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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

H.Y.,

v.

THE SUPERIOR COURT OF ORANGE  
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES  
AGENCY et al.,

Real Parties in Interest.

G047046

(Super. Ct. No. DP-020674)

O P I N I O N

Original proceedings; petition for a writ of mandate/prohibition to challenge an order of the Superior Court of Orange County, Richard Y. Lee, Judge. Petition denied.

J. Michael Hughes for Petitioner.

No appearance for Respondent.

Nicholas S. Chrisos, County Counsel, and Karen L. Christensen, Deputy County Counsel, for Real Party in Interest.

Law Office of Harold LaFlamme, and Mari Duque for the Minor.

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Pursuant to California Rules of Court, rule 8.452, H.Y. (Mother), seeks review of the order scheduling a permanency planning hearing for her daughter, A.Y. (Welf. & Inst. Code, § 366.26.)<sup>1</sup> She contends there is insufficient evidence to support the juvenile court's detriment finding. We find no error and deny the petition.

## FACTS

### *Detention*

On December 11, 2010, then six-year-old A.Y. was taken into protective custody due to allegations of sexual abuse by Juan M., who was the father of Mother's boyfriend, Jose M. A.Y., Mother, and A.Y.'s two-year-old half-sister had lived with Mother's husband (A.Y.'s stepfather and the father of A.Y.'s half-sister, hereafter Stepfather), in the home of the maternal grandmother until a few months prior to detention. Mother and Stepfather broke up, and Mother and the girls moved in with Jose and his family, which included Jose's parents. Mother was pregnant with Jose's baby. There was a substantiated child abuse report concerning A.Y. from 2008 that concerned domestic violence when she was visiting her biological father (Father). A.Y. had no contact with Father for the past few years and he is not a party to this writ proceeding.

On the day A.Y. was detained, December 11, Mother had dropped her off at the maternal grandmother's home in the morning. Mother complained to the maternal grandmother about noticeable recent changes in A.Y.'s behavior including that she was "being defiant, not listening and following rules, not wanting to go to the bathroom at school alone, which [was] uncharacteristic . . . ." Mother asked the maternal

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

grandmother to “speak to [A.Y.] about the cause of her change in behavior.” The maternal grandmother did, and A.Y. described sexual abuse by Jose’s father, Juan, with whom she now lived. Later, the maternal grandmother drove A.Y. to Mother’s. Jose was there with Mother. While in the car, the maternal grandmother told Mother about A.Y.’s disclosure of sexual abuse by Jose’s father. Mother began yelling at A.Y. through the window of the car, ““Why are you lying [A.Y.] . . . stop lying.”” The maternal grandmother said she was going to take A.Y. to the police station to file a report. Mother and Jose tried to stop her and tried to physically pull A.Y. from the car, but were unsuccessful. The maternal grandmother drove off with A.Y. to the police station. Mother and Jose subsequently called the police but only to report the maternal grandmother had taken A.Y.—they said nothing about the allegations of sexual abuse.

At the police station, A.Y. was able to detail the sexual abuse. She explained that one day, after she got home from school, Juan grabbed her by the hand and pulled her into the bedroom. He put his hand down her pants and put his finger in her vagina. He hugged her hard and it hurt. A.Y. asked Juan to let go of her, but he continued touching her until Juan’s wife opened the door to the room asking what they were doing. Juan said nothing and let go of A.Y.

When the police interviewed Mother on December 11, Mother said she had no prior suspicions A.Y. had been sexually molested, and the confrontation with the maternal grandmother was a misunderstanding. Nonetheless, she wanted to cooperate with the investigation. Juan and his family denied any molestation had occurred. Juan was arrested. When officers later went to Juan’s (and Jose’s) home, Mother was there. Police witnessed Mother was “being badgered by the family because Juan was in custody. [Mother] stayed at the residence despite the hostile environment.”

