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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JASON J., JR. et al., Persons Coming
Under the Juvenile Court Law.

B263407
(Los Angeles County
Super. Ct. No. CK83691)

JASON J., SR.,

Petitioner,

v.

THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA FOR THE
COUNTY OF LOS ANGELES,

Respondent,

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Real Party in Interest.

ORIGINAL PROCEEDINGS in mandate. Julie Fox Blackshaw, Judge. Petition denied.

Jason J., Sr., in pro. per., for Petitioner.

No appearance for Respondent.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Kim Nemoy, Deputy County Counsel, for Real Party in Interest.

Petitioner Jason J., Sr. (Father) seeks extraordinary writ relief from the juvenile court's order sustaining a supplemental petition filed pursuant to Welfare and Institutions Code section 387,¹ terminating reunification services, and setting a permanent plan hearing regarding his minor children, Jason J., Jr.² and Sarah J. He requests that we direct the juvenile court to terminate dependency and grant him at least 50 percent custody of Sarah. We deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

Father is the presumed father of Jason (born in June 2009) and Sarah (born in October 2011). He is married to (but in the process of divorcing) the children's mother, Joanna A. (Mother), who is involved in the underlying dependency action but is not a party to the instant proceeding.

The family has a long history with the Los Angeles Department of Children and Family Services (DCFS). Jason was declared a dependent for the first time in August 2010, after the juvenile court sustained DCFS's section 300, subdivision (b) allegations that he was at risk of physical harm due to Mother's substance abuse and both parents' domestic violence. Father did not comply with court-ordered services and was verbally abusive to the DCFS social worker. The juvenile court terminated Father's family reunification services in July 2011 due to his noncompliance. The court terminated jurisdiction over Jason in January 2012 and awarded full legal and physical custody of Jason to Mother, with monitored visitation to Father.³ Father was ordered not to reside with Mother.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² According to Father's supplemental filing dated May 26, 2015 and the Los Angeles County Department of Children and Family Services' writ return filed June 10, 2015, Jason passed away on May 15, 2015 at the age of five.

³ Sarah was born during the pendency of Jason's initial dependency proceeding. DCFS did not initiate dependency proceedings on behalf of Sarah at that time because Mother had complied with court-ordered services.

Five months later, in June 2012, the family again came to the attention of DCFS. Medical personnel reported that Mother was not properly administering medication to Jason, who suffered from numerous serious medical conditions including panhypopituitarism, hypothyroidism, epilepsy, and strabismus. According to the reporter, Mother refused to give Jason his prescribed injections of growth hormone, because she believed it caused him to suffer from seizures. The reporter further indicated that Mother was “hostile and in denial” about Jason’s medical needs. When DCFS went to the family home to investigate the allegations, Father was present and “began to raise his voice and become hostile with CSW [children’s social worker].” He was “extremely angry” and “began to complain about DCFS for several minutes and would not allow CSW [the children’s social worker] to interrupt him.”

While the DCFS investigation was ongoing, the children’s maternal grandmother (Grandmother) witnessed Mother and Father engage in a violent altercation in front of the children. Grandmother reported to DCFS that Father pushed Mother to the floor and threatened to “leave her and beat her to death.” The children’s maternal grandfather and aunt corroborated Grandmother’s report. Mother subsequently became confused and delusional and was placed on a psychiatric hold under section 5150. She was found to be psychotic, gravely disabled, and unable to provide self-care. DCFS filed a section 300 petition on behalf of both children on July 24, 2012, alleging that Mother’s medical neglect, mental and emotional problems, and Mother and Father’s ongoing domestic violence placed the children at risk of physical harm. DCFS amended the petition in September 2012 to add allegations of substance abuse by both parents. The children were detained with the maternal grandparents during the pendency of the proceedings.

DCFS interviewed Father in September 2012. He questioned why he should spend money on anger management classes instead of saving it for the children’s college educations. He also refused to pay for court-ordered programs, calling them a waste of time and money, but agreed to participate in reunification services if they were free. He also denied yelling at and threatening to kill Mother. Instead, he claimed, “I destroy people emotionally.” With respect to Jason’s medical needs, Father told DCFS that

Jason did not need growth hormone therapy and that doctors prescribed him expensive drugs to take advantage of the family.

During a phone call with DCFS in October 2012, Father became very upset and aggravated upon being advised that DCFS planned to recommend that he not receive family reunification services. Father swore at the social worker and told her he would contact police if she called him again. In November 2012, he left a voicemail for the same social worker, telling her that he wanted to go parachuting with her and would “take real good care of her, pack her parachute myself.” On November 26, 2012, the juvenile court ordered Father “not to make any threatening remarks” and admonished both parents and DCFS to be respectful toward one another. Notwithstanding these orders, DCFS reported in February 2013 that Father “continues to be difficult and continues to speak disrespectfully towards [DCFS] in the background impacting the mother emotionally.” DCFS further reported that Father was engaging in physical altercations with maternal relatives, whom he was visiting with Mother in violation of court orders. Father did enroll in domestic violence classes, but he enrolled in the same classes as Mother and refused to take separate classes even after the program director advised him that his participation in Mother’s victim-oriented classes was inappropriate. Both parents were terminated from the domestic violence classes after they stopped attending in March 2013.

