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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

J.G.,

Petitioner,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E061500

(Super.Ct.No. SWJ007292)

**OPINION**

ORIGINAL PROCEEDINGS; petition for extraordinary writ. John M.

Monterosso, Judge. Petition denied.

Daniel L. Vinson for Petitioner.

No appearance for Respondent.

Gregory P. Priamos, County Counsel, and Julie Koons Jarvi, Deputy County  
Counsel, for Real Party in Interest.

I

INTRODUCTION

Father J.G. (father) has 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 his children, and setting a Welfare and Institutions Code<sup>1</sup> section 366.26 hearing. Father argues that the trial court's termination of family reunification services is not supported by substantial evidence. We hereby deny father's writ petition.

II

STATEMENT OF THE CASE AND FACTS

Mother<sup>2</sup> and father are the parents of three children: Justice (age 12), Zander (age 8), and Skyler (age 2).

On November 28, 2012, the Department of Social Services (department) received an immediate response report of suspected child abuse. Justice reportedly had a black eye from being punched by his mother. Justice also had a scratch below his left eye which was reportedly from mother's wedding ring. Moreover, Justice had bruising on his arm, which he claimed was a result of him falling off his bed. Justice had a learning disability.

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

<sup>2</sup> Mother is not a party to this writ petition.

The social worker, along with two detectives, responded to Justice's home. Father answered the door. His demeanor was hostile and condescending. When the detectives asked to speak with mother, father rolled his eyes and stated he had to wake her up. The detectives stopped him from going inside the home to assess him to see if he had any weapons. Father became hostile and resisted the officers' attempts to get his hands out. Father was handcuffed for his and the officers' safety, and placed in the squad car.

Mother was uncooperative; she also had to be placed in handcuffs. A detective reminded mother that she was on probation and subject to search; she was to comply as part of her probation. Mother remained agitated and defiant throughout the interview. She stated that the department harassed her each time her son lied.

Mother described father as an emotional mess. Father was laid off in October, and the family was behind "on things." Mother was very scared. Mother hesitated when asked if father had an anger management problem.

Father was brought into the interview room at the police station. He took his elbow and hit the wall very hard behind him several times. He paced and talked to himself. He then put his middle finger up to the camera a few times. He also appeared very agitated. Father "appeared to have broken the table when he began hitting that too."

Father was eventually interviewed by the detectives. He stated that he had been trying to leave mother for a long time. He admitted that mother had most likely hit the child, and she had previously slammed the two-year-old child's hand in the door out of anger. Father stated that mother had anger issues, and it had been a problem for a long time. Father claimed that he attempted to leave her, but the car was registered in her

name. He had no way out. Father did not want to be homeless. He admitted that he and mother had considered “giving up Justice to CPS because of all of his lies.”

Justice and Zander were interviewed independently. They each stated that mother hit Justice in the face. Both children stated that the incident occurred in the bathroom, and that both mother and father were present when the incident occurred. Mother hit Justice in the eye with a closed fist and called him an “asshole.” Both children described domestic violence between mother and father, and both described an incident where mother attempted to hit father with a bat. Zander described an incident where father punched and kicked him over a video game.

The social worker returned to the home with the detectives to retrieve the children’s clothing and Justice’s medication. They found several guns that were loaded with rounds in the chamber. They found ammunition boxes full of ammo that were not locked. None of the guns were in a locked safe, and none of them had trigger locks. The guns were confiscated because mother is a convicted felon. The children were placed in a foster home. They, however, stated that they wanted to live with father.

The social worker received a call from the Sheriff’s office stating that father had made terrorist threats to go to his son’s school and hold the children hostage until the children were returned to him. He threatened to kill himself and someone else with an automatic weapon. This incident resulted in an ongoing criminal investigation. Father was subsequently arrested.

On November 30, 2012, the department filed a juvenile dependency petition under section 300, on behalf of Justice, Zander, and Skyler.<sup>3</sup> On December 3, 2012, the juvenile court continued the detention hearing to have the mother transported to court. On December 4, 2013, the court detained the children. The court also ordered a medication assessment and a hair follicle test for father.

Father visited once a week for two hours. Visitations had been predominantly positive. Father had to be advised not to engage in conversation that was upsetting and inappropriate for Justice. The social worker explained to father that the children were not meant to hear his burdens or listen to him vent.