When interviewed by the social worker on December 12, Mother said that after A.Y. was detained, she returned to Jose’s home but indicated she might break up with Jose and move in with her relatives. Mother told the social worker A.Y. did not act

like anything had happened, but when the social worker asked if that meant she did not “believe her daughter[, Mother] said that she believes her because she is her daughter[,]” but Jose did not believe the accusation. When the social worker told Mother about the detention hearing date, Mother asked if she “really had to attend.”

On December 13, Mother was interviewed by another social worker. Mother indicated she had moved out of Jose’s house, and again “claims she believes [A.Y.]” because “[s]he is my daughter.” Mother admitted she had noticed changes in A.Y.’s behavior, and asked the maternal grandmother to help because she knew A.Y. often confided in the maternal grandmother. Mother was again told about the date of the detention hearing.

On December 14, Mother was voluntarily hospitalized in a psychiatric unit, and she was not present at the detention hearing. A.Y. was detained. A.Y.’s half-sister was with Stepfather at the time of A.Y.’s detention, and she was left in his custody. A.Y. was placed with the maternal grandmother where she has remained throughout the dependency.

#### *Jurisdiction/Disposition*

In SSA’s report for the jurisdictional and disposition hearing the social worker stated he had interviewed A.Y. at the maternal grandmother’s home on January 4, 2011. A.Y. reported Jose would often hit her on the arm with a belt for not listening and not doing her homework when Mother was gone. A.Y. told her Mother about the hitting, but Mother would not do anything about it. A.Y. said Juan “touched my privates. I don’t like it.” A.Y. identified the maternal grandmother as the most important person in her life, and said she wanted to live with Mother and the maternal grandmother.

A.Y.’s cousin, Daisy C., helped care for A.Y. after she was placed with the maternal grandmother. Daisy told the social worker A.Y. described the details about sexual abuse by Juan. A.Y. reported to Daisy she had recurrent nightmares in which she was being chased by Jose and Juan. She was constantly eating, did not like being left

alone, was scared of the dark, and would return from visits with Mother ““Not herself, sad, and depressed.”” A.Y. told Daisy she was afraid of Juan. Juan was out of custody. His daughter, Jose’s sister Monica, had a daughter who attended A.Y.’s school. Juan often was hanging around the school gate at drop off time and would stare at A.Y. Monica was “harassing” A.Y. after school. Jose was transporting Mother to visits with A.Y., which upset A.Y., and she “started freaking out before the visit and it took [A.Y.] a while to calm down.” The social worker spoke to Mother about not letting A.Y. see Jose drop her off for visits. Mother agreed and said she would speak to Jose about his sister and father bothering A.Y. at school.

When the social worker interviewed Mother on January 4, 2011, she was teary-eyed and said she would do anything to get her daughter back. She did not know if A.Y. had really been molested, but admitted she was told about A.Y.’s accusation of sexual abuse, and she tried to prevent the maternal grandmother from taking her to the police.

Mother and Father pled no contest to an amended petition alleging jurisdiction under section 300, subdivisions (b) [failure to protect] and (d) [sexual abuse]. As sustained, the petition alleged Juan sexually abused A.Y. and when advised of the abuse, Mother attempted to prevent the maternal grandmother from taking A.Y. to the police to report the sexual abuse. The petition alleged Mother asked A.Y. why she had not told her about the abuse, and she allowed Jose to accuse A.Y. of lying, causing her emotional distress. Mother was aware of changes in A.Y.’s behavior and reasonably should have known of the risk of sexual abuse and failed to protect her. The court ordered A.Y. removed from parental custody and ordered reunification services for both parents.

#### *Six-Month Review*

In its report for the six-month review hearing, SSA recommended A.Y. remain out of parental custody, placed with the maternal grandmother, but that

reunification services be continued for both parents and a 12-month review hearing be set. A.Y. was participating in therapy to deal with the sexual abuse. A.Y. was healthy and happy living with the maternal grandmother, but she was scared of Jose and his family and mistrustful of her mother because she continued to reside with Jose and spend time with Jose's family, including Juan, and was pregnant with Jose's baby. A.Y. was angry at Jose for pulling her hair, hitting her, and thought he did not believe her regarding the sexual abuse as he had told her she was lying. A.Y. was unwilling to talk to Mother about Juan or Jose because she thought Mother would become angry with her.

