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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re VINCENT B., a Person Coming Under the Juvenile Court Law.	H041224 (Santa Clara County Super. Ct. No. 113-JD22077)
SANTA CLARA COUNTY DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES, Plaintiff and Respondent, v. ANGELINA G., Defendant and Appellant.	

Appellant Angelina G. appeals from the juvenile court's order at a Welfare and Institutions Code section 366.3[1] postpermanency planning review hearing terminating reunification services and continuing the permanent plan of independent living for her son Vincent B. She challenges the sufficiency of the evidence to support the juvenile court's "reasonable efforts" finding and claims that the court's termination of services was improperly premised on her methamphetamine use, which she claims is not causally

[1] Subsequent statutory references are to the Welfare and Institutions Code.

linked to her ability to parent Vincent. We reject her contentions and affirm the juvenile court's order.

I. Background

Vincent was initially detained at age five in 2004 in Alameda County due to the parents' inability to care for him as a result of their substance abuse. Angelina had a long history of methamphetamine abuse, and she was "often delusional" when she was using methamphetamine. Vincent had been born with serious medical problems and had developmental disabilities that required ongoing care. Angelina had failed to ensure that he received such care. Angelina had previously lost custody of Vincent's four older siblings. Reunification services were bypassed, and Vincent was placed in a legal guardianship with his maternal grandmother. The juvenile court dismissed the dependency case in 2005 but retained jurisdiction over the guardianship.

The maternal grandmother was also the legal guardian of Vincent's older sister S. until February 2012, when S. was detained. Angelina was thereafter granted a year of reunification services for S., but services were terminated in June 2013. Angelina was ordered to submit to random drug testing as part of her reunification plan for S., but she failed to submit to even a single drug test.

In July 2013, Vincent was detained because the maternal grandmother had health problems and needed to move Oregon because she had lost her home. Vincent did not want to move to Oregon with her, and he expressed an interest in living with Angelina. He had been seeing Angelina and S. every few months and wanted "more frequent visits and calls" with them. If he could not reunify with Angelina, he would consider moving to Oregon.

Vincent had "anger issues." He "tries to hurt animals," and there had been several incidents in which he attempted to harm the maternal grandmother's dogs. Vincent also had hit the maternal grandmother several times. Vincent is "low functioning" and

receives services from the Regional Center. The maternal grandmother was concerned about whether Angelina could provide a safe environment for Vincent. The maternal grandmother had previously permitted Angelina to visit Vincent at the maternal grandmother's home. However, she stopped doing so because Angelina "would arrive . . . with . . . 'shady people.'" The maternal grandmother had asked Angelina not to bring these people to her home, but Angelina "relied on these friends for transportation." Instead, the maternal grandmother had taken Vincent to visit Angelina in San Jose. Angelina's last visit with Vincent prior to Vincent's July 2013 detention had been in January 2013.

Angelina was living in a friend's San Jose apartment and working as an in-home caregiver for an elderly woman. She lacked both a driver's license and transportation. Although Angelina had not engaged in any substance abuse treatment or testing in the previous four years, she told the social worker that she was willing to drug test. However, she expressed doubt about her ability to comply with random testing due to her lack of transportation and varied work schedule.

In August 2013, the court resumed jurisdiction over Vincent, granted Angelina reunification services, and placed Vincent in a "Regional Center Group Home" in Gilroy.[2] It ordered visitation twice a week for two hours, and it provided that the visits would be "unsupervised on condition that Mother does not have a positive or missed drug test. If there is a positive or missed drug test, Mother's visits shall be supervised." The case plan required Angelina to successfully complete: (1) a parent orientation class; (2) a basic parenting class; (3) "counseling or psychotherapy" including "family therapy [with Vincent] to address past and current child welfare involvement and parent/child roles and expectations" and "Psychotropic Medication Evaluation and Monitoring [for Angelina];"

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[2] The case was transferred to Santa Clara County in September 2013 because both Vincent and Angelina were residing in Santa Clara County.

(4) weekly random drug testing; and (5) a DADS assessment including the fulfillment of any recommendations made by the assessor.

