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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

**In re L.A., et al., Persons Coming Under
the Juvenile Court Law.**

**LAKE COUNTY DEPARTMENT OF
SOCIAL SERVICES,**

Plaintiff and Respondent,

v.

DOUGLAS A.,

Defendant and Appellant.

A134705

**(Lake County Super. Ct.
Nos. JV320394A, JV320394B,
JV320394C, and JV320394D)**

Douglas A. (Father) appeals from an order of the juvenile court terminating his reunification services as to his four minor children, L.A., J.A., A.A., and G.A. at the six-month review hearing. He contends the juvenile court erred: (1) in finding respondent Lake County Department of Social Services (Department) provided him reasonable services to aid him in overcoming the problems that led to the children's removal; and (2) in not continuing his reunification services. (Welf. & Inst. Code, § 366.21, subd. (e).)¹ We reject these contentions and affirm the juvenile court's order.

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

FACTUAL AND PROCEDURAL BACKGROUND

Detention of the Children

On May 5, 2011, two-week old G.A. was detained by law enforcement after her caregiver, Jara Davis, reported that the child's parents, Father and Candy M. (Mother) had abandoned the child. Davis said she barely knew the family, and the parents did not know her address but called on May 1, 2011, and asked her to take G.A. for a few hours. Davis said the parents did not provide formula, bottles, clothing, and diapers, forcing her to obtain these items. When she tried to return G.A. the next day, the parents were unwilling to take the child. She tried again to return the child on May 4, 2011, but Mother told her to " 'get the baby out of here.' " Davis was unwilling to provide further care.

Later that day, a social worker attempted a welfare check of the parents' other children, L.A. (age four), J.A. (age three), and A.A. (age 11 months). Mother refused to provide information that day or the next regarding the children's location, and the social worker was unable to confirm their well-being and safety.

On May 10, 2011, the Department filed a petition asking the juvenile court to take jurisdiction of all four children under section 300, subdivision (b) (failure to adequately supervise or protect, provide adequate food, clothing, shelter, and medical treatment). In addition to allegations the parents left G.A. with an inappropriate caregiver, the petition alleged they had failed to provide a suitable and stable living environment and were unable to meet the children's basic needs by providing adequate parenting and hygiene. The family shared one bedroom of a single-wide, two-bedroom trailer, where three other adults also lived. The trailer had no running water and no glass in the windows, and living conditions were "cramped, squalid, filthy, and cluttered." The unfenced yard was "an increasingly hazardous 'playground,' " "piled high with clutter, debris, inoperable vehicles" and toxins. The children were filthy and "exhibiting wild and feral behaviors"

The petition alleged further that the parents continually exposed the children to family violence, noting over 100 law enforcement contacts at the residences where the

children had lived the previous year, including an incident in which their maternal grandfather tried to hang himself, and a heated argument on May 4, 2011, that resulted in a tug of war involving the children. The petition also alleged ongoing domestic violence by Father toward Mother in the children's presence.

Father was alleged to pose a significant risk to the safety of the children due to his mental instability, violent, unpredictable nature, cognitive delays, and substance abuse. He "frequently present[ed] with erratic, angry, and uncooperative behaviors and developmental delays." His criminal history included violent offenses, and he was required to register as a sex offender. On May 5, 2011, he was cited in the children's presence for being under the influence of methamphetamine.

Noting the parents' resistance to services they had been offered in the past, the Department requested removal of the children from their custody.

At a detention hearing that day, the court appointed counsel for each parent and the children, ordered detention of all the children, and issued protective custody warrants for L.A., J.A., and A.A. These children, who were all found to have head lice, were taken into protective custody two days later.

The Jurisdiction Hearing

The jurisdiction hearing was held on May 23 and 31, 2011. The report for this hearing notes 12 prior referrals regarding the children since October 2006, including three referrals in Fall 2010 for emotional and physical abuse by Father and general neglect.² These referrals stemmed from the "deplorable, filthy condition" of the home; numerous law enforcement contacts relating to family discord and violence, including incidents relating to the maternal grandparent's divorce; the parents' constant fighting, Father's physical and emotional abuse of Mother, and bruises on L.A.; transient strangers staying in the home; and the parents' failure to follow through with medical and dental appointments for the children. Mother signed risk reduction plans in October 2010 and February 2011, agreeing to work with service providers. Father was present at every

² A parole condition prohibited Father from living with the children. He appears to have moved in with them and Mother in August 2010, when his parole ended.

home visit and agreed to be part of the process when the plans were read and explained, but he declined to sign.³ Nonetheless, the parents did not participate in services.

The jurisdiction report indicates Father tested positive for marijuana and methamphetamine on May 6, 2011, and for marijuana on May 16. He reported daily marijuana use to “ ‘self-medicate,’ ” noting it calmed him down and he could not function without it. This report also details his criminal history, which includes convictions for drug-related offenses, domestic violence, and assault with a deadly weapon; a 2006 conviction for annoying or molesting a child; and an April 23, 2011 vandalism arrest for jumping on the roof of a car in which the children were riding. In February 2011, he was identified as the perpetrator of a brutal assault on a woman who said he had raped her three years earlier.