A.Y.'s therapist described A.Y. as emotionally vulnerable and, after consulting with Mother's therapists, concluded family therapy was not in the child's best interest. Although Mother was cooperative and compliant with her case plan, she was "still working on issues in her individual therapy . . . ." Mother understood A.Y. was very afraid of Jose and his family, and did not feel safe living with Mother while Mother remained in a relationship with Jose, but Mother remained living with Jose. When Mother's group therapist confronted Mother with her own concerns about Mother's continued relationship with Jose, Mother became "evasive." Mother's individual therapist focused on the effect Mother's continued involvement with Jose's family had on A.Y.'s safety and wellbeing. The therapist reported Mother was torn about leaving Jose because he was not the one who committed the abuse. The therapist was concerned that if A.Y. was returned to Mother, Mother would not be supportive of A.Y., which could set back A.Y.'s own progress.

The social worker was similarly concerned about Mother's ability to provide a safe environment for A.Y., in view of her continued relationship with Jose and his family. Although Mother claimed to "accept[] the fact that her daughter was sexually abused, she is having a difficult time in this area." A.Y. felt Mother did not believe her, and felt Mother was mad at her. A.Y. felt safe when she was with the maternal grandmother or with Stepfather and half-sister, with whom she had regular visits. But

she did not feel safe with her Mother because of Mother's continued relationship with Jose and the fact they were now having their own baby. The social worker had discussed with Mother the effect her continued relationship with Jose had on reunification, and the emotional pressure it placed on A.Y. While Mother said she understood, she was not "able or willing to follow through with her actions and create a safe environment for [A.Y.]." She claimed to believe A.Y. had been molested, yet continued to reside with the perpetrator's son and participate in activities with the perpetrator's family, knowing A.Y. was scared of them, did not feel safe with her Mother, and was struggling emotionally. Due to their own strained relationship, the maternal grandmother had stopped monitoring visits between A.Y. and Mother. While waiting for a new monitor to be found Mother ceased visiting A.Y. and did not call her.

At the six-month review hearing, the juvenile court ordered continued reunification services for Mother and Father. Mother was given twice weekly monitored visits with A.Y. and her plan included individual counseling to address issues of A.Y.'s sexual abuse.

#### *12-Month Review*

In its report for the 12-month review hearing, SSA recommended terminating reunification services for Father but continuing services for Mother. A.Y. continued to do well in her placement with the maternal grandmother. A.Y. remained concerned about Mother's continued involvement with Jose, and worried about her safety with Mother, but the social worker also noted A.Y. talked about missing Mother. The social worker reported Mother had not attended therapy consistently due to a recent illness. Although Mother was consistent with her visits, she described A.Y. to the social worker as being defiant, demanding, and bratty. A.Y. would not discuss the sexual abuse with Mother. Mother continued to cooperate, but she struggled with her case plan. She had broken up with Jose and said she understood the risk Jose posed to A.Y. because he sided with his father and not with Mother's child. Jose moved out of their shared

apartment, but he remained on the apartment lease and on the “paperwork” for Mother’s car, and Mother continued to participate in activities with Jose’s family. Mother gave birth to Jose’s child in December 2011.

At the 12-month review hearing on January 18, 2012, the juvenile court terminated Father’s reunification services and continued Mother’s services. It set a contested 18-month review hearing for June 12, 2012.

