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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

JANET G.,

Petitioner,

v.

SUPERIOR COURT OF  
THE STATE OF CALIFORNIA  
FOR THE COUNTY OF  
LOS ANGELES,

Respondent.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Real Party in Interest.

B279640

(Super. Ct. No. DK10648)

Writ petition to review order setting hearing under Welfare  
and Institutions Code section 366.26. D. Zeke Zeidler, Judge.  
Petition denied.

Law Office of Paula Teske and Pamela Tripp for Petitioner.  
No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, Brian Mahler, Senior Associate  
County Counsel for Real Party in Interest Los Angeles County  
Department of Children and Family Services.

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Petitioner Janet G. seeks extraordinary relief (Welf. & Inst. Code, § 366.26, subd. (l);<sup>1</sup> Cal. Rules of Court, rule 8.452) from the juvenile court's order, made at the 18-month permanency review hearing (§ 366.22), setting a hearing pursuant to section 366.26 to consider termination of parental rights and implementation of a permanent plan for her son T.H. We deny the petition.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On April 2, 2014 the Los Angeles County Department of Children and Family Services (Department) filed a section 300 petition to declare then-14-month-old T.H. a dependent child of the court. As sustained by the juvenile court on June 22, 2015, the petition included allegations that T.H. was at risk due to (1) Janet's mental and emotional problems including diagnoses of schizoaffective disorder, depression with suicidal ideation, bipolar disorder and auditory hallucinations requiring hospitalization for evaluation and treatment; (2) violent physical altercations with T.H.'s maternal grandfather; and (3) violent physical altercations with T.H.'s father, Christopher H. (§ 300, subd. (b).)

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<sup>1</sup> Statutory references are to this code.

Proceeding to disposition, the juvenile court removed T.H. from the parents' custody and ordered him placed with a maternal aunt, Julie G. The court granted monitored visitation to Janet and ordered the Department to provide her reunification services, including parenting classes, individual counseling to address anger management issues and psychiatric services. The court continued the matter to December 14, 2015 for the six-month review hearing. (§ 366.21, subd. (e).)

In a report submitted on December 14, 2015 for the six-month review hearing, the Department stated Janet had told the social worker she was participating in a parenting program through a church. The social worker contacted the program's facilitator, who confirmed Janet was enrolled in the program but was inconsistent in attendance and on at least one occasion appeared to be under the influence of drugs or alcohol. Janet had one negative test for drugs and failed to appear for two other tests. Janet had not enrolled in individual counseling or psychiatric services as required by her case plan. On December 14, 2015 the juvenile court continued the six-month review hearing to February 24, 2016 for a contested hearing.

In a last minute information report submitted on February 24, 2016 the Department stated that Janet had told the social worker she had completed a parenting program, was enrolled in individual counseling and was receiving psychiatric services. Janet refused to provide the social worker with the contact information for her programs, but then relented and provided the contact information for a psychiatrist, Dr. Herbert Chin. Janet also told the social worker she would confirm her participation in programs by facsimile transmission, but had not done so as of the writing of the report. Dr. Chin later told the social worker he was treating Janet for bipolar disorder and

depression, but he only prescribed medication for Janet and could not provide an evaluation.

Janet did not appear for the contested six-month review hearing on February 24, 2016. The juvenile court found the Department had provided reasonable reunification services to Janet and Janet was in partial compliance with her case plan. The court ordered the Department to continue to provide reunification services to Janet and continued the matter to May 31, 2016 for the 12-month review hearing. (§ 366.21, subd. (f).)

In its report for the 12-month review hearing the Department stated that the social worker had met with Janet several times and during some of the meetings Janet appeared to be under the influence of drugs or alcohol.<sup>2</sup> The social worker asked Janet to undergo a drug test, and Janet tested negative.

Janet told the social worker she had completed a parenting program and provided a certificate indicating she had attended a parenting orientation for a “Parent in Partnership” program. The Department explained that this program did not qualify as a parenting education program under Janet’s case plan because it was intended for parents who had successfully reunified with their children. The facilitator of the church parenting program Janet had earlier identified told the social worker Janet had attended approximately 15 classes, was inconsistent with her attendance and appeared to be under the influence of drugs or alcohol at the last class she attended. The facilitator told the

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<sup>2</sup> The social worker reported Janet was “leaning to the side, her speech was slowed and slurred and her movements were impulsive.”

social worker Janet needed to attend five more classes to receive a certificate of completion.