The matter proceeded to an adjudication hearing in April 2013. The juvenile court sustained the allegations that the children were at risk of harm due to Mother and Father’s domestic violence, Mother’s neglect of Jason’s medical needs, and Mother’s mental health issues and use of illicit substances. The court also found that both parents violated its prior orders by having Father reside in the home and exposing the children to continued domestic violence and substance abuse. The court did not sustain the substance abuse allegations against Father.

At the contested disposition hearing the following month, the court ordered reunification services for both parents. Father was ordered to submit to 12 random drug tests and participate in parenting classes, individual counseling to address anger

management, and a 52-week domestic violence program aimed at batterer intervention. The children were ordered to remain with the maternal grandparents. The court granted both parents monitored visitation and vested DCFS with the discretion to liberalize. The parents were ordered not to visit together. Both parents timely appealed from the court's dispositional orders. We affirmed the orders in full in March 2014.

Meanwhile, the dependency proceedings continued below. The juvenile court held a combined six-month/12-month review hearing in November 2013. According to the DCFS status reports, Father was "in partial compliance with the case plan." He completed 19 domestic violence classes and attended 10 parenting classes, but had poor attendance at individual counseling. His drug tests were positive for marijuana but no other substances, consistent with his prescription for medical marijuana. Father called the children daily, visited with them consistently, and interacted with them appropriately. Grandmother and the social worker who monitored the visits reported no concerns. The court continued the matter for a contested hearing and in the interim liberalized visitation for both parents to unmonitored (but still separate) visits.

In December 2013, after receiving positive reports from DCFS, the juvenile court issued a home-of-parent order for the children to reside with Mother in maternal grandparents' home. Father's visits were to remain as previously ordered – unmonitored but separate from Mother – and DCFS was given additional discretion to liberalize them further.

In February 2014, DCFS reported to the juvenile court that Father's visits with the children continued to go well and complied with the court's order that they not include Mother. Father visited the children on a daily basis, often watched them during the day while Mother was at work, and took Jason to his medical appointments. Father had attended 27 domestic violence classes, but had not participated in those or any other service since November 2013. He and Mother both informed DCFS that they desired to resume living together and terminate DCFS services. After holding a hearing on February 3, 2014, the juvenile court ordered Father to participate in at least five more individual counseling sessions and ordered Father and Mother to participate in at least

five joint counseling sessions. The court ordered the children to remain in Mother's custody.

By the May 2014 status review hearing, Mother and the children had moved out of maternal grandparents' house into their own apartment and were receiving family preservation services from an in-home counselor. The in-home counselor reported that the family was difficult to work with at times. According to the in-home counselor, Mother was defensive and denied that domestic violence and medical neglect ever occurred. Mother reported that she and Father enrolled in joint counseling, but DCFS was unable to confirm their enrollment. Because Father did not return phone calls from DCFS, it was unable to determine whether he was compliant with his individual counseling. The court ordered the children to remain in Mother's custody.

By the time it submitted its August 4, 2014 status report, DCFS had concerns that Mother and Father were violating the court's orders by visiting the children together. Both parents denied this. However, DCFS reported that teachers at the children's preschool observed the parents dropping off the children together, Sarah reported that Father was living with the family, Jason reported that Father yelled at Mother on the way to a family preservation meeting, Mother (untruthfully) told the social worker that the court granted the family permission to celebrate Jason's birthday together, and social workers saw Father at the apartment during a visit in late July.

DCFS noted that although Jason and Sarah were well cared for, and Jason's medical needs were being met, both parents were only partially compliant with the case plan. Mother reported she was no longer interested in participating in family preservation services; indeed, she was in danger of being terminated from the program after missing three meetings. Father stated that he completed his court-ordered individual counseling and domestic violence classes, but DCFS was unable to confirm that with the service providers. He further reported that he had been unable to find a counselor willing to provide affordable joint counseling to a couple with an open domestic violence case. Jason's social worker agreed to search for a counselor and provide additional referrals.

In a last-minute information filed on August 4, 2014, DCFS informed the court that Father had become hostile when social workers inquired about his residence and compliance with the court's orders. Specifically, he left a heated voicemail for Jason's social worker on July 28, 2014. He also telephoned a supervising social worker that same day to complain about Jason's social worker. In "an angry and hostile tone," Father informed the supervisor that he would be fine with meeting Jason's social worker "in a dark alley." Father continued to escalate, "warning" the supervisor, demanding that she fire Jason's social worker, and generally complaining that DCFS "is going bananas." The supervisor had to end the call because Father would not calm down. After holding a hearing, the court ordered DCFS to verify Father's residence and make unannounced visits to Mother's home, where the children were to remain. The court set the next hearing for January 21, 2015.

The case took several tumultuous and tragic turns prior to that hearing. On December 8, 2014, Mother called Sarah's social worker to report that the police currently were removing Father from her home. According to DCFS, Mother stated that Father accused her of cheating on him, damaged property in the home, and threatened to kill her and the children. She reported that a similar incident occurred on December 6. DCFS contacted Father regarding the alleged incidents on December 9, 2014. Father admitted to having a dispute with Mother over visitation and her alleged infidelity, but denied yelling, breaking things, and threatening Mother and the children. He informed the social worker that he moved out of the apartment.

