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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

M.N.,

Petitioner,

v.

THE SUPERIOR COURT OF SANTA
CLARA COUNTY,

Respondent,

SANTA CLARA COUNTY
DEPARTMENT OF FAMILY AND
CHILDREN'S SERVICES,

Real Party in Interest.

H042038

(Santa Clara County

Super. Ct. Nos. JD21953, JD21955)

I. INTRODUCTION

M.N., the mother of the children at issue in this juvenile dependency matter, has filed a petition for writ of mandate challenging the juvenile court's order terminating her reunification services at the 18-month status review hearing and setting the matter for a Welfare and Institutions Code section 366.26 permanency planning hearing.¹ The mother contends the juvenile court erred by terminating her reunification services because she substantially complied with her case plan and there was no substantial evidence that

¹ All further statutory references are to the Welfare and Institutions Code.

returning the children to her care “would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being” of the children. (See § 366.22, subd. (a).)

For the reasons stated below, we find that the juvenile court’s findings are supported by substantial evidence, and we will therefore deny the writ petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Section 300 Petitions

On June 20, 2013, the Santa Clara County Department of Family and Children’s Services (the Department) filed a petition under section 300, subdivision (b) [failure to protect] alleging that the four-year-old son of the mother and G.B. (the father) came within the jurisdiction of the juvenile court. The following day, the Department filed a petition under section 300, subdivisions (b) [failure to protect] and (j) [abuse of sibling] alleging that the parents’ two-year-old son also came within the jurisdiction of the juvenile court.²

The petitions alleged that on June 18, 2013, the police had found the older child “wandering alone” near an intersection in Milpitas. The police had not been able to locate either of the parents, so they had taken the older child into protective custody. The police later learned that the father had left the older child alone in a motel room, and that the child had left the room in an effort to find the mother, who was at work. When the father returned and found the older child was missing, he called the mother. By the time the parents called the police to report the child missing, the child had been in police custody for three and a half hours.

The petitions further alleged that the father had a substance abuse problem. Specifically, he used methamphetamine and had not participated in any treatment

² As the children and the father all share the same initials, we will refer to the four-year-old child as “the older child” and the two-year-old child as “the younger child.”

programs. The mother was aware of the father's substance abuse problem but nevertheless had left the older child in his care. Additionally, the family's home was in a condition that was "hazardous to the child[ren]'s health." Throughout the home, there was garbage, dirty diapers, piles of dirty clothes, and cockroaches. The home smelled like urine.

This was the second time that the police had found the older child unsupervised in a public place. One year earlier, on June 12, 2012, the police had found both children, as well as their cousin, "naked and running around their neighborhood alone without supervision." The police had found the children's maternal uncle passed out on the living room floor with a glass pipe used for smoking methamphetamine next to him on the floor. A second maternal uncle had also been found in possession of methamphetamine and a glass pipe. On that occasion, a social worker had found the home to be "unkempt and unsanitary." The mother had participated in Voluntary Family Maintenance Services, and she had completed a parenting class and parent orientation.

A first amended petition was filed as to the younger child on June 25, 2013. The petition alleged that the younger child had been placed into protective custody on June 21, 2013.

Subsequent amendments to the petitions added the allegation that the mother had allowed the maternal uncles to reside in the family home with the children, despite the uncles' substance abuse issues. The uncles had been arrested for child endangerment and drug offenses in 2012, but the mother had allowed them to return to the home afterwards.

B. Detention Hearings

Detention hearings were held on June 21, 2013 and June 26, 2013. The juvenile court found that the Department had made a prima facie showing that the children came within section 300 and that continuing the children in the home of the parents was contrary to the children's welfare. The court ordered supervised visitation for the parents at least two times per week.

C. Jurisdiction/Disposition Report

The Department filed a jurisdiction/disposition report dated July 16, 2013, recommending that the parents both receive reunification services. At the time, the children were living together in a foster home placement.

The father lived in Vallejo but regularly came to visit the mother and the children. The mother lived with the maternal grandfather, who watched the children when she was at work. The mother claimed she did not suspect that the father used drugs. The mother could not explain why her home was so dirty when the social workers initially investigated. The mother admitted that the maternal uncles lived at the home and that neither they nor the maternal grandfather did any cleaning. The mother was the only one who worked and paid the rent and other bills.