Janet had not participated in her court-ordered counseling, and on April 7, 2016 Janet told the social worker she was unaware she had to attend therapy. The social worker explained that Janet required therapy to address her mental health issues and offered to assist Janet in locating a therapist. Janet then told the social worker she had an intake appointment with a therapist. On April 29, 2016 Janet informed the social worker that she had started therapy at the Asian Pacific Family Center. Three days later the social worker spoke with Janet's therapist at the facility, who explained that Janet was undergoing the intake process and a diagnosis would be made following completion of the process. Julie reported that Janet acted appropriately during her twice weekly, monitored visits with T.H.

On May 31, 2016 the juvenile court continued the 12-month review hearing as to Janet to June 24, 2016 based on Janet's request to replace her court-appointed attorney with a privately retained attorney.<sup>3</sup>

In a last minute information report for the continued 12-month review hearing the Department stated Janet was visiting T.H. twice a week in Julie's home and reported Julie had described Janet as providing adequate care for T.H. during the visits and appeared to be "the most stable she has ever been in her life."

On June 24, 2016 the juvenile court conducted the 12-month review hearing as to Janet. For the hearing Janet

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<sup>3</sup> The court conducted the 12-month review hearing as to Christopher and continued the case as to him to September 20, 2016 for the 18-month permanency planning hearing. (§ 366.22.)

submitted documentation of her consistent participation in individual therapy, her attendance at seven of 20 sessions in a parenting program, and a letter from Dr. Chin indicating Janet was compliant with her medication and appeared stable. At the hearing the court found Janet was in compliance with her case plan and the Department had provided her reasonable reunification services, ordered further reunification services for Janet and set the 18-month permanency review hearing for September 20, 2016. (§ 366.22.)

For the permanency review hearing the Department reported it had removed T.H. from Julie and placed him with his paternal grandmother after Julie allowed the maternal grandparents to move into her home and become T.H.'s primary caregivers without the Department's approval.

Janet had completed a parenting program, although her class attendance had been inconsistent; on some occasions she appeared to be under the influence of drugs or alcohol and it had taken her more than a year to complete the program. The social worker consulted with Janet's therapist, who reported that Janet was diagnosed with schizoaffective depression disorder but appeared to be stable at the present time and was actively participating and making good progress in counseling sessions. The social worker also contacted Dr. Chin for a report on his psychiatric services and stressed to Janet the importance of regular psychiatric visits and taking her medication. Janet continued to have twice weekly monitored visits with T.H. The social worker served as monitor for several visits and found Janet showed little or no affection toward T.H., appeared very passive in caring for him and had difficulty comforting T.H. when he became distressed.

The Department expressed concern that Janet had moved in with a boyfriend who had suffered a criminal conviction for domestic violence and who told the social worker he had choked his ex-wife because “he had enough of her hitting [him].” The Department recommended the juvenile court terminate reunification services for Janet and set a hearing pursuant to section 366.26.

In a last minute information report submitted on September 15, 2016 the Department stated that, at a recent meeting with the social worker, Janet said she had been repeatedly abused by Christopher and also by her boyfriend, who used methamphetamine and once pointed a gun at Janet’s face. The therapist had reported Janet appeared distressed when discussing her abusive relationships; the social worker encouraged Janet to speak with her therapist about these issues.

On October 4, 2016 the juvenile court held the 18-month permanency review hearing for both Janet and Christopher. After admitting into evidence the Department’s reports and service logs as well as various documents submitted by Janet attesting to her participation in court-ordered programs, the court heard testimony from Janet, Julie and the social worker, Keyanna Ross.

Janet testified she had recently been released from a psychiatric hospitalization of 13 days. The hospitalization was for a schizoaffective mood disorder that affected Janet’s feelings in a negative way and took place after she called police for reasons she could not remember. Janet added that she “could actually sue the police department because they falsely put me into the hospital.”