Mother's counsel subsequently requested a temporary restraining order (TRO) against Father on behalf of Mother and the children. The court granted the TRO on December 19, 2014. After the TRO issued, Father began contacting DCFS with concerns about Mother's erratic behavior and ability to care for the children. He sent several lengthy but non-threatening text messages to Sarah's social worker on December 15 and 16, 2014, alleging that Mother was taking drugs, hanging out with gang members, and neglecting to clean the apartment and stock it with food. On December 30, 2014, he went to the DCFS office and played a recording of a 46-minute phone conversation he had

with Mother on December 19, 2014. According to DCFS's report of this visit, Mother "appeared to be very 'erratic' and possibly under the influence" and "did not make sense" in the recording. Father texted Sarah's social worker on December 31, 2014 to request a welfare check because Mother's home was very dirty and strewn with trash. He sent DCFS photographs of the trash in the home and reported that Mother had been taken to a hospital for evaluation but did not inform DCFS that he was caring for the children in her absence. The hospital later called DCFS to report that Mother had been admitted to receive treatment for anxiety attacks and depression.

Many of Father's concerns proved valid. Jason's social worker made an unannounced visit to the home on December 31 and observed "a lot of piled up trash and roaches." He also observed that several of Jason's prescriptions, including the one for his growth hormone, had not been filled for weeks. Mother (who had been discharged from the hospital that day) told Jason's social worker that she would not walk or take the bus to get Jason's medication because "it's his father's job." Despite Mother's efforts to prevent him from doing so, the social worker managed to speak with Jason privately. Jason told him that Mother and Father screamed at one another in person and over the phone, that Father broke things but did not hit Mother, and that Mother left him alone in the shower for a long time while she went outside to smoke. Mother's landlord told a different social worker that he had seen Mother smoking marijuana and walking around outside wearing a diaper while the children were left alone in the apartment. Grandmother reported that Mother was "mingling with unsafe people, slurring her words, and looked like she was using harder drugs by her behavior and rapid loss of weight."⁴

DCFS arranged for the children to be placed with the maternal grandparents through January 5 as part of a temporary safety plan. Because the maternal grandparents were unable to care for the children on a long-term basis, however, the children were placed in separate foster homes on January 7, 2015. Jason was placed in a "medically trained foster home." In addition to her standard training, Jason's foster mother received

⁴ Mother was placed under a section 5150 hold on January 2, 2015 after having an episode of decompensation at a medical marijuana dispensary.

more than five hours of additional medical training from Jason's endocrinologist on January 7, 2015. During the training, which Grandmother also attended, both the foster mother and Grandmother reported that Jason was having problems breathing and was choking and coughing a lot. The doctor noted that Mother had not brought Jason in for a visit since August 2014, had not followed up with a sleep study to investigate Jason's possible sleep apnea, and had not been giving him his medications consistently. (Grandmother later provided a photograph of Jason's growth hormone-dispensing machine showing that Mother last gave him growth hormone on September 15, 2014.) The doctor scheduled Jason for a follow-up visit with a nurse on January 8, 2015, but that appointment was rescheduled to January 13 due to the nurse's illness.

DCFS filed a supplemental petition under section 387 on January 12, 2015. DCFS alleged the children were at risk in Mother's custody due to Mother's substance abuse and recent marijuana overdose, her mental and emotional problems and her medical neglect of Jason. DCFS further alleged that Mother and Father placed the children at risk by continuing to engage in violent altercations in their presence. Specifically, DCFS alleged that Father damaged property in Mother's home and threatened to kill her on December 6, 2014, and damaged additional property on December 8, 2014. In his detailed notes documenting DCFS contacts with the family, Jason's social worker stated that, during the social worker's unannounced monthly visit on December 15, 2014, "Jason Jr. individually and privately said his father was like 'Wreck it Ralph' and was in mother's room yelling and breaking mom's stuff and the children's toys on Sunday."

DCFS also filed an ex parte application under section 385 requesting that Father's visitation be changed from unmonitored to monitored in light of both parents' domestic violence and noncompliance with the restraining order. DCFS attached some text messages that Father sent to Sarah's social worker on January 5, 2015, in which he claimed it was his "turn" and that he was "after" the head of DCFS "and everybody who works under him mark my words." DCFS also notified the court that Mother had been placed under another section 5150 hold.

The court held a hearing on DCFS's petitions on January 12, 2015. The court ordered the children detained from Mother's custody and restricted both parents to modified visitation. The court also granted Father's request for TRO against Mother. Father sent Sarah's social worker several profane and threatening text messages on January 12 and 13.

On January 13, 2015, Jason's foster mother took Jason to the endocrinologist's office for his rescheduled follow-up appointment. Later that evening, the foster mother noticed Jason was struggling to breathe and had difficulty rousing him. She took him to the emergency room at a nearby children's hospital. The hospital admitted Jason to the pediatric intensive care unit in critical condition around midnight. Jason's admissions notes indicate that the foster mother "is a poor historian and lacks critical information about patient's medical [history]." They also note, however, that the foster mother "has only had him since 1 week ago" and that Jason's labored breathing "is his baseline" in her experience. The foster mother left a message for Jason's social worker to let him know about the hospitalization. Jason's social worker contacted Mother, Father, and Jason's attorney the next day. The social worker offered to monitor a visit for Father on January 15, but Father said he would rather not visit at all if his visits were monitored. The social worker told Father to call him if he changed his mind.

Father called the social worker on January 19, 2015 and left him four threatening voicemail messages laced with profanity. Father left five similarly profane and threatening voicemail messages the next morning. Father eventually spoke to a different social worker by phone. Despite his yelling and threats, the social worker arranged a monitored visit with Jason for that afternoon. A DCFS monitor supervised the first 90 minutes of Father's visit, during which he behaved appropriately.

