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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re H.H. et al., Persons Coming Under the
Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

W.H.,

Defendant and Appellant.

E054395

(Super.Ct.Nos. J235112, J235113
& J235114)

OPINION

APPEAL from the Superior Court of San Bernardino County. Gregory S. Tavill,
Judge. Affirmed.

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

Jean-Rene Basle, County Counsel, and Danielle E. Wuchenich, Deputy County
Counsel, for Plaintiff and Respondent.

W.H., the mother of three children over the age of 10, appeals from an order made by the juvenile court at a six-month review hearing (Welf. & Inst. Code,¹ § 366.21, subd. (e)), continuing the dependent status of her children. During the initial six months of reunification services, mother refused to sign releases for information, declined to provide an address where she could be reached, was inappropriate during visits with her children, and was rude and uncooperative with San Bernardino County Children and Family Services (CFS) workers, making the provision of services difficult. The juvenile court found reasonable services had been provided and continued the dependency.

On appeal, mother asserts there is insufficient evidence to support the court's finding that reasonable services had been provided because CFS did not provide her with services to resolve the issue of mother's homelessness, which was the underlying reason for the dependency. We affirm.

BACKGROUND

On September 26, 2010, CFS received a referral regarding three children, J.H., age 16, E.H., age 15, and H.H., age 10, being left unattended at a storage facility. The referral was made because J.H., had argued with the manager of the storage facility and pushed the manager against a wall when the manager told J.H. to clean up the family's belongings. The children informed the CFS worker who responded to the referral that

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

they had spent the night at the storage facility. Mother was arrested for failure to provide for her children (Pen. Code, § 270), but was released the next day.

All three children were dirty, and mother was uncooperative with CFS, failing to provide a clear explanation of where the family was living. The children were detained after CFS provided preventive services consisting of counseling, case management and transportation. A dependency petition was filed alleging neglect² (§ 300, subd. (b)) and leaving the children without provision for support. (§ 300, subd. (g).) At the detention hearing, the court found reasonable efforts had been made to prevent or eliminate the need for removal of the children, and removed the three children from the parents' custody, placing them in the custody of CFS.

At the contested jurisdiction hearing, the court considered the social worker's reports as well as testimony of the social worker and the mother. The social worker's report revealed that the children had been removed from mother's custody in 1999 due to neglect after her husband overdosed on heroin and a syringe was found in the home accessible to the children, while mother was under the influence of alcohol. All three children wanted to visit their mother and had a strong commitment to her. Mother's behavior, described as argumentative, loud, and demanding, caused the social worker to believe there was an underlying mental health or substance abuse issue. The social

² As to mother, the second amended petition was grounded on mother's inability to supervise or protect, or to provide adequate food, clothing, or shelter, and mother's inability to provide regular care due to a "mental health problem," mother's history of substance abuse, and the incarceration of the parents.

worker also described difficulty communicating with mother because mother interrupted, talked over, belittled, and cursed at the social worker. Further, mother refused to discuss her past history, and refused to disclose her residence to CFS.

After hearing the evidence at the jurisdiction hearing, the court dismissed several allegations due to insufficient evidence. However, it found true allegations that (b-3) mother failed to provide adequate housing, personal hygiene or clothing; (b-4) mother left the children unsupervised; (b-5) mother has a mental health problem that interferes with her ability to parent; and (b-7) that father's history of substance interferes with his ability to parent. The court found the children came under section 300, subdivisions (b) and (g), declared the children to be dependents of the court and removed them from their parents' custody. The court found that CFS had made reasonable efforts to prevent or eliminate the need for removal. The court ordered the parents to participate in reunification services that included a psychological evaluation of mother, and directed father to submit to random drug testing.

Mother appealed the jurisdictional and dispositional judgment. On appeal, this court reversed the jurisdictional finding on the mental health count for insufficient evidence, but otherwise affirmed the jurisdictional and disposition orders of the court.

(In re H.H. (Nov. 15, 2011, E052625) [nonpub. opn.]*.)*

In the meantime, CFS submitted its six-month review report on June 8, 2011. The report indicated that mother was still homeless, staying at different addresses. Although mother had requested that CFS use the address of mother's adult daughter for

correspondence, the daughter indicated that she was not authorized to accept mail on behalf of her mother at that address because the daughter and her husband were living with her husband's family.

Mother informed the social worker that she had started taking parenting and anger management classes through the Pomona Adult Education Center, but she did not provide verification to the social worker as requested. The social worker made the referral to the Pomona Adult Education Center at mother's request, and provided gas vouchers for transportation. Regarding her housing, mother had been arrested in Henderson, Nevada, for camping in a prohibited area and obstructing a peace officer. Regarding the court ordered psychological evaluation, mother refused to sign the necessary consents to release information and would not commit to a location where she was willing to go to participate in the evaluation. Although mother had indicated a preference for obtaining an evaluation in Las Vegas, she failed to provide the social worker with the information needed for CFS to pay for the evaluation.

