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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

A.B.,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E056231

(Super.Ct.No. J237144)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Barbara A.

Buchholz, Judge. Petition denied.

Harold Gun Lai, Jr., for Petitioner.

No appearance for Respondent.

Jean-Rene Basle, County Counsel, and Jeffrey L. Bryson, Deputy County
Counsel, for Real Party in Interest.

Petitioner A.B. (mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging the juvenile court's order terminating reunification services as to her son, J.B. (the child) and setting a Welfare and Institutions Code¹ section 366.26 hearing. Mother contends that San Bernardino County Children and Family Services (CFS) failed to provide her with reasonable reunification services. We deny her writ petition.

FACTUAL AND PROCEDURAL BACKGROUND

On January 26, 2011, CFS filed a section 300 petition on behalf of the child, who was seven years old. The petition alleged that the child came within the provisions of section 300, subdivisions (b) (failure to protect), (c) (serious emotional damage), and (g) (no provision for support). The petition alleged that mother suffered from undiagnosed mental health issues, failed to provide the child with an appropriate, safe, sanitary and healthy living environment, and abandoned her child by leaving him and driving off to an unknown place. The petition also alleged that the child had expressed depression and hopelessness as a result of verbal abuse from mother, mother's whereabouts were unknown, and the child's father's identity and whereabouts were unknown.²

The juvenile court detained the child in foster care on January 27, 2011.

¹ All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

² The child's father is not a party to this writ.

Jurisdiction/Disposition

The social worker filed a jurisdiction/disposition report on February 14, 2011, recommending that mother be provided with reunification services. The social worker reported that the family came to CFS's attention when the child reported at school that his mother told him that if he was killed, she would laugh. The child also reported that his mother would yell at him, that he did not feel safe, that he was sent to his room with no food, and that he was spanked. A police officer went to the school and interviewed the child. The child said that his mother wanted him to die, his mother yelled at him every morning, he was afraid she might not feed him dinner, and she would lock him in his room for punishment. The child did not want to go home. Mother came to the school and the police officer asked for permission to enter her home. Mother was uncooperative, so the officer obtained a warrant. Mother threatened to sue the sheriff's department and the school. Then she claimed she did not have a key to her house. She told the police her sister might have a key, and led them to her sister's house. After finding no key there, police officers went to mother's house and instructed her to follow. Mother never showed up. The police forced their way into the front door. They found rotten food all over the dining table and chairs, rotting food in the refrigerator, and a filthy bathroom sink.

The social worker identified the main issue as mother's emotional abuse of the child. School personnel described mother as loud, aggressive, mean, intimidating, and completely unaware of how her words and actions frightened the child.

On February 17, 2011, the court set a contested jurisdictional hearing, at mother's request.

On March 1, 2011, mother's counsel filed a motion to be relieved as counsel on the ground that there was a total breakdown in communication. On March 2, the Children's Advocacy Group (the Group), which represented the child, filed for a restraining order against mother on the ground that she was harassing the staff with persistent calls and threatening behavior. The Group's motion was granted on March 2, and mother's counsel's motion was granted on March 4. New counsel was appointed.

On March 30, 2011, at the contested jurisdictional hearing, mother requested a *Marsden*³ hearing to relieve her second counsel. The motion was granted, and the court also held a *Faretta*⁴ hearing. The court found that mother could not adequately represent herself without assistance of counsel. New counsel was appointed to represent her, and the matter was continued.

In an addendum report filed on June 17, 2011, the social worker recommended that mother undergo a psychological evaluation in order to tailor services to her needs. The social worker reported that mother was attending parenting and anger management classes, as well as individual therapy. Although mother had completed 11 out of 12 parenting classes, she apparently had not benefitted from the classes. In individual counseling sessions, she expressed anger and frustration with CFS, and said she believed

³ *People v. Marsden* (1970) 2 Cal.3d 118.

⁴ *Faretta v. California* (1975) 422 U.S. 806.

the legal system was unjust, and that her lawyer was in collusion with the judge. The facilitator of the anger management class expressed her doubt that the remaining sessions of that class would be useful to mother, given that she had failed to absorb the information taught. Since mother was not benefiting from the services provided, the social worker opined that she would benefit from a psychological evaluation.