Angelina initially had unsupervised visits once a week for three to four hours in Gilroy. Arrangements were also made for the group home to transport Vincent once a week to San Jose for a second weekly visit with Angelina. In November 2013, after Angelina tested positive for methamphetamine, the Department obtained a temporary order that visitation be supervised. The social worker was concerned that Vincent would be "placed at risk" if he had unsupervised visits with Angelina while she was using or under the influence of methamphetamine. She felt that unsupervised visits would not be appropriate until Angelina had "a consistent and extended period of clean tests." Angelina denied that she was using methamphetamine. In February 2014, after Angelina had continued to have positive tests for methamphetamine use, the court ordered that her visits with Vincent be supervised.

The section 366.3 six-month review hearing, which was originally scheduled for March 2014, was continued to June 2014. The Department recommended that services be terminated and that Vincent's permanent plan of independent living be continued. Angelina had continued to test positive for methamphetamine, and she continued to deny using methamphetamine. The social worker testified at the hearing that the "significant negative effects from methamphetamine use . . . hamper a parent's ability to sufficiently meet their child's needs." Methamphetamine users have impaired judgment and often associate with "questionable" people. The social worker had observed Angelina's impaired judgment.

Vincent had daily telephone contact with Angelina and twice weekly two-hour supervised visits. Angelina was late to a number of visits, and there were other problems with her supervised visits at the group home. Vincent's "negative behaviors escalate[d]" after visits with Angelina, and he became uncommunicative. The group home administrator believed that Vincent's interactions with Angelina undermined the progress

that he had been making. As a result, Vincent had to be removed from the group home in April 2014 and moved to a foster home. After this move, Vincent was referred for therapy and social skills services and possibly family therapy. Vincent had been receiving therapy from the group home administrator while he lived at the group home. At the time of the June 2014 hearing, Vincent was about to start seeing a new therapist.

Angelina had participated in some parts of her case plan, but she had failed to complete most portions of her case plan despite multiple referrals by the social worker. She attended some parent education classes but did not successfully complete the program. During these classes, Angelina refused to take responsibility for her own actions and blamed others for failing to care for her children. Angelina also failed to complete the parent orientation despite repeated referrals by the social worker. Angelina did not complete a DADS assessment despite multiple referrals. Angelina missed a significant number of the required random weekly drug tests and tested positive on numerous occasions. The only part of her case plan that Angelina had completed was keeping up with her mental health treatment. Family therapy was part of the case plan. However, it had not yet been scheduled because it was premature due to Angelina's refusal to acknowledge her substance abuse issues. The case plan did not include individual counseling for Angelina, but Angelina told the social worker that she was seeing a therapist, though she never provided the social worker with contact information for her therapist. Angelina testified at the hearing that she had sought counseling for herself and Vincent, but the social worker had not arranged for it.

Vincent testified at the hearing that he would live with Angelina if it was his choice, but he liked his foster home. Angelina asked the court to place Vincent immediately in her custody. However, she had recently told the social worker that the place where she was temporarily living was not a good place for visits. Angelina testified at the hearing that she thought Vincent's foster home was "good for him."

Angelina's position at the hearing was that the Department "has failed to make reasonable efforts to ensure Vincent's safe return home, and, as a result [the Court] has discretion" to grant additional reunification services. She claimed that the Department had failed to obtain appropriate counseling services for Vincent and family therapy.

The court recognized that it could grant additional reunification services if there had not been reasonable efforts to provide Angelina with reasonable services, but the court found that reasonable efforts had been made and reasonable services had been provided. "The county agency has complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child." The court found that family therapy would have served no purpose due to Angelina's failure to deal with her substance abuse. The court noted that Angelina's "level of denial here is just so deep." It terminated services and continued the permanent plan of independent living. The court continued to permit Angelina twice weekly supervised visits. Angelina timely filed a notice of appeal from the court's order.

II. Discussion

A. Reasonable Efforts

Angelina contends that the Department did not make reasonable efforts to comply with the service plan because the Department did not provide her or Vincent with mental health counseling or family therapy.

At each postpermanency planning review hearing, "[t]he court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made." (§ 366.3, subd. (d).) The court shall determine "[t]he extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child." (§ 366.3, subd. (e)(4).) Additional reunification services may be ordered if such services are "in

the child's best interests, and . . . there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f) . . . ." (§ 366.3, subd. (e)(4).) "It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents up to a period of six months . . . ." (§ 366.3, subd. (f).)