Mother denied that there were any issues requiring CFS intervention and did not see being homeless as an issue when it came to having her children returned. She moved from place to place over a broad geographical area, covering Nevada (where she was arrested for camping in a prohibited area), to Pomona (where she attended parenting and anger management classes), to Costa Mesa (where she maintained a mail box).

On June 20, 2011, mother appeared at the initial six-month review hearing to request a contested hearing. Mother's counsel indicated that the issue to be contested

was whether reasonable services had been provided. Counsel provided a certificate for mother's completion of parenting classes at the hearing. Mother informed the court she had moved to Las Vegas in December, that she obtained a house in April, and that she was self-employed working for an ad agency to earn money for rent. She provided an address in Las Vegas. The court informed mother it would order CFS to check out her residence and verify her employment, as well as her completion of the classes.

At the same hearing, mother informed the court that the home she referred to was merely a short-term arrangement, until she found something else. In response to the court's question about where she planned to stay with her children, mother explained that a friend was looking into the matter and that she could stay with the friend until she found a place of her own. The court explained that she needed an address where the children would live, to which mother responded that CFS has not helped her find a place. After some dialogue, in which the court attempted to explain that mother needed to find a place to live where she could provide a home for the children and a job to provide for them, mother asked the court to send the children to Arkansas, where her brother lived, because she planned to move there.

On July 12, 2011, mother appeared in court for a hearing on CFS's motion to continue the review hearing. County counsel requested the continuance because the deputy who had been assigned to handle the hearing had previously represented one of the minors in a prior dependency, posing a conflict of interest. Mother wanted the deputy county counsel off the case, but also did not want to continue the hearing.

At that hearing, mother requested county funds for a deposit for housing, as well as gas vouchers. The court inquired about mother's housing situation, and mother informed the court she had a temporary place. She went on to inform the court that she could not work, although there was a job she could do, because she could not stand for long periods of time. When the court asked mother for an address, mother stated that she was not at the Las Vegas address she had provided to the court at the previous hearing. Instead, she was staying with a friend, and she declined to state what city she was staying in, as that was "irrelevant." The court ordered mother to provide her current address.

On August 5, 2011, the contested six-month review hearing took place. Mother testified at the hearing that she was currently residing at Roy's Resource Center in Palm Springs. The program helps with temporary shelter and provides transition into other housing. The children could reside in the center with mother. Mother requested assistance from CFS to transition to a permanent residence. Mother complained that CFS had not helped her with housing, and that she was unable to get into section 8 housing without a form provided by CFS. Mother needed money to pay a deposit. Mother also requested gas scripts or bus fare.

Mother also testified that she had completed her parenting and anger management classes. However, while she was willing to submit to a psychological evaluation, she was unwilling to sign releases of information. Although CFS stipulated to mother's completion of parenting classes, mother did not have certificates for completion of anger management classes or the counseling requirements of the reunification plan. Further,

mother acknowledged that she had not been staying continuously at Roy's Resource Center for most of the past several months. Instead, she had been living in Las Vegas where she was unable to find a job.

The court interrupted mother's testimony to indicate that it agreed mother could take care of the children, and that the sole issue was mother's ability to provide a home for them. The court explained to mother that CFS needed to check out Roy's Resource Center, where mother stated the children could stay with her, and where they may have a program to get her into some housing. If it checked out the way mother described, the court would consider placing the children with her in that shelter. However, the court did not have enough information at that time to order return of the children.

After mother's testimony had concluded, county counsel made an offer of proof that the social worker would testify that she had been providing gas scripts to mother and is willing to continue to work with mother. Additionally, CFS needed releases signed by mother in order to send reports to the psychologist to facilitate the evaluation of mother.³ CFS did not object to authority to return the children to mother, but needed to assess the home where the children would be living. Mother's counsel accepted county counsel's offer of proof. The court clarified that the proposal was to continue the children as dependency, continue family reunification services, have the social worker go check out

³ Although we reversed the mental health allegation of the juvenile dependency petition, we express no opinion on the continued need for a psychological evaluation, which provides valuable information to the juvenile court in framing service plans for families and understanding the family's dynamics.

the program in Palm Springs, and authorize the social worker to place all the children with mother in family maintenance.

The court emphasized that for it to return the children, it needed to confirm that the children have a home, a roof, beds of their own, food on the table, and a school they can attend. The court also requested that mother sign the releases for the psychological evaluation. The court then asked mother if that plan was okay, and mother replied yes, although she was concerned about how long it would take for psychological evaluation to be completed. The court assured mother the details could be worked out, and mother stated, "Okay." The court reaffirmed that mother would have to sign a release for the psychological evaluation, that family reunification services would be continued and that the social worker would have authority to place the children with her if everything checked out. The court encouraged mother to cooperate with the social worker to insure her children were returned as soon as possible. Mother replied, "Okay."

The court then found by a preponderance of evidence that return of the children would be detrimental, that reasonable services have been provided to the parents, and that the extent of the parents' progress was insufficient.

On August 29, 2011, mother appealed from the order made at the status review hearing.

