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

G. F.,

Petitioner,

v.

SUPERIOR COURT OF ALAMEDA  
COUNTY,

Respondent,

ALAMEDA COUNTY DEPARTMENT  
OF SOCIAL SERVICES et al.

Real Parties in Interest.

A136673

(Alameda County Nos. OJ-11-018011  
& OJ-11-018012)

G.F. (Mother) seeks extraordinary relief from orders of the Alameda County Superior Court, Juvenile Division, entered September 18, 2012, terminating Mother's reunification services after the six-month status review hearing, and setting a hearing under Welfare and Institutions Code section 366.26<sup>1</sup> to select a permanent plan for her twin daughters, K.F.-1 and K.F.-2 (born November 2011). Mother contends essentially that the juvenile court erred in finding that the Alameda County Department of Social Services (Department) offered or provided her with reasonable reunification services, and in finding Mother had failed to make substantial progress in her court-ordered treatment

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

plan during the period under review. We conclude substantial evidence supports the challenged findings, and deny on the merits Mother's petitions for extraordinary writ.<sup>2</sup>

### **BACKGROUND**

At the time of the infant girls' birth in November 2011, Mother was 15 years of age, and herself a dependent of the juvenile court, placed in a foster home in Stanislaus County. The Stanislaus County social services agency took the minors<sup>3</sup> into protective custody a few days later, due to Mother's history of running from her foster placement and engaging in prostitution, and a concern that Mother intended to run away with the minors. Mother did in fact run away from her placement five days after the minors were removed from her custody.

The Department filed a dependency petition as to the minors on November 28, 2011. The petitions sought dependency jurisdiction under section 300, subdivisions (b) and (g), alleging, as ultimately amended, that: (b-1) Mother was a dependent of the juvenile court, had an ongoing pattern of running away, and a history of sexual exploitation; (b-1) Mother had refused provide any information to hospital staff regarding the identity of the father; and, (g-1) the father's whereabouts and ability to provide care were unknown.

The juvenile court ordered formal detention of the minors on November 29, following a hearing at which Mother appeared through counsel.

The Department's jurisdictional/dispositional report, completed on December 9, 2011, indicated Mother's whereabouts were unknown since her going AWOL from her foster placement on November 27. Mother had been a "chronic runaway," according to the social worker (SW) who was currently assigned to Mother's (not the minors') dependency proceeding. This SW had attempted to locate Mother through various

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<sup>2</sup> Section 366.26, subdivision (l)(1)(A), bars review on appeal if the aggrieved party has not made a timely writ challenge to an order setting a hearing under section 366.26, and encourages the appellate court to determine such writ petitions on their merits. (§ 366.26, subd. (l)(4)(B).)

<sup>3</sup> For the sake of clarity, any reference hereafter to "minor" or "minors" refers to the infant girls and not to Mother.

telephone numbers, including that of Mother's "pimp." The report recommended Mother be offered reunification services should she "resurface" from being AWOL.

An addendum report, completed on January 5, 2012, reported Mother was no longer AWOL, having returned to her foster care placement on December 6. The minors were placed "relatively close" to Mother's own foster placement, and it appears Mother had at least one visit with them on December 16, and possibly more afterwards, before she cancelled a visit scheduled for December 28.

At the conclusion of a contested jurisdictional/dispositional hearing, held January 9, 2011, the juvenile court sustained the amended jurisdictional allegations summarized above, adjudged the minors dependents of the court, and adopted the Department's dispositional recommendations. The reunification case plan adopted by the court required Mother to complete a psychological evaluation, and follow any recommended treatment, including individual therapy, and to participate in a parenting class to learn the developmental stages of her daughters.<sup>4</sup> The court's visitation order directed that Mother have visitation with the minors "as frequently as possible consistent with [their] . . . well-being."