The court sustained the allegations in the petition, took jurisdiction, and directed the Department to “start services as best you can.”

The Disposition Hearing

The juvenile court held a disposition hearing on June 20, 2011. The report for this hearing indicates the parents’ progress toward alleviating or mitigating the causes necessitating placement was minimal. They had attended all scheduled weekly visits but had not signed the necessary releases to permit referral of L.A. and A.A. to services addressing their developmental delays. The parents had attended three of four sessions of a weekly Parent Engagement Group, but Father attended one session smelling of marijuana. In early June 2011, he missed two appointments with the social worker and failed to contact her, preventing her from obtaining a social history, evaluating Father’s strengths, and soliciting input regarding his needs. He also failed to attend a June 8, 2011 meeting to participate in development of his case plan, and did not call to explain his absence.

³ Father said he was not comfortable signing the second plan without an attorney, noting he was a client of the Redwood Coast Regional Center (Regional Center), which “provides services to person[s] with developmental disabilities.”

The Department recommended a case plan requiring the parents to obtain and maintain a stable and suitable residence; attend and actively participate in the Parent Engagement Group in preparation for an 18-week Nurturing Parenting Program, if deemed eligible; and, thereafter, to attend an Empowerment Group. In addition, Father was to remain drug-free and comply with random drug testing. He was to be referred to Alcohol and Other Drug Services (AODS) for substance abuse services and was required to comply with the treatment plan, including inpatient treatment if necessary. Finally, he was to submit to a psychological evaluation to assess his developmental disabilities and current mental health diagnosis;⁴ the Department was to tailor his services accordingly “for maximum effectiveness”

The juvenile court declared Father the children’s presumed father; adjudged the children dependents of the court and removed them from the parents’ physical custody; adopted the recommended case plan and ordered the parents to participate in services; and set a six-month review hearing for December 5, 2011.

The Six-Month Review Hearing

On December 1, 2011, the Department filed its report for the six-month review hearing, recommending an additional six months of services for Mother and termination of services to Father. Father had been arrested on June 13, 2011, for felony assault with a deadly weapon and felony battery with serious bodily injury. He was arrested again on September 5, 2011, for possession of a controlled substance and carrying a concealed dirk or dagger, and was incarcerated thereafter. Mother told the social worker the next day that Father was in jail, stating he “ ‘got really violent,’ ” tried to choke her and said he was going to kill her, and told her to “ ‘take [her] children and shove them.’ ” She obtained a restraining order against him on October 14, 2011.⁵

Father had attended a total of 4 of 10 sessions of the parenting class—only one session since the disposition hearing. After the first group on May 12, 2011, his

⁴ Father’s mother reported he is slightly dyslexic, reads at a second grade level, and was unofficially diagnosed with bipolar disorder in high school.

⁵ The restraining order does not preclude contact with the children.

attendance began to lag; he arrived late, left early, or did not attend at all, and when he did attend, he appeared to be under the influence. He had completed only one of four assignments.

Father had submitted to eight random drug tests since the disposition hearing. He tested positive for methamphetamine on June 24, 2011, and positive for marijuana every test thereafter. He had missed two appointments for an ASI in May and June 2011, and his ASI was not completed until August 1, 2011. His AODS intake, scheduled for September 1, 2011, never took place. AODS reported “there has been no contact with the father whatsoever.”

Father had attended only 7 of 22 scheduled visits prior to his incarceration. On one occasion, he arrived so late he was only able to say goodbye to the children. He appeared distracted, was not always appropriate with the children, and limited his interaction with them. The social worker observed during one visit that Father did not hold G.A. at all and appeared to favor the male children. During his last visit on August 30, 2011, he took several smoke breaks, checked his cell phone frequently, and answered one or more calls.

Several visits were marked by Father’s emotional outbursts. Before one visit, he called Mother a “fucking liar” in the presence of G.A. and her foster family and told Mother to take her “dick suckers” into the other room. During one visit, he became upset when the social worker tried to intercede to address his increasingly loud tone in disciplining L.A.; he said, “ ‘[S]o just let her get away with it!’ ” and abruptly left the room, slamming both doors on the way out and not returning. During another visit, he called Mother a “fucking liar,” and used a racially derogatory term to refer to a staff member. When the social worker encouraged him to leave, noting he was not feeling well and the children should not be exposed to his poor attitude, Father called her a “fucking bitch.” The social worker and Mother entered the building, and the doors locked behind them; Father began banging on the glass so hard the social worker thought he would shatter it. He continued shouting obscenities and yelling for Mother to leave the visit. The children could hear his outburst, and the social worker called police.

The children were negatively affected by Father's demeanor. After visits, G.A. showed signs of anxiety; L.A. and J.A. were "hyper" and hard to calm down.

On July 19, 2011, the Department referred Father for a psychological evaluation by Dr. Albert Kastl, which Father failed to complete.⁶ The social worker heard him yelling in the hallway, " 'Give me my fucking phone,' " and he was seen yelling and pacing in the parking lot with his shirt off. Upset that Dr. Kastl knew about his criminal history, Father said he considered this "harassment," noting " '[I]f he wants a confrontation, he will get a confrontation.' " Father later returned to resume the evaluation, but left before testing was complete.