Later that day, Jason, who had been diagnosed with scabies, developed a very high fever, suffered multiple organ failure, and became comatose. Jason's doctors were unable to determine the cause of the fever. During a phone call updating DCFS on Jason's increasingly grave condition, the hospital social worker noted that "the hospital continues to have concerns due to the father's unpredictable behavior." Over DCFS's

objections, the juvenile court nonetheless granted both parents unmonitored visits with Jason on January 21, 2015 because Jason's situation was grave and it "trust[ed] that the parents will behave well in the hospital" and that "the hospital staff will not permit any continued visits if there is any inappropriate or risky, dangerous behavior on the part of the parents." The court also ordered DCFS "to look forthwith at whether or not any causal factors exist" between Jason's foster care placement and his hospitalization. Sarah was placed in the care of the maternal grandparents on or about February 2, 2015.

Father continued to express his anger and frustration with the situation to DCFS. Between Jason's admission to the hospital and the next court hearing on February 18, 2015, Father sent approximately 70 threatening and profane text messages to Sarah's social worker. He also hacked into the social worker's personal Facebook page, obtained four of the social worker's personal photographs, and reposted them along with a copy of the removal warrant on his own Facebook page. Jason's social worker also reported that Father continued to leave him hostile voicemail messages and referred to the social worker on his Facebook page. Additionally, Grandmother reported that Father threatened Mother's extended family and broke into Grandmother's house when he knew she was at the hospital visiting Jason.

The social workers requested a temporary restraining order against Father, on behalf of themselves as well as the maternal grandparents and the children. The court granted the order as to the social workers and maternal grandparents but denied it as to the children because "[t]hey are not the focus of Mr. J[.]'s anger." Father later withdrew his contest to a three-year permanent restraining order, which the court entered on March 18, 2015. The permanent restraining order permitted Father to have monitored visits with the children; he was allowed to have unmonitored visits with Jason while Jason remained in the hospital or other medical care facility.

On February 11, 2015, the hospital implemented restrictions on Father's visitation with Jason due to his noncompliance with hospital conduct policies and a particular agreement he signed on January 29, 2015. The hospital restricted Father to 15 minutes of visitation per day, supervised by one of the hospital's public safety officers. The hospital

removed the duration restriction within two weeks but continued to require its public safety officers to monitor Father's visits. DCFS subsequently filed an ex parte request pursuant to section 385 to restrict Father's visitation to monitored only. The court put over adjudication of the request to the hearing on the still-pending section 387 petition.

DCFS submitted a report regarding the section 387 petition on March 4, 2015. According to that report, Mother told DCFS that Father "went coo-coo for coco puffs" during the domestic violence incident on December 6, 2014 and told her "he was going to throw [her] out of the window, roll [her] up in a rug and throw [her in] a ditch in the desert so he'll have a place to dance." Grandmother told DCFS that the police were called to the home when Father "tried to push" Mother. The report listed 6 "LAPD Domestic Dispute Records" from December 5 through December 30, 2014. Father declined to be interviewed for the report because DCFS would not permit him to record the interview, in accordance with the confidential nature of DCFS records. The report noted that Father completed a 52-week domestic violence program, but that he and Mother did not complete their court-ordered joint counseling sessions. The report recommended that family reunification services be terminated as to both parents.

In a last-minute information filed March 4, 2015, DCFS reported that Father emailed letters confirming his attendance at five individual counseling sessions and an illegible letter dated April 22, 2014 stating that he completed the court-ordered domestic violence program. The last-minute information also included police reports for some of the six domestic violence incidents listed in DCFS's previous report, as well as a letter from the police department stating that it had no record of the following incidents in its files: "12/8/15, 12/13/15, 12/16/14, + 12/30/14." In a second last-minute information, also filed March 4, 2015, DCFS provided the court with transcriptions of two voicemail messages Father left for Sarah's then-social worker. The first message was threatening and profane; in the second, Father apologized for the first and blamed his "extremely unprofessional and rude" conduct on "being at the hospital for nearly 30 days and losing multiple days of sleep." DCFS expressed skepticism about the sincerity of Father's apology in light of his continued Facebook posts denigrating DCFS.

DCFS filed three additional last-minute informations dated March 17, 2015. In the first, DCFS provided the court with offensive comments posted by Father's extended family on the "GoFundMe" fundraising Web page Grandmother set up for Jason. In the second, DCFS informed the court that Father recently posted more pictures of Sarah's former social worker on his Facebook page. Finally, in the third, DCFS reported on Father's two most recent monitored visits with Sarah. Father's March 5, 2015 visit with Sarah started off well; Father arrived on time, "appeared to be affectionate" with Sarah, and "did not provide any false promises to the child." However, the visit was interrupted by paternal uncle Jimmy, and Father became upset when the monitor would not permit Jimmy to visit with Sarah. Father eventually redirected his attention to Sarah and interacted appropriately with her. Father's March 16, 2015 visit followed a similar trajectory: Father interacted appropriately with Sarah for a time, then told her that the family was "being held Ransom by the county" and began discussing the case with the monitor. Father ultimately returned his attention to Sarah, pretending to make cookies and pizza with her.