On January 24, 2013, the department filed an amended petition, which included allegations of excessive discipline by the parents and that father had unresolved mental health and anger issues. On the same day, the court sustained the amended petition. The court ordered the department to provide reunification services. Father was ordered to participate in a psychological evaluation to tailor services for him.

Father attended counseling, and completed a parent and anger management program. Although father completed his case plan services and consistently attended counseling, it was determined that father would benefit from additional counseling sessions. It did not appear that father believed that Justice had mental health issues. Father did not understand and accept Justice's severe psychiatric needs. According to

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<sup>3</sup> Justice and Zander had been previously detained from the parents in 2007. The children were returned to father's care at the jurisdictional/dispositional hearing on a family maintenance status. The dependency was terminated at the status review hearing.

Justice's prior foster mother, father told Justice that he did not have to listen or do what other people told him to do because they were not his family. Justice stated that father told him that "Cops are dumb and pigs." Father's therapist expressed concern about father's lack of insight regarding the reasons why the children were removed. Father viewed himself as a victim, and the therapist questioned whether father benefited from his anger management program.

Father visited once a week for one hour. The visits were reported to be positive with no major concerns. Father would allude to the children that their inappropriate behavior was justified because they were not with him and they did not have to listen to the foster parents. The department did not recommend unsupervised visitation because father continued to deny using a belt to hit Zander and was unaware why Zander made those statements. Father was also in contact with mother and trying to work things out.

The juvenile court ordered that unsupervised day visits were to commence as of July 24, 2013. Father continued to deny that he hit Zander. However, Zander consistently stated that father hit him. When the social worker discussed this with Zander, he became very emotional and cried. Zander continued to state that he wanted to live with father and that he felt safe seeing him during unsupervised visits. Father continued to see himself as the victim and failed to see how he played a role in failing to protect his children. Father also denied the domestic violence allegations made by mother and continued to blame mother.

The social worker conducted a home evaluation of the paternal grandmother's home because father lived with her. Father was not home during the evaluation. The

paternal grandmother stated she was scared of father and could not “stand up” to him; she was scared of what father would do to her. The paternal grandmother stated that father had not changed and she was very concerned that the children would be returned to his care. She stated that father abused alcohol every day. She also informed the social worker that father did research on how to beat a drug by purchasing a kit to clean his urine prior to taking a test. The department noted that father could benefit from an alcohol treatment program.

On August 28, 2013, the trial court continued reunification services. Father’s case plan was amended to add that he submit to “80 hour alcohol testing” and also on-demand testing for alcohol. A program was to be added to his case plan if he was under the influence before visits. The court authorized visitation to be liberalized to unsupervised, overnights, and weekends, as well as family maintenance when appropriate and upon compliance and progress in case plans. A review hearing was set.

The social worker issued a progress letter stating that father no longer was in need of therapy. He tested negative for all substances during random drug tests. One test was deemed diluted. Father also completed his anger management program and parenting classes. He completed a psychological evaluation. He was in need of appropriate housing. Father also participated in joint therapy with Justice, but progress was slow because father often had to be redirected to be a father role model and not a friend.

Father maintained consistent visitations, and the visits reportedly went well with no concerns during day-long visitations. Justice had two overnight visits with father; Justice began to have increased negative behaviors. It was unknown if the negative

behaviors were related to the visits, but the overnight visits were terminated. The visits were at the discretion of the group home based on Justice's behavior and mental stability.

Father obtained a three-bedroom apartment that was properly furnished in Lake Elsinore. The children reported to the social worker that they could not tell her what they did on visits because father told them to keep it a secret. Father did not believe that Justice had real mental health needs and did not agree with the level of supervision the department was asking him to provide should the children be returned to his care. Although father had completed his services, he failed to exhibit behaviors showing that he benefitted from the services.

The staff at Justice's group home reported that father seemed "off." The staff was uncomfortable with father being at the group home. Father became confrontational when he was not allowed to do as he pleased with Justice.

On March 27, 2014, the juvenile court continued reunification services for father and set an 18-month review hearing. The court authorized family maintenance services upon father having appropriate childcare for the children. The court terminated reunification services for mother.

At the 18-month review hearing, the department recommended that reunification services be terminated as to father. Father began unsupervised, overnight visits. However, upon returning the children to their caretakers after the second weekend visit, father was observed to be under the influence of alcohol. He was observed to be belligerent and volatile toward the group home staff. After father left, the entire group

home continued to have a stench of alcohol. Visitation was changed to weekly, supervised visitation.

