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

DIVISION TWO

In re C.Q., a Person Coming Under the
Juvenile Court Law.

ANDREA S.,

Petitioner,

v.

THE SUPERIOR COURT OF THE CITY
AND COUNTY OF SAN FRANCISCO,

Respondent;

SAN FRANCISCO HUMAN SERVICES
AGENCY,

Real Party in Interest.

A136384

(San Francisco City & County
Super. Ct. No. JD11-3291)

Andrea S. (mother),¹ the mother of C.Q., seeks extraordinary writ review pursuant to California Rules of Court, rule 8.452, of the juvenile court’s order terminating reunification services and setting a Welfare and Institutions Code section 366.26 hearing regarding C.Q.² Mother contends that the juvenile court should not have terminated her reunification services and set the section 366.26 hearing because substantial evidence did

¹ The child’s father is not a party to this writ proceeding.

² All further unspecified code sections refer to the Welfare and Institutions Code.

not support the juvenile court's finding that the San Francisco Human Services Agency (the agency) provided reasonable reunification services. We are not persuaded by mother's argument and deny mother's petition for an extraordinary writ on the merits. We also deny her request for a stay as moot.

BACKGROUND

The Petition

Mother has two sons, including C.Q. On October 3, 2011, the agency filed a petition that C.Q., who was less than one year old at the time, was a child described by section 300, subdivisions (b) and (j). The petition alleged, among other things, that mother left the baby in the care of an inappropriate caretaker for three days, despite her preexisting agreement with the agency not to do so. The petition also asserted that mother had a prior history with child protective services regarding her older child, which included six referrals of neglect and physical abuse. Mother had lost custody of her older child after failing to reunify in a prior dependency proceeding. The petition also alleged that mother had a criminal history related to drugs and theft. The petition stated that the whereabouts of the alleged father was unknown.

The Detention

The agency filed a detention report on October 3, 2011. The report prepared by Barbara Moss, a child welfare worker, stated that mother's relative informed her that mother had left C.Q. with his maternal grandmother from September 23, 2011, until September 25, 2011, despite documentation that the maternal grandmother used and continued to be addicted to crack cocaine. A prior non-court case agreement with mother provided that mother and child were not to live with the maternal grandmother. On September 26, 2011, mother, according to the report, left C.Q. at the maternal aunt's home without adequate provisions.

The detention report indicated that the people with whom mother and C.Q. were living denied the agency any access to their home. The report stated that mother had refused to obtain adequate housing for herself and C.Q. Mother had been accepted into

Cameo Transitional Housing, but she refused this housing when it became available and indicated that she did not want to live there.

The report stated that mother had an older son who had been born with medical problems and was later diagnosed with a heart condition. The older sibling had been removed from mother's home because of her inability to provide proper care for him. Reunification services related to this older sibling were provided and then terminated on July 14, 2010. The child was placed with the maternal great-aunt, and she became the legal guardian in November 2010.

The report stated that mother had a prior criminal history involving possession of a controlled substance, theft, and battery. Mother had failed to test for drugs consistently, despite her non-court case plan requiring random drug testing.

The court detained C.Q. and approved placement of the child with a relative.

Jurisdiction and Disposition

The agency filed its jurisdiction and disposition report on November 15, 2011. In addition to setting forth the allegations delineated in the detention report, this report indicated that mother's own mother was addicted to crack cocaine when mother was born and mother was "cognitively delayed." Mother had been in the foster care system as a child and was eventually adopted by her sibling's paternal grandmother. Child welfare worker Moss recommended that mother receive a psychological evaluation because of mother's cognitive issues and because of her admission that she had anger management problems.

The agency recommended reunification services for mother despite the fact that reunification services for her other child had been terminated in a different dependency proceeding and section 361.5, subdivision (b) applied. The agency made this recommendation because mother had stated that she was willing to participate in the recommended services and she had petitioned the court to have the guardianship of her older son terminated and to have the child placed with her.

