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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re K.J., a Person Coming Under the
Juvenile Court Law.

B232324

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK72975)

Plaintiff and Respondent,

v.

Y.K.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,
Marguerite Dowling, Judge. Affirmed.

Lori A. Fields, under appointment by the Court of Appeal, for Defendant and
Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County
Counsel, and Aileen Wong, Deputy County Counsel for Respondent.

Mother Y.K. appeals from a juvenile court order terminating reunification services for her in this dependency proceeding concerning her daughter, K.J. She contends that the Los Angeles Department of Children and Family Services (the Department) failed to provide reasonable services or to acknowledge her progress in addressing issues which led to dependency jurisdiction. We find no basis for reversal and affirm.

FACTUAL AND PROCEDURAL SUMMARY

Mother has two daughters, E.B. (born in July 2006), and K.J. (born in August 2008). A dependency proceeding as to the older girl, E.B., was initiated by the Department in May 2008 because mother was incarcerated and failed to make appropriate plans for E.B.'s care. (E.B. is not a subject of this appeal.) Mother was released from state prison on August 14, 2009, but failed to comply with the plan that she reside in Phoenix House where she could have the children in her care while she received services. Social workers were unable to locate K.J. to check on her welfare for the next month because mother and other relatives would not say where the child was. Mother was rearrested on August 26, 2009 on a felony assault charge. K.J. was located by the Department and taken into protective custody on September 21, 2009. A petition under Welfare and Institutions Code section 300 was filed in September 2009 alleging that K.J. is a dependent child.

In November 2009, the juvenile court sustained allegations of the petition that mother had a history of activities which endangered K.J., including illegal drug trafficking, secreting the child from the Department, and conduct which led to E.B. being declared a dependent child due to mother's incarceration.¹ Reunification services were ordered for mother. They included drug rehabilitation with random testing and individual counseling. On December 14, 2009, reunification services for mother were terminated in

¹ K.J.'s father is not a party to this appeal, so we omit any factual or procedural summary relating to him.

E.B.'s dependency proceeding. The Department failed to provide mother with referrals for services in K.J.'s case between the November 24, 2009 hearing and May 4, 2010.

At a hearing in May 2010, mother sought to complete the random drug testing aspect of her reunification plan through testing she was required to do as a condition of her parole. Her attorney indicated that mother was willing to sign the necessary release of information. The juvenile court warned that the parole drug test results would have to be made available to the Department or mother would have to drug test through Pacific Toxicology. In a last minute information for the court on July 22, 2010, the social worker confirmed that in May 2010 mother made it clear she intended to random test through parole and that the worker could get her test results from the parole agent. The social worker had attempted to contact the parole agent several times and left voice mail messages but had not received a response, nor had she been provided results from the drug tests performed through parole. The social worker also noted that mother had failed to test through Pacific Toxicology during this period.

At the six-month review hearing on August 4, 2010, the juvenile court found the Department had not provided mother adequate services. It ordered mother to receive additional services in the form of individual counseling, parenting education, and drug rehabilitation with random testing.

Mother began individual counseling with Marissa Bergh of Project Impact in June 2010 and continued throughout the remainder of the case. But mother did not succeed in making her participation consistent. As of November 22, 2010, she had attended only 8 of 16 counseling sessions. Mother continued to experience problems with drug testing. Arrangements were not made for the Department to obtain random drug test results from the Department of Corrections and mother did not test with Pacific Toxicology. At the review hearing on December 14, 2010, counsel reminded the court that his client understood that she could test through parole and asked that the Department contact mother's parole agent to confirm her compliance. The court ordered the social worker to contact mother's parole agent to see if the testing information was available. Mother was

ordered to sign any authorizations necessary to obtain the drug test results from her parole agent.

In an Interim Review Report for February 2, 2011, the social worker noted that mother did not want to random drug test for the Department because she was doing so as a condition of parole and those results would be available to the Department. The social worker's report stated: "It should be noted Parole does not share this type of information with other agencies." The social worker did not cite a source for this information, which as it turned out, was erroneous. Three paragraphs later in the same report, the social worker stated that she had contacted the Department of Corrections on January 13, 2011 regarding the procedure to be used to request a parolee's drug test results. The Department of Corrections faxed an authorization form for release of the information and told the social worker that the juvenile court could order the release of drug test results on behalf of a parolee. The same day, the social worker wrote to mother asking her to come to the Department office to sign the form, but the letter was returned by the post office as unable to forward. The worker also had difficulty reaching mother by telephone.