On June 20, 2011, mother's third counsel filed a motion to be relieved. Counsel stated that there was no communication between her and mother. The court did not find cause to relieve counsel and, thus, denied the motion.

That same day, mother filed a motion to relieve her appointed counsel and proceed in propria persona. She claimed ineffective assistance of counsel and collusion with CFS and county counsel. Mother also filed, in pro. per., a motion to continue the trial, a motion for modification of visitation, and a demand for an evidentiary hearing. The court denied all of the motions, and the matter proceeded to the contested jurisdictional/dispositional hearing.

After considering the evidence, the juvenile court found that the child came within section 300, subdivisions (b), (c), and (g), and declared the child a dependent of the court. The court ordered mother to undergo a psychological evaluation. It also approved the case plan and ordered her to participate in reunification services. The case plan included the requirements that she participate in an anger management class, general counseling, and an parenting education program, as well as undergo a psychological evaluation.

On July 22, 2011, CFS filed a packet requesting the court to suspend visitation. The court held a hearing and, after considering the evidence, noted its concern for the

child's emotional well-being. It observed that during the hearing, mother was repeatedly disrespectful to the court and court personnel, and tried to usurp the court rules and follow her own. The court suspended visitation, including telephonic visits, between mother and the child. The court authorized CFS to revisit this issue once mother received her psychological evaluation. The court noted that it had ordered a psychological evaluation some time ago, but mother had failed to comply with the order.

On August 11, 2011, mother's third counsel filed a motion to be relieved as counsel because there had been a "complete breakdown of the attorney-client relationship." The court granted the motion on August 29, 2011, and appointed new counsel.

On November 8, 2011, the court held a hearing to address mother's request, made through a section 388 petition, to transfer the matter to Siskiyou County and to place the child with the maternal great grandmother there. The court noted that mother had recently moved to Siskiyou County and was apparently being offered all of the services there. Mother's counsel informed the court that he had explained to mother that there was an order to undergo a psychological evaluation, and that the social worker provided a referral for a psychologist in Northern California. However, the psychologist's location was 100 miles away from mother. The social worker offered to provide gas script for mother to see the psychologist, but counsel had not yet informed mother of this offer. The court agreed to continue the hearing in order to give mother an opportunity to respond to the offer. The court noted that mother's change in circumstances was

“somewhat suspect,” in that the move appeared to be orchestrated by mother “simply to circumvent this court and the court’s authority.”

On December 5, 2011, the court held a hearing on the section 388 petition. The court asked the parties if mother had engaged in her psychological evaluation yet, and mother’s counsel said no. However, he requested the social worker to just send the gas script to mother so she could participate in an evaluation. County counsel responded that the record was clear that mother had consistently refused to do the psychological evaluation, and he refused to just “send her [the] gas script for free.” The social worker informed that court that she contacted the psychologist to let him know she referred him, and she sent mother a letter with the psychologist’s information to call and make the appointment. The court noted that it ordered the evaluation months ago, that mother had plenty of opportunity to have it done in San Bernardino, and that mother still had not done it. The court stated that the child was thriving in his current placement with a relative, so there was no need to move him. County counsel asserted that mother was not participating in any services and asked the court to deny the petition. The court found that mother had not engaged in any services and had not done the psychological evaluation. It further concluded that her move did not qualify as a change in circumstances, and that it was in the child’s best interest to leave him in his current placement.

The social worker filed a six-month status review report on December 13, 2011. The social worker reported that mother had been offered and provided with transportation assistance, crisis intervention, visitation services, case management services, and classes

designed to assist her with meeting the requirements of her case plan. She reported that mother completed 12 weeks of anger management classes as of June 7, 2011. The facilitator, however, noted that mother did not absorb the information taught, and that more classes would not be useful. Regarding parenting classes, the instructor reported that mother rarely participated in class, and that she had not accepted responsibility, or developed empathy.

