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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

A.G.

Petitioner,

v.

THE SUPERIOR COURT OF  
SAN BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY  
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E056010

(Super.Ct.Nos. J-236326 & J-236327)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Gregory S. Tavill,  
Judge. Petition denied.

Gloria Gebbie for Petitioner.

No appearance for Respondent.

Jean-Rene Basle, County Counsel, and Dawn M. Messer, Deputy County Counsel,  
for Real Party in Interest.

## INTRODUCTION

Petitioner A.G. (Mother) seeks review of an order of the juvenile court terminating reunification services and setting a permanent plan hearing under Welfare and Institutions Code section 366.26<sup>1</sup> with respect to her children A. and T. We find no error and deny the petition.

## STATEMENT OF FACTS

Mother, who is hearing impaired, is the mother of A. and T.<sup>2</sup> The children came to the attention of the San Bernardino County Children and Family Services (CFS) when A.'s father<sup>3</sup> (also hearing impaired) called authorities and said he did not want to care for the child. When CFS personnel arrived, father told them, through his landlord who was proficient in American Sign Language (ASL), that “the baby is a girl and I cannot take care of a girl . . . . I wanted a boy. . . . I don't know what to do.” He told the social worker that “mom went to the hospital . . . she is crazy, she is on drugs, and she is trying to kill herself.” Father then signed documents authorizing CFS to take custody of the child.

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

<sup>2</sup> Mother also has another biological child, M., who was adopted out in 2007.

<sup>3</sup> A.'s alleged father is not a party to this petition. T.'s father has played no part in the proceedings.

It was also learned at this time that T. was in the custody of her maternal grandmother<sup>4</sup> and had been since birth. The grandmother told the social worker that Mother had visited with T. only once.

Contact was then made with Mother at a hospital, assisted by a certified ASL translator. She had scratches on her face and her left eye was swollen shut. She informed the social worker that “‘I hit [m]yself with my fist on [my] face and also a board, I am frustrated with the baby, I love her but she wants to eat all the time . . . . I know I need help.’” She admitted that she had previously been prescribed drug therapy for depression, but she insisted that “‘I am well now that is why I smoke.’” Mother tested positive for methamphetamine at the time, although she told the social worker that she had not used drugs in over a year. CFS also obtained an order for the custody of T., whose caretaker was uncooperative.

The children were ordered detained on December 7, 2010. In a report filed on December 27, the social worker stated that a message had been left for Mother through a deaf assistance facility, certified letters had been sent asking the parents to contact the social worker, and a verbal message had been left with the parents’ landlord. However, no contact was made by the parents.

Mediation was scheduled to take place on January 25, 2011, but the parents did not appear on the set date. A contested hearing was then scheduled for March 8. CFS

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<sup>4</sup> The caretaker was originally identified as a great-aunt. A de facto parent statement signed by the caretaker identified her as T.’s grandmother, and other parts of the record indicate she was Mother’s grandmother.

recommended that reunification services be offered to Mother, even though (1) she had only visited the children once; (2) she and A.'s father were being evicted from their current home for using drugs; and (3) Mother admitted using methamphetamine—she tested positive on December 28, 2010—and reported plans to obtain a “medical marijuana” card. During a visit by the social worker, the parents asked for money and food as they had exhausted their monthly SSI checks. A.'s father denigrated Mother's parenting skills, which he opined were affected by her history of molestation. He also told the social worker that Mother used drugs constantly during her pregnancy.

The addendum report prepared for the jurisdictional and dispositional hearing also recounted Mother's difficulties with her first child, M., which included washing the child with such hot water that the infant's skin developed a blister, reports of physical abuse by Mother's father (who also sexually abused Mother), and a history of both assaultive behavior and suicidal threats. The report also reflected that Mother herself had a dependency case open from 1991 until she “aged out” in 2002.

At the hearing held on March 14, 2011, the parties submitted and the juvenile court found all allegations to be true as to both children.<sup>5</sup> It ordered that Mother receive reunification services.

The next report was prepared for the six-month hearing in September 2011. By this time, Mother was no longer living with A.'s father, and she had disclosed to the

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<sup>5</sup> We have not detailed the allegations of the petition as they are not essential, but they included, as to Mother, “failure to protect” due to substance abuse, mental health issues, and a basic lack of parenting skills. (See § 300, subd. (b).)

social worker that he had been physically abusing her throughout the period of the proceedings. The report noted that Mother had failed to respond to electronic message communications (e-mail), and that efforts by the social worker to call her through deaf assistance services were unsuccessful, at least in the sense that contact was not made and Mother did not respond. The social worker acknowledged that it was difficult to find programs for Mother due to her hearing disability, and that arranging the presence of a translator was proving problematical. However, Mother had made only a few visits to the children during this six-month period.

Nevertheless, on September 14, 2011, apparently due to the difficulty obtaining services for Mother, it was agreed to continue providing services.

The report filed on March 5, 2012, recommended that services be terminated. It was reported that Mother had only enrolled in a parenting class in January, and she had not visited the children until February 10, 2012, although the social worker conceded that she behaved appropriately during visits and seemed “excited” to see the children. The social worker had arranged for individual therapy and parenting education with an interpreter in November 2011, but she was unable to contact Mother to set up a schedule. Mother had also been referred to a substance abuse program in October 2011, but she did not respond. Also, Mother had not responded to requests that she drug test—requests sent to relatives’ homes because she was “in-between housing.”

