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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re N.B., a Person Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

JESSICA G.,

Defendant and Appellant.

D069458

(Super. Ct. No. NJ14962D)

APPEAL from an order of the Superior Court of San Diego County, Michael J. Imhoff, Commissioner. Affirmed.

Neale B. Gold, under appointment by the Court of Appeal for Defendant and Appellant.

Thomas E. Montgomery, County Counsel, John E. Philips, Chief Deputy County Counsel, and Patrice Plattner-Grainger, Deputy County Counsel for Plaintiff and Respondent.

Jessica G. appeals from a six-month review hearing under Welfare and Institutions Code section 366.21, subdivision (e).¹ Jessica contends the juvenile court's reasonable services finding is not supported by substantial evidence because there was a two-month delay in providing therapy services to her, and she did not receive a component of her in-home parenting coursework. Affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

Jessica G. is the mother of four children. This proceeding concerns her youngest child, N.B., who was born in November 2014.² In August 2014, the San Diego County Health and Human Services Agency (the Agency) detained Jessica's three oldest children (siblings) in protective custody due to domestic violence and other risk factors in the home. The juvenile court assumed jurisdiction over the siblings under section 300, subdivision (b), placed them with their maternal grandmother, and ordered a plan of family reunification services, including therapy.

During the Agency's investigation in the sibling cases, a social worker referred Jessica to a psychiatrist, Shayna Walker, who began treating her at the end of August 2014. Dr. Walker diagnosed Jessica's mental health condition as schizophrenia and prescribed medication for her. In late September, Jessica started individual therapy with Jeanette Abney, a Treatment Evaluation Review Management (TERM) therapist, and met with a public health nurse every two weeks. Jessica did not take the prescribed

¹ Further unspecified statutory references are to the Welfare and Institutions Code.

² N.B.'s father, Moises B., does not appeal.

medication during her pregnancy because she was afraid it would harm the baby. Shortly after N.B.'s birth, Jessica enrolled in new parenting education classes.

When N.B. was born, the Agency filed a petition on her behalf under section 300, subdivision (b), and detained her in foster care. Jessica reported hearing voices. She said the feeling of breastfeeding N.B. made her want to throw the baby across the room. The public health nurse believed Jessica was a danger to N.B. A hospital nurse said Jessica could not cope with N.B.'s care.

In December, service providers with Incredible Families, a parenting education organization, expressed concern about Jessica's mental health condition. They reported Jessica appeared to be hearing voices, her thoughts were disorganized and she did not engage the children during visits. Service providers had problems conveying information to Jessica. Incredible Families discharged Jessica from their program until her mental health condition stabilized.

Dr. Walker asked Jessica to try a new medication. On January 7, 2015, Jessica told Dr. Walker the medication was not helping her mental health condition. Jessica was cooperative with Dr. Walker, who prescribed a different medication for her.

By February 2015, Jessica had completed four out of 10 parenting classes. She was an active and enthusiastic participant. She was attending weekly therapy sessions with therapist Abney, and was working on effective communication skills and coping techniques. Dr. Walker said Jessica was doing well on another medication. In early March, Dr. Walker said Jessica was managing her mental health condition without daily medication, and would have follow-up appointments every four to six weeks.

A contested jurisdictional and dispositional hearing was held in N.B.'s case on March 17, 2015. The juvenile court ordered the Agency to provide family reunification services to Jessica consistent with her case plan. Jessica's case plan included general counseling with a TERM therapist, participation in a domestic violence prevention program, regular psychiatric care, parenting education and random substance abuse testing.

N.B. was healthy and happy. She was meeting her developmental milestones. In early September, the Agency moved N.B. from foster care to her maternal grandmother's home.

The six-month review hearing was held on October 19. The social worker recommended terminating Jessica's reunification services and setting a section 366.26 hearing.

The social worker testified that during the reunification period, Jessica's therapy was discontinued for approximately six weeks to two months after the dispositional hearing. The previous social worker had made a referral for therapy in the siblings' cases, but the payment authorization expired on March 17. Because the therapist wanted to see Jessica every week instead of every other week, the number of authorized visits expired sooner than expected. When the social worker realized a payment authorization for therapy was needed in N.B.'s case, he immediately requested the authorization and therapy sessions resumed.