### *18-Month Review*

In its report for the 18-month review hearing, SSA recommended terminating Mother’s reunification services and setting a permanency planning hearing. Shortly after the 12-month review hearing, Mother and Jose reunited, and he moved back into their small one-bedroom apartment, where there was no physical room for A.Y. despite the social worker’s repeated warnings as to how this could affect reunification with A.Y. There was an open case plan for Mother’s and Jose’s new baby girl, and there was nowhere else Jose could afford to live that would comport with his service plan relating to the new baby and allow him to retain custody of his daughter. Mother allowed Jose to take their new daughter to Juan’s home. Mother was compliant with her case plan and visits but again began indicating to the social worker she did not believe A.Y. had been sexually abused by Juan and Jose did not believe the abuse had occurred either. Mother and the maternal grandmother continued to have conflicts, and Mother indicated she suspected A.Y. had been manipulated by the maternal grandmother to lie about the sexual abuse.

A.Y. was struggling academically, having difficulty concentrating on school work, and worried about her and Mother’s future. She continued to avoid discussing the sexual abuse with Mother for fear of angering her. A.Y. was seeing a doctor for anxiety, who diagnosed her with depression and prescribed psychotropic medication.

A.Y. reported being worried and sad, she wanted to see Mother more often. A.Y. wanted to reunify with Mother, but only wanted to live with Mother, her new baby sister, and their two dogs. A.Y. continued to express fear of Juan. She worried about why he was not in jail, asking if Juan would have gone to jail if he had done “what he did to me to someone else.” Although A.Y. did not express continued fear of Jose, she preferred he not live with Mother if A.Y. returned.

Mother and A.Y. had begun conjoint therapy in April 2012. Their therapist reported Mother still had “a lot of work to do.” Mother had many issues with her family, i.e., the maternal grandparents, and she repeatedly tried to bring them up in sessions with A.Y. The therapist would try to redirect Mother because it was distracting from the conjoint therapy with A.Y. and causing A.Y. to be upset.

SSA recommended that in view of the established relationship between Mother and A.Y., termination of parental rights was not appropriate. It concluded legal guardianship would be the appropriate “next most permanent plan.”

The 18-month review hearing took place on June 12, 2012. The social worker testified at the hearing consistently with her reports. She testified Mother expressed her disbelief that A.Y. had been sexually abused, which when combined with her continued live-in relationship with Jose and her involvement with the perpetrator’s family, indicated there was a risk of harm to A.Y. if she were to be returned to Mother. The social worker was concerned that if returned, Mother would expose A.Y. to Juan. Mother and A.Y. had only begun conjoint therapy in April, and she had resumed individual therapy in May. It was too early to see a lot of progress in conjoint counseling, but the social worker had received a positive report that morning from the therapist who said Mother had discontinued bringing up inappropriate topics (e.g., Mother’s conflict with the maternal grandmother) in front of A.Y. during the sessions. The social worker had not increased Mother’s visitation with A.Y. beyond weekly monitored because she was concerned Mother would “bring up inappropriate discussions

in front of the child” as she had done in family therapy sessions with A.Y. Mother’s unmonitored telephone calls had been appropriate. Additionally, the social worker indicated if A.Y. were returned, there was not an appropriate place for her to sleep in the small one-bedroom apartment Mother shared with Jose and their baby.

Mother testified she was making progress in conjoint therapy with A.Y. and the child was more open to her, sat right next to her, and did not fear her. Mother testified she had resumed individual therapy about three weeks before the 18-month review hearing. Through this resumed therapy Mother now believed Juan molested A.Y., but it had been difficult for her to come to that conclusion because she had not “actually heard it from [A.Y.] directly since day one.” Mother testified she had trouble believing A.Y.’s accusation earlier because it was what the maternal grandmother said, and she did not get to speak to the child herself.

The juvenile court found there was a substantial risk to A.Y. if she was returned to Mother’s care. It found reasonable services were offered, terminated services, and set a permanency planning hearing. In ruling, the court commented it found the social worker credible. The court was not convinced of Mother’s credibility when she testified she now believed her daughter saying it was not “entirely certain as to how deep and convincing this belief that the sexual abuse actually occurred is . . . .” On the witness stand, Mother had difficulty and struggled to identify any of the specifics of the abuse A.Y. suffered. The court was concerned about whether A.Y. could be safely returned to Mother’s home given that Mother resumed her living arrangement with Jose who clearly did not believe A.Y.

