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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

PATRICIA H.,

Petitioner,

v.

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

Respondent.

LOS ANGELES COUNTY DEPARTMENT  
OF CHILDREN AND FAMILY SERVICES  
and A.H.,

Real Parties in Interest.

B242737

(Super. Ct. No. CK86855)

Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26. Rudolph Diaz, Judge. Petition denied.

Children's Center for Los Angeles (CLC 2), Charles Aghoian and Janna Eccleston for Petitioner.

No appearance for Respondent.

John F. Krattli, County Counsel, William D. Thetford, Principal Deputy County Counsel for Real Party in Interest Los Angeles County Department of Children and Family Services.

Children's Center of Los Angeles (CLC 1), Ronnie Cheung and Kristen Walker for Real Party in Interest A.H.

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Petitioner Patricia H. (Mother) seeks extraordinary relief (Welf. & Inst. Code, §366.26, subd. (I);<sup>1</sup> Cal. Rules of Court, rule 8.452) from the juvenile court's order, made at the 12-month review hearing (§ 366.21, subd. (f)), setting a hearing pursuant to section 366.26 to consider termination of parental rights and implementation of a permanent plan for her two-year-old daughter A.H. Mother's petition is opposed by A.H. The Los Angeles County Department of Children and Family Services (Department) has advised that it does not take a position with respect to the petition. We deny the petition on the merits.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On October 5, 2010, 16-year-old Mother was made dependent of the juvenile court and placed in a foster home together with A.H., who was then two months old. On December 23, 2010 the foster parent reported to the Department that Mother was not providing appropriate care for A.H. The foster parent stated that Mother, who had developmental delays, had to be reminded to feed A.H. and to change her diaper, left A.H. unattended on a changing table, and would not allow the foster parent to attend to A.H. because Mother did not trust anybody.

As a result of the foster parent's report the Department entered into a voluntary family maintenance plan with Mother in order to provide services to her and A.H. in the foster parent's home, with the objective of enabling Mother to provide proper care and a safe home for A.H.

The Department provided services to Mother, but without success as Mother continued to neglect A.H. She took A.H. to school with her in defiance of the foster parent's instructions; maintained her room in a filthy condition, with dirty diapers and bottles of spoiled milk on the bed and on the floor; reused dirty baby bottles without cleaning them; and failed to feed or bathe A.H. unless reminded by the foster parent. There were also concerns regarding Mother's mental health. On one occasion, when she was told that she smelled and needed to bathe, Mother placed a plastic bag over her head

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

and banged her head against the wall several times. Mother also made suicidal or self-harm comments to other children in the foster home.

On March 4, 2011 the Department filed a petition under section 300 to declare A.H. a dependent of the juvenile court. The petition alleged Mother suffered from mental and emotional problems and was unable to provide regular care and supervision for A.H. Mother was not present at the detention hearing on March 4, 2011. The court ordered A.H. detained and ordered that Mother be transported to court on March 8, 2011 for arraignment. On March 8, 2012 Mother denied the allegations in the petition. The court ordered the Department to refer Mother for a parenting class specializing in infant care and for individual counseling, and continued the case to April 12, 2011 for a pretrial resolution conference.

In a report submitted on April 11, 2011 the Department indicated Mother demonstrated inability to provide proper care for A.H. Mother continued to leave dirty bottles and diapers in the room, overfed A.H., and placed several blankets over the bed to cover urine in the bed. The foster parent told the social worker that Mother “loves her baby but mentally she is not there,” adding that Mother often “goes around the house speaking in another language,” and told other children in the home that she “used to be dead inside but lives inside” because of A.H. The Department concluded that, although Mother loved A.H. and was making efforts to become a responsible parent, her poor memory, developmental delays, and mental issues made this goal a very difficult one. The Department also advised that Mother had been attending weekly family therapy sessions since January 25, 2010, and had commenced individual therapy on June 18, 2010.

On April 12, 2011 Mother pleaded no contest to the section 300 petition. The court sustained the petition and set the disposition hearing for May 11, 2011.

In a report for the disposition hearing the Department indicated Mother was receiving monthly visits from a social worker at El Nido Family Center, to assess Mother’s unique needs and to link her to a parenting resource to accommodate her age and educational needs. The Department further reported that a Pregnant and Parenting Teen Program (PPT) conference was scheduled for Mother on May 20, 2011, to aid in

placement stability, assess Mother's educational needs, and refer Mother to parenting and mentoring programs. On May 11, 2011 the court continued the disposition hearing to June 21, 2011 for a further Department report identifying appropriate services for Mother.

