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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

N.M.,

Petitioner,

v.

THE SUPERIOR COURT OF MERCED
COUNTY,

Respondent;

MERCED COUNTY HUMAN SERVICES
AGENCY,

Real Party in Interest.

F066019

(Super. Ct. No. JP000226)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. John D. Kiriara, Judge.

William A. Davis for Petitioner.

No appearance for Respondent.

James N. Fincher, County Counsel, and Sheri L. Damon, Deputy County Counsel, for Real Party in Interest.

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*Before Cornell, Acting P.J., Detjen, J., and Franson, J.

N.M. (mother) seeks an extraordinary writ (Cal. Rules of Court, rule 8.452) from the juvenile court's orders terminating her reunification services at a contested dispositional hearing on a supplemental petition (Welf. & Inst. Code, § 387)¹ and setting a section 366.26 hearing as to her three-year-old daughter, Angelica, and two-year-old son, Eduardo. She contends the juvenile court erred in finding that she was provided reasonable services. We disagree and deny the petition.

FACTUAL AND PROCEDURAL SUMMARY

In April 2010, the Merced County Human Services Agency (agency) took then 11-month-old Angelica and newborn Eduardo into protective custody after their father, Alfonso, was arrested for domestic violence and mother was involuntarily committed for attempting to commit suicide by slitting her throat. Mother denied attempting suicide and claimed that a woman tried to kill her and take her children. Authorities ultimately verified her story.

In May 2010, the juvenile court exercised its dependency jurisdiction over the children and ordered them returned to Alfonso and mother's custody under a plan of family maintenance. Under the plan, mother and Alfonso were ordered to participate in a parenting education program as well as an anger management and/or domestic violence program. In addition, the juvenile court ordered mother to complete a mental health evaluation and comply with any recommended treatment. The juvenile court set a family maintenance review hearing for November 2010.

Mother and Alfonso participated in their court-ordered services and in November 2010, the juvenile court continued family maintenance services and set a review hearing for May 2011.

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

Meanwhile, in December 2010, mother left the family home with the children and checked into a battered women's shelter. She claimed that Alfonso controlled and isolated her and would not let her end the relationship. She also claimed he threatened to have the children taken away and forced her to have sex in front of the children. Alfonso denied physically or sexually abusing mother and said she abused him. He said she initiated arguments and slapped him in front of the children. After several days at the shelter, mother left, wanting to return to Alfonso.

In January 2011, the agency took the children into protective custody and filed a supplemental petition (§ 387), alleging that family maintenance had proven ineffective in protecting the children and asking the juvenile court to remove them from the home. In its report for the hearing on the supplemental petition, the agency advised the juvenile court that mother and Alfonso admitted arguing and engaging in physical fights while living together. The agency recommended that the juvenile court provide them reunification services to address domestic violence and to work toward reunifying with the children.

The juvenile court vacated the family maintenance review hearing set for May 2011 and in February 2011, sustained the supplemental petition, ordered family reunification services for both parents, and set a 12-month review hearing for May 2011. Mother was ordered to continue mental health counseling and complete domestic violence and parenting programs.

In May 2011, the juvenile court continued reunification services for mother and Alfonso until the 18-month review hearing, which it conducted in December 2011. By that time, mother completed programs in parenting education and domestic violence. In addition, she was diagnosed with depression for which she was taking medication. Alfonso, meanwhile, had been deported to Mexico. Prior to his deportation, he was not consistently participating in services and was engaging in domestic violence. In its report for the review hearing, the agency recommended that the juvenile court terminate

Alfonso's reunification services and return the children to mother with family maintenance services.

In December 2011, at the 18-month review hearing, the juvenile court adopted the agency's recommendations and set a family maintenance review hearing for mother in June 2012. The juvenile court ordered mother to continue mental health counseling and make an appointment with her psychiatrist, if her psychiatric condition worsened. In June 2012, the juvenile court continued the family maintenance review hearing to July.

Between February and July 2012, the agency received several reports concerning the children's safety, including reports that mother allowed Angelica to go to the store with a man who was going to give her candy, left the gas on in the home while the children were present, allowed an alleged male gang member to live with her, and physically abused the children. The agency deemed the reports unfounded but observed that mother had difficulty processing information. The agency recommended that the juvenile court continue family maintenance services but also recommended that mother complete a psychological evaluation to assess her for a processing disorder.

In July 2012, the juvenile court continued family maintenance services and set a review hearing for January 2013. The juvenile court also approved an amended family maintenance services plan that required mother to complete a psychological evaluation and follow any recommended treatment.

In August 2012, the agency received a call from mother's day care provider stating that mother arrived intoxicated and over three hours late to pick up the children. Mother's friend told the responding social worker that mother needed help. He said she confided in him that she needed medication for depression and told him she heard voices, had horrible dreams, and does not "belong to this world."

Mother admitted drinking alcohol and feeling depressed. She also admitted that she drank alcohol while the children were in foster care. She said her psychiatrist asked her if she drank alcohol and she denied it.

The agency took the children into protective custody and filed a supplemental petition, which the juvenile court sustained. The children were placed with a non-relative extended family member. In its report for the dispositional hearing on the supplemental petition, the agency recommended that the juvenile court terminate mother's reunification services and deny them to Alfonso.

In October 2012, the juvenile court conducted a contested dispositional hearing on the supplemental petition. Social worker Bert Navarro was the only witness. He testified that, in addition to parenting education, domestic violence counseling and mental health counseling, mother received extensive in-home support. The agency was not, however, able to provide mother a psychological evaluation because she preferred a Spanish-speaking psychologist and the agency was unable to locate one.

At the conclusion of the contested hearing, the juvenile court found that the agency provided mother reasonable services. The juvenile court terminated mother's reunification services and set a section 366.26 hearing. This petition ensued.

DISCUSSION

Mother contends the juvenile court erred in finding that she was provided reasonable services because the agency did not offer her treatment for alcohol abuse. Therefore, she further contends, the juvenile court erred in terminating her reunification services. We disagree.

The provision of reunification services in dependency proceedings is premised on the state's interest in preserving the family and the parent's commitment to utilizing those services to resolve the problem(s) that required juvenile court intervention. (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787.) The agency is charged with developing a services plan that addresses the unique needs of the family. (*Id.* at p. 1790.) Further, when circumstances change over the course of reunification, the agency may be required to modify the services plan in order to facilitate reunification.

As for the parent, the law presumes that the parent is capable of complying with a reasonable services plan. (*In re Christina L.* (1992) 3 Cal.App.4th 404, 415.) “A parent whose children have been adjudged dependents of the juvenile court is on notice of the conduct requiring such state intervention. If such a parent in no way seeks to correct his or her own behavior or waits until the impetus of an impending court hearing to attempt to do so, the legislative purpose of providing safe and stable environments for children is not served by forcing the juvenile court to go ‘on hold’ while the parent makes another stab at compliance.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.)

In this case, Angelica and Eduardo were removed from mother because she engaged in domestic violence and appeared to be mentally unstable. The agency provided her services to address these as well as parenting issues. In total, mother received over two years of family maintenance and family reunification services. Further, she knew that she had a problem with alcohol but denied it. In doing so, she deprived herself the opportunity to receive substance abuse treatment and compelled the agency to remove her children once again. Under the circumstances, mother cannot now claim that the agency was unreasonable in not addressing a problem that she refused to admit.

We affirm the juvenile court’s reasonable services finding and its orders terminating mother’s reunification services and setting a section 366.26 hearing and deny the petition.

DISPOSITION

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.