Father admitted drinking when the children were in his care. He, however, denied being under the influence. The social worker explained to him that alcohol abuse had been an issue in the past and he should refrain from drinking when the children were in his care. Father was also advised that he should not be driving the children after drinking. Father stated that he was stressed and his drinking was no big deal.

The social worker reported that father maintained a “victim mentality” – he failed to take responsibility for his actions and blamed the department or other individuals for the dependency. After father was under the influence, and became volatile and belligerent with the staff at Justice’s group home, he was no longer allowed on the campus. As a result of this ban from the group home, the joint therapy with Justice was terminated. Father had not benefited from services. He continued to abuse alcohol, drive the car with his children in it while he was under the influence, and discussed the case plan with the children.

On June 6, 2014, the department filed an ex parte application and order for a temporary restraining order (TRO) and for the suspension of visitation. On May 9, 2014, father made threats to Justice’s group home staff and a therapist that he would “go off” on the social worker and attack her at court if father lost services. He stated that he had guns and did not know what he would do after court if he lost his children. Father has a history of making threats to social workers, a violent criminal history, and guns registered in his name.

An anonymous caller reported that mother was living with father and was plotting to do something with the children. The caller expressed concern that mother was unstable and would hurt herself and others. She was arrested at father's home on June 6, 2014, because of her outstanding warrant and for becoming belligerent with law enforcement officers. Father bailed mother out of jail using his rent money.

On June 6, 2014, the court granted the TRO and set a hearing for June 23, 2014.

Zander and Skyler had to be relocated because of safety concerns. Father had been seen driving by the foster parents' home on various occasions, and had been observed sitting on the street near their home. Father also called and sent texts to the foster parents. The foster parents felt unsafe in their home. Therefore, Zander and Skyler were moved to a confidential foster family placement.

Justice was assessed for a new group home placement in order to ensure his safety and well-being. Father would call the group home and demand to speak to Justice notwithstanding the TRO and its restrictions on communication. The group home administration felt that father presented a risk to their staff requiring a change in placement. The new placement would be confidential.

The 18-month contested hearing and a hearing on the permanent restraining order was held on July 10, 2014. Justice's prior case manager and therapist, Ms. Jones, testified. She testified that father had stated on the phone that if he lost his children, he might attack the social worker in the courtroom, he would have nothing to live for, and he owned guns. Father also told her that he was just venting and was not going to do anything. Jones testified that she and the other staff at the group home treaded lightly

around father. Jones, however, testified that she had not witnessed father being volatile. After March 30, 2014, Jones did observe father making impulsive statements. He was upset with the group home for reporting his behavior and blamed the social worker for the loss of his children.

Jones testified that she did not think that Justice would be at risk of emotional or physical harm if returned to father with the continuation of recommended therapy. She testified that Justice did well when he was sent on visits with father. She stated that there was a risk, but she would recommend that they continue in treatment and continue family therapy to address these concerns. She stated that if Justice were returned without continued therapy, however, Justice would be at risk of harm. Jones testified that father's impulsivity in speaking in a reckless manner would harm Justice emotionally if done in front of him.

According to Jones, after contact with the family stopped for about three weeks, Justice's behavior improved "dramatically." Jones, however, testified that three weeks was not long enough to make a fair assessment. There was only one incident during that time where Justice started slamming his door, which was in response to learning that father and mother were back together.

Eric G., a supervisor for a dormitory at Justice's prior group home, testified. He testified about observing father one day in the dormitory when father spoke to staff in an angry and aggressive manner. Eric G. stated that he smelled alcohol on father during the incident. After father left, the smell of alcohol lingered for 10 to 20 seconds. Father had no other symptoms of being under the influence. Eric G. filed a report to notify his

supervisor of the situation. He also reported that his staff felt threatened by father.

Justice was not present during this incident.

Eric G. supervised visitations between Justice and father. He testified that Justice and father got along well and had normal father and son interactions. They appeared bonded. Eric G. never saw father treat Justice inappropriately. Justice looked forward to visits with father. Eric G. also did not observe father to be aggravated during visits.

Zander testified. He stated that he wanted to visit father. It was Zander's choice to live with father. Zander stated that he was not afraid of father, and father took care of Zander. He also stated that father and mother lived together.

