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

O.M.,

Petitioner,

v.

THE SUPERIOR COURT OF STANISLAUS  
COUNTY,

Respondent;

STANISLAUS COUNTY COMMUNITY  
SERVICES AGENCY,

Real Party in Interest.

F071237

(Super. Ct. No. 516826)

**OPINION**

**THE COURT**\*

ORIGINAL PROCEEDING; petition for extraordinary writ review. Ann Q.  
Ameral, Judge.

Nadine Salim for Petitioner O.M.

No appearance for Respondent.

John P. Doering, County Counsel, and Marie E.R. Ratliff, Deputy County  
Counsel, for Real Party in Interest.

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\* Before Hill, P.J., Kane, J. and Smith, J.

O.M. (father), father of A.S., petitions for an extraordinary writ (Cal. Rules of Court, rule 8.452) from the juvenile court's orders, issued at a contested 18-month review hearing, terminating reunification services and setting a permanent plan hearing pursuant to Welfare and Institutions Code section 366.26.<sup>1</sup> Father claims he was not provided reasonable services addressing his anger management issues. We will deny the petition.

**FACTUAL AND PROCEDURAL BACKGROUND<sup>2</sup>**

***A. Background of the Dependency***

In December 2012, A.S. and her older half-sisters, I.A.1 and I.A.2 (collectively, the children), whose own father was deceased, went to live with I.A.1 and I.A.2's paternal grandmother, after the superior court granted the grandmother temporary guardianship of the children. The grandmother requested the guardianship because she believed father and the children's mother, C.S. (mother) (collectively, the parents), were exposing the children to domestic violence.

At a hearing on September 30, 2013, mother testified that father moved out and she did not intend to let him back in the home. Following this testimony, the superior court terminated the grandmother's guardianship and ordered the children to be returned to mother's home by October 5, 2013.

On October 1, 2013, the Stanislaus County Community Services Agency (agency) received a referral alleging the children did not want to be returned to mother's care because they were afraid of father and because mother failed to protect them. According to the referral, father was mentally and verbally abusive towards the children, there was

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

<sup>2</sup> Facts and procedural events not relevant to the issue father raises in his petition have been omitted, such as those concerning the removal and dependency of N.M., another child born to the parents after the current dependency proceedings were initiated.

significant domestic violence between mother and father, and I.A.1 stated she would kill herself if she had to return to mother's care.

During the agency's investigation into the October 2013 referral, the social worker spoke with the children. The two older girls reported witnessing father physically abuse and terrorize mother on multiple occasions and expressed that they were afraid to return to mother's home. Thirteen-year-old I.A.1 said she was scared because she knew no one in the home would protect them from father, who was mean and called her names for seeing a counselor for depression. Twelve-year-old I.A.2 felt that mother preferred father over her own children and reported experiencing stomach aches and difficulty sleeping since hearing the news she was to return to mother's home. When the social worker asked four-year-old A.S. if she felt safe in mother's home, "[A.S.] froze, appeared startled and began shaking her head from side to side to indicate she did not feel safe."

The agency's investigation further revealed that the family had 14 child protective services (CPS) referrals, including four substantiated reports of general neglect and emotional abuse. The referrals indicated a long history of domestic abuse between mother and father with father as the perpetrator. In an emergency response investigation in December 2011, the parents agreed to participate in voluntary services to address a substantiated allegation of general neglect and emotional abuse pertaining to domestic violence. However, the parents failed to follow up with the referral. The parents again expressed interest in participating in services in September 2012. On September 14, 2012, they signed a written agreement indicating they would not expose the children to domestic violence, among other things.

On October 7, 2013, the agency filed a dependency petition on behalf of the children under section 300, subdivision (b) (failure to protect) and subdivision (c) (serious emotional damage).<sup>3</sup> On October 8, 2013, the juvenile court ordered the children

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<sup>3</sup> The allegations under section 300, subdivision (c) were later dismissed.

detained in suitable placement, after which the children were allowed to remain in the care of the grandmother with whom they were already living.

After several continuances, the contested jurisdiction/disposition hearing commenced on January 16, 2014. In their testimony, the parents denied the specific allegations of domestic violence and claimed there had never been any domestic violence (either physical or verbal) in their relationship. They also confirmed they had never engaged in, or seen a need to engage in, domestic violence counseling despite past and current referrals by the agency. In addition, father testified he was unwilling to participate in domestic violence counseling, despite the recommendation of his recent clinical assessment.