Dr. Kastl diagnosed Father with a mood disorder and a personality disorder with prominent paranoid, anti-social, and aggressive features, as well as mild mental retardation. Dr. Kastl said Father was " 'singularly aggressive and hostile and cannot contain his impulses,' " had " 'a long history of anti-social behavior, and this condition is thought refractory to treatment.' " He also noted major problems with addiction and substantial evidence of bipolar disorder, "especially in terms of mood lability, intense anger, verbal outbursts . . . unrealistic demands," but Father refused medication and other psychiatric intervention. Dr. Kastl concluded, " '[T]here are no services which would change his condition within six (6) months, nor would he be able to safely parent his children on a long-term basis.' "

On October 3, 2011, the Department referred Father to Dr. Gloria Speicher for a second psychological evaluation, hoping he would be more stable and amenable since he had presumably been off marijuana in jail. In her October 15, 2011 report, Dr. Speicher diagnosed him with dysthymic disorder, cannabis and methamphetamine abuse, borderline personality disorder with antisocial features, and mild mental retardation/intellectual disability. She also noted Father's impaired judgment, poor internal controls, and poor understanding of how his behavior affects others. She found

⁶ Dr. Kastl's August 31, 2011 report does not state when the evaluation took place, but his report for Mother suggests he evaluated both parents the same day, and the status report states Mother was evaluated on August 21.

he “would not be able to make sufficient changes in his awareness and behavior to safely parent his children within the limited amount of time allowed,” noting “the *initial stage* of resolution of drug abuse issues would likely take at least 6 months. Solidifying a clean and sober life in recovery usually takes extensive time beyond that. Doing the work of learning new responses to emotionally volatile situations takes considerable time, commitment, effort and support as well.”

The social worker visited Father in jail on October 4, 2011, and encouraged him to participate in A.A./N.A. meetings. Father expressed interest and asked the social worker to send him a sign-in sheet, which she did two days later. When the social worker visited him again on November 23, 2011, Father said he had asked to attend A.A./N.A. meetings, but “they ‘haven’t been letting [me] go.’ ”

The Department found no substantial probability the children could be reunified with Father if services were extended to May 30, 2012, as his compliance with his case plan before his arrest was minimal at best, and he was incarcerated without access to services. The social worker explained: “Given the circumstances of [Father’s] mental health issues, substance abuse, and violent behavior, a successful reunification would require more services than the time remaining allows.” The social worker noted that, even apart from Father’s noncompliance before his incarceration, “the Department is at a loss as to how to tailor future services to overcome the challenges raised in either evaluation, particularly if [he] continues to use marijuana if/when he is released.” As Father had made little to no progress with services, was facing charges that could result in a lengthy sentence, and was the subject of a restraining order by Mother, the Department concluded continued services were not justified by a substantial probability of success and were not in the children’s best interests.

At the six-month review hearing on December 12, 2011, Father’s counsel objected to termination of his reunification services based on his “not receiving reasonable services,” specifically, the Department’s failure to tailor services through the Regional Center’s programs. Father attributed his initial failure to participate in his case plan to his substance abuse and requested another six months of services, noting this would not

delay permanency because the Department recommended continued services to Mother. He testified jail staff denied his request to attend A.A. meetings because he is housed in administrative segregation and is only allowed out of his cell for one-half an hour a day. Jail staff had not responded to his written request to attend N.A. meetings. Officer Santana, who accompanied Father to the hearing, told the court Father's housing prevented his participation in group services. Father did not believe the jail offered parenting classes in any case.

The juvenile court granted Mother an additional six months of services but continued Father's request for additional services to January 3, 2012, and directed the Department to inquire why he was housed in administrative segregation "just to clarify the record."

On December 30, 2011, the social worker filed a supplemental report stating that, according to jail classification officer, Sylvia Pascoe, Father requested administrative segregation due to concerns about another inmate; he could attend in-house services, including A.A./N.A. meetings, but he must request these services; and he could receive outside services as well if he obtained approval from the sergeant or lieutenant. Pascoe did not know why Father's request to attend meetings had been denied. This report indicates the social worker later left a voicemail message asking classification staff what services Father could receive while in administrative segregation; this call was not returned.

At the January 3, 2012 hearing, Officer Santana stated Father was originally in protective custody due to his status as a sex offender, but he requested a keep-away order for his safety. Santana said individual visits by A.A. could be accommodated, but A.A. usually serves groups of inmates.

Father's criminal attorney told the court she and the district attorney were "looking very earnestly at some sort of a [substance abuse] program" for Father, and she was anticipating placement in a local program.

Counsel for the children opposed additional services for Father.

The juvenile court adopted the findings and recommendations in the status report, including findings that Father's progress toward alleviating the causes of placement had been inadequate, and that there was no substantial probability he would reunify with the children by May 29, 2012. In terminating services to Father, the court noted a number of factors that would be "problematic" to continuing services, specifically, that he had chosen administrative segregation, his criminal case remained unresolved, and he was expected to be placed in a drug treatment program for six months to one year. In addition, the court noted the age of the children and evidence showing limits on Father's ability to benefit from services. The court adopted a modified case plan and set the case for a 12-month hearing on May 21, 2012.

