not negate the court’s finding that reasonable services were offered or provided to petitioner.

D. Visitation Order

Prior to permanency planning, during reunification efforts, visitation generally must be as frequent as possible, consistent with the well-being of the child. (§ 362.1, subd. (a)(1)(A).) However, when the court orders that a hearing pursuant to section 366.26 be set and terminates reunification services, “[t]he court shall continue to permit the parent . . . to visit the child pending the hearing unless it finds that visitation would be detrimental to the child.” (§ 366.21, subd. (h).) Here, the court ordered that visitation was to continue twice weekly as before, but ordered that the visits be “appropriately” reduced over a few month period.

Petitioner challenges the juvenile court’s order reducing her visitation pending the section 366.26 hearing. She argues there was no showing of detriment in allowing her to frequently visit the minors as she “undeniably has a loving, affectionate, and appropriate relationship with her children.” She claims that by reducing her visitation as the section 366.26 hearing approaches, “the erosion and termination of any meaningful relationship between the parent and child is virtually assured.”

We review a visitation order made in a dependency proceeding for abuse of discretion. (*In re J.N.* (2006) 138 Cal.App.4th 450, 459.) “The abuse of discretion standard warrants that we apply a very high degree of deference to the decision of the juvenile court. [Citation.]” (*Ibid.*)

Generally speaking, it is the juvenile court’s role to “define the rights of the parties to visitation. The definition of such a right necessarily involves the balancing of the interests of the parent in visitation with the best interests of the child. In balancing these interests, the court in the exercise of its judicial discretion should determine whether there should be any right to visitation and, if so, the frequency and length of visitation.” (*In re*

Jennifer G. (1990) 221 Cal.App.3d 752, 757; accord, *In re Shawna M.* (1993) 19 Cal.App.4th 1686, 1690.)

Based on our review of the record, we do not find an abuse of discretion. When reunification has failed, the purpose of visitation is to maintain the bond between parent and child so that, in a proper case, a parent may be able to satisfy the statutory exception to adoption. (See *In re David D.* (1994) 28 Cal.App.4th 941, 955 (*David D.*); § 366.26, subd. (c)(1)(B)(i).) Throughout the minors' dependency, petitioner has been provided with ample visitation—she was visiting with the minors twice weekly at the time her reunification services were terminated. The court did not terminate her visitation which, under the language of the statute, would have undoubtedly required a finding of detriment. (§ 366.21, subd. (h).) Instead, the court ordered that visitation was to continue twice weekly as before, but ordered that the visits be “appropriately” reduced over the few remaining months leading up to the section 366.26 hearing.

Where, as here, reunification services have been terminated, “the focus shifts to the needs of the child for permanency and stability.” (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) The social worker testified that the older minor has “dual loyalties” to his prospective adoptive family and to petitioner. She believed this “internal crisis” has been “detrimental . . . to him emotionally, academically.” He has stated to the social worker that he wishes to be adopted. To that end, we find that the court acted within its discretion in reducing the frequency of petitioner's visits with the minors pending the section 366.26 hearing.

David D., *supra*, 28 Cal.App.4th 941, cited by petitioner, is distinguishable because there the Court of Appeal held that: (1) the juvenile court's finding that reasonable reunification services had been provided was not supported by substantial evidence, and (2) the juvenile court erred in curtailing the petitioner's visitation to just one “final” visit in the period between termination of reunification services and the section 366.26 hearing. (*Id.* at pp. 954-955.) Here, by contrast, we have affirmed the trial court's conclusion that reasonable reunification services have been provided to petitioner. Additionally, we do not believe petitioner's ability to maintain a relationship

with the minors leading up to the section 366.26 hearing is threatened by the court's visitation order, as it clearly was in *David D.III*.

DISPOSITION

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 8.452(h).) Our decision is final immediately. (Cal. Rules of Court, rule 8.490(b)(3).) The request for a stay of the section 366.26 hearing scheduled for April 2, 2012, is denied.

RUVOLO, P. J.

We concur:

REARDON, J.

SEPULVEDA, J.*

* Retired Associate Justice of the Court of Appeal, First appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.