## DISCUSSION

Mother contends there was insufficient evidence to support the finding return of A.Y. to her custody would present a substantial risk of detriment. We disagree.

“At the 18-month permanency review hearing the juvenile court either orders the return of a dependent child to parental custody or terminates reunification

services and sets a hearing for the selection and implementation of a permanent plan pursuant to section 366.26. (§ 366.22, subd. (a); rule 5.720(c)(1) & (3).) ‘Absent extraordinary circumstances, the 18-month review hearing constitutes a critical juncture at which “the court must return children to their parents and thereby achieve the goal of family preservation or terminate services and proceed to devising a permanent plan for the children.” [Citation.]’ [Citations] [¶] As was true at the six-month and 12-month review hearings, unless the court finds by a preponderance of the evidence that returning the child to the physical custody of his or her parents would create a substantial risk of detriment to the child’s safety, protection or physical or emotional well-being, the court must order the child returned. (§ 366.22, subd. (a); rule 5.720[(b)](1).) ‘If the child is not returned to a parent or legal guardian at the [18-month] permanency review hearing, the court shall order that a hearing be held pursuant to [s]ection 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. . . . The court shall also order termination of reunification services to the parent or legal guardian.’ (§ 366.22, subd. (a).) A finding of reasonable services offered or provided is not a precondition to ordering a section 366.26 hearing. [Citation.]” (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 306-307, fn. omitted; see also *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1788 [“The Legislature has determined that the juvenile court must embrace or forsake family preservation at this point by circumscribing the court’s options”].)

This court reviews the juvenile court’s ruling for sufficiency of the evidence. “Evidence sufficient to support the court’s finding “must be ‘reasonable in nature, credible, and of solid value; it must actually be “*substantial*” proof of the essentials which the law requires in a particular case.” [Citation.] “Where, as here, a discretionary power is inherently or by express statute vested in the trial judge, his or her exercise of that wide discretion must not be disturbed on appeal *except* on a showing that the court exercised its discretion in an arbitrary, capricious or patently absurd manner that

resulted in a manifest miscarriage of justice. [Citations.]” [Citations.]’ [Citations.] In the presence of substantial evidence, appellate justices are without the power to reweigh conflicting evidence and alter a dependency court determination. [Citations.]”

(*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705 (*Constance K.*))

Mother contends there is insufficient evidence of any risk of emotional or physical harm to A.Y. if she were returned to Mother’s custody. Mother argues A.Y. was declared a dependent child due to sexual molestation by her boyfriend’s father, Juan, and Mother’s not believing A.Y. and trying to prevent the maternal grandmother from taking A.Y. to the police to report the abuse. Mother argues she has fully complied with her service plan, including completing drug testing, parenting classes, attending individual and conjoint counseling, and maintaining regular visitation with A.Y. She argues the only proffered reasons for not returning A.Y. to her were that the social worker felt Mother still did not believe sexual abuse had occurred and she continued to live with Jose, the perpetrator’s son. Jose did not believe A.Y.’s accusation, and the social worker believed Jose might allow Juan access to A.Y. once she was back in Mother’s home. But Mother argues there was no evidence Jose physically or sexually abused A.Y., and no evidence he would in fact promote a relationship between A.Y. and Juan or allow Juan to have access to A.Y. Moreover, Mother testified that although she did not previously believe A.Y.’s sexual molestation allegations, she had changed her mind a few weeks before the 18-month review hearing (through her individual therapy with a new therapist). Mother now believes her daughter about the molestation. Mother argues “[she] now understands the risk Jose’s father presents to [A.Y.] . . . [and she] would never allow [A.Y.] to be molested by [Juan] in the future.” Mother asserts it is irrelevant that “it took [her] almost [18] months to finally believe her daughter . . . . Parents deal with dependency issues [on] their own time-tables.”