In its report for the June 21, 2011 disposition hearing the Department stated that the foster parent reported significant improvement in the care Mother was providing to A.H., although Mother continued to require supervision and instruction. The Department further reported that Mother's school performance was unsatisfactory, and she was observed having tantrums at her school. At a PPT meeting held on June 8, 2011 it was decided that Mother should be referred to the Wraparound program.<sup>2</sup> Mother was on a waiting list for the Wraparound program and was scheduled to commence parenting classes on June 23, 2011.

At the disposition hearing held on June 21, 2011 the juvenile court ordered the Department to find a suitable placement for A.H. and to provide reunification services to Mother. The court ordered Mother to participate in individual counseling with a licensed therapist, to enroll in parenting classes, to remain in compliance with her medication regimen, and to cooperate with all services provided to her. The court granted Mother monitored visitation with A.H. with discretion to the Department to liberalize visitation, and continued the matter to December 30, 2011 for the six-month review hearing. (§ 366.21, subd. (e).)

In its report for the six-month review hearing the Department indicated Mother had completed a parenting program and was participating in individual counseling and in the Wraparound program. The conditions in Mother's living space had improved, but she continued to struggle with daily routine tasks and with maintaining a clean and healthy environment, principally due to her limited intellectual capacity and slow functioning. Mother was visiting A.H. regularly in A.H.'s foster home, but she continued to require supervision when caring for A.H. During a meeting with the Department's

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<sup>2</sup> The Wraparound program was established in 1997 to provide intensive services to children with complex needs, using a team approach.

social worker and a Wraparound facilitator Mother complained of memory problems,<sup>3</sup> which left her frustrated and angry. The Department recommended extension of reunification services for an additional six months.

On December 20, 2011 the juvenile court continued the six-month review hearing to February 7, 2012 for a contested hearing, and ordered the Department to submit an updated report. In the report, submitted on February 3, 2012, the Department indicated Mother's visits with A.H. continued to be monitored, and Mother had to be prompted to change A.H.'s diaper even when the diaper was visibly heavy with feces and urine and the smell permeated the visitation room. In a progress letter attached to the Department's report, Mother's therapist stated that Mother was making progress toward her goals: She showed improvement in mood, increased ability to apply coping skills to manage her emotions, had fewer and less intense emotional outbursts, and showed improvement in her personal hygiene habits. The therapist noted however that Mother demonstrated low trust, had difficulty with consistency and organization, and also had self esteem issues.

The contested six-month review hearing was conducted on March 6, 2012 after a continuance due to illness of counsel. The court found that Mother was in compliance with her case plan, the Department had provided reasonable reunification services, and A.H.'s return to Mother's custody would create a substantial risk of harm to A.H.'s well-being. The court ordered the Department to hold another PPT conference with Mother, gave the Department discretion to allow Mother's visits with A.H. to take place in Mother's foster home, and continued the case to May 4, 2012 for the 12-month review hearing. (§ 366.21, subd. (f).)

In its report for the 12-month review hearing the Department indicated Mother had completed her parenting classes and her individual counseling program. Although Mother showed willingness to cooperate with all of her programs, her limited intellectual capacity delayed her progress. Mother continued to lack basic parenting skills and remained unable to perform daily routine tasks without prompting. The social worker and the Wraparound team were working with Mother to develop tangible strategies to

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<sup>3</sup> Mother explained that she often did not remember if she had taken a shower or

assist her with her daily routine and to help her improve her parenting skills. Mother had recently started an intensive parenting class and was receiving tutoring to improve her progress in school.

Mother had attended all of her visits with A.H., which took place twice a week for two hours. The visits remained monitored, as Mother required prompting to feed A.H. and change her diaper, she gave A.H. inappropriate objects to play with, and she became distracted by talking on her phone and texting during visits. At a PPT conference held on April 6, 2012 it was determined Mother required additional services to help her develop parenting skills. Mother was praised for the progress she had made despite her significant limitations. The Department's assessment indicated a high risk of future neglect should A.H. be returned to Mother's care under the current circumstances. The Department recommended extension of reunification services for