Angelina's circumstances did not change for the better between the time she was granted reunification services and the June 2014 review hearing. She regressed from unsupervised visits to supervised visits due to her repeated positive tests for methamphetamine. The impact of her visits with Vincent threatened his progress and resulted in the failure of his placement. Angelina failed to complete almost every element of her case plan. She did not establish that additional reunification services would be in Vincent's best interest or would have the slightest chance of resulting in Vincent's placement in her custody.

The Department did not fail to make reasonable efforts with respect to mental health counseling, therapy, or social skills services. Vincent had been receiving therapy at the group home from the group home administrator while he lived there. While Angelina attacked the propriety of the group home administrator providing therapy to Vincent, we accept the juvenile court's conclusion that this was appropriate therapy. The Department also acted reasonably in referring Vincent for therapy and social skills services after he moved to the foster home. While there was some delay in the provision of these services due to the transition, we see no inadequacy in the Department's efforts to provide Vincent with appropriate therapy and social skills services.

Angelina also claims that the Department failed to make reasonable efforts to provide family therapy. Although this was part of the case plan, the juvenile court found

that the Department had reasonably concluded that family therapy would be premature due to Angelina's failure to acknowledge her substance abuse. We agree. Since Angelina's denial of substance abuse precluded any meaningful progress, family therapy would have been pointless. The case plan did not require the Department to provide mental health counseling or therapy for Angelina. In any case, the Department did not fail to make reasonable efforts in this regard because Angelina assured the social worker that she was already seeing a therapist.

Angelina suggests that the Department failed to make reasonable efforts to prepare Vincent for a permanent placement. Vincent is a low-functioning teenager with challenging behaviors who is not adoptable. The Department made reasonable efforts to ensure that Vincent received appropriate therapy while in the group home and to make sure that therapy and social skills services would also be available to him in his foster home placement. These services are designed to assist Vincent in achieving his permanent plan of independent living. The Department has also ensured that Vincent is attending school. Angelina does not suggest what other services the Department could have provided in this regard other than providing these services sooner. The juvenile court did not abuse its discretion in finding that the Department made reasonable efforts to help Vincent achieve his permanent placement goal.

The Department made reasonable efforts to provide the services identified in the case plan. Those services were reasonably designed to address the impediments to Angelina parenting Vincent. Angelina made little effort to participate in those services and failed to make any meaningful progress. The services provided to Vincent were reasonably designed to support his progress toward his permanent plan of independent living. The juvenile court's reasonable efforts finding is supported by substantial evidence.

B. Nexus

Angelina claims that the juvenile court's order terminating services was erroneous because it was premised on her methamphetamine use. Her position is that there was no showing of a link between her drug use and her ability to parent Vincent.

The record contains ample evidence that Angelina's methamphetamine use places any child in her care at risk. As the social worker testified at the hearing, the "significant negative effects from methamphetamine use . . . hamper a parent's ability to sufficiently meet their child's needs." Methamphetamine users have impaired judgment and often associate with "questionable" people. Although the social worker had not seen Angelina obviously under the influence of methamphetamine, she had observed Angelina's impaired judgment. The record reflected that Angelina's past methamphetamine use had rendered her "often delusional." Vincent became a dependent in the first place due to Angelina's substance abuse interfering with her ability to care for him, and she had lost custody of her other children for similar reasons. Angelina's judgment was obviously affected by her drug use. The maternal grandmother was unwilling to let Angelina visit Vincent at the maternal grandmother's home because Angelina brought "shady people" to the maternal grandmother's home. Even her supervised visits with Vincent were problematic. Vincent's "negative behaviors escalate[d]" after visits with Angelina, and he became uncommunicative. Her influence on Vincent undermined his progress. The juvenile court could reasonably infer that Angelina's problematic conduct was an outgrowth of her substance abuse.

This evidence established that Angelina's drug use would put Vincent at risk if her interactions with him were not supervised. Further reunification services were pointless because Angelina refused to acknowledge her drug use or take any steps to address it. She was unfit to have immediate custody of Vincent because her drug use precluded her from functioning as an adequate parent, particularly in light of Vincent's low functioning.

The juvenile court did not abuse its discretion in terminating reunification services and continuing Vincent's permanent plan of independent living.

III. Disposition

The juvenile court's order is affirmed.

Mihara, J.

WE CONCUR:

Bamattre-Manoukian, Acting P. J.

Márquez, J.