On July 12, 2013, the social worker returned to the mother's home and found it was "clean and free from hazards." The mother was trying to find a new home for herself, the children, and the maternal grandfather. The mother admitted that the younger child had not had any well-child physicals nor received any immunizations, despite the Department having helped her obtain Medi-Cal for him. The older child had received immunizations and well-child physicals, but he had not attended preschool and appeared "socially behind." The older child had been referred for mental health services through Community Solutions.

The mother had been visiting the children consistently, and the visits were going well. The father had not visited the children because of his work schedule.

D. Jurisdiction/Disposition Hearing

On July 30, 2013, the parents both submitted on the Department's jurisdiction/disposition report. The juvenile court sustained the petition and adopted the Department's recommendations, ordering reunification services for both parents while continuing the children's foster home placement. The mother was ordered to participate in and successfully complete parent orientation, an advanced parenting class, a

counseling program, and a codependency group. The father was ordered to participate in and successfully complete parent orientation, an advanced parenting class, drug testing, 12-step meetings, and a substance abuse assessment.

E. Interim Review

The Department filed an interim review report dated October 1, 2013. The mother had been visiting the children regularly, and the social worker had begun allowing her to have unsupervised visits “because her visits were going so well.” The father had visited the children several times and had been “appropriate” during the visits. The mother remained in the same home but was “reportedly” moving to a new home, which she would share with her grandmother. The Department recommended the prior orders remain in effect.

At a hearing on October 1, 2013, the juvenile court issued an order that the previous orders remained in full force and effect.

F. Six-Month Status Review

The Department filed a six-month status review report dated January 28, 2014, recommending that both parents continue to receive reunification services. The children remained in their foster home.

The father had moved around due to his work, and he continued to visit the children on his days off. The mother continued to reside in a home with the maternal grandfather and the maternal uncles, and she continued to pay the rent and bills. She still hoped to move into a new home with her grandmother.

The older child was in kindergarten and had been referred for an assessment and an IEP (individualize education plan) meeting. His skill level was below the kindergarten level. He had trouble following directions, staying seated, speaking in turn, keeping his hands to himself, and doing his homework. The older child had been participating in Parent Child Interactive Therapy (PCIT) with the mother.

The younger child's speech and language skills were "a little delayed," so he was being referred for an assessment.

The mother had completed the parent orientation. Because there was no advanced parenting class available, the social worker had referred the mother to the PCIT program, "which is basically a parenting program with one on one support." The mother had completed 10 sessions of the PCIT program, and the PCIT therapist had described her as doing well. The mother was also participating in counseling. The mother's therapist described her as "engaged in therapy, although she is a woman of few words." The mother had taken responsibility for the situation. The mother had reportedly attended some sessions of a codependency group, but she admitted that she had not been attending regularly, and she had not provided verification of her attendance.

The mother's visits had continued to go well and many were unsupervised. The father sometimes joined them for visits. The mother had an overnight visit with the children on Christmas.

The father had not participated in any services other than a few 12-step meetings and a substance abuse assessment.

In the social worker's opinion, the mother would be ready to reunify with the children after she obtained "suitable housing and childcare arrangements." The social worker recommended that the juvenile court set another hearing in 60 days to consider a possible return of the children to the mother.

At the six-month review hearing held on January 28, 2014, the juvenile court adopted the Department's recommendations.

G. Interim Review

The Department filed an interim review report dated April 8, 2014. The children remained in their foster home. The social worker opined that the mother was not yet ready to reunify with the children.

The mother had completed the PCIT program after participating with both children. However, the PCIT therapist believed that the mother needed more practice on giving the children time outs and setting limits. The mother had not been going to therapy because she could not afford the \$10 fee or to pay for gas in order to get to the appointments. She also was not attending codependency meetings. She had not been in regular communication with the social worker and had not returned the social worker's calls.

The mother continued to regularly visit the children, unsupervised, and the visits went well. However, the mother still did not have a new home. She continued to live with her father and brothers, and she continued to pay all of the rent.

At an interim review hearing held on April 8, 2014, the juvenile court issued an order that the previous orders remained in full force and effect.