Mother’s compliance with her reunification service plan is commendable, but not dispositive. (*Constance K., supra*, 61 Cal.App.4th at p. 704 [“Compliance with

the reunification plan is certainly a pertinent consideration at the section 366.22 hearing; however, it is not the sole concern before the dependency court judge”].) In deciding whether there is a risk of detriment, the court considers other factors, including, but not limited to, “whether changing custody will be detrimental because severing a positive loving relationship with the foster family will cause serious, long-term emotional harm [citations]; properly supported psychological evaluations which indicate return to a parent would be detrimental to a minor [citations]; *whether the natural parent maintains relationships with persons whose presence will be detrimental to the ward* [citation]; instability in terms of management of a home [citation]; difficulties a minor has in dealing with others such as stepparents [citations]; limited awareness by a parent of the emotional and physical needs of a child [citation]; failure of a minor to have lived with the natural parent for long periods of time [citation]; and the manner in which the parent has conducted himself or herself in relation to a minor in the past. [Citations.]”

(*Constance K.*, *supra*, 61 Cal.App.4th at pp. 704-705, italics added.)

In *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, a different panel of this court recognized the easy cases in deciding whether it would be detrimental to return a child are “ones where there is a clear failure by the parent to comply with material aspects of the service plan. In *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763-764 . . . , for example, a mother continued to test positive for illegal drug use, continued to move from place to place, failed to ‘regularly’ attend therapy, and failed to complete her parenting class. This was obviously enough to support a finding of detriment. [¶] The harder cases are, like the one before us, where the parent *has* complied with the service plan, but for some reason has not convinced a psychologist or social worker that it would be safe to return the child to the parent. The problem is not, as it were, quantitative (that is, showing up for counseling or therapy or parenting classes, or what have you) but qualitative (that is, whether the counseling, therapy or parenting classes are doing any good). These are sensitive cases, fraught with

emotional overtones, because they invariably deal with an evaluation of the *personality, character and attitudes* of the parent.” (*Blanca P.*, *supra*, 45 Cal.App.4th at p. 1748, fn. omitted.)

In *Blanca P.*, the four children were initially detained due to “excessive corporal punishment,” by the mother and placed in foster care. (*Blanca P.*, *supra*, 45 Cal.App.4th at p. 1742.) Then a subsequent petition was filed based on rather ambiguous evidence the father might have sexually molested one of the girls. The evidence was that after the foster mother reported she believed the three-year-old girl’s vaginal opening was “too large,” the child was repeatedly “asked if anyone touched her ‘pee-pee[,]’ to which she replied ‘my mom,’ ‘boy,’ ‘yes, my Pappy.’” (*Id.* at p. 1742.) The father testified he had not sexually molested the child, and the juvenile court made a true finding on the subsequent petition. Services were provided, and both parents completely complied with their service plans. The parents continued to deny sexual abuse, and a subsequent investigation by an expert psychologist appointed by the court to address the sexual molestation issues with father completely “*exonerated* [the father] of any propensity to sexually abuse children.” (*Blanca P.*, *supra*, 45 Cal.App.4th at p. 1745.) Nevertheless, at the 18-month review hearing, based solely on the social worker’s opinion the parents “had not made sufficient ‘progress’ in therapy and had not ‘internalized’ proper parenting skills” because they refused to admit the sexual abuse allegation, the court made detriment findings. (*Id.* at p. 1747.) This court concluded the juvenile court’s original molestation finding was not reliable and not conclusive, particularly in view of the parents’ consistent denial and the expert evidence exonerating the father. In the absence of the sexual abuse allegation, the juvenile court’s detriment finding was supported only by the social worker’s subjective impression the parents had not “‘internalized’” parenting skills, which this court held was “simply too vague to constitute substantial, credible evidence of detriment.” (*Id.* at p. 1751; see also *In re*

*Jasmine G.* (2000) 82 Cal.App.4th 282, 289 [social worker's belief that parents had not sufficiently "internalized" parenting skills insufficient to support removal of child].)