DISCUSSION

On appeal, mother argues there is insufficient evidence to support the findings that reasonable services were offered or provided, where homelessness was the problem that brought the family to the attention of CFS. We disagree.

The applicable standard of review is sufficiency of the evidence. (*Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1346.) We review the evidence most favorably to the prevailing party and indulge in all legitimate and reasonable inferences to uphold the court's ruling. (*Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1424.) "Substantial evidence' means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion; it is evidence which is reasonable in nature, credible, and of solid value." (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433, citing *In re Jerry M.* (1997) 59 Cal.App.4th 289, 298.) Issues of fact and credibility are questions for the trier of fact. (*In re E.B.* (2010) 184 Cal.App.4th 568, 575.)

At a status review hearing, the court must return the child to the physical custody of his or her parent unless the agency proves, by a preponderance of the evidence, that return to the parent would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. (§ 366.21, subds. (e), (f); *Tracy J. v. Superior Court, supra*, 202 Cal.App.4th at p. 1424.) The adequacy of reunification plans and the reasonableness of the social service agency's efforts are judged according to the circumstances of each case. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 691.)

To support a finding that 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. (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1501.)

In determining whether reunification services that were offered were reasonable under the circumstances, the court examines such circumstances as the parent's mental condition, her insight into the family's problems, and her willingness to accept and participate in appropriate services. (*In re Christina L.* (1992) 3 Cal.App.4th 404, 416.) If mother felt during the reunification period that the services offered her were inadequate, she had the assistance of counsel to seek additional services, or otherwise bring the inadequacy of the plan to the attention of the court. (*Ibid.*)

Reunification services are voluntary, and an unwilling or indifferent parent cannot be forced to comply with them. (*In re Jonathan R.* (1989) 211 Cal.App.3d 1214, 1220; see also *In re Mario C.* (1990) 226 Cal.App.3d 599, 604.) A parent may not be compelled to accept reunification services. (*In re Neil D.* (2007) 155 Cal.App.4th 219, 226.) It is not the trial court's role to force a parent to participate in services. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233-1234.) Nor is there a requirement that a social worker take the parent by the hand and escort him or her to and through classes or counseling sessions. (*Id.* at p. 1233.)

In the present case, the case plan required mother to obtain and maintain a stable residence for herself and her children, among other terms. The evidence is undisputed that CFS provided referrals for the parenting anger management classes, gas scripts, and visitation supervision. Yet, throughout the service period, mother repeatedly informed CFS and the court that she had obtained, or was in the process of obtaining, adequate housing, and that she had obtained or was in the process of obtaining employment to pay for such housing.

Thus, until June 20, 2011, the initial date set for the six-month review hearing, neither CFS nor the court was aware that mother required additional assistance in obtaining housing, when she informed the court that CFS had not helped her do anything. Nevertheless, at that hearing, mother informed the court that she had obtained a house in April, and had employment with which to pay her rent. Because the case plan required mother to obtain stable housing, it was incumbent upon mother to inform CFS or the court that she required additional services in this regard. Instead, the record is replete with examples of mother's irascible behavior and her stubborn refusal to provide information to CFS, or to cooperate with the agency, which significantly impaired CFS's ability to assist mother.

Even at the contested hearing in August, where the sole issue was reasonableness of services, mother testified that she was staying at a shelter where she could have her children placed with her. Although she requested assistance with housing in the form of

money for a deposit and referrals for section 8 housing⁴, her assertion that she was in a shelter that would assist in transitioning her into permanent housing suggests that any failure by CFS in assisting her with housing was a moot point. Any lack of assistance with housing was attributable to mother's failure to request it prior to the six-month review hearing.

Additionally, mother waived any issue relating to the lack of reasonable services at the contested hearing when she personally agreed with county counsel's proposal that she cooperate with CFS by signing releases, and allow CFS to evaluate the shelter for placement of the children. CFS was not opposed to giving the social worker authority to place the children with mother after those "tools" were in place. Mother's acceptance of that proposal, followed by her attorney's submission without argument after the court clarified the terms of the proposed order, constitutes a waiver. (*In re N.M.* (2011) 197 Cal.App.4th 159, 167.)

There was substantial evidence to support the juvenile court's finding that reasonable services had been provided.

⁴ Under section 8 (42 U.S.C. § 1437f(o)), low income families apply for and obtain vouchers to assist in payment of rent. The amount of housing assistance is determined based on a percentage of the family's monthly income, determined by the public housing agency. (42 U.S.C. § 1437f(o)(4).) Applicants for HUD programs are required to disclose and submit documentation to verify their social security numbers and income information, in order to verify an applicant's eligibility for, or level of assistance. (24 C.F.R. § 5.210(a).) Given mother's reluctance to provide any documentation to CFS, it would be impossible for the social worker to provide vouchers for section 8 housing assistance.

DISPOSITION

The judgment is affirmed.

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RAMIREZ
P.J.

We concur:

McKINSTER
J.

MILLER
J.