On June 15, 2011, the social worker received a progress letter from mother's therapist, with whom she was participating in individual therapy sessions. Mother had attended 10 sessions, but the therapist stated that mother did not feel she needed to be there and did not take any responsibility. When the therapist tried to discuss the objectives of her treatment, mother persisted in complaining about her court case.

The social worker further reported that, on July 28, 2011, a psychologist was contracted to provide psychological testing and evaluation services for mother. The social worker stated that mother was aware that further reunification services required the results of the evaluation; nonetheless, she refused to participate in the evaluation, stating that the order for the evaluation "was based on fraudulent information and she was not going to participate."

Regardless, the social worker contacted the Siskiyou County Children and Family Services and obtained the name of the psychologist they contracted with to provide evaluations for their clients. The social worker also located parenting and anger management courses close to her, and sent the information with a copy of the case plan to mother via certified letter. The social worker asked mother to notify her when she

wanted to begin services, so the social worker could arrange for payment and transportation. Mother signed for the certified letter on October 26, 2011, but did not contact the social worker.

The social worker stated that, as of December 2011, mother had still refused to comply with the court's order to undergo a psychological evaluation. However, the evaluation results were important because it was recognized that mother required a higher level of care than was usually provided at the community level. Furthermore, without psychological care, contact between mother and the child remained detrimental, and returning him to her care would put him at risk of further abuse.

A six-month review hearing was held on December 22, 2011, and mother's counsel stated that mother had contacted someone in her area about doing an evaluation. The court continued the matter to the 12-month review.

Mother participated in a psychological evaluation on January 12, 2012 with Dr. J. Reid McKellar. Upon interviewing her, he noted that she "presented as an intense, intelligent person," but did not demonstrate any signs of psychosis. Rather, she had some signs of "institutional mistrust that bordered on paranoid thinking." She felt that she had been wronged by the child welfare system and was consumed with this idea. Dr. McKellar noted that mother claimed she did not have issues that merited intervention and, thus, did not feel that reunification services were needed. She also told him that "they" would keep telling her she needed services "for years to keep [her] away from [her] baby." Dr. McKellar observed that mother "launched into her verbal attack [of him] seemingly unprovoked." Dr. McKellar stated that mother's "distrust of systems and

paranoid thinking [was] inhibiting her from effectively engaging in services.” He opined that she would not benefit from services, but noted that “that may be besides the point given that [she did] not want services, nor [did] she think she need[ed] them.” He concluded as follows: “Based on [mother’s] clear stance and verbalizations regarding her lack of a need for services, and her belief that services would only be recommended to ensure a reunification failure, no services are recommended.” He opined that she “would be highly unlikely to benefit or experience appreciable change based on any services that could be provided.”

12-month Status Review

The social worker filed a status review report on March 19, 2012, and recommended that the court set a section 366.26 hearing and establish adoption as the permanent plan. The social worker again reported that she mailed mother information about classes close to her, on October 17, 2011, along with a letter asking mother to notify her when she wanted to begin services, so that arrangements could be made for payment and transportation costs. Similar letters were sent in December 2011 and February 2012, but mother never responded. The social worker concluded that there was no substantial probability the child could be returned to mother within the next six months.

On May 1, 2012, mother’s fourth counsel filed a motion to be relieved as mother’s attorney, citing his inability to communicate with her and her efforts to have him put in jail. The court denied the request.

A contested 12-month review hearing was held on May 9, 2012. The social worker testified that the psychological evaluation was ordered to determine mother's needs, so that CFS could tailor services for her, since her needs were clearly beyond what CFS normally offered. Mother had participated in an anger management class and a parenting class, but had not benefitted. She also participated in general counseling, but she refused to address any of the issues that were outlined by CFS to be addressed.

Dr. McKeller also testified at the hearing and stated that mother told him she had no intentions of following through with any services that would be offered to her because they were all a "setup" to delay reunification. Mother made it clear that she did not need any services to help her parent her child.