The social worker reported that in late July, after the Agency recommended the maternal grandmother adopt the siblings, Jessica stopped participating in services and

visiting the children at a visitation center. After three to four weeks, Jessica resumed visitation at the grandmother's home. Jessica missed therapy appointments on July 20 and 27. The social worker said Jessica asked the social worker to restart parenting education classes "in September sometime." The social worker processed the referral on October 6.

Dr. Walker testified Jessica was not displaying any psychotic symptoms requiring medication. She was more organized and coherent. It was atypical for a person diagnosed with schizophrenia to do so well without medication. Dr. Walker decided to refer Jessica for nonpsychiatric testing to determine whether she had any cognitive impairment or intellectual disability.

Therapist Abney testified she provided therapy services to Jessica for more than a year. During the lapse in services, Jessica would telephone her. Abney met with Jessica once a week to work on a variety of issues. Jessica was making progress. Abney did not have any concerns about Jessica's mental health condition. She believed Jessica had the ability to complete her treatment plan and provide for N.B.'s safety.

Sally Stance provided in-home parenting assistance to Jessica. Stance's organization provided two components: the STEPS parenting curriculum and the SafeCare curriculum. SafeCare addressed parent interaction, child/infant interaction, health, and safety. Stance testified she worked with Jessica from April 22 through July on the STEPS curriculum. Jessica completed approximately 10 classes, but in late July, Jessica discontinued the parenting classes because she believed her parental rights were being terminated. At the time of the six-month hearing, Stance's organization was

processing a new referral for parenting education. Once the referral was in place, Stance would work with Jessica on SafeCare.

At the conclusion of the hearing and in response to counsel's arguments regarding reunification services, the court said:

"The issue of the lapse in payment authorization with the therapist is a legitimate issue. I think in context, it highlights how much strain is put on the system when standard procedures take precedent over the need of an individualized case plan. And here, in good faith, the mother continued in therapy with the blessing of the Agency in the siblings' matter without anyone really understanding that the mother didn't get a renewal for six months in [N.B.'s] case. It's understandable that that occurred in that context. However, when the . . . new social worker . . . realized what had occurred, I think he worked diligently in good faith to get it reestablished, and it has been reestablished. To the mother's credit, she kept in touch with Ms. Abney during the time that the authorization was in flux. . . . I believe that gap was important, but I cannot conclude it was a lack of reasonable service because the Agency acted in good faith to reestablish it."

The juvenile court found that the Agency provided reasonable services to Jessica and that Jessica participated regularly in services and made progress in her case plan. The juvenile court continued N.B.'s placement with her grandmother and continued family reunification services to Jessica to the 12-month hearing, scheduled for January 14, 2015.³

³ We deny the Agency's motion for judicial notice of the postjudgment minute orders in this case, and also deny the request to dismiss the appeal as moot. (*In re Zeth S.* (2003) 31 Cal.4th 396, 405 [appeal reviews the correctness of a judgment as of the time of its rendition, upon a record of matters which were before the trial court for its consideration].)

DISCUSSION

A

Jessica contends the juvenile court's reasonable services finding is not supported by substantial evidence. She argues the Agency did not meet its obligation to provide reasonable services to her because the social worker did not authorize therapy services after the dispositional hearing in N.B.'s case, resulting in a two-month delay in her therapeutic services, and she did not receive the second component of parenting classes.

B

Family reunification services play a critical role in dependency proceedings. (§ 361.5; *In re Alanna A.* (2005) 135 Cal.App.4th 555, 563; *In re Joshua M.* (1998) 66 Cal.App.4th 458; see 42 U.S.C. § 629a(a)(7).) Services "may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children." (§ 300.2.) At each review hearing, the court is required to determine whether reasonable services that were designed to aid the parent in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent. (§§ 366.21, subds. (e)(8), (f)(1)(A), 366.22, subd. (a)(1)(3).) The court must also determine the "extent of the agency's compliance with the case plan" in making reasonable efforts to return the child to a safe home. (§ 366, subd. (a)(1)(B).) If reasonable services are not provided or offered to the parent, the court is required to continue the case for the period of time permitted by statute. (See § 366.21, subds. (e) & (g)(1).)