When the combined jurisdiction/disposition hearing concluded on February 4, 2014, the juvenile court sustained the 300, subdivision (b) allegations and declared the children dependents of the court. The court explained that it did not “really find either one of the parents too terribly credible” and that it believed “there has been a long history of domestic violence in the home.” It was “clear” to the court that father did not “understand the impacts of domestic violence” and that both father and mother were “in denial about the impact.”

The juvenile court ordered the agency to provide reunification services to the parents. Father’s case plan required him to actively participate in and successfully complete a domestic violence offender’s program, individual counseling, and family counseling. The agency referred the parents to Sierra Vista Child and Family Services (Sierra Vista) for their court-ordered services.

***B. The Six-month Review Period***

According to the status review and addendum reports for the six-month review hearing, the agency first referred father to Sierra Vista on October 8, 2013, following the children’s detention. Father completed his intake at Sierra Vista on October 29, 2013,

but he did not complete his domestic violence orientation until April 23, 2014, after which he started Sierra Vista's 52-week domestic violence program on May 7, 2014.

Father also completed a clinical assessment at Sierra Vista on January 6, 2014, which recommended he participate in the 52-week domestic violence program.

However, nothing barred father from participating in the domestic violence program during the clinical assessment process and he could have started the program after his intake at Sierra Vista in late October 2013.

In early June 2014, the domestic violence counselor reported that father had attended six sessions of the 52-week program with no absences. Father had also completed his homework assignments, but he did not participate in class unless asked. The counselor further reported: "As far as his accountability—none. He will state there is 'reported abuse' but doesn't say he did anything abusive." A few weeks later, the domestic violence counselor reported that father had attended eight sessions and was beginning to show progress and "starting to participate and open up."

Regarding the individual and family counseling components of father's case plan, the social worker reported she recently requested that a counselor be assigned to father. The social worker explained that, in communicating with Sierra Vista's services coordinator in June 2014, she learned that he was unaware of the counseling component of father's case plan and therefore had only referred father to the domestic violence program.

In her reports for the six-month review hearing, the social worker described her repeated attempts to meet with father to review his case plan with him and to engage him in services. Father was consistently hostile towards and not amenable to discussing his court-ordered services with the social worker. Talking to father proved extremely difficult because he only wanted to discuss his objections regarding A.S.'s placement with I.A.1 and I.A.2's grandmother and to complain that the allegations that led to A.S.'s removal were not true.

At one face-to-face meeting the social worker had with the parents in June 2014, father claimed that he had called and left numerous messages and voicemails for the social worker. The social worker responded by telling him clearly she had never received any such messages or voicemails. When she tried to redirect the discussion to the parents' case plan, father indicated they would not speak to her without their attorney present and the meeting ended.

At the six-month review hearing, which was held on August 8, 2014, the juvenile court continued the parents' reunification services and thereafter adopted the agency's updated case plan, which added the requirement that the parents participate in couples' counseling at Sierra Vista. The updated case plan also included a referral to Aspira Pro Families (Aspira) for supportive services, including employment, housing, and transportation assistance.

***C. The 12-month Review Period***

Before the 12-month review hearing on November 25, 2014, the agency filed a report recommending the juvenile court continue the parents' reunification services. The report reflected that father was still attending his domestic violence program at Sierra Vista and the domestic violence counselor reported he was making "some progress" in the program. The counselor explained that, around mid-September 2014, they had "a break through on his accountability" when father "admitted to using his power to control [mother] by means of intimidation and emotional abuse."

Father's individual counselor reported that she had been trying to work with him on understanding the effects of domestic violence on children as well as how it can affect parenting. She described the process as "a little slow going" because father often asked questions requiring her to refer him to the social worker or his attorney for answers. The counselor planned to continue working with father on "gaining insight" into how domestic violence in the home had affected his children.

The counselor for both couples' and family counseling reported that she had only just met the parents and did not feel the family was ready for the children to join the parents in family counseling at that time. The counselor further reported that, during the three sessions she had with the parents, they expressed a desire to reunify with the children. They also felt "disgruntled with the process and time it was taking." In addition, father identified his current "stressors" as "working, attending classes, and soon ... be[ing] without a place to live."