H. 12-Month Status Review

The Department filed a 12-month status review report dated July 22, 2014, recommending that family reunification services be continued for the mother but terminated for the father.

The father had not completed his case plan or maintained regular communication with the social worker. The mother also had not maintained regular communication with the social worker. However, the mother continued to visit the children regularly, unsupervised, and the visits went well. During one of the visits, the mother had taken the children to her home, despite the social worker's request that she not do so because the maternal uncles still lived in the home. The mother still had not found new housing.

The older child had completed kindergarten and had made significant progress during the school year. Through the PCIT program, the mother had "learned to become a stronger authority figure and improved her ability to implement appropriate behavior management techniques." It was unknown whether the mother had been attending counseling or codependency groups.

The social worker believed that the mother had “maintained and improved her relationship with her children.” However, the mother did not seem to understand that her children’s needs should come above the needs of the maternal uncles, who she continued to support. She also did not seem to understand that maintaining communication with the social worker was necessary “so that a level of trust can be developed.”

An updated case plan was attached to the report. The case plan required the mother to continue to participate in counseling and attend a codependency group twice a month. The mother also needed to obtain resources to meet her children’s needs and to provide a safe home.

At the 12-month status review hearing held on July 22, 2014, the juvenile court adopted the Department’s recommendations.

I. 18-Month Status Review Report

The Department’s 18-month status review report, dated December 10, 2014, recommended the children be returned to the mother with family maintenance services.

The mother reported that the maternal uncles had moved out of her home in August of 2014, and that she would be moving to Stockton to reside with the paternal grandparents.

The social worker had met with the paternal grandparents, who had expressed their willingness to have the mother and the children live with them. The paternal grandparents were also willing to become relative caregivers if the mother did not reunify with the children.

The social worker continued to have a difficult time communicating with the mother, as did other professionals. This had sometimes created a delay in getting services for the children.

The older child was in the first grade, but he was struggling behaviorally, socially, and academically. He had recently engaged in destructive behavior at school. He had been referred for an assessment of his need for therapeutic behavioral services on

September 15, 2014, and a clinician from EMQ (Eastfield Ming Quong) had been assigned on October 16, 2014. On November 14, 2014, the EMQ clinician had returned the referral to the Department after four failed attempts to “engage and connect” the mother. The social worker had arranged for the coordination of a new referral in San Joaquin County.

The mother still had not completed the individual counseling required by her case plan, despite the fact that on August 20, 2014, the social worker had provided the mother with a list of counselors who accepted Medi-Cal. The social worker had instructed the mother to find a counselor in Stockton and to provide the name of the counselor to the social worker.

The mother provided proof that she had attended five codependency groups since May 21, 2014 and claimed she had attended additional classes as well. The social worker had instructed the mother to find codependency meetings in Stockton and to provide information about those meetings to the social worker.

The mother had continued to regularly visit the children. She admitted she had a difficult time getting the older child to listen and follow directives. The younger child had also recently begun to act up. The foster mother had expressed concern that the mother was not providing the children with structure and rules nor helping the older child with his homework. The mother was allowing the children “to do whatever they want.”

The mother denied being in a relationship with the father, but the father contradicted her. The father hoped to engage in services on his own, but he continued to find it difficult to do so.

The social worker’s “greatest concern” was the mother’s “passive response” to the older child’s behavior problems. The mother had acknowledged the problems, but she had not expressed concern or requested assistance. The mother had been “slow” to return paperwork and phone calls to the school and had not responded to the EMQ clinician despite reminders from the social worker. The mother had admitted she was

overwhelmed. Nevertheless, the social worker felt it was “in the best interest of the children for them to be returned to the care of their mother,” with family maintenance services, on the condition that the mother and children reside with the paternal grandparents, who would provide support and assistance.

On December 10, 2014, the date set for the 18-month review, counsel for the children requested a mediation. The juvenile court authorized the children’s placement with the paternal grandparents pending the next hearing. The subsequent mediation did not result in a resolution.

J. Addendum Report

The Department filed an addendum report dated January 21, 2015, changing its recommendation. The Department recommended the juvenile court terminate the mother’s reunification services and permit the children to remain with their relative caregivers in a planned permanent living arrangement.³

The children had been placed with the paternal grandparents on December 22, 2014. The mother had moved to the Stockton area and had acquired a part-time job. Although she had not moved in to the paternal grandparents’ home, she spent a great deal of time there, visiting with the children and helping with their day-to-day needs, and she sometimes slept outside of the home in her car. The mother reported that she was attending codependency meetings but that she had not been attending counseling.