Father filed a timely appeal from the court's January 3, 2012 order.⁷

DISCUSSION

At issue in this appeal are the Department's duty to provide reasonable reunification services to parents and the juvenile court's authority to terminate such services at the six-month review hearing. "To achieve the goal of preserving the family whenever possible, the Legislature required the county child welfare departments to develop and implement family reunification plans and required the courts to monitor those plans through periodic review." (*In re Daniel G.* (1994) 25 Cal.App.4th 1205, 1211.) "[W]henver a child is removed from a parent's . . . custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father . . ." (§ 361.5, subd. (a); see § 361.5, subd. (e)(1) ["If the parent . . . is incarcerated . . . the court shall order reasonable services unless [it] determines, by clear and convincing evidence, those services would be

⁷ An order terminating reunification services and setting a hearing under section 366.26 is not immediately appealable; review must first be sought by extraordinary writ. (§ 366.26, subd.(l); Cal. Rules of Court, rules 8.450, 8.452.) All other orders beginning with the disposition order are appealable. (*Wanda B. v. Superior Court* (1996) 41 Cal.App.4th 1391, 1395 (*Wanda B.*)) In this case, the court terminated Father's reunification services but did not set a section 366.26 hearing. The court's January 3, 2012 order is therefore immediately appealable. (*Wanda B.*, at p. 1395.)

detrimental to the child”].) If a child is not returned to the parent at the six-month review hearing, the juvenile court shall determine whether reasonable services designed to aid the parent have been provided or offered to the parent, and shall order that those services be initiated, continued or terminated. (§ 366.21, subd. (e); Cal. Rules of Court, rule 5.708(e).) The provision of reasonable reunification services before termination of parental rights is also a due process requirement. (*Daniel G.*, at p. 1215.)

Section 361.5, subdivision (a)(1) governs the time periods for which services must be offered. For children, like A.A. and G.A. who were less than three years of age on the date of the initial removal, court-ordered services must be provided beginning with the dispositional hearing and ending 12 months after the date the child entered foster care as defined in section 361.49, unless the child is returned to the home of the parent. (§ 361.5, subd. (a)(1)(B).) The court also has discretion to limit services to the same period for older children like L.A. and J.A., who are part of “a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under three years of age on the date of initial removal from the physical custody of his or her parent” (§ 361.5, subd. (a)(1)(C).)⁸

⁸ The juvenile court found section 361.5, subdivision (a)(1)(C) applied here. All the children were removed from the parents’ custody at the same time, two of the children were under the age of three at the time of their initial removal, and the court found it was in their best interests to be maintained together as a sibling group. (§ 361.5, subd. (a)(1)(C).) The fact that L.A. was “in a foster home without any of her siblings” does not render this subdivision inapplicable to her. Section 361.5, subdivision (a)(1)(C) does not turn on whether the children are temporarily placed together; it requires only that they be “removed from parental custody at the same time[.]” (See Cal. Rules of Court, rule 5.695(a)(7) [“At the disposition hearing, the court may: . . . Declare dependency, remove physical custody from the parent or guardian . . .”].) Even if Section 361.5, subdivision (a)(1)(C) could be construed to refer to the *detention* of the children, L.A. and J.A. were detained at the same time as A.A., who was under age three. Nor was the court required to consider the factors relating to a sibling group in section 366.21, subdivision (e), which applies to a court’s “determination to schedule a hearing pursuant to Section 366.26 for some or all members of a sibling group[.]”

I. *Reasonable Reunification Services*

Father contends the Department failed to provide reasonable reunification services to him. It is the Department's obligation at the six-month review hearing to make a record that reasonable services were provided. (*In re Precious J.* (1996) 42 Cal.App.4th 1463, 1478.) "The adequacy of the reunification plan and of the department's efforts to provide suitable services is judged according to the circumstances of the particular case." (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1011 (*Mark N.*)) We review a finding reasonable services were provided for substantial evidence, viewing the evidence in the light most favorable to the Department and indulging all reasonable inferences in favor of that determination. (*Precious J., supra*, 42 Cal.App.4th at p. 1472; accord, *Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1158 (*Melinda K.*); *Mark N., supra*, 60 Cal.App.4th at p. 1010.)⁹ "When it appears at the six-month review hearing that a parent has not been afforded reasonable reunification services, the remedy is to extend the reunification period, and order continued services." (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 973-974.)

The Department must "make '[a] good faith effort to develop and implement a family reunification plan.' [Citation.]" (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164 (*Robin V.*)) "Reunification services need not be perfect. [Citation.] But they should be tailored to the specific needs of the particular family. [Citation.] 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.]" (*Alvin R., supra*, 108 Cal.App.4th at pp. 972-973.)

⁹ Father contends the juvenile court was required to find by clear and convincing evidence reasonable services were provided and that we therefore must also review a reasonable services finding under that standard. Even when the juvenile court is required to make a finding by clear and convincing evidence, our review is for substantial evidence. (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-881.)