From a subsequent *ex parte* application filed by Mother's counsel on May 15, 2012, it appears Mother had again run away from her foster placement in late December 2011,<sup>5</sup> and her whereabouts had been unknown until January 25, 2012, when she was detained in Los Angeles on a misdemeanor charge of soliciting an act of prostitution. (Pen. Code, § 647, subd. (b).) Mother was afterwards transported to the Alameda County Juvenile Justice Center (JJC), and after a delinquency dispositional hearing on March 8,

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<sup>4</sup> The "service objectives" of the case plan additionally called for Mother to show her ability and willingness to have custody of the minors, cooperate with assigned SW and care provider, and comply with medical or psychological treatment, in order to resolve her problems and achieve reunification, comply with court orders, express anger appropriately and refrain from acting negatively on her impulses, and maintain her relationship with her children by following the conditions of the visitation plan.

<sup>5</sup> Thus Mother had appeared only through her counsel at the jurisdictional/dispositional hearing on January 9.

was adjudged a ward of the juvenile court under section 602, and placed in the custody of the county's Juvenile Probation Office (JPO).<sup>6</sup> Mother's counsel reported she was still detained at the JJC as of May 15, and had neither visited with her children nor received the psychological evaluation required by her case plan. Her counsel thus sought, and the juvenile court granted on May 15, an order directing the Department and the JPO to cooperate and provide Mother with appropriate space for supervised visitation—as frequently as possible consistent with the minors' best interests—and directing both agencies to take the steps necessary to complete Mother's psychological evaluation.

Four days later, Mother's counsel filed section 388 petitions seeking a modification of orders directing the Department to offer reunification services better suited to Mother's current placement in the JJC, and her anticipated transfer and placement in an out-of-state facility.

Not long afterward, on May 24, 2012, the Department completed its report for the six-month status review hearing, in which it recommended the termination of Mother's services and the setting of a section 366.26 hearing to select permanent plans for the minors. The assigned SW reported Mother remained in custody at the JJC and was expecting to be transferred to an out-of-state placement. The SW further stated she had been assigned to Mother's case on January 12, shortly after the jurisdictional/dispositional hearing, and, as Mother was AWOL from her foster placement at that time, the SW had been unable to contact her. The SW first learned on February 10 that Mother had been arrested in Los Angeles two weeks earlier, and first learned on March 1 that Mother was in custody at the JJC. On March 9, the SW learned Mother had been adjudged a ward of the delinquency court, and on March 15 she contacted Mother's JPO officer, at which time she requested approval to visit Mother at the JJC, and also inquired about possible visitation. The probation officer told the SW "visitation was not an option" as it "was not safe for the infants at [the JJC]." The next day, March 16, the SW contacted a new JPO officer regarding visitation, and the officer

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<sup>6</sup> At this point the juvenile court's jurisdiction over Mother changed from dependency jurisdiction under section 300 to delinquency jurisdiction under section 602.

said she would “follow up” on the inquiry, noting that any such visitation at the JJC would be regarded as a “special visit.” The SW’s initial visit with Mother took place at the JJC on March 19. The SW contacted the JPO officer again on March 27 and March 30, asking again about available services and visitation, and provided the JPO officer with information about Mother’s reunification case plan. On May 16, the SW provided the JPO officer with a copy of the ex parte order that Mother’s dependency counsel had obtained on May 15, which directed the JPO to cooperate with the SW in arranging visitation.