Janet requested that T.H. be returned to her care on condition she live with Julie and that T.H. attend preschool

during the day. She testified she had completed a parenting program, had attended two additional sessions of intensive parenting classes and had monitored visits with T.H. three times a week. During the visits she did a lot of bonding with T.H., took him to the park, held his hand to cross the street, fed him and did a lot of learning with colors and numbers.

In her testimony Ross confirmed Janet had completed a parenting program and was in compliance with her psychiatric services. Ross testified that, when she began to monitor Janet's visits with T.H., she observed that Janet interacted poorly with T.H. and recommended Janet participate in an intensive parenting program. Ross added that, although Janet's interactions with T.H. had improved during her more recent visits, she believed Janet's mental health instability and her domestic violence issues with her boyfriend would place T.H. at risk if he were returned to Janet.

Julie testified that, during a recent visit she had monitored, Janet fed T.H. and asked him questions and T.H. smiled and laughed in return. Julie had no concerns about T.H. being returned to Janet provided Janet received emotional and transportation help from family members. Julie added that she was willing and able to provide such help to Janet. Julie also testified that Janet's boyfriend was no longer involved in Janet's life.

At the conclusion of testimony counsel for Janet asked the juvenile court to return T.H. to her or, in the alternative, to extend reunification services based on Janet's mental illness and her recent hospitalization.

The court found that return of T.H. to his parents' custody would create a substantial risk of detriment to his well-being. The court reasoned that, as to Janet, the main issue in the case



was “the ongoing nature of [her] psychiatric mental health issues,” and observed that during the 18-month pendency of the case Janet had not had a single unmonitored visit with T.H. The court found by clear and convincing evidence that the Department had provided reasonable services to Janet and Christopher during the last period of review, terminated reunification services and set the matter for a hearing pursuant to section 366.26.

### **CONTENTIONS**

Janet contends the juvenile court’s finding T.H.’s return to her care would create a substantial risk of harm was not supported by substantial evidence and T.H. should have been returned to her care. In the alternative, Janet contends there was not substantial evidence to support the juvenile court’s finding the Department had provided her with reasonable reunification services and those services should have been extended for an additional six-month period.

### **DISCUSSION**

1. *Substantial Evidence Supports the Juvenile Court’s Finding T.H.’s Return to Janet Would Create a Substantial Risk of Detriment to His Well-being*

The Legislature has determined that the juvenile court may generally offer family reunification services for a maximum period of 18 months. (§§ 361.5, subd. (a)(3), 366.22, subd. (a); *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 249.) At the 18-month permanency review hearing the juvenile court must order a child returned to a parent’s custody unless it finds, by a preponderance of the evidence, that return of the child will create a substantial risk of detriment to the child’s safety, protection or physical or emotional well-being. (§ 366.22, subd. (a).) When a

child is not returned to a parent at the permanency review hearing, the court must terminate reunification services and order a hearing pursuant to section 366.26. (§ 366.22, subd. (a).)<sup>4</sup>

Substantial evidence supports the juvenile court's finding that return of T.H. to Janet would create a substantial risk of detriment to his well-being.<sup>5</sup> The section 300 petition sustained

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<sup>4</sup> Section 366.22, subdivision (b), authorizes the juvenile court to extend reunification services beyond the 18-month statutory period in certain limited circumstances, none of which is present in this case. There are also cases in which appellate courts have ruled reunification services may continue beyond the 18-month statutory period, but those cases involved truly exceptional situations in which some external factor thwarted the parent's efforts at reunification. (See, e.g., *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774 [mother was hospitalized during most of the reunification period; after her release the child welfare agency attempted to restrict visitation]; *In re Daniel G.* (1994) 25 Cal.App.4th 1205, 1209, 1212-1214 [the Department's reunification services for the father were a "disgrace"]; *In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777-1778 [no reunification plan was ever developed by the child welfare agency for the father].)