The mother and the older child had attended an EMQ intake for services to help with the transition to an out-of-county placement. The social worker had initiated a referral to San Joaquin County Mental Health so the older child could be assessed for

³ A planned permanent living arrangement is a “committed placement” that “has the characteristics of the more stable and permanent placement alternatives of adoption or legal guardianship” and is appropriate for foster children who “may not be appropriate subjects for adoption or legal guardianship and may not have fit relatives who can provide a permanent home.” (*In re Stuart S.* (2002) 104 Cal.App.4th 203, 208.)

therapeutic behavioral services in that county. The mother and the paternal grandparents were aware of the referral.

The social worker had provided the mother with information about enrolling the older child in a new school and had stressed the importance of timely enrollment. However, the mother had not collected the necessary paperwork in a timely manner, causing the older child to begin school five days late.

In the social worker's opinion, the mother's "lack of follow through" continued to be a concern. Because the mother needed support to meet the children's needs, the social worker believed that returning the children to her would create a substantial risk of detriment to their safety, protection, and physical and emotional well-being.

On January 21, 2015, the children's attorney informed the court that she was in agreement with the Department's new recommendation. The mother requested a contested hearing. The juvenile court granted the mother's request for an order allowing her to live with the paternal grandparents and the children pending the next hearing.

K. Second Addendum Report

The Department filed another addendum report, dated February 25, 2015, changing its recommendation again. The Department still recommended termination of the mother's reunification services, but it also recommended the juvenile court set a section 366.26 permanency planning hearing.

The children continued to reside with the paternal grandparents. The children were having behavior problems in the home, and the older child was having problems at school: he was not completing his work, and he was engaging in inappropriate behavior.

The older child's teacher described the older child's problems at school. The child was struggling academically and would likely be held back. He became frustrated easily and had trouble staying focused. He had recently spat on another student, pulled down his pants in the classroom, and thrown bark at other students. He had left school and hidden on a school bus one day instead of going to the office.

According to the teacher, the mother did not seem to understand the seriousness of these problems. The mother had dropped the older child off at the office on his first day of school instead of bringing him to the classroom. The mother did not communicate with the teacher about how the older child was doing in class, and she had not followed up with the teacher after the school bus incident. The older child was not returning his homework, and the teacher had written notes that he later found crumpled up in the older child's backpack. The older child had informed the teacher that he would run away if he was given the chance to go outside at recess, so the school was requiring him to attend "In School Suspension" during lunch and recess.

The mother and the children had met with a clinician from Children and Youth Services. According to the clinician, the younger child had been "out of control" and the mother had not been able to direct either of the children into proper behavior or set boundaries. The younger child had tried to slap the mother, and he had slapped the older child. The mother had not discussed the older child's problems at school with the clinician, and she had downplayed the child's behavior problems in a written assessment. The clinician had provided the mother with a referral so the older child could be evaluated for possible ADD/ADHD. School personnel had also provided a pediatrician's name to the mother and urged her to have the older child evaluated for ADD/ADHD.

The mother had been living in the paternal grandparents' home with the children. She claimed to have attended one counseling session and two codependency meetings.

The social worker was concerned about the fact that the children's behaviors had "intensified" and become more serious, and that the mother's response continued to be "passive and neglectful." The social worker was also concerned about the mother's lack of communication with the older child's teacher and her lack of follow through on finding a doctor for the children. The social worker "firmly believe[d]" that the mother's "pattern of failing to properly address the ongoing and troubling issues with her sons creates a substantial risk to their emotional and physical well-being."

L. 18-Month Status Review Hearing

A contested 18-month status review hearing was held on February 25, 2015.

1. Testimony

The social worker reiterated much of the information in her reports and explained why she believed it was safe for the mother to live with the children but unsafe for her to have custody of them. While there was a bond between the mother and the children and while the children benefited from her daily presence in their lives, the social worker had “great concerns” about the mother being the one to make day-to-day decisions for the children because of “the patterns of neglect, not taking care of things in a timely manner or just not addressing them at all.”