Concerning Mother’s case plan requirements to complete a psychological evaluation and parenting education, the SW reported she had learned, on March 27, 2012, that there was a waiting list of several months to obtain a psychological evaluation through the West Coast Children’s Clinic—the provider to which the Department had initially intended to make its referral at the time of the jurisdictional/dispositional hearing. On that date the SW requested that the JPO officer set up the evaluation through the JJC’s Guidance Clinic. After learning, on April 3, that parenting classes were not available at the JJC, the SW, two days later, contacted Mother’s individual therapist and requested that she include parenting education in her therapy sessions, at least during the time Mother was at the JJC and unable to access classes. At this time, the therapist reported she was having difficulty obtaining the necessary approval from the JPO to visit Mother at the JJC in order to provide weekly therapy. On that same day the SW contacted the JPO officer to address the issue of the therapist’s regular visits, and to request again that Mother be placed on the list for a psychological evaluation through the Guidance Clinic. The SW repeated the latter request on April 18, and on April 27 the JPO officer said she would make the request on May 4, at Mother’s next delinquency hearing. On May 16, the SW provided the JPO officer with a copy of the ex parte order, which, as noted above, had been obtained by Mother’s dependency counsel one day earlier, and which ordered the JPO to cooperate with the SW in arranging a psychological evaluation for Mother.

An addendum report, completed July 18, stated the SW had continued efforts to arrange with the JPO for Mother to have visitation with the children at the JJC. After attempting to schedule visits on May 22 and May 29, the SW was able to confirm a scheduled visit for June 6. On May 31 the SW learned that the juvenile court—at a hearing held in Mother’s delinquency case—had ordered a visit to occur at the JJC no later than June 5. The SW facilitated and supervised a visit on that date. While waiting for this visit to begin, the SW learned from the JPO officer that Mother was scheduled to be placed out-of-state on June 12. The SW was able, with the assistance of Mother’s appointed counsel in both her delinquency proceeding and the minors’ dependency proceedings, to arrange a second visit on June 11.

The following day Mother was transferred to the Mingus Mountain Academy (the Academy) in Arizona—a facility designed for emotionally and behaviorally at-risk teenage girls.<sup>7</sup> In the addendum report, the SW noted a later conversation she had with Mother’s case manager at the Academy, from whom she learned Mother was taking school classes, and was also engaged in individual therapy, group therapy, and anger management, and was soon to begin a parenting class. The SW asked the case manager to arrange a psychological evaluation for Mother as well. The case manager reported that the average stay for girls placed at the Academy was nine to 12 months.

A combined hearing on Mother’s section 388 petitions and the six-month status review commenced July 27, 2012, at which time the juvenile court admitted the above-mentioned reports and heard testimony from the SW. The court continued the hearing after directing the SW to coordinate with the case manager at the Academy, to determine if safe arrangements for Mother’s visitation with the minors could be arranged at that facility, with instructions to report back to the court.

In its report filed August 10, 2012, the SW recommended that court deny Mother’s request for out-of-state visitation. She explained Mother’s case manager at the Academy had reported the facility could supervise visits but could not provide parenting support;

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<sup>7</sup> See <<http://www.mmaaz.com>> (as of January 10, 2013).

the Academy could also assist in local accommodations and transportation for the foster parents and the minors. Mother's therapist at the Academy stated she could observe such visitation if it were ordered. But the foster parents said they would need one month's advance notice of visitation, if ordered, due to the logistical and work-related difficulties the foster father faced in scheduling such travel. Also, the JPO had not offered to support visitation, and its plan was eventually to return Mother to the care of her father, who had been denied approval for relative placement. The SW additionally noted the extent of travel would be taxing on the minors due to their young age. Their current developmental stage (almost 10 months of age) made it difficult for them to handle any change in their daily routine, and visitation would be difficult for the same reason, given their lack of any significant relationship with Mother since their birth, a lack attributable to Mother's AWOLs from the dependency placements that preceded her delinquency placements. The SW finally pointed to the fact she was recommending termination of Mother's services, because she did not feel she could successfully reunify with the minors if given additional reunification services. Mother's counsel in the minors' dependency proceeding interposed a forceful opposition to the SW's recommendation.

In a second addendum report, signed September 14, 2012, the SW noted subsequent reports from the Academy stated Mother's behaviors "were becoming more negative," she had required "redirection for inappropriate conversation regarding prostitution, not taking responsibility for her behavior, and minimizing her negative behaviors." Also, given the JPO plan to return Mother to her father's care after her discharge from the Academy, family therapy between the two was an important component, yet her father had not participated in such therapy nor responded to the contacts Mother had attempted by telephone.