Applying these principles, we conclude the Department offered Father reasonable services. (§ 366.21, subd. (e).) The record shows the Department identified the problems that contributed to the children’s removal and continued detention, specifically, Father’s substance abuse, lack of parenting skills, and propensity for violence, which were complicated by his developmental disabilities. The Department began addressing these problems in May 2011, by conducting random drug testing, referring Father to parenting education, and arranging supervised weekly visitation, where Father had an opportunity to practice parenting in a supervised setting, with feedback from a social worker. Thereafter, the Department referred Father for an AODS intake, and conducted additional drug testing. The Department also referred Father for a psychological evaluation to address his mental health and behavioral issues, as well as his developmental disabilities. Notwithstanding his failure to participate in these services, the Department maintained contact with him and continued providing services after his incarceration, including a referral for a second psychological evaluation (as he had failed to complete the first), two social worker visits, and sign-in sheets for A.A./N.A. meetings. The record also indicates the social worker was “available by telephone to assist with [the parents’] issues in a timely and reasonable manner.” (See § 361.5, subd. (e)(1) [“In determining the content of reasonable services [to an incarcerated parent], the court shall consider the particular barriers to [the] . . . parent’s access to those court-mandated services . . .”].)

Father contends “the Department failed to make reasonable efforts to assist [him] in areas where compliance proved difficult” in that it: (1) failed to contact the Regional Center for assistance in determining the best plan and services for him; (2) failed to tailor his services according to Dr. Speicher’s psychological evaluation; and (3) failed to offer sufficient services during his incarceration. As discussed below, these contentions do not alter our conclusion that the Department offered or provided reasonable services.

A. *The Regional Center*

Father contends the social worker was aware he was a client of the Regional Center but failed to accommodate his disabilities in providing reunification services.¹⁰ This contention fails for two reasons. First, Father essentially challenges the adequacy of his case plan, which the juvenile court adopted at the disposition hearing on June 20, 2011. He raised no objection to the recommended case plan at the disposition hearing, and did not appeal from the disposition order adopting the case plan. He therefore has waived the right to contend his case plan was inadequate. (*V.C. v. Superior Court* (2010) 188 Cal.App.4th 521, 527-528, relying upon *Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 811; see also *Melinda K.*, *supra*, 116 Cal.App.4th at p. 1156 [“ ‘ ‘An appeal from the most recent order entered in a dependency matter may not challenge prior orders, for which the statutory time for filing an appeal has passed’ ’ ”].) Second, the record refutes Father’s contention the Department failed to coordinate with the Regional Center in developing his case plan. The jurisdiction report indicates that, on May 17, 2011, the social worker contacted Father’s service coordinator at the Regional Center Nola Montgomery. At that time, Montgomery said Father wanted to limit the exchange of information from the Regional Center to the Department, apparently more concerned about the juvenile dependency “charges” he was facing rather than the welfare of his children. Montgomery said Father was aware of supportive living services available to him through the Regional Center but was “only choosing to receive ‘transportation assistance,’ in the form of a monthly bus pass[.]” Montgomery noted that the Regional Center was finding it difficult to put independent living services in place for Father because he continued to insist he did not live in the home with Mother and the children. Thus, Father obstructed the Department’s efforts to coordinate services through the Regional Center. We also observe the Department solicited his input regarding his

¹⁰ When asked on December 12, 2011, to identify the services he wanted from the Regional Center, Father said he wanted help with his drug problem and parenting classes to exercise better judgment regarding his children.

needs and in developing his case plan but he failed to appear at the meetings set for this purpose.

B. *Dr. Speicher's Evaluation*

Father also maintains the Department failed to tailor services according to Dr. Speicher's psychological evaluation.¹¹ Father's counsel did not specifically contend below that services were unreasonable because the Department had not tailored them to Dr. Speicher's report; in seeking another six months of services, counsel contended "Dr. [Speicher's] report . . . does give guidance on how services could be tailored and what would be beneficial for [Father]," and "that inpatient treatment services would be extremely beneficial to [him]." Father therefore appears to have forfeited this assertion of error by failing to raise it below. (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 582.) We do not find the Department acted unreasonably, in any event, in not initiating services tailored to Dr. Speicher's report in the two-month period before the six-month review hearing. Both psychologists opined that the serious mental health and substance abuse issues impacting Father's ability to parent his children were severe and resistant to treatment; Father had expressed to Dr. Kastl his unwillingness to receive psychiatric intervention, including medication; and neither psychologist was able to identify any services that would allow him to reunify with the children given the brief period for reunification that applies to this sibling group. (§ 361.5, subd. (e)(1) ["Reunification

¹¹ The paragraph of this report to which Father's attorney referred below states: "[Father] is likely to function, respond and learn best in situations of high predictability and structure and emotional acceptance and warmth. It is possible that [Father] could learn to tolerate a clean and sober life. He would probably do best in a residential treatment center that provides strong structure and consistent feedback and ongoing after-care support. He might be able to lower his threshold of emotional reactivity with medication but would have to make a serious, possibly lifelong commitment to taking medication and recognizing and accepting an emotional disability. Once these issues were handled, he might be able to learn more appropriate and sensitive parental skills through sensitive hands-on teaching techniques."

services [for incarcerated parents] are subject to the applicable time limitations imposed in subdivision (a)’’).¹²

Father has failed, in any case, to show he was prejudiced because the Department did not tailor services in this manner. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564 (*Denham*) [appellant’s duty to demonstrate prejudicial error]; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 876 [“We will not reverse for error unless it appears reasonably probable that, absent the error, the appellant would have obtained a more favorable result”]; see *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1365-1366.) Father had failed to participate in services before his incarceration and had made little to no progress; there was no substantial probability he would reunify with the children by the statutory deadline.