The social worker reported that she was still having difficulty working with father and that he continued to be uncooperative with her. When she would ask to meet or speak with him about his progress, he would become angry and hostile. Father's hostility made it difficult for the agency to assess him and evaluate whether he had made the changes needed to safely parent A.S.

The social worker also noted that father flatly refused to engage with his Aspira counselor, despite the fact she could offer him significant assistance in the areas in which he claimed he needed help, including employment, housing, and facilitation of community visits. Father also disagreed with the social worker that these visits needed to be supervised and consequently had not yet taken the opportunity to schedule any community visits with A.S.

At the 12-month review hearing on November 25, 2014, the juvenile court continued parents' reunification services and scheduled an 18-month review hearing for March 26, 2015.

***D. The 18-month Review Period***

On February 6, 2015, the agency filed a section 388 petition, requesting that the juvenile court terminate the parents' reunification services and set a section 366.26 hearing. The agency also sought to vacate the hearing date for the 18-month review hearing then set for March 26, 2015.

According to the allegations of the section 388 petition, since the juvenile court's November 2014 order continuing reunification services, the parents had made very little progress in overcoming the reasons for the children's dependency, particularly in the area of domestic violence and its effects on the children's wellbeing. Despite concerns about father's assessment as remaining at high risk for engaging in domestic violence, mother chose to live with him and declined the agency's offer of alternative housing. Moreover, the children continued to be very fearful of father and did not wish to reunify with the parents. The social worker felt it was in the children's best interests for them to be allowed to begin their permanent plan.

On March 2, 2015, the agency filed a report for the 18-month review hearing and section 388 petition, for which a combined hearing was then set for March 5, 2015. The social worker recounted how the parents had been advised early in the proceedings not to live together until their counselors determined they had made sufficient progress in their services. Although mother left father for a brief period, she recently moved back in with him. The parents' couples' counselor also reported concerns about the parents residing together. Father spent the majority of time in couples' counseling complaining about the unfairness and injustice of the agency's case, instead of taking responsibility for the conduct leading to A.S.'s removal.

The social worker further reported that less than two months earlier, in December 2014, the Aspira parent mentor assigned to father was willing to supervise his community visits with A.S. However, after she had a verbal altercation with father over the phone, in which he told her not to give the social worker his cell phone number, the parent mentor became fearful of father and Aspira refused to assign anyone else to supervise father's community visits out of concern for the safety of its staff.

Although the parents had acknowledged the existence of "control issues" and verbal and emotional abuse in their relationship, the social worker observed that they still had not acknowledged the existence of physical abuse. In this regard, not much had

changed for the couple while the agency had been providing them services for nearly a year and a half. While father clearly had longstanding issues with anger management, mother not only chose to live with him, but chose to align herself with him by not focusing on her case plan until after taking into consideration how it would affect him.

Moreover, father had only recently started scheduling community visits with A.S., which were supervised by a male social worker, whose notes reflected that, during the visits, father sometimes became very angry over minor inconveniences. Due to her continuing concerns regarding father's anger issues, the social worker reported that she was still not comfortable with him having unsupervised visits with A.S.

The social worker concluded the parents had not made significant progress in ameliorating the issues that led to the children's removal, despite their participation in reunification services for nearly 18 months. Therefore, the social worker recommended that the juvenile court terminate the parents' services and set a section 366.26 hearing as previously set forth in the section 388 petition.

***E. The 18-month Review Hearing***

After several continuances, the contested 18-month review hearing commenced on March 16 and ended on March 19, 2015. As mentioned above, the hearing was combined with the court's hearing on the agency's section 388 petition.

Father testified on his own behalf. As relevant to the issue he raises in his petition, father testified he had taken approximately 40 domestic violence classes at Sierra Vista, beginning in May 2014. Father admitted he had engaged in verbal domestic violence against mother but maintained he had never physically attacked mother.

Father acknowledged the children were present during incidents when he verbally abused mother and that they appeared scared. Since taking domestic violence classes, he now felt bad about seeing the children scared. He also felt remorseful about the verbal abuse he committed against mother and recognized his behavior was the cause of the children's removal.