At the conclusion of the combined hearing, on September 18, 2012, the juvenile court terminated Mother's reunification services and set the matter for a hearing under section 366.26. The court also granted a motion by Mother's counsel to withdraw her section 388 petitions.

Mother's petition followed. (§ 366.26, subd. (l).)

## DISCUSSION

### I. *Reasonable Services*

The juvenile court found, among other things, that the Department had offered or provided Mother with reasonable reunification services. Mother challenges this finding, contending specifically that the Department failed to provide her with reasonable visitation during her custody at the JJC. Although the SW reported the JPO officer had informed her visitation with her infant daughters was not an option at the JJC, Mother points out a visit did occur once it was ordered by the juvenile court in Mother's delinquency proceeding. She questions the Department's good faith efforts to provide reasonable services, arguing the SW "passively accepted" the JPO's refusal to accommodate visitation and suggesting the SW unreasonably failed to exert more active efforts to obtain a court order compelling the JPO's compliance with the visitation order made at the time of the jurisdictional/dispositional hearing.

In reviewing the challenged finding, we examine the record in the light most favorable to the juvenile court's order, to determine whether there is substantial evidence from which a reasonable trier of fact could have made the finding under the clear and convincing evidence standard. (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 694 (*Isayah C.*)) We construe all reasonable inferences in favor of a finding regarding the adequacy of an agency's reunification plan and the reasonableness of its efforts. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46 (*Julie M.*)) We likewise resolve conflicts in favor of such a finding and do not reweigh the evidence. (*In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.)

As detailed above, the reports admitted at the six-month hearing stated Mother was AWOL at the beginning of the review period, was arrested in Los Angeles, and, it appears, was later transported to the JJC around March 1. The SW, on March 15, promptly sought approval from the JPO to visit with Mother, and inquired about visitation for her. The SW continued her efforts to arrange visitation, *after* the JPO officer informed her on that date that such visitation was "not safe" and therefore "not an option." The SW apprised the JPO officer of Mother's case plan requirements. Thus it

appears the officer was on notice as early as March regarding the visitation order issued on January 9 as part of Mother's court-ordered case plan. The SW also promptly apprised the JPO officer of the ex parte order obtained by Mother's dependency counsel on May 15, directing the JPO to cooperate in providing visitation. After this, the SW was successful in scheduling a visit for June 6, facilitated and supervised the June 5 visit that superseded the June 6 visit, and, with the help of Mother's attorneys, successfully arranged and supervised a second visit on June 11, the day before Mother's transfer from the JJC to the Academy in Arizona.

An agency is not obligated to provide the best services possible in an ideal world, but only those that are reasonable under all the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547; *Julie M.*, *supra*, 69 Cal.App.4th at p. 48.) In our view, the foregoing evidence provides substantial support for the juvenile's court conclusion—implied in its finding of reasonable services—that the SW made reasonable efforts to provide visitation for Mother during the time she was confined at the JJC. The SW by no means “passively accepted” the JPO's initial refusal of visitation, but made repeated efforts to arrange visits afterwards. After apprising the JPO of the preexisting visitation order and the later ex parte visitation order, we do not consider it unreasonable that the SW did not seek an additional order from the juvenile court.

We conclude substantial evidence supports the juvenile court's finding that the Department offered or provided Mother with reasonable visitation services under the particular circumstances of this case.

## **II. *Failure to Make Substantive Progress in Court-Ordered Treatment Plan***

Another of the juvenile court's findings was that Mother had “failed to participate regularly and make substantial progress in [her] court-ordered treatment plan.” Mother claims this finding is erroneous. Her position is that she *did* make substantive progress in her case plan “once she was offered . . . services.” Mother urges she cannot be faulted for failing to complete the objectives of her case plan, and any such failure must be attributed to the SW's failure to cooperate with the JPO officer, to ensure she was given a fair opportunity to complete her objectives.