On July 11, 2014, after hearing testimony, the juvenile court granted the restraining order protecting the social worker from father. The court denied the request for a restraining order to protect the children. Thereafter, the court terminated services and set a section 366.26 hearing.

### III

#### ANALYSIS

Father contends that substantial evidence does not support the court's finding that placement of the children with him would create a substantial risk to their safety or well-being.

The standard of review on appeal is the substantial evidence test – whether there is reasonable, credible evidence of solid value such that a reasonable trier of fact could make the findings challenged. (*In re Angelia P.* (1981) 28 Cal.3d 908, 924.) ““In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess

the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact . . . .” (*In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214.)

Under section 366.26, subdivision (a), at the 18-month review hearing, “the 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.” The social worker has the burden of establishing detriment. “The 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).) The trial court “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.” (*Ibid.*)

In this case, the parties agree that father completed his case plan. This, however, does not mean that there was no risk to the children if placed with father. The evidence in the record reveals that father did not benefit from the services he received.

As provided in detail above, just prior to the 18-month review hearing, father was observed to be belligerent and volatile toward the staff at Justice's group home. Eric G., the supervisor of Justice's dormitory, testified that father smelled of alcohol during this incident, and spoke to staff in an angry and aggressive manner. After father left the building, the smell of alcohol lingered in the building for 10 to 20 seconds. The staff at the group home felt threatened by father.

Ms. Jones, Justice's prior case manager and therapist, testified that father told her over the telephone that if he lost his children, he might attack the social worker in the courtroom, he would have nothing to live for, and he owned guns. Jones testified that Justice would be at risk of harm if returned to father's care without continued therapy.

The evidence showed that if the children were returned to father's care, he would not proactively protect the children from mother. Zander testified that father and mother lived together. Mother did not complete her services, and her reunification services had been terminated at a prior hearing. On June 6, 2014, mother was arrested at father's home for an outstanding warrant and for becoming belligerent with law enforcement officers. Father bailed mother out of jail using his rent money. After Justice learned that father and mother were reunited, Justice started to slam his door at the group home; he was upset.

After hearing all the evidence, the juvenile court went through a lengthy discussion on the evidence presented and the court's thoughts on the evidence. The court, after summarizing the testimony of witnesses, stated: "...I think the Department has presented evidence, and I would find that there's a great likelihood that if the children

were returned to dad's care[,] that he would not proactively protect the children. [¶]  
[Father] bailed [mother] out of jail recently. She was arrested at his house hiding. Those  
are things that were in the addendum report. [¶] So, all the - - it's not one factor. It's all  
these factors that led me to conclude that there is still - - the Department has proven by a  
preponderance of the evidence that a substantial risk exists to not only the physical  
welfare of the children but their emotional welfare. [¶] I give also significant weight to  
some of the things Ms. Jones mentioned about how - - I can't remember which child it is  
- - maybe Zander, who idolizes dad and would repeat or copy dad. Maybe it was Justice.  
Irrespective, children are going to copy dad and learn this is how you act. It's one thing  
to teach your children how to act in a way that's not going to be a detriment to them, but  
this is going to cause them extreme detriment as it's caused [father] extreme detriment in  
his life if the children were to follow him.”

Notwithstanding the juvenile court's careful analysis of the evidence presented at  
the 18-month review hearing, in his writ petition, father argues that the social worker's  
statements in the reports were unsubstantiated. Father provides testimony or evidence  
contradicting the social worker's statements. However, “[i]t is the trial court's role to  
assess the credibility of the various witnesses, to weigh the evidence to resolve the  
conflicts in the evidence.” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52.) On appeal, we  
have “no power to judge the effect or value of the evidence, to weigh the evidence, to  
consider the credibility of witnesses or to resolve conflicts in the evidence or the  
reasonable inferences which may be drawn from that evidence. [Citation.]” (*Id.* at pp.  
52-53.) Instead, we “must accept the evidence most favorable to the [juvenile court's]

order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of facts. [Citation.]” (*Id.* at p. 53.)

Therefore, we find that the court’s finding, that placing the children with father would create a substantial risk of detriment to the safety, protection or physical or emotional well-being of the children, is supported by substantial evidence. Father’s writ petition is denied.

IV

DISPOSITION

The writ petition is denied.

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RICHLI  
Acting P. J.

We concur:

KING  
J.

MILLER  
J.