The recommended plan set forth in the disposition report was that mother was to undergo a psychological evaluation and follow any recommended treatment. Mother was

also to have individual therapy to address her history of growing up in foster care, anger issues, self-esteem issues, and ability to parent. Mother was to complete a parenting education program focusing on infants and toddlers and she was to obtain and maintain suitable housing for herself and C.Q. for a reasonable period of time prior to reunification. Mother was to visit C.Q. on a regular basis and to maintain other contact and involvement as arranged by the child welfare worker. Mother was to refrain from substance abuse and submit to random drug testing and have six consecutive clean tests.

In the disposition report, Moss expressed “serious concerns” about mother’s commitment to reunification. Moss explained: “[Mother] failed to reunify with an older child and has only stated that she definitely would like to reunify with this child. However, she has not visited the child since the detention. The mother recently informed [Moss] that she did not visit the child due to a lack of funds for transportation.” Moss stated that she explained to mother that the agency would assist her by providing the funds to visit her child but mother failed to make any contact with Moss in order to obtain the funds. Moss also offered mother the opportunity to see C.Q. when Moss was meeting with the maternal aunt and C.Q.; mother never responded to the message extending this offer.

Moss wrote in the jurisdiction and disposition report that she explained to mother “the seriousness of her history of not reunifying with her older son and her lack of participation in the services provided to her during the non-court case for the child.” Moss recommended that the court consider terminating mother’s reunification services if she did not engage fully in the recommended services within a period of 60 days.³

The juvenile court held a jurisdiction and disposition hearing and mother submitted to jurisdiction and disposition on an amended petition. The court ordered mother to participate in the recommended services, as specified in the agency’s jurisdiction and disposition report. The court’s order stated that reunification services could be terminated within six months for failure to participate regularly in the

³ The agency recommended that the court refuse to offer reunification services to the alleged father and his whereabouts were unknown.

reunification requirements ordered by the court. The court found that father's whereabouts were unknown.

Six-Month Status Review

The agency filed its six-month status review report on June 3, 2012. The agency recommended terminating reunification services and setting a hearing under section 366.26. The report stated that mother continued to have limited parenting skills and continued to make inappropriate decisions regarding the child. Exemplifying this problem was mother's request for permission to take C.Q. to see her current boyfriend—not C.Q.'s father—who was incarcerated. She also asked Moss if her boyfriend could live with her and C.Q. after his release from prison.

The report stated that mother had visited C.Q. just three times since his detention in September 2011, despite being provided funds for travel. Moss had observed mother visiting with C.Q. on one occasion and mother appeared uninterested in the visit. According to the maternal aunt, when mother visited, she spent a significant amount of time on the telephone with her friends. Mother had attended parenting classes, but stopped attending before completing the course.

Mother had not started individual therapy despite being assigned to one therapist and then later referred to another mental health facility. Mother had been recently arrested for prostitution.

The Contested Six-Month Review Hearing

The juvenile court held a contested six-month review hearing on August 22, 2012. Child welfare worker Moss testified. On cross examination, counsel asked Moss whether there were problems impacting mother's ability to visit her son. Moss testified that C.Q. had been placed with the child's maternal aunt and mother and she had a dispute in May or April and both mother and C.Q.'s aunt did not want the visits to take place in the home. Prior to this dispute, the agency had "provided a hundred and something dollars a month" for mother "in order for her to be able to visit." Mother had requested placement of C.Q. closer to her and Moss made four separate appointments with mother to discuss this issue. Mother did not show up for any of the four appointments.

Moss agreed that Mother had requested that C.Q. be placed in the home of mother's aunt who had custody of C.Q.'s older sibling. Moss, however, indicated that she would not recommend placing C.Q. with mother's aunt because mother had previously complained about her aunt's care of this child. Mother had said that her aunt, among other things, did not buy her son clothing and gave him whippings. Mother wanted her older son to have a relationship with C.Q., but Moss explained that the two boys did not have an established relationship. She added that C.Q. was doing very well in his current placement. Moss stated that she had a visit with C.Q. and the caretaker at least once a month. Moss admitted that mother had complained that she was concerned about other people living in the home but Moss had found no evidence substantiating this claim.

Moss testified that she had made referrals for mother to have individual therapy at Bayview-Hunters Point. At one point mother was in Moss's office and said she was going to the appointment, but she never went to this appointment or any appointment. Prior to the referral to Bayview, Moss had referred mother to another therapist. That therapist dropped mother because of mother's failure to attend her appointments.