This challenged finding, made under the clear and convincing evidence standard of proof, was necessary for juvenile to terminate services at the six-month hearing and exercise its discretion to set a hearing under section 366.26. (See § 366.21, subd. (e).) We review such a finding to determine whether it is supported by substantial evidence. (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-881.) Thus we review the record in the light most favorable to the juvenile court's ruling, and uphold the finding when there is substantial evidence permitting a reasonable trier of fact to make the finding under the clear and convincing standard of proof. (*Isayah C., supra*, 118 Cal.App.4th at pp. 694-695.)

Mother's argument, in essence, is that she *could* have made substantive progress had she been given reasonable services relating to the components of her plan other than visitation—that is, a psychological evaluation and parenting education. We have summarized above the SW's effort to address these components beginning in March 2012, when she first made contact with Mother at the JJC. She repeatedly requested the JPO officer to set up a psychological evaluation through the JJC's Guidance Clinic. It appears this evaluation never occurred, even though the JPO officer promised to raise the issue on May 4, at the next of Mother's regularly scheduled delinquency status hearings. The SW apprised the JPO officer on May 16 of an order issued one day earlier, which specifically directed the JPO to cooperate with her in arranging a psychological evaluation. After finding that parenting education was not offered at the JJC, the SW arranged for Mother's individual therapist include at least some parenting education in her weekly sessions. Once Mother was transferred from the JJC to the Academy on June 12, the SW learned she would soon be starting a parenting class; at that time she asked Mother's case manager there to arrange a psychological evaluation as well. We note that by June 12, six months had already elapsed since the jurisdictional/dispositional hearing on January 9. Nevertheless, in the final addendum report signed September 14, the SW reported that Mother's progress at the Academy had recently stalled due to her exhibition of negative behaviors, which she minimized, and by the need to redirect her inappropriate conversations regarding prostitution.

We have no difficulty concluding that, here too, the SW made reasonable efforts to provide Mother with an opportunity to complete her psychological evaluation and participate in parenting education. She arranged a reasonable accommodation for the parenting component through Mother's individual therapist, after learning the JJC did not offer parenting classes. If the SW was unsuccessful in arranging the timely completion of a psychological evaluation, she certainly made reasonable efforts to do so, and she promptly gave the JPO officer notice of the May 15 ex parte order, which directed the JPO to cooperate with the SW in completing the evaluation. Neither the SW nor the Department, in our view, may be faulted for the delay in obtaining a psychological evaluation. We conclude substantial evidence supports the finding that the Department offered or provided reasonable services as to these component's of Mother's court ordered plan.

Turning to the challenged finding regarding Mother's failure to make "substantive progress" during the period under review, we observe that the normal time limits for services are not extended for incarcerated parents. (§ 361.5, subd. (e).) While certain statutory provisions (see, e.g., § 361.5, subds. (a)(3), (e)) call for special consideration of incarcerated parents, these parents must still meet their case plan requirements and are not given a "free pass" with regard to compliance. That there are barriers to compliance unique to incarcerated parents is but one of many factors the juvenile court must take into account when deciding how best to proceed in the best interests of the dependent child. (*A.H. v. Superior Court* (2010) 182 Cal.App.4th 1050, 1060.) In light of these principles, and viewing the foregoing evidence in the light most favorable to the juvenile court's ruling, we conclude substantial evidence supports the court's finding, made under the clear and convincing standard of proof, that Mother failed to participate regularly and make substantive progress in her court ordered treatment plan. (§ 366.21, subd. (e).)

#### **DISPOSITION**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior*

*Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately.  
(Cal. Rules of Court, rules 8.452(i), 8.490(b)(3).)

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Banke, J.

We concur:

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Marchiano, P. J.

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Margulies, J.