The court held a contested hearing on DCFS's section 387 petition on March 18 and 19, 2015. DCFS called Dependency Investigator Gilda Lara as its only witness. Lara testified that she began working on Jason and Sarah's case in January or February 2015 and prepared the jurisdiction report dated March 4, 2015. On cross-examination by Father, Lara conceded that she had no evidence that Father physically abused Jason or Sarah within the last six months. She also stated that she had no evidence that Father physically abused Mother during the past six months.

Father took the stand on his own behalf. He became emotional when asked about Jason, whom he testified was in a permanent vegetative state and housed in a long-term care facility. Father stated that he was "extremely upset" and angry about Jason's prognosis and opined that Jason's foster mother should have "catered to [him] a lot earlier in the eight-day period that he was there." Father testified that he visited Jason daily and essentially lived at the hospital for weeks at a time. Father also stated that he received some training in how to care for Jason but would need additional training to

learn how to perform tasks like administering an I.V. He stated that he currently lived with his mother, and that she was willing to help him care for Jason and Sarah.

Father acknowledged that he was not particularly proud of his interactions with the social workers, and testified that he recently enrolled in grief counseling to address his feelings of anger. He denied threatening to kill Mother, however. He also denied physically abusing Jason or Sarah. On cross-examination, Father categorically denied that his arguments with Mother ever became physical, that the children were present during the arguments, and that he ever broke or destroyed property at Mother's house. He also denied pushing or hitting Mother, and testified that he never threatened her. Father stated that he had no plans to reconcile with Mother; DCFS offered his petition for dissolution of their marriage into evidence.

Father characterized Mother's behavior in December 2014 as "erratic" and "irrational" and testified that he feared for his children's safety while they were in her care. He stated that he contacted DCFS "[e]very day and every moment" in an attempt to apprise the children's social workers of his concerns. He also provided the children with food and medication, even though doing so "was an equal responsibility" of the parents at that time. Father further testified that he cared for the children during at least one of Mother's involuntary hospitalizations, and that no one from DCFS ever told him he did a poor job of caring for the children at that time.

When questioned about his case plan, Father testified that he was ordered to complete domestic violence and parenting classes, as well as attend individual and joint counseling sessions. Father stated that he provided DCFS with proof that he completed the domestic violence classes "[m]ultiple times," by personally handing the letter to Jason's former social worker in April 2014 and texting the letter to Sarah's former social worker in December 2014. He testified that he learned "self-control," "how to not escalate situations," and how to communicate with his partner in the domestic violence classes. On cross-examination, DCFS asked Father whether the program was a batterer's program. Father responded, "I'm unaware of that word." DCFS also asked Father to define domestic violence, and he stated, "I would assume out-of-control behavior,

aggressive behavior, failure to communicate, poor communication skill. Domestic violence, I mean, I don't know. I'd have to look it up and give you maybe a description. But it's most likely inappropriate [*sic*] behavior and communication between the couple or partners." In response to DCFS's question about what he learned about the circle of power and control, Father stated, "Conduct myself a little bit more efficiently. Refrain from doing bad things." He explained that he completed the classes "quite a while ago" and that he was "unfamiliar with the power wheel that you're referring to." On redirect, Father testified that he understood the element of control in domestic violence, which he explained as, "Well, if I were to engage in a domestic violence, I would not - - as far as control goes, it would mostly likely fall under no physical harm. I mean, controlling yourself to the extent where you do your best not to break the law and jeopardize your future, your family's lifestyle, your children, all of the above." He then testified that he did not control Mother's money or access to her friends and family. He also stated that the social workers told him that verbally arguing with Mother constituted domestic violence.

DCFS filed a last-minute information on March 19, 2015 that called into question the veracity of Father's testimony. According to the last-minute information, Mother approached DCFS witness Lara after the hearing on March 18, 2015 and told her that Father did not actually complete all of his required domestic violence classes but instead paid an employee at the domestic violence center \$300 to falsify a completion letter. Lara followed up with the employee, who stated that Father completed 52 sessions of a program aimed mainly at victims. The employee further stated that she did not think it was a good idea for Father to complete that particular program, which he attended with Mother, but he claimed a social worker gave him permission to do so. She said Father also claimed that he was court-ordered to complete a domestic violence program, but not one aimed at batterers. DCFS additionally reported that a review of its records indicated that Father did not provide a copy of his completion letter until December 30, 2014 when Father texted an illegible copy to Sarah's former social worker. Father's December 30

text message also stated that he previously had not provided DCFS with his completion letters; he had only given them to his lawyer.

Neither Mother nor the children presented any evidence. Aside from its last-minute information, DCFS did not present a rebuttal case. After all of the parties rested, the court stated that its tentative decision was to sustain the section 387 petition. The court then heard arguments from all of the parties. Father and Mother both asked the court to dismiss the petition. Father contended that Mother's statements in the documentary evidence were not credible and further argued that even if the court believed he threatened Mother, there was no evidence that he directly harmed Jason or Sarah. He emphasized that he asked the social workers for help when he believed Mother was not caring for them properly. He also contended that "disagreement with the social workers, disagreement with their approach does not necessarily equate to a risk of substantial - - of serious physical harm to the children."

DCFS and the children's counsel asked the court to sustain the petition in its entirety. The children's counsel contended that the parents violated the restraining orders and engaged in altercations in front of the children. He argued that Mother's reports of domestic violence were credible, and pointed to several incidents of Father's domestic violence documented in the admitted evidence, including police reports in which Mother claimed Father threw items at her, broke her headphones in half, and threatened to throw her out of the window. DCFS argued that Father did not comply with the court's orders in the 2010 case and did not comply with the restraining orders in the instant proceedings. DCFS also contended that "what was transpiring in [the family] home was clearly domestic violence."