C. *Services During Father’s Incarceration*

Father contends the evidence does not show the social worker made reasonable efforts to assist him to obtain services during his incarceration.

A parent’s failure to comply with the case plan prior to incarceration does not excuse the Department from providing reasonable services while he is incarcerated. (*Precious J., supra*, 42 Cal.App.4th at p. 1479.) “In determining the content of reasonable services [during incarceration], the court shall consider the particular barriers to an incarcerated . . . parent’s access to those court-mandated services and ability to maintain contact with his or her child Services may include, but shall not be limited to, all of the following: [¶] (A) Maintaining contact between the parent and child through collect telephone calls. [¶] (B) Transportation services, where appropriate. [¶] (C) Visitation services, where appropriate. [¶] (D) Reasonable services to extended family members or foster parents providing care for the child if the services are not

¹² Father contends his psychological evaluations were based on the incorrect premise that his services were limited to six months. Father has forfeited this contention by failing to assert it below. (*In re Elijah V., supra*, 127 Cal.App.4th at p. 582.) He fails to note, in any case, that a reunification date six months from his psychological evaluations would have resulted in a total of almost 12 months of services, the maximum allowed for this sibling group. (§ 361.5, subd. (a)(1)(B) & (C).)

detrimental to the child. . . . An incarcerated or detained parent may be required to attend counseling, parenting classes, or vocational training programs as part of the reunification service plan if actual access to these services is provided.” (§ 361.5, subd. (e)(1).) As discussed above, the Department continued to provide services to Father during his incarceration, including two social worker visits, sign-in sheets for A.A./N.A. meetings, and a second psychological evaluation.¹³

Father contends, “There is no indication the social worker . . . followed up on [his] dilemma [not being allowed to attend A.A./N.A. meetings,] until after being instructed to do so at the December 12, 2011, hearing.” He fails to note, however, that this obstacle to services did not arise until mid-October 2011, and the social worker did not learn of it until November 23, 2011, less than two weeks before the six-month review was set for hearing.¹⁴ We do not conclude the social worker’s failure to follow up on Father’s problems accessing N.A./A.A. meetings during that two-week period of his incarceration renders the services offered by the Department unreasonable.

Father contends, in any case, the social worker failed in December 2011, to identify the services he could receive while in administrative segregation, and “it is not clear that services could not be provided to him” Citing *Mark N.*, he argues the social worker “should have explored whether changes in [his] incarceration status or housing could have been made to facilitate the provision of his services consistent with legitimate prison, public safety concerns, and [his own] safety.” He maintains the alleged error was not harmless, as additional reunification services “may well have made a difference[.]”

¹³ On appeal, Father does not take issue with the Department’s failure to provide visitation or telephone contact with the children during his incarceration. Nor does he contend the Department failed to provide transportation services and extend reasonable services to family members and the children’s foster parents.

¹⁴ Father testified that he requested administrative segregation after Mother obtained her October 14, 2011 restraining order, indicating he had not done so at the time of the social worker’s first visit. The record indicates his original housing classification did not prevent him from accessing group services.

In *Mark N.*, the court vacated an order terminating reunification services, finding there was no substantial evidence reasonable reunification services were offered to a father who was incarcerated. (*Mark N.*, *supra*, 60 Cal.App.4th at pp. 1012, 1018.) The court stated: “If, as the father testified, no services were available to him in prison (because of the manner in which he was housed), his inability to participate was not the department’s fault. [Citation.] The prisons are run by the Department of Corrections, not by the department. [Citation.] However, the department should, at a minimum, have contacted the relevant institutions to determine whether there was any way to make services available to the father. [Citations.] In other words, while the department cannot tell prison officials how to run their institutions, it can: notify the prison an incarcerated parent is in need of reunification services; determine whether any appropriate services are available at the particular institution in question; and explore whether changes in the housing of the parent prisoner can be made to facilitate the provision of such services consistent with legitimate prison and public safety concerns. The department does not meet its obligations when, as here, it simply concludes: The father is in prison; he knows what the requirements of his case plan are; he was imprisoned before any referrals were made; he says no services are available to him; and being unaware of any resources to assist the incarcerated parent with reunification, the department need not take any action to facilitate the reunification process.” (*Id.* at p. 1013.)