The social worker provided her opinion about why the children’s behavior problems had increased. She believed “a lot of it” could be attributed to the changes in their lives, including the loss of their long-term foster mother and CASA workers and their move into a new community and new home. However, the social worker believed that if the older child had received services in a more timely manner, he would have exhibited fewer problems—i.e., if the mother had set up an assessment with the EMQ clinician after the referral was processed in October of 2014.

The social worker acknowledged that after the behavioral therapy referral was made in San Joaquin County, there was a delay of about two weeks before a clinician was assigned. The mother had called to let the social worker know that she had not yet heard from the clinician, and the mother had attended an intake appointment as well as subsequent therapy appointments with the older child.

The mother testified that she had last attended a codependency meeting about two weeks earlier and that she had learned that her brothers needed to take care of themselves. Through the PCIT program, she had learned about directing her children and imposing consequences. She had put the younger child on a waiting list for preschool. She had set up pediatrician appointments for both children in March. She acknowledged that the

older child had not been able to start at his new school on the first day after the winter break because she had not completed the paperwork, and she admitted she had not gone to his prior school to get some of the paperwork until the third day after the break, but she claimed she had been unaware that she could do the paperwork over the break. She did not know that she should have brought the older child to his classroom on the first day of school instead of to the office. She claimed she helped the older child with his homework regularly. She admitted she had only spoken to the older child's teacher about his behavior once or twice. She had concerns about the older child's behavior, but she had begun taking him to therapy. She believed she was capable of meeting the children's educational, physical, and emotional needs.

2. Arguments

The Department argued that the mother had not made "regular or substantive progress" in her case plan, since she had engaged in only a "handful" of counseling sessions and a "handful" of codependency meetings. The Department further argued that the "[e]ven more glaring" problem was the mother's "inability to benefit from services" and "pattern of ongoing neglect," referring to the mother's failure to develop a safety plan after the older child had left school and hidden on a school bus, her failure to respond to the therapy referral, her failure to enroll the older child in school on time, and her failure to timely set up medical insurance for the younger child or find a pediatrician for the older child.

Counsel for the children joined in the Department's request for termination of the mother's reunification services. Counsel for the children argued that the mother had not "responded appropriately" to the children's behavioral problems and had "not been able to deal with" the older child's behavior. The mother still needed "much work" on learning how to parent the children.

The mother asked the juvenile court to return the children to her on a plan of family maintenance. She argued that the Department had not shown that returning the

children to her care would create a substantial risk of detriment. She reminded the court that she had been having unsupervised visits and that she had been engaging in “primary care taking duties.” The mother also pointed out that she had initiated the children’s placement with the paternal grandparents in an effort to obtain support for herself. The mother argued that the children’s increased behavior problems were due to the changes in their lives and were not attributable to the mother. The mother also noted that part of the delay in the counseling referral for the older child had been caused by “bureaucracy.” The mother noted that although she had not been reaching out to the older child’s teacher or school, the school staff had not been calling her; they had been contacting the paternal grandmother.

3. Juvenile Court’s Findings

The juvenile court acknowledged that the mother “loves the boys,” and that “the boys love her.” The juvenile court further noted that the mother had visited the children regularly, had progressed to unsupervised visits, and had completed some elements of her case plan. However, the juvenile court found that the mother’s testimony at the hearing was “consistent with the social worker’s assessment” of her as demonstrating a “pattern of passive and neglectful responses to her sons’ needs and safety.” The court found that the mother did not complete her case plan, in that she did not finish a counseling program nor provide proof of regular attendance at codependency meetings, thus “trigger[ing] a statutory presumption that returning the boys would be detrimental,” which the mother did not rebut. The juvenile court found that “the evidence in its totality leads to the conclusion that returning the boys to [the] mother would pose both a risk of detriment to their physical as well as emotional wellbeing.”

The juvenile court further found that the mother had not “demonstrated the capacity to be consistently attuned to the boys[’] needs or [to] meet those needs.” In other words, she had not demonstrated “a capacity to be the boys’ primary caregiver,” particularly “given the boys’ special needs.”

The juvenile court terminated the mother's reunification services but authorized her to remain in the paternal grandparents' home. The court set a section 366.26 permanency planning hearing for June 24, 2015.