The court sustained all counts of the section 387 petition. It expressly found true the facts as stated by DCFS and the children's counsel. The court also found Father's testimony about Mother credible. However, it found him "completely not credible when he talked about himself and his culpability and his own actions and taking responsibility for his actions." The court noted that Father spent a lot of time in the home with Mother and found his claims that he never hit Mother or threw things around the home "just not

true.” The court also found that even if Father did complete proper domestic violence classes, the incidents that occurred in December and January demonstrated that he “didn’t learn from it.”

After making its ruling on the petition, the court heard argument regarding disposition. DCFS requested that the court terminate reunification services because reasonable services had been provided for 29 months, which was longer than permitted under the Welfare and Institutions Code. DCFS also requested that the court terminate the home-of-parent placement and order the children suitably placed. Mother agreed with DCFS’s placement request but asked for additional reunification time. Counsel for the children also agreed with DCFS and argued against a home-of-parent placement and unmonitored visits for Father. Children’s counsel contended that even if Father did complete appropriate court-ordered services, “it’s clear from the facts of this case that he hasn’t really learned anything from those services.” With respect to whether additional reunification services should be ordered, the children’s counsel contended that reasonable services had been provided and time for additional services had expired.

Father asked the court to release both Jason and Sarah to his custody or at the very least provide him with additional reunification services and unmonitored visitation. He argued that there was no evidence that he physically harmed the children and that he successfully completed his domestic violence and anger management classes, individual counseling, and all of the drug tests he was asked to perform. Father also asserted that he completed the programs long before DCFS acknowledged he did, a discrepancy he deemed “a problem with reunification services having been offered” to him. Father further claimed the reunification services offered to him were unreasonable because DCFS failed to provide him with referrals for free counseling or timely inform him that he attended the incorrect domestic violence program.

The juvenile court found that DCFS provided reasonable services. It declined to order further reunification services because the parents failed to comply with their case plan and the time for such services had expired. The court acknowledged Father’s love for his children, but concluded that placement with him was not appropriate in light of his

unwillingness to recognize the harmful effects his repeated acts of domestic violence could have on them. The court found that the return of the children to Father would likely result in either severe emotional or severe physical harm to the children and that there was no substantial probability that the children would be returned within six months. The court ordered the children placed under the supervision of DCFS for suitable placement and found that it was in their best interests to set the matter for a permanent placement plan hearing pursuant to section 366.26 on July 29, 2015. The court granted Father monitored visitation with Sarah, to include one physical visit and four telephone visits per week, and unmonitored visitation with Jason so long as Jason remained in a medical facility and Father complied with the rules established by those facilities.

Father timely filed two notices of intent to file a writ petition. (See § 366.26, subd. (l); Cal. Rules of Court, rule 5.590(b).) He filed a petition in pro. per. on April 30, 2015, and filed a supplemental petition in pro. per. on May 26, 2015. We issued an order to show cause on May 28, 2015, and stayed the scheduled section 366.26 hearing pending further order.

DISCUSSION

I. Sufficiency of the Writ Petition

DCFS contends that Father's writ petition should be dismissed because it does not comply with the requirements of California Rules of Court, rule 8.452.

Rule 8.452(a)(1) requires writ petitions for review of orders setting hearings under section 366.26 to include the identities of the parties, the date on which the superior court made the order setting the hearing, the date on which the hearing is scheduled to be held, a summary of the grounds of the petition, and the relief requested. (Cal. Rules of Court, rule 8.452(a)(1)(A)-(E).) We are required to construe liberally petitions brought under this section. (Cal. Rules of Court, rule 8.452(a)(1).)

Father's writ petitions, construed liberally and in conjunction with his notices of intent, satisfy the requirements set forth in Rule 8.452(a)(1). His April 30, 2015 petition identifies the interested parties, states the date on which the court made the order setting

the section 366.26 hearing, summarizes his contentions – namely that DCFS “lied over and over about family services” – and indicates that he seeks custody of the children. The May 26, 2015 supplemental petition also provides these same required pieces of information, though it supplements Father’s contentions to include claims that he timely complied with the reunification as ordered, was never ordered to “learn the wheel of domestic violence,” and provided adequate proof of his completion of ordered services. It further indicates that Father seeks to terminate dependency in addition to seeking at least 50 percent custody. Although neither petition states the date of the section 366.26 hearing, Father provided that information in both of the notices of intent he filed.

Rule 8.452(a)(2) requires writ petitions for review of orders setting hearings under section 366.26 to be accompanied by a memorandum, which “must provide a summary of the significant facts,” “state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority,” and “support any reference to a matter in the record by a citation to the record.” (Cal. Rules of Court, rules 8.452(a)(2), (b)(1), (b)(2), (b)(3).) Neither the original nor supplemental petition is accompanied by a memorandum that satisfies these requirements. Father’s original petition is accompanied by 29 pages photocopied from the record and annotated with handwritten notes indicating the specific points at which Father believes DCFS lied or otherwise acted improperly. Construed generously, these record excerpts constitute citations to the record. They do not, however, summarize the significant facts or clarify Father’s precise points or the legal authority on which he relies. The attachments to Father’s May 26, 2015 supplemental petition are similarly deficient. Although these attachments include citations to legal authority (in the form of two emails Father apparently sent to his former counsel), they are devoid of headings and contain neither facts nor developed argument.