Moss testified that mother had been attending the parenting class when Moss prepared her report, but she was no longer attending the class. She did not complete the course. Moss acknowledged that mother's tests for substance abuse were all negative.

Mother reported to the court that her sister, C.Q.'s aunt and caregiver, had told her that she did not want C.Q. anymore. She stated that she told Moss that her sister did not want C.Q. and that Moss needed to find another placement. She conceded that she had complained earlier about her aunt who was taking care of C.Q.'s older sibling, and asked the court to remove him from her aunt's home. She said that she did not feel that it was fair that C.Q. could not be with his brother.

At the close of the hearing, the juvenile court found by clear and convincing evidence that reasonable efforts had been offered or provided to mother, and that she had not participated regularly and fully in her reunification requirements. The court found that returning C.Q. to mother at this time would create a substantial risk of detriment to

his safety or well-being. The court ruled that C.Q.'s placement was necessary and appropriate and that it would be detrimental to remove him from his placement at this time because he had been there since October 2011, and it had been his only bonding experience. The court concluded that it was terminating mother's reunification services because mother's participation in her reunification requirements had been minimal, the child was under the age of three years, and it was unlikely that C.Q. would be returned to mother within the period of 12 months since the time of detention. The court set the section 366.26 hearing for January 2, 2013.

Mother filed a petition for extraordinary writ in this court, and challenged the court's orders terminating services and setting a section 366.26 hearing for C.Q. Mother also requested an immediate stay of the section 366.26 hearing.

DISCUSSION

In the present case, C.Q. was under three years of age when detained and the juvenile court terminated mother's reunification services at the six-month status hearing. Mother challenges the termination of her reunification services and claims that the juvenile court erred in failing to grant her request for an additional six months of services.

If a child is not returned to the parent's custody at the six-month hearing, and that child was under three years of age at the time of the initial removal, the juvenile court may schedule a hearing under section 366.26 in the event that it finds "by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan." (§ 366.21, subd. (e).) If that finding is made, then the court may continue reunification services *only* if the court finds either that there is a substantial probability the child will be returned within six months or that reasonable reunification services were not provided. (§ 366.21, subd. (e).) If the court finds that reasonable services were not provided, the court shall continue the case to the 12-month permanency hearing. (§ 366.21, subd. (e).)

In the present case, mother does not argue that there is a substantial probability that C.Q. would be returned to her within six months. Rather, she asserts that the agency did not provide her with adequate reunification services.

The agency must make a good faith effort to develop and implement reasonable services responsive to the unique needs of each family. (*In re Kristin W.* (1990) 222 Cal.App.3d 234, 254.) The effort must be made, in spite of difficulties in doing so or the prospects of success. (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1790.) The adequacy of the reunification plan and of the agency's efforts to provide suitable services is judged according to the circumstances of the particular case. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1362.) Services are reasonable if the agency 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 (such as helping to provide transportation . . .)." (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414, italics omitted.)

"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 legitimate and reasonable inferences to uphold the verdict. If there is substantial evidence supporting the judgment, our duty ends and the judgment must not be disturbed. [Citations.] ' " ' [W]hen two or more inferences can reasonably be deduced from the fact,' either deduction will be supported by substantial evidence, and 'a reviewing court is without power to substitute its deductions for those of the trial court.' " ' " (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) Mother has the burden of demonstrating that no evidence of a sufficiently substantial character supports the juvenile court's order. (*In re Geoffrey G.* (1979) 98 Cal.App.3d 412, 420.)

Preliminarily we note that mother failed to challenge in a timely fashion the adequacy of the reunification services offered. If mother "felt during the reunification period that the services offered her were inadequate, she had the assistance of counsel to seek guidance from the juvenile court in formulating a better plan." (*In re Christina L.* (1992) 3 Cal.App.4th 404, 416.) A parent may not "wait silently by until the final reunification review hearing to seek an extended reunification period based on a perceived inadequacy in the reunification services occurring long before that hearing.

[Citation.]” (*Los Angeles County Dept. of Children etc. Services v. Superior Court* (1997) 60 Cal.App.4th 1088, 1093.) In the present case, mother complained to the social worker but never attended the scheduled meetings to discuss any problems she was having with visiting C.Q. She waited until the hearing to terminate reunification services to argue that her services were inadequate. Thus, her challenge is untimely.