While we agree this is a "harder case" than many, it is not comparable to *Blanca P.*, where the absence of any substantial evidence to support a detriment finding was clear. And in view of our standard of review (*In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401 [substantial evidence]), and Mother's appellate burden (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947 [parent has burden on appeal to show there is *no* substantial evidence to support the finding or order]), we cannot disturb the juvenile court's finding.

Unlike *Blanca P.*, where the alleged perpetrator/father denied molesting his daughter and an expert exonerated father, Mother pleaded no contest to the petition's allegations that A.Y. *was* sexually molested by Juan, in whose home they were living with Jose. Mother admitted that prior to A.Y.'s revelation of the molestation, Mother was aware of changes in the child's behavior alerting her that something was amiss. After learning of A.Y.'s accusations, Mother criticized the six-year-old child for not telling her. Mother allowed Jose to call A.Y. a liar to her face, causing A.Y. emotional distress. Mother tried to prevent the maternal grandmother from reporting the abuse. Thereafter, when A.Y. was removed from Mother's custody, Mother continued residing with Jose and participating in events with Jose's family. A.Y. had steadfastly maintained she was sexually molested. She was able to describe the abuse to others, but she could not discuss it with Mother because she felt Mother did not believe her and would become angry if she brought it up. Throughout the proceedings, A.Y. expressed profound fear of the perpetrator Juan. She described Juan and his daughter hanging around A.Y.'s school staring at her and harassing her. A.Y. similarly expressed fear of Jose, up until shortly before the 18-month review hearing, and had recurring nightmares in which Juan and Jose were chasing her. A.Y. said Jose sometimes hit her and pulled her hair when Mother was not around, but her complaints to Mother went unaddressed. Mother often

had Jose bring her to visits and A.Y. would see him in the car and hear his voice over the telephone, upsetting her. For much of the reunification period, A.Y. expressed that she did not feel safe living with her Mother, but felt safe with her maternal grandmother and her stepfather. Mother indicated she understood A.Y. was afraid of Jose and his family, yet she continued to reside with him. In short, it would understandably appear from A.Y.'s perspective that Mother was choosing her life with Jose over A.Y.'s emotional and physical well-being, and Mother had little empathy for her daughter's feelings.

Throughout the proceedings, Mother vacillated about whether she believed the molestation occurred—sometimes saying she believed A.Y. because A.Y. was her daughter, but other times indicating she did not believe any molestation had occurred. Prior to the jurisdictional and dispositional hearing, and through the six-month review period, Mother indicated she did not believe A.Y. and she remained living with Jose who also did not believe the abuse had happened. By the 12-month review, Mother indicated she understood the risk presented by residing with Jose, Jose had moved out of their apartment, but he remained on the lease and on the loan for her car, and Mother was pregnant with Jose's child. But Jose soon moved back in with Mother and their new baby, and Mother was expressing doubt there had been any sexual molestation of A.Y. At the 18-month review hearing, Mother testified she had changed her mind a few weeks earlier and now believed A.Y. had been molested by Juan. The juvenile court found Mother's testimony in this regard to lack credibility.

The social worker testified one of the goals of Mother's service plan was that she show an ability to understand A.Y.'s feelings and give emotional support. She also needed to demonstrate she could protect A.Y. from abuse in the future. Mother had made slow progress with these goals given that she continued to express disbelief over the accusation, pursued her relationship with Jose, and remained involved with the perpetrator's family. The juvenile court could reasonably conclude Mother was not able to prioritize A.Y.'s needs over Jose's. Jose clearly did not believe A.Y., and called her a

liar, and Mother points to nothing in the record indicating his position has changed. Moreover, the court could reasonably distrust Mother's claim she now believed A.Y. Accordingly, the court could reasonably conclude returning A.Y. to Mother's custody posed a risk of detriment.

DISPOSITION

The petition is denied.

O'LEARY, P. J.

WE CONCUR:

RYLAARSDAM, J.

THOMPSON, J.