Mother was also now involved with a man whose own children were at the section 366.26 stage, and it was reported that she had a miscarriage in May 2011.

At the hearing on April 9, 2012, Mother's counsel focused on creating doubt that Mother had received the letters and e-mails addressed to her, and also on the adequacy or unavailability of services. The social worker confirmed that Mother had been visiting the children consistently since February. However, he also reiterated that he had stressed to Mother the importance of remaining in contact with him, and that weeks and months would pass without hearing from her.

Mother herself blamed her inaction on communication difficulties. Referring to a recent fire at her apartment complex and the problems she found trying to reschedule her visit, she admitted that she was "really stressed out." She claimed that she had not presented for a psychiatric evaluation because there was a \$30 charge (the social worker had testified that she was given a referral for a no-cost clinic). She testified that she was "asking for help, but I was not getting the help" during most of 2011 from "[t]hose who experienced and gone through it," that is, contacts with other hearing-disabled persons.

Mother also testified that she was currently using medical marijuana to help her "calm down," although she had also used methamphetamine in January 2012.

In reaching its decision, the juvenile court found that Mother's communications skills were effective, and it noted dryly that she had been able to go through the process of obtaining a medical marijuana prescription. The juvenile court found "no probability" that the children could be returned to Mother within the statutory time frame and terminated services. This petition followed.

## DISCUSSION

Mother's argument before this court is essentially the same as it was before the juvenile court—that the services offered were inadequate and/or insufficiently tailored to her specific circumstances. We disagree that her failure to reunify may be laid at the feet of CFS.

For children under three years of age, such as A. and T., services are generally limited to a maximum of 12 months unless success appears to be just around the corner. (§ 361.5, subd. (a)(1)(B), (a)(3), (a)(4).) Another exception exists where the court finds that reasonable services have not been offered. (See, e.g., § 361.5, subd. (a)(3).) It is well established both that the services offered to a parent must be tailored to that parent's particular needs (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164), and that services need only be "reasonable," not "perfect." (See *In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) The supervising agency must identify the problems leading to the loss of custody, offer services designed to address those problems, maintain reasonable contact with the parent, and attempt to assist the parent where appropriate. (*Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1345.)

The general rule in dependency matters is that the trial court's decisions will only be reversed for abuse of discretion. (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 652.) Our review is also limited by the "substantial evidence" rule. (*Amanda H. v. Superior Court, supra*, 166 Cal.App.4th at p. 1346.)

In this case, Mother's disability obviously created difficulties in providing her with suitable services, and CFS's recommendation to extend services for an additional six

months acknowledged that. However, the record reflects no effort whatsoever by Mother to cooperate or make herself available for services until January or February 2012. The juvenile court was not required to accept the insinuation that she failed to receive numerous communications and referrals from the social worker. Even if we were to assume this, Mother bears the responsibility for not keeping CFS informed of her whereabouts. Mother's ability to arrange an appointment to obtain a prescription for medical marijuana<sup>6</sup> casts a strongly negative light on her failure to remain in contact with the social worker.

Even more importantly, between September 2011 and February 2012, Mother did not even manage to visit the children. The record also indicates that between March and September 2011, she made only a few visits.<sup>7</sup> Regular visitation between parent and child is an essential element of any reunification plan and, therefore, must be offered to the parent. (*In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1138.) But the obligation works both ways; a parent who fails to exercise the right to visit clearly signals a lack of commitment to the child and the future of the relationship.

Childhood, after all, is brief, and is not put "on hold" while a parent rehabilitates himself or herself; children, especially young children such as the children in this case, need love and care in the present, not some time in the future when the parent feels

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<sup>6</sup> Arguably, not the wisest way for a person with substance abuse issues to deal with "stress."

<sup>7</sup> Although the record is not perfectly clear, it may be interpreted as showing that Mother made *no* visits between March 2011 and February 2012.

prepared to offer it. (See *A.H. v. Superior Court* (2010) 182 Cal.App.4th 1050, 1061.) Given Mother's unfortunate personal history (mental issues, substance abuse, abusive relationships, her inability to reunify with M.), she needed to apply herself every single day of the available reunification period. Had she presented herself to do so, CFS was prepared to provide her with a personal interpreter to assist her. Instead, she delayed for a year before making any effort to address the issues that caused the children to be taken into protective custody. In her petition, Mother asserts that she was "ready to participate" in January 2012. This was simply too late. No court could have found a "substantial probability" of the children's return to Mother<sup>8</sup> within any additional available period, given Mother's tardiness.

We find that adequate services were available or would have been made available to Mother had she been prepared to participate at least by late summer/early fall 2011. The fact that she did not respond to CFS's efforts until she was "prepared" to do so was the cause of the failure of reunification, not the absence of services.

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<sup>8</sup> Note that T. has *never* been in Mother's physical custody.

DISPOSITION

The petition for writ of mandate is denied.

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HOLLENHORST  
J.

We concur:

RAMIREZ  
P. J.

KING  
J.