Father claimed that his current domestic violence classes were different than court-ordered classes he had taken in the past because those classes had only discussed physical abuse and had not addressed verbal abuse. Through his participation in the domestic violence program at Sierra Vista, father had learned the negative effects verbal and emotional abuse can have on both adults and children.

Father admitted that when he first started couples' counseling, he spent a lot of time complaining about what he perceived to be CPS injustice. But he stopped complaining when he realized it was getting him nowhere and he started to learn how to handle problems that came up with mother, like learning to "agree to disagree" and taking a "time-out" during an argument.

In response to questioning by the juvenile court, father testified he finally started becoming accountable and stopped minimizing the effects of emotional and verbal abuse around November or December 2014. When asked why it took so long, father testified, "I'm just doing what I have to do to get my kids back" and that his domestic violence counselor was "telling me, like, I need to be accountable for what I did."

During cross-examination by the agency's counsel, father testified he still felt like he needed to attend his domestic violence classes so he could be around people who were positive and helped him learn to communicate with people. When asked if he thought he needed any additional assistance, father responded, "Anger management, yes." However, when he was next asked if he thought he had a problem with anger management, he said no.

Father's domestic violence counselor testified father had attended approximately 33 classes of the 52-week domestic violence program, and had recently transferred—with her approval but without telling the social worker—to a Saturday class with a different teacher because her class conflicted with his new work schedule.

Although father was doing well and did not engage in verbally abusive or controlling behaviors in the domestic violence program, father's behavior outside the

program indicated that he still had problems in these areas. It was therefore the counselor's opinion that her January 27, 2015, assessment, which concluded that father had a medium to high risk of re-abuse, was still accurate.

When questioned about Sierra Vista's separate 16-week anger management program, the domestic violence counselor testified she thought it could be helpful to father. She also confirmed that all of the content covered in the 16-week anger management program was also covered in father's 52-week domestic violence program. Although anger management was addressed throughout the program, father had not yet reached and therefore not yet completed the major anger management component of the program. The counselor explained that which components of the program a person completed and when depended on when the person entered the program. Because the 52-week domestic violence program was ongoing, "wherever they start is where it lands."

The parents' couples' counselor, who also provided counseling for mother, both individually and together with the children, testified that she had 11 sessions with the parents and had attempted to develop a treatment plan for them. However, the only topic they identified regarding their needs as a couple was to improve healthy communication. Father's feeling of being persecuted by CPS was an issue for the parents throughout the sessions. The counselor did her best to redirect the parents' focus to their treatment plan, but their progress in counseling remained "very slow."

The couples' counselor confirmed the parents' focus on the topic of CPS persecution had recently decreased and the parents reported to her that they had healthier communication and were arguing less. But the information the parents provided conflicted with reports the counselor received from outside the counseling setting.

The counselor was also concerned that mother appeared more reserved during couples' counseling than during her individual therapy, which indicated mother might not feel comfortable or safe expressing to father what she had spoken about in individual counseling. The counselor observed that if the parents were going to be working on

healthy communication, she would hope to see more open communication between mother and father.

The counselor concluded she could not make progress in helping the children feel safe until she could have the entire family in counseling together. The family had not yet reached a point where father could be brought into counseling with mother and the children because the two older children did not want him there, and the parents had not yet acknowledged the history of significant domestic violence that had occurred in their home.

Following the witnesses' testimony, father's counsel argued, in relevant part, as follows:

“...I think that there is—I know the Agency never thinks that there's a good reasonable services argument, but in this case there really is, and it's not necessarily the social worker's fault.

“It's the way that Sierra Vista, who is one—who is an agent of the Agency and one of their contracted providers, it's because of the way they do things. One of the Agency's chief contentions is that my client has an anger management problem.

“The problem is that in 40 weeks of domestic violence, because of the way that Sierra Vista orders its domestic violence batterers program, he hasn't actually had that part of it yet. And that's what [the domestic violence counselor], who runs that particular class, testified to. And that's really—that's actually quite astounding. I didn't realize that that's how that went. But how is he supposed to exercise those tools if he hasn't actually had that particular counseling? That just seems like—that is, I think ... prima facie unreasonable to expect him to do so. That's a real issue.”