<sup>5</sup> When we review the juvenile court's findings under the substantial evidence standard, we inquire only whether there is any evidence, contradicted or uncontradicted, that supports the court's determination. We resolve all conflicts in support of the determination, indulge in all legitimate inferences to uphold the findings and may not substitute our deductions for those of the juvenile court. (*In re I.J.* (2013) 56 Cal.4th 766, 773; *Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966; *In re R.C.* (2012) 210 Cal.App.4th 930, 940; *In re John V.* (1992) 5 Cal.App.4th 1201, 1212; *In re Katrina C.* (1988) 201 Cal.App.3d 540.)

by the juvenile court on June 22, 2015 included allegations that T.H. was at risk due to Janet's mental and emotional problems and her violent physical altercations with T.H.'s maternal grandfather and with Christopher. Just weeks before the section 366.22 hearing Janet was hospitalized for 13 days due to a psychiatric condition. At the hearing Janet testified she was hospitalized due to schizoaffective mood disorders that made her "behave and act differently," but then proceeded to accuse the police of falsely putting her into the hospital. This evidence clearly demonstrated Janet had not resolved the mental and emotional issues that led to the removal of T.H. from her care.

Nor had Janet resolved the domestic violence issues that contributed to T.H.'s removal. Janet's recent relationship with a man who she knew used methamphetamine and was physically abusive toward her provided ample evidence that T.H. remained at risk from Janet's domestic violence issues. Finally, the record also showed that, after 18 months of reunification services, Janet had not progressed beyond monitored visits with T.H. There was thus substantial evidence Janet would not be able to provide a safe and stable home for T.H. as of the date of the permanency review hearing.

2. *Janet Has Not Established Any Deficiency in the Reunification Services Provided to Her by the Department*
  - a. *Janet forfeited her right to assert inadequacy of reunification services during the two initial periods of review*

At both the six-month and 12-month review hearings the juvenile court found the Department had provided reasonable reunification services to Janet. Janet does not claim, and nothing in the record indicates, that she objected to the court's findings at either of those hearings. By failing to object to the adequacy of reunification services in the juvenile court, Janet has forfeited her right to assert error in this court. (See *Los Angeles County Dept. of Children etc. Services v. Superior Court* (1997) 60 Cal.App.4th 1088, 1093 [a parent may not "wait silently by until the final reunification review hearing to seek an extended reunification period based on a perceived inadequacy in the reunification services occurring long before that hearing"]; *In re Kevin S.* (1996) 41 Cal.App.4th 882, 885; *In re S.B.* (2004) 32 Cal.4th 1287, 1293 [forfeiture rule applies in dependency cases]; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1338-1339 [same].)

- b. *Substantial evidence supports the juvenile court's finding that the Department provided reasonable reunification services to Janet during the last period of review*

We review the juvenile court's order finding that reasonable services were offered under the substantial evidence standard. (See *In re Shelley J.* (1998) 68 Cal.App.4th 322, 329; *In re J.E.* (2016) 3 Cal.App.5th 557, 566.) While we recognize that in many cases more services might have been provided and

the services that were provided may have been imperfect, the standard is whether the services provided were reasonable under the circumstances. (*In re J.E.* at p. 566; *In re Misako R.* (1991) 2 Cal.App.4th 538, 547; see *In re Jasmon O.* (1994) 8 Cal.4th 398, 425 [“[t]he services offered were reasonable under the circumstances”].)

Janet contends the juvenile court’s initial order for psychiatric services was vague, a claim she should have made, if at all, by way of appeal from the disposition order. (§ 395, subd. (a)(1).) Janet also alleges inadequacy in the Department’s provision of services for her mental illness during the initial review periods, a claim she has forfeited. But Janet fails to identify any deficiencies in the services provided by the Department during the last period of review. The evidence at the section 366.22 hearing established that, during this review period, the social worker consulted with Janet’s therapist regarding treatment for Janet’s mental problems; encouraged Janet to discuss her mental and emotional issues with the therapist; contacted Dr. Chin for a progress report of his psychiatric services; and counseled Janet on the importance of regular psychiatric visits and of taking her prescribed medication. Substantial evidence thus supported the juvenile court’s finding the services offered to Janet between the 12- month review hearing and the 18-month review hearing were reasonable under the circumstances of her case.

**DISPOSITION**

The petition is denied on the merits.

PERLUSS, P. J.

We concur:

ZELON, J.

SEGAL, J.