Furthermore, mother’s argument fails on the merits as the record amply supports the juvenile court’s decision that the services provided were reasonable. The proper focus of reunification services is to eliminate the conditions that led to the trial court’s jurisdictional finding. (*In re Precious J.* (1996) 42 Cal.App.4th 1463, 1474.) Here, the jurisdictional findings were based on mother’s limited parenting skills, her exercising poor judgment and making inappropriate decisions regarding C.Q., and her failure to provide adequate housing for C.Q. The reunification plan properly focused on these issues. Among other things, the reunification plan required mother to undergo a psychological evaluation, have individual treatment, complete a parenting education course focusing on infants and toddlers, visit regularly with C.Q., and obtain and maintain suitable housing.

The record demonstrates that the agency attempted to aid mother but mother did not cooperate. Child welfare worker Moss provided mother with referrals for mental health services but even after mother assured Moss that she was going to the therapist immediately after her visit with Moss, mother did not attend her appointments. The agency provided mother with money to pay for public transportation to visit C.Q., but mother visited only three times since the detention. When mother visited C.Q., she appeared uninterested in the visit and spent time talking to her friends on the telephone. Mother did not complete her parenting course. When mother complained that she wanted C.Q. to be placed closer to her, Moss made four separate appointments with mother to discuss this issue and mother failed to attend any of the four appointments.

Mother argues that she was simply told to get therapy and that she should have been told more than just where to go, especially since she has some developmental delays. (See *In re Monica C.* (1995) 31 Cal.App.4th 296, superseded by statute on

another issue.) She also complains that visitation was impossible because she had a bad relationship with her sister and C.Q. had been placed with her sister. She asserts that she asked for a different placement for C.Q. and criticizes the agency for failing to investigate the appropriateness of placing C.Q. in the home with his older sibling.

Mother's reliance on *In re Monica C.*, *supra*, 31 Cal.App.4th 296 is misplaced. In *Monica C.*, the reunification services agreement made no provision for visitation and the social services agency never arranged a single visit for the incarcerated mother. The reunification services agreement required the mother to send the social services agency a list of services available at prison. (*Id.* at pp. 306-310.) In contrast, in the present case, the agency provided mother with specific referrals; mother never indicated that she had insufficient information or any reason for not going to her therapy appointments. To the contrary, as already stressed, mother told Moss at one meeting that she was going to her appointment right after meeting with Moss and then failed to go. Additionally, the agency attempted to help mother visit C.Q. by providing her with money for public transportation and Moss invited mother to accompany her when she visited C.Q., but mother never responded to the offer.

Mother ignores that it was her actions, not the actions of the agency, preventing her from receiving reunification services. She asked to have C.Q. placed in the home with his older brother but she had done nothing to ensure that the boys had any relationship. Moreover, she overlooks that she previously complained to Moss about the care the older sibling was receiving from his guardian. Furthermore, mother completely disregards that C.Q. is thriving in his placement and has bonded with his maternal aunt. Moss indicated that she was willing to discuss the problems mother had with visiting C.Q. at the home of her sister, but mother did not bother to come to any of the appointments. Furthermore, even when mother did visit, she appeared disinterested.

The record shows that mother failed to participate in reunification services or to benefit from the services offered. The reunification services offered were designed to remedy the problems leading to the removal of C.Q. and the agency maintained reasonable contact with mother and made reasonable efforts to assist her in areas in

which compliance proved difficult. (See *In re Riva M.*, *supra*, 235 Cal.App.3d at p. 414.) Mother did not avail herself of the agency's offers of help. Accordingly, we conclude that the agency provided mother with reasonable services and the record supports the juvenile court's order terminating mother's services and setting a section 366.26 hearing.

DISPOSITION

We affirm the order terminating reunification services and setting a section 366.26 hearing. The petition for extraordinary writ is denied on the merits. (*Kowis v. Howard* (1992) 3 Cal.4th 888, 894 [barring later challenge by appeal].) The request for stay is denied. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 8.490(b)(3).)

Lambden, J.

We concur:

Kline, P.J.

Haerle, J.