III. DISCUSSION

Before evaluating the mother's contentions, we will provide an overview of the applicable legal principles and the applicable standard of review.

A. *Legal Principles*

After a child is removed from a parent's custody, the juvenile court generally must order reunification services for the child and the parents. (§ 361.5, subd. (a).) When the child is under three years of age at the time of removal, reunification services are presumptively limited to six months; services are presumptively limited to 12 months for older children, but may be limited to six months if the child is part of a "sibling group" that includes a child under age three. (*Id.*, subds. (a)(1)(A)-(C).) Reunification services may be extended up to 18 months from the date of removal if the juvenile court finds a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within that extended time period or that reasonable services have not been provided to the parent or guardian. (*Id.*, subd. (a)(3).)

“ [A]bsent 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.” [Citations.]’ [Citation.] At this point, ‘the focus of a dependency proceeding shifts to the child’s needs for permanency and stability.’ [Citation.]” (*V.C. v. Superior Court* (2010) 188 Cal.App.4th 521, 529 (*V.C.*.)

At all status review hearings, the court must consider the safety of the child (§ 366, subd. (a)(1)), the Department's efforts (*id.*, subd. (a)(1)(B)), and the “extent of progress” that the parents have made “toward alleviating or mitigating the causes

necessitating placement in foster care” (*id.*, subd. (a)(1)(E)). 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 . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.” (§ 366.22, subd. (a).)

“The standard for showing detriment is ‘a fairly high one. It cannot mean merely that the parent in question is less than ideal, did not benefit from the reunification services as much as we might have hoped, or seems less capable than an available foster parent or other family member.’ [Citation.]” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400 (*Yvonne W.*)). “Rather, the risk of detriment must be *substantial*, such that returning a child to parental custody represents some danger to the child’s physical or emotional well-being. [Citations.]” (*Ibid.*) 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 of the child would be detrimental.” (*V.C.*, *supra*, 188 Cal.App.4th at p. 529.)

Even parental compliance with the reunification plan does not automatically result in a child’s return to parental custody. (*In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1143 (*Dustin R.*)). Rather, the decision to return the child to parental custody depends on the court’s assessment of the effect that return would have on the physical and emotional well-being of the child. (§ 366.21, subd. (f).) When the juvenile court considers whether to deprive a parent of custody, it is concerned about the parent’s “grasp of the important parenting concepts—things such as a child’s need for security, adequate nutrition and shelter, freedom from violence, proper sanitation, healthcare, and education.” (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 790 (*David B.*)). Thus, the court must consider whether the parent corrected the problem that required

court intervention and the effect such return would have on the child. (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 901.)

An appellate court reviews the juvenile court's finding that returning a child to the parent's custody would be detrimental under the substantial evidence test. (*V.C.*, *supra*, 188 Cal.App.4th at p. 529.) In reviewing the record for substantial evidence, "we consider the evidence favorably to the prevailing party and resolve all conflicts in support of the trial court's order. [Citation.]" (*Yvonne W.*, *supra*, 165 Cal.App.4th at p. 1401.)

B. Analysis

In this case, the mother received reunification services for 18 months after the children were removed from her due to her inability to provide a safe home and to ensure their safety when they were being cared for by others. The mother was required to complete parenting education programs, regularly attend counseling, and regularly attend codependency meetings.

While the mother complied with the case plan to some extent, by participating in the required parenting programs and some of the required counseling and codependency meetings, this is insufficient to compel reversal of the juvenile court's ruling. (*Dustin R.*, *supra*, 54 Cal.App.4th at p. 1143.) Her case plan progress was not substantial in "qualitative" terms. (*Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, 1748.) The mother consistently demonstrated that she had not yet developed the ability to ensure the children's safety if they were returned to her custody. Although the mother acknowledged that the older child had serious behavior problems, she did not seek assistance from the social worker or other professionals, nor did she respond in a timely manner when those professionals reached out to her, which caused substantial delays in the provision of services to the older child. The mother's failure to proactively seek help addressing the older child's behavior showed her "limited awareness" of the older child's "emotional and physical needs." (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705.) In addition, the mother's inability to fully comply with the therapy and

codependency meeting elements of her case plan supports a finding that she had a limited ability to find appropriate resources in the community, which were vital to the children's health and safety.