In this case, the report for the six-month status review does not specifically identify the services available to Father during his incarceration; the social worker simply notes that Father was in jail and “not currently engaged in services[.]”¹⁵ Still, her

¹⁵ Contrary to Father’s assertion, the social worker did not recommend terminating his services “[a]s a result” of her belief “[his] prisoner status made him ineligible for services at the county jail.” The social worker’s recommendation turned on a number of factors supporting a finding there was no substantial probability the children could be reunified with him if services were extended to May 30, 2012, including Father’s minimal compliance with his case plan before his arrest, his lack of progress toward remedying the serious problems that prevented him from safely parenting his children, and the fact that these problems required more services than the remaining reunification period allowed.

encouragement to Father to attend A.A./N.A. meetings suggests she was familiar with the services available at the jail—at least initially, and Father has not shown otherwise. Moreover, although she did not succeed in her attempts to determine the services available to an inmate housed in administrative segregation, the record demonstrates that she made reasonable efforts to do so in December 2011; the jail staff’s lack of knowledge and failure to respond does not render her efforts any less reasonable. The question before us is not whether the services the Department provided were perfect: “[R]arely will services be perfect. [Citation.] ‘The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.’ [Citation.]” (*Melinda K.*, *supra*, 116 Cal.App.4th at p. 1159; accord, *Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 692 (*Kevin R.*))

Mark N. is distinguishable. In that case, “the department failed to make any effort to reunify the incarcerated father and his daughter.” (*Mark N.*, *supra*, 60 Cal.App.4th at p. 1015.) The father was incarcerated before the department could provide him with referrals and the department made no effort to determine whether any services were available to him during his incarceration, so his case plan at all times called for him to participate in services which were unavailable to him. (*Id.* at pp. 1013-1014.) In addition, the department failed to contact him during 13 months of the 17-month reunification period and to facilitate his presence in court for two hearings. (*Id.* at pp. 1012, 1014.) In this case, by contrast, Father began services in May 2011, and received them for almost four months before his incarceration.¹⁶ Thereafter, the Department maintained contact with him, encouraged him to attend N.A./A.A. meetings, and referred him for a second psychological evaluation. The court also arranged for his attendance at the December 12, 2011, and January 3, 2012 hearings.

Father has again failed to demonstrate that he was prejudiced by the Department’s alleged failure to identify and offer services to him in jail. (*Denham*, *supra*, 2 Cal.3d at p.

¹⁶ We also note Father was offered services as early as October 2010, including parenting and life skills classes, and services through the Regional Center.

564; *In re Jonathan B.*, *supra*, 5 Cal.App.4th at p. 876.) Ample evidence in the record supports the juvenile court’s conclusion there was no substantial probability he would be able to reunify with his children by the statutory deadline in May 2012, and he has not shown the Department failed to make additional services available to him that would have altered this result.¹⁷

II. *Termination of Reunification Services*

Next, Father challenges the court’s decision to terminate his services, contending it was error not to continue his services for another six months. “We review an order terminating reunification services to determine if it is supported by substantial evidence.” (*Kevin R.*, *supra*, 191 Cal.App.4th at p. 688.)¹⁸

As previously noted, section 361.5 required court-ordered services to Father until the six-month review hearing, but no longer than May 31, 2012, 12 months after the date the children are deemed to have entered foster care. Father concedes, “there is no absolute right to receive the maximum amount of statutorily fixed services in any and all circumstances,” and the juvenile court has discretion to terminate the reunification services of a parent at any time after it has ordered them, depending on the circumstances presented. (*In re Derrick S.* (2007) 156 Cal.App.4th 436, 445, 447; *In re Kevin N.* (2007)

¹⁷ Father cites authority stating, “ ‘ “The effort must be made to provide suitable services, in spite of the difficulties of doing so or the prospects of success. [Citation.]” ’ ” (*In re Maria S.* (2000) 82 Cal.App.4th 1032, 1039, quoting *Robin V.*, *supra*, 33 Cal.App.4th at pp. 1164-1165.) This language appears to originate from decisions addressing the Department’s failure to develop a reunification plan in the first instance; it does not preclude a juvenile court from considering the likelihood of reunification in determining whether services were reasonable and whether to terminate them. (See *In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777, relying on *In re John B.* (1984) 159 Cal.App.3d 268, 273-274 [holding the court erred in failing to order a reunification plan, as a court may not circumvent reunification efforts simply because such efforts appear doomed to fail].)

¹⁸ Father contends the court’s “reasons for terminating [his] reunification services were not supported by the evidence, and [there] were otherwise [no] reasons to terminate his services.” “The juvenile court’s reasoning is not a matter for our review. [Citation.] It is judicial action not judicial reasoning which is the proper subject of appellate review. [Citation.]” (*In re A.A.* (2008) 167 Cal.App.4th 1292, 1313.)