Nonetheless, it is within our discretion to reach the merits of Father’s contentions despite the technical deficiencies in his filings. (See *In re Sade C.* (1996) 13 Cal.4th 952, 994; *Cresse S. v. Superior Court* (1996) 50 Cal.App.4th 947, 955-956; *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 580-582.) We exercise our discretion in

favor of reaching the merits of this unusual case. (See § 366.26, subd. (l)(4) [“The intent of this subdivision is to . . . (B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.”].)

II. Credibility Findings

Father’s writ petition expressly contends that “DCFS lied over and over about family services.” The annotated record excerpts he provides appear to indicate that Father takes issue predominantly with DCFS’s representations concerning his compliance with the case plan and its receipt of information to that effect. As we understand his filing, Father also claims DCFS falsely informed the court that he violated hospital visitation policy, failed to properly credit him for bringing Mother’s neglect of the children to the agency’s attention, misrepresented the nature of the services it offered him, and exaggerated the severity of his criminal record. His annotations also appear to call Mother’s credibility into question, highlighting various times she allegedly lied to DCFS.

The juvenile court expressly found true the facts as stated by DCFS and the children’s counsel. We as a reviewing court cannot disturb these findings. As we explain more fully below, “[w]e review an order sustaining a section 387 petition for substantial evidence.” (*In re A.O.* (2010) 185 Cal.App.4th 103, 109.) “Evidence is “[s]ubstantial” if it is “reasonable, credible, and of solid value.”” [Citation.] We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record in favor of the juvenile court’s order and affirm the order even if other evidence supports a contrary finding. [Citations.] The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order.” (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1161-1162.) Father cannot meet this burden by challenging the court’s credibility findings.

III. Jason’s Foster Placement

We understand Father to contend that DCFS violated section 300.2 by placing Jason with a foster mother who was a “poor historian” and “lack[ed] critical information”

about Jason's medical history. To the extent Father's contention is even appropriate at this juncture, it is not supported by substantial evidence.

Section 300.2 sets forth the purpose animating the statutes governing juvenile dependency proceedings. It provides in pertinent part: "Notwithstanding any other provisions of law, the purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm." (§ 300.2.) The record indeed reflects that Jason's foster mother, with whom he was placed only about a week prior to his admission to the hospital, was unable to provide the hospital with all the details of Jason's extensive medical history. "Poor historian" is not synonymous with "poor care provider," however. While the record does not provide a full picture of Jason's time with the foster mother, there is no indication in the record that DCFS abdicated its goal of protecting children by placing Jason in her home.

The record reflects that DCFS assessed the severity of Jason's medical needs and placed Jason in the foster mother's care only after verifying that she had general medical training and providing her with more than five hours of training specific to Jason's medical needs. It also reflects that the foster mother raised concerns about Jason's breathing with his doctor, took Jason to a follow-up appointment with that doctor, and took Jason to the hospital when she had difficulty rousing him. These facts constitute substantial evidence that DCFS at least made efforts to uphold the purpose of the dependency statutory scheme and ensure Jason's safety and well-being.

IV. Provision of Reasonable Reunification Services

Father also appears to challenge the adequacy of the reunification services DCFS provided to him. We understand him to contend that DCFS failed to provide him with family maintenance or preservation services and timely apprise him that the domestic violence program he completed was not the correct one. He also appears to allege that DCFS did not conduct the 12 random drug tests the court ordered Father to take.

Reunification services are designed to promote the goal of reunifying a family as it existed prior to a dependency. (*In re A.L.* (2010) 188 Cal.App.4th 138, 144.) They are offered to parents from whom custody of a child has been removed; they “are about restoring custody.” (*Ibid.*)

“When a finding that reunification services were adequate is challenged on appeal, we review it for substantial evidence.” (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 971.) “[T]his court must view the evidence in a light most favorable to the respondent. We must indulge in all reasonable and legitimate inferences to uphold the judgment. [Citation.] ‘If there is any substantial evidence to support the findings of a juvenile court, a reviewing court is without power to weigh or evaluate the findings.’” (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361-1362.)

When a child is removed from a parent’s custody, the responsible agency must make a good-faith effort to develop and implement reasonable family reunification services responsive to the needs of that family. (*In re Kristin W.* (1990) 222 Cal.App.3d 234, 254.) “The adequacy of a reunification plan and of the department’s efforts are judged according to the circumstances of each case. [Citation.] With respect to the plan itself, ‘[e]ach reunification plan must be appropriate to the particular individual and based on the unique facts of that individual. [Citations.]’ [Citation.] ‘The effort must be made to provide suitable services, in spite of the difficulties of doing so or the prospects of success. [Citation.]’ [Citation.] ‘[T]he focus of reunification services is to remedy those problems which led to the removal of the children. . . .’ [Citation.] ‘[T]he record should show that [DCFS] identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the [parent] during the course of the service plan, and made reasonable efforts to assist the [parent when] compliance proved difficult’ [Citation.]” (*In re Ronell A., supra*, 44 Cal.App.4th at p.1362.)