After hearing the testimonies, the court commented that mother's demeanor with the court, as well as other individuals, had been "less than cooperative." It further noted that everyone was at a loss as to how to help her with understanding what she needed and what benefit she should have derived from the services offered to her. The court stated that, to some degree, mother delayed CFS assisting her by postponing the psychological evaluation for about one year. The court found that reasonable services had been offered to mother, but she had not benefitted. The court further found that there was not a substantial likelihood that she could benefit from any additional services that could be offered to her. The court concluded that there was not a substantial likelihood the child could be returned to her within the statutory timeframe. It then terminated services and set a section 366.26 hearing for September 6, 2012.

ANALYSIS

There Was Substantial Evidence to Support the Court's Finding That Reasonable Services Were Provided to Mother

Mother contends that the court erred in finding she was provided with reasonable services because the services offered failed to address her special needs. She acknowledges that she was referred to general counseling, anger management, parenting classes, and a psychological evaluation. However, she complains that the social worker did not refer her to any “customized programs/classes,” despite knowing that she was “distrustful of the system.” In other words, mother claims that she was “a unique individual facing distinctive obstacles,” but she did not receive a case plan that was tailored to her specific needs. We conclude that mother was provided with reasonable services.

A. Relevant Law

“A reunification plan must be tailored to the particular individual and family, addressing the unique facts of that family. [Citation.] A social services agency is required to make a good faith effort to address the parent’s problems through services, to maintain reasonable contact with the parent during the course of the plan, and to make reasonable efforts to assist the parent in areas where compliance proves difficult. [Citation.] . . . ‘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.’ [Citation.]” (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 598-599 (*Katie V.*))

“[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court’s finding that reasonable services were provided or offered. [Citations.]” (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) “We determine whether substantial evidence supports the trial court’s finding, reviewing the evidence in a light most favorable to the prevailing party and indulging in all legitimate and reasonable inferences to uphold the court’s ruling. [Citation.]” (*Katie V., supra*, 130 Cal.App.4th at p. 598.)

B. There Was Substantial Evidence to Support the Court’s Finding

We have reviewed the record and find mother’s argument unavailing. The court ordered her to participate in an anger management class, general counseling, and a parenting education program, as well as undergo a psychological evaluation. The record reveals that mother was offered a plethora of services, including transportation assistance, crisis intervention, visitation services, case management services, and classes designed to assist her with meeting the requirements of her case plan. Mother completed 12 weeks of anger management classes and a parenting class. Furthermore, mother participated in individual counseling with a therapist and attended 10 sessions.

We find mother’s claim that she did not receive services that were tailored to her specific needs to be disingenuous. The social worker recognized that mother was not benefitting from the services she participated in and, thus, recommended that she undergo a psychological evaluation in order to tailor the services to meet her unique needs. Thus, in June 2011, the court ordered the psychological evaluation. However, mother

consistently refused to undergo the evaluation. Even after she moved to Northern California, the social worker provided a referral for a psychologist there and offered to provide transportation costs. Although mother was aware that further reunification services required the results of the evaluation, she refused to participate for several months. Mother finally participated in an evaluation in January 2012 with Dr. McKellar. Dr. McKellar testified at the 12-month review hearing that mother told him she had no intentions of following through with any services that would be offered to her because they were all a “setup” to delay reunification. Moreover, she did not think she needed any services to help her parent her child. Dr. McKellar stated that mother’s “distrust of systems and paranoid thinking [was] inhibiting her from effectively engaging in services.” He opined that she “would be highly unlikely to benefit or experience appreciable change based on *any* services that could be provided.” (Italics added.) Thus, Dr. McKellar did not recommend further services for mother.

In sum, rather than showing that CFS failed to provide reasonable services, the record reveals that mother was provided with services, but failed to benefit from them, and when CFS attempted to have her evaluated in order to provide her with specifically tailored services, she resisted for months. When she finally was evaluated, mother made it clear that she did not need help parenting her child, and that she had no intention of participating in any further services. We conclude that there was sufficient evidence to support a finding that the services provided were reasonable under the circumstances. (*Katie V.*, *supra*, 130 Cal.App.4th at p. 598.)

DISPOSITION

The writ petition is denied.

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HOLLENHORST
Acting P. J.

We concur:

McKINSTER
J.

MILLER
J.