148 Cal.App.4th 1339, 1345.) We conclude the circumstances of this case provide substantial evidence supporting the juvenile court’s decision to terminate services at the six-month review hearing. From the outset, Father’s participation in services was minimal: he failed to meet with the social worker and assist the Department in developing a case plan; to appear for appointments to address his drug addiction; to attend and participate in parenting classes after June 2011; and to regularly attend visits with his children. He had made little to no progress in remedying the problems that led to removal. Both psychologists noted the severity of the problems he would have to overcome to parent his children safely and the extended period required to address these problems, and Dr. Kastl concluded he would not be able to safely parent the children on a long-term basis. Neither psychologist was able to identify any services that would allow Father to reunify with the children in another six months, i.e., the maximum period of services for children so young. (§ 361.5, subd. (a)(1)(B) & (C).) Father was expected either to face a lengthy prison sentence or be committed to a substance abuse treatment program that “is typically six months to a year.” In light of this evidence, the juvenile court did not act unreasonably in terminating services to Father at the six-month review hearing and denying his request for an additional six months of services. As Father concedes, “[W]here the likelihood of reunification is extremely low, a continuation of the reunification period would waste scarce resources and delay permanency for dependent minors.” (See *Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1505 [“It defies common sense to continue reunification efforts for a parent who has made minimal efforts throughout a case”]; *In re Aryanna C.* (2005) 132 Cal.App.4th 1234, 1242 [father’s abysmal efforts at reunification supported court’s decision to terminate services before expiration of six-month period]; see also § 366.21, subd. (e) [requiring the court to continue the case to the 12-month hearing if it finds there is a substantial probability the child may be returned to the parent within six months].)¹⁹

¹⁹ Father argues, however, that the court “ignored the provisions under section 361.5, subdivisions (a)(3) and (4) regarding the possible extensions of time limitations for reunification services,” including the requirement of subdivision (a)(3) that the court

Father denies that the likelihood of reunification here was extremely low, contending he had demonstrated the ability to comply with his case plan. We disagree. In the months before his incarceration, Father was never in full compliance with his case plan, and his ability to remain drug-free in a structured setting where he has limited or no access to drugs does not demonstrate that he is able to do so outside that setting or that he is able to comply with other requirements of his case plan, from which he has been exempted during his incarceration.

Father notes that continuing services to him would not have delayed permanency for the children because the court continued services to Mother. “[A]t a six-month review hearing, the juvenile court retains the discretion to terminate the offer of services to one parent even if the other parent is receiving services and no section 366.26 hearing is set.” (*In re Jesse W.* (2007) 157 Cal.App.4th 49, 58.) “[E]ven when a section 366.26 hearing is not set, the termination of services previously not utilized . . . is a step toward eliminating uncertainty in the lives of very young children and ultimately achieving the stability and permanence the Legislature sought to provide for them. . . . [T]he Legislature has recognized that in some circumstances, it may be fruitless to provide additional reunification services. ‘In such a case, the general rule favoring reunification services is replaced by a legislative assumption that offering services would be an unwise use of governmental resources.’ [Citation.]” (*Id.* at pp. 64-65.)

Father also points out that Dr. Speicher noted in her report his “sensitive, caring, parental, and nurturing nature,” described him as “thoughtful, open, vulnerable, polite,

consider “the special circumstances” of a parent who is incarcerated, institutionalized, or ordered to a substance abuse treatment program, such as barriers to the parent’s access to services and his ability to maintain contact with the child. (§ 361.5, subd. (a)(3) [allowing the court at the 12-month hearing to extend services to a maximum of 18 months upon a finding “there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended time period”]; § 361.5, subd. (a)(4) [allowing the court at the 18-month hearing to extend services up to a maximum of 24 months on a similar showing].) There is no indication Father raised this argument below; he therefore has forfeited the right to assert it on appeal. (*In re Elijah V.*, *supra*, 127 Cal.App.4th at p. 582.)

and very cooperative;” and indicated he had demonstrated that he cared about his children and wanted to be there for them and had acknowledged his need and desire for drug treatment. Dr. Speicher’s comments do not alter our conclusion. Although we sympathize with Father’s desire to reunify with the children, there is evidence showing that there was no substantial probability he would be able to do so and that it was not in the children’s best interests to remain in limbo on the off chance that he would.

“[C]hildhood does not wait for the parent to become adequate.” (*In re Marilyn H.* (1993) 5 Cal.4th 295, 310.)

In so holding, we note that Father was already a client of the Regional Center and had phone access to contact his service coordinator and request the services he desires; that his criminal attorney anticipated his placement in an inpatient substance abuse treatment program; and that nothing in the court’s ruling precluded Father from seeking further reunification services in a section 388 motion if he made progress in his ability to safely parent his children in the long-term.²⁰

DISPOSITION

The juvenile court’s January 3, 2012 order is affirmed.

SIMONS, Acting P.J.

We concur.

NEEDHAM, J.
BRUINIERS, J.

²⁰ Father relies on section 361.5, subdivision (a)(2) in contending his reunification services as to the older children, L.A. and J.A., could not be terminated at the six-month review hearing without a section 388 motion, which was not filed here. He has forfeited this argument by failing to raise it below. (*In re Elijah V.*, *supra*, 127 Cal.App.4th at p. 582.) His contention lacks merit, in any case, as a section 388 motion is required to terminate services as to children described in subdivision (a)(1)(C) only when the Department seeks to terminate services *prior to* the six-month review hearing. (§ 361.5, subd. (a)(2).)