Reunification services should be tailored to the particular needs of the family. (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 793-794, citing *In re Alvin R.* (2003) 108 Cal.App.4th 962, 972.) "The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547 (*Misako R.*))

To support a finding reasonable services were offered or provided, "the 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 (*Riva M.*) The "adequacy of reunification plans and the reasonableness of the [Agency's] efforts are judged according to the circumstances of each case." (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.)

We review a reasonable services finding to determine if it is supported by substantial evidence. (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414.) We review the evidence most favorably to the prevailing party and indulge in all legitimate and reasonable inferences to uphold the court's ruling. (*Misako R., supra*, 2 Cal.App.4th at p. 545.) The burden is on the petitioner to show the evidence is insufficient to support the juvenile court's findings. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.)

C

Jessica's contention she did not receive reasonable reunification services is without merit. The record shows that by the time of the six-month review hearing, Jessica had been receiving reunification services for more than a year. Those services included every aspect of her case plan in N.B.'s case. Although services were initially ordered in the siblings' cases, those services were designed to help Jessica mitigate the problems that led to N.B.'s removal from her care and continued out-of-home placement.

The Agency provided therapy services to Jessica starting in late September 2014. Jessica decided not to attend therapy for approximately one month from December 2014 to January 2015, and during the last two weeks of July 2015. Because of an oversight by the newly assigned social worker and the expiration of the authorization for therapy in the siblings' case, the Agency did not offer or provide therapy to Jessica for approximately two months after the March 17 dispositional hearing. During this lapse, Jessica maintained contact with the therapist by telephone. Thus, the record permits the reasonable inference the Agency's efforts allowed Jessica to continue to receive therapeutic support services throughout N.B.'s dependency case. Even considering the lapse in therapy, the record shows that by the time of the six-month review hearing in N.B.'s case, the Agency had provided or offered individual therapy to Jessica for approximately 11 months, with the majority of visits occurring weekly.

When the Agency is providing services to a parent in more than one dependency case, it is reasonable for the Agency not to duplicate service referrals. (Cf. *In re Lana S.* (2012) 207 Cal.App.4th 94, 107 [noting need to conserve limited resources for

reunification services].) There is substantial evidence in the record to support the juvenile court's finding the social worker acted in good faith to provide therapy services to Jessica. The social worker testified he made the referral for therapy in N.B.'s case as soon as he realized one was needed. We recognize the delay in authorizing therapy in N.B.'s case was not ideal. However, in view of the extensive therapeutic and other services that were provided to Jessica overall, we cannot conclude that the lapse in therapy was sufficient to undermine the reasonable services finding.

We reject Jessica's argument she did not receive reasonable services because SafeCare, the second component of her parenting education services, was not implemented before the six-month review hearing. The record shows that at the end of July 2015, Jessica told the parenting education provider she was not participating in services because her mother was going to care permanently for the children. At that point, she had completed approximately 10 classes in the STEPS curriculum. Later, Jessica decided to resume participating in parenting education services. The social worker submitted another referral for services. Jessica suggests the social worker learned of her desire to reengage in parenting education services in mid-August but did not submit a referral until October 6. However, the social worker testified Jessica asked him for a new referral for parenting education sometime in September. Once the referral was processed, Stance, the parenting education provider, intended to implement SafeCare.

The record permits the reasonable inference that had Jessica not stopped participating in parenting education, the SafeCare curriculum would have been implemented before the six-month review hearing. However, the standard is not whether

the parent *received* a particular service. Rather, the standard is whether the Agency provided or *offered* reasonable services to the parent. (§ 366.21, subd. (e)(8).) The Agency met this standard with respect to parenting education services. When a service is offered and a parent stops participating in that service and later decides to resume participating, it is not unreasonable to expect a short delay while the social worker redoes the paperwork and resubmits the referral to the service agency, which must then reprocess it before implementing the service.

The record shows that the Agency identified the problems leading to N.B.'s removal from Jessica's care, offered services designed to remedy those problems, maintained reasonable contact with Jessica during the course of the service plan, made reasonable efforts to assist her when compliance proved difficult (*Riva M., supra*, 235 Cal.App.3d at p. 414), and acted in good faith when an error was brought to its attention. By the time of the six-month review hearing, Jessica had received all the services in her case plan for more than a year. We conclude there is ample evidence to support the juvenile court's reasonable services finding.

DISPOSITION

The finding and order are affirmed.

HALLER, Acting P. J.

WE CONCUR:

McDONALD, J.

IRION, J.