It was not until March 15, 2011 that the social worker reported receipt of mother's drug tests through parole. She had eight negative tests from May 2010 through February 2011 with one positive test for cocaine in December 2010. As of March 8, 2011, mother had attended 15 out of 23 individual counseling sessions. The Department recommended the termination of mother's reunification services. At the 12-month review hearing, the trial court found the Department had made reasonable efforts to enable the return of K.J. to mother and had complied with the case plan. It found mother not in compliance and terminated reunification services. A permanent plan hearing was set.

Mother appealed from the order terminating her reunification services.

DISCUSSION

Mother challenges the sufficiency of the evidence to support the order terminating reunification services. She contends the Department mischaracterized her compliance,

failed to keep apprised of her true progress, and did not provide reasonable reunification services between August 2010 and March 2011.

“Reunification services implement “the law’s strong preference for maintaining the family relationships if at all possible.” [Citation.]’ (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787 (*Elizabeth R.*.) Therefore, reasonable reunification services must usually be offered to a parent. (*Ibid.*) [A social services agency] must make a ““good faith effort”” to provide reasonable services responsive to the unique needs of each family. ([*In re*] *Precious J.* [(1996) 42 Cal.App.4th 1463,] 1472.) ‘[T]he plan must be specifically tailored to fit the circumstances of each family [citation], and must be designed to eliminate those conditions which led to the juvenile court’s jurisdictional finding. [Citation.]’ (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.) An effort must be made to provide reasonable reunification services in spite of difficulties in doing so or the prospects of success. (*Elizabeth R.*, *supra*, at p. 1790.) The adequacy 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.) ‘[T]he record should show that the supervising agency 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’ (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414, original italics.)” (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1501.)

We review an order terminating reunification services for substantial evidence, viewing the record in the light most favorable to the court’s determinations and drawing all reasonable inferences from the evidence to support the findings and orders. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 688-689.) “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.’ [Citation.]” (*Id.* at p. 689.)

At the hearing on March 15, 2011, counsel for mother strongly urged the court to extend reunification services to his client for an additional period because of the social

worker's failure to obtain mother's random drug test results from the parole officer until shortly before the hearing and her failure to maintain contact with mother for long periods. The Department responded that mother had not kept in touch and that she had been given referrals to test at Pacific Toxicology. The Department argued that mother was not in significant compliance because she was not in communication with the Department, had a positive test through parole, and had inconsistent attendance at individual counseling. It asserted that mother had not remedied the situation that gave rise to dependency jurisdiction.

The court found by a preponderance of the evidence that return of K.J. to mother would create a substantial risk of detriment to K.J.'s safety and physical and emotional well-being. After a discussion of the problem in obtaining the parole drug test results, the court noted that mother had a positive drug test in December 2010. It also noted that she failed to complete individual counseling. It found by clear and convincing evidence that in the last six-month period, mother's progress toward alleviating or mitigating the causes necessitating placement had been minimal and that she was not in compliance with the case plan. It found the Department had made reasonable efforts in complying with the case plan. The court specifically found that the delay in provision of services was the result of mother's lack of cooperation with the Department. After noting that the case already had passed the 18-month date for reunification, reunification services were terminated.

We reject the Department's argument that mother has forfeited her arguments regarding the sufficiency of the services provided because they were not raised below. The record reflects that counsel for mother consistently brought these issues to the attention of the juvenile court, particularly at the March 2011 hearing at which services were terminated.

Much of mother's argument is devoted to the problems in the social worker's performance before services were extended for an additional six months in August 2010, although she claims that she focuses only on the period between August 2010 and the March 2011 hearing. Our focus is on the last six months of services. We conclude the

juvenile court's findings and order terminating reunification services are supported by substantial evidence. Although there were problems in obtaining mother's random drug tests through parole for several months, the juvenile court had those test results before it when it terminated services. The random test results reflected a positive test for cocaine within four months of the March 2011 hearing. Although the social worker was not diligent in maintaining contact with mother, mother often was difficult or impossible to reach. The record also demonstrates that mother attended only 15 of 23 individual counseling sessions.

We find no basis for reversal and affirm.

DISPOSITION

The March 15, 2011 order terminating reunification services for mother as to her daughter, K.J., is affirmed.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.