The issues underlying the petitions in this case included domestic violence and substance abuse. The court accordingly ordered Father to participate in reunification services including drug testing, parenting classes, individual counseling to address anger

management, and a 52-week domestic violence program aimed at batterer intervention. After it became apparent that Mother and Father intended to continue their relationship, the court also ordered both parents to participate in joint counseling. The record indicates that DCFS made proper referrals, undertook efforts to assist Father in locating a therapist who could provide affordable joint counseling, and continually monitored Father's progress in all of his various programs.

Father seems to claim that DCFS did not offer him the correct number of random drug tests ordered by the court. The claim is not persuasive, as there is no indication in the record that either DCFS or the court found Father noncompliant with this provision or that Father informed DCFS or the court of DCFS's apparent oversight in failing to conduct the tests. Even if Father's suggestion that DCFS failed to comply with this portion of the case plan were correct, he does not appear to allege any injury or harm caused by the oversight.

We likewise conclude that substantial evidence supported the court's finding that DCFS's provision of domestic violence classes was reasonable. Father's evident contention that he was unaware he was participating in the incorrect domestic violence program is undercut by the record, which indicates that at least two different service providers told him that it was inappropriate for him to attend classes intended for domestic violence victims and to attend those classes with Mother. In any event, the court did not specifically find that Father attended the wrong classes; instead, it gave him "the benefit of the doubt that he has been compliant with the domestic violence program and other services."

V. Termination of Reunification Services

In his notice of intent to file a writ petition, Father expressly contends that the court erred when it "refused to reunite [him] with [his] children and permanently [*sic*] cancelled any type of reunification whatsoever." His April 30, 2015 writ petition also suggests that he takes issue with the court's finding that he failed to comply with his case plan. He alleges that "DCFS lied over and over about family services" and highlights several excerpts from the record that we read to concern the provision of services, his

compliance with the case plan, and his provision of information to DCFS. We are not persuaded that the court's finding is erroneous or that it improperly terminated Father's reunification services.

“We review an order terminating reunification services to determine if it is supported by substantial evidence. [Citation.] In making this determination, we review the record in the light most favorable to the court's determinations and draw all reasonable inferences from the evidence to support the findings and orders. [Citation.] ‘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.]” (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 688-689.)

The court's finding that Father failed to comply with the case plan is supported by substantial evidence. Father and Mother completed at most three of their five court-ordered joint counseling sessions despite DCFS's efforts in assisting Father in locating a suitable counselor. Additionally, Mother and Jason both told DCFS that Father was at the house when he was not supposed to be, yelling at Mother and throwing objects. Although Dependency Investigator Lara testified that she had no evidence that Father physically abused Mother during the six months preceding the hearing, the record was replete with substantial evidence to the contrary that the court was entitled to credit over Lara's in-court testimony. This evidence included police reports statements from Mother, Jason, and Grandmother, as well as Father's testimony suggesting his lack of appreciation for the concepts he learned in domestic violence classes. The court indicated that it found Jason's comparison of Father to “Wreck-It Ralph” particularly compelling.

The court's termination of reunification services also is supported by substantial evidence. The Legislature has determined that 18 months after the original removal of the minor is the maximum amount of time the juvenile court may offer family reunification services. (See § 361.5, subd. (a)(3).) Courts have limited discretion to extend that period in exceptional or extraordinary circumstances (see *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1796), but the juvenile court expressly found that no such

extraordinary circumstances were present in this case. There is no dispute that Father received services for significantly longer than the maximum period of 18 months. The court concluded that Father nonetheless continued to struggle with controlling his violent outbursts and understanding the impact domestic violence had on his children. Father's repeated instances of domestic violence toward Mother, his ongoing inappropriate and threatening behavior toward the social workers even after a restraining order was put in place, and his testimony at trial constitute substantial evidence supporting this conclusion. That same evidence also supports the court's conclusion that additional services were unlikely to remedy the situation and accordingly were unwarranted in this case.

VI. Detriment Finding

Section 366.22, subdivision (a) provides that at the 18-month hearing, after considering the admissible and relevant evidence, the juvenile court "shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." DCFS has the burden of establishing detriment, and "[t]he failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental." (§ 366.22, subd. (a).)

"In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided. . . ." (§ 366.22, subd. (a).) If the child is not returned to his or her parent, "the court shall specify the factual basis for its conclusion that return would be detrimental." (*Ibid.*) The court then shall terminate family reunification services and order a hearing pursuant to section 366.26 to determine

whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. (§ 366.22, subd. (a).)

As the juvenile court explained, “what the law requires is not just rote compliance with services but actually a grasp and understanding of the services such that the changes can be made that will permit” children to be safe in a parent’s custody. Here, the court found that Father failed to make substantive progress in his court-ordered treatment programs despite his completion of the programs and his demonstrated love for his children. The court specifically found that Father did not fully appreciate the impact of domestic violence on his children even after taking a 52-week course on domestic violence. Under section 366.22, subdivision (a), that finding is “prima facie evidence that return [of Sarah to his custody] would be detrimental.”

Additional substantial evidence also lends support to the court’s conclusion that Sarah would be at risk if she were placed in Father’s care. Although Father often interacted appropriately with Sarah and his visits with her frequently went well, he was unable to refrain from engaging in verbal altercations with social workers even in her presence. More troubling, he was unable to refrain from engaging in physical altercations with Mother in Sarah’s presence, and despite his participation in services he remained unable to appreciate the harm his volatile behavior could inflict on his beloved daughter. The juvenile court did not err in concluding that Sarah could not safely return to Father’s care.

DISPOSITION

The petition for extraordinary writ is denied.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.