After listening to the arguments of counsel, the juvenile court granted the agency's request, under section 388, to terminate father's reunification services as to A.S., finding there had been a significant change in circumstances and that granting the petition would be in A.S.'s best interests. The court then proceeded to make orders and findings relevant to the 18-month review hearing. Among other things, the court terminated mother's reunification services as to all three children, and found, upon clear and convincing

evidence, that reasonable services had been offered or provided to the parents. In reaching its rulings concerning services, the juvenile court observed:

“We’re two weeks shy of 18 months. And the Court only has 18 months to provide services to the two of you, unless the Court finds that reasonable services have not been provided.... I believe that reasonable services have been provided and that the two of you, as I said before, just spent too much time fighting the system and refusing to get with the program and working on how to get the children back. [¶] ... [¶] ...I don’t have any legal basis to give six more months of services. You just timed out. And I hate it, but I just don’t have any other option but to terminate reunification services and grant the proposed findings and recommendations.”

### **DISCUSSION**

Father claims the juvenile court abused its discretion at the 18-month review hearing by finding the agency had provided him with reasonable services because the agency failed to ensure its chosen service provider, Sierra Vista, offered or provided him with anger management counseling. We disagree.

“California has a comprehensive statutory scheme establishing procedures for the juvenile court to follow when and after a child is removed from the home for the child’s welfare. (§ 300 et seq.; [citation].) “The objective of the dependency scheme is to protect abused or neglected children and those at substantial risk thereof and to provide permanent, stable homes if those children cannot be returned home within a prescribed period of time.”” (*Sara M. v. Superior Court* (2005) 36 Cal.4th 998, 1008.) A parent is typically entitled to social services aimed at family reunification after a child is removed from parental custody and placed in protective care. (§ 361.5, subd. (a).)

Reunification services are strictly time-limited in recognition of the ““need to provide children with stable environments, and the damage to a minor of prolonged temporary placements.”” (*Jessica A. v. Superior Court* (2004) 124 Cal.App.4th 636, 644.) Reunification services may not exceed 18 months. (§ 361.5, subd. (a).) The juvenile court periodically reviews the continuing need for out-of-home placement and

the reasonableness of efforts at reunification. (§ 366.) “If, after the specified time period has expired, the efforts to reunify the family have failed, “the court must terminate reunification efforts and set the matter for a [permanency planning] hearing.”” (*Sara M. v. Superior Court, supra*, 36 Cal.4th at pp. 1008-1009.) Before terminating reunification services, the juvenile court must find that reasonable services designed to aid the parent in overcoming the problems that led to the initial removal and continued custody of the child were provided or offered to the parent. (§ 366.21, subd. (f).)

In reviewing father’s claim that reasonable services were not provided, “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.” (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) In so doing, we construe all reasonable inferences in favor of the juvenile court’s findings regarding the adequacy of services and the reasonableness of the agency’s efforts. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46; *In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

Here, substantial evidence supports the juvenile court’s finding that the agency provided father with reasonable services. On October 8, 2013, after the children were detained, the agency referred father to Sierra Vista, whose services included a 52-week domestic violence program, which covered anger management, among other issues. Father does not contend the anger management component of the 52-week program was insufficient to address his anger management issues, and his domestic violence counselor’s testimony confirmed it covered the same content as Sierra Vista’s separate 16-week anger management program. Because the 52-week domestic violence program was ongoing and father could have enrolled in the program after he completed his intake at Sierra Vista on October 28, 2013, it is reasonable to infer he could have easily completed the anger management component of the program by the time of the 18-month review hearing, if he had promptly enrolled instead of waiting until April 23, 2014, to complete the orientation for the program.

The record does not support father's suggestion that the 52-week domestic violence program was poorly structured or that the agency was somehow negligent in not making sure he received the anger management component prior to the 18-month review hearing. The ongoing nature of the course made it possible for people to join it at any time and not have to wait like father did in this case. There is also evidence in the record that the social worker made numerous attempts to discuss father's case plan with him and engage him in services after the combined jurisdiction/disposition hearing concluded in February 2014 and before father finally started the domestic violence program in May 2014, but father was consistently hostile and unwilling to discuss his court-ordered services with the social worker.

In short, there is substantial evidence the agency offered or provided reasonable services addressing father's anger management issues. Father simply did not avail himself of those services in a timely manner. We discern no abuse of discretion in the juvenile court's order terminating reunification services and scheduling a permanency planning hearing.

**DISPOSITION**

The petition is denied. Our decision is immediately final as to this court.