The facts here contrast with those in *Yvonne W.*, *supra*, 165 Cal.App.4th 1394, where “[t]he uncontroverted evidence” showed that the mother had “*completed* her case plan.” (*Id.* at p. 1401, italics added.) In that case, the child had been removed due to the mother's drug use, and the mother had engaged in extensive reunification services within the first six months after the removal. (*Id.* at p. 1397.) The mother was “committed to her sobriety,” appeared to have benefitted from the reunification services, and had made changes that were “in her children's best interests.” (*Id.* at p. 1401.) She was safely parenting another child. She had done “everything Agency asked of her, including eliminating the conditions that led to Yvonne's out-of-home placement.” (*Ibid.*) Thus, substantial evidence did not support a finding of detriment under section 366.22. (*Id.* at pp. 1400-1402.)

In this case, the juvenile court could reasonably determine that, while the mother had made some progress during the reunification period, she was not yet ready to care for her young children, who had serious behavioral problems. In particular, the evidence supported a finding that the mother failed to “grasp” certain “important parenting concepts,” including the need to proactively communicate with school staff and medical professionals. (*David B.*, *supra*, 123 Cal.App.4th at p. 790.) The mother did not demonstrate any initiative to seek help for the children despite knowing that they were both exhibiting behavior problems at home and at school, and she downplayed the serious problems that the older child was having, even when they increased in severity. The mother also failed to demonstrate that she could implement the skills she learned in the parenting classes, by failing to set boundaries for the children when their behavior was out of control. These skills were crucial particularly in light of the risk that the older

child would again run away from school or leave the home unsupervised, which would put him in serious danger.

The mother notes that two of the social worker's main concerns were her failure to communicate with the older child's school and her failure to timely enroll the older child in therapy. The mother contends that "the Department's bureaucracy" and "role confusion" were "significant factor[s]" contributing to those problems, such that "the fault cannot be laid entirely" on her.

Regarding the older child's therapy, the mother points out that after the initial referral on September 15, 2014, it took a month for a clinician from EMQ to be assigned. The mother also points out that there was another delay associated with the new referral after the children changed counties. The mother admits, however, that after the initial referral, the EMQ clinician had returned the referral to the Department after four failed attempts to "engage and connect" the mother. The mother downplays the significance of her failure to get the older child into therapy at that time by asserting that he would only have received "minimal" services before the children moved. However, the record shows that the mother's failure to respond to the initial clinician's outreach was not insignificant. The clinician tried to reach the mother for an entire month without success. Had the mother responded, or had she been proactive in getting the assessment for the older child, the older child could have begun therapy before he moved to Stockton and changed schools. As the social worker testified, therapy could have helped prevent the increase in the older child's behavior problems that were associated with those major changes.

Regarding her minimal communication with the older child's teacher and other school staff, the mother points out that the school staff had treated the paternal grandmother as the primary caregiver. The mother contends she was "not really given the opportunity to be the primary contact person with the school." However, the record does not show that anything prevented the mother from trying to be more hands-on and

engaged with the school. As the social worker pointed out, the mother continued to be passive with respect to the children's needs. The mother tended to wait for instructions and communication, and she did not demonstrate an ability to be proactive with respect to obtaining assistance for the children. After learning that the older child had run away from school and hidden on a school bus, the mother did not communicate with the school to set up a safety plan for the future, despite knowing that the child had a history of being found wandering without supervision. Based on the mother's passivity with respect to this incident and the older child's other problems at school, the juvenile court could reasonably conclude that the mother was still unable to adequately provide for the children's health and safety, such that there was a substantial risk of detriment if the children were returned to her care. (See § 366.22, subd. (a).)

Having carefully reviewed the entire record, we determine that substantial evidence supports the juvenile court's findings at the 18-month status review hearing: that returning the children to the mother would pose a substantial risk of detriment to their physical and emotional well-being. (See *V.C.*, *supra*, 188 Cal.App.4th at p. 529; § 366.26, subd. (a).)

IV. DISPOSITION

The petition for writ of mandate is denied.

BAMATTRE-MANOUKIAN, ACTING P.J.

WE CONCUR:

MIHARA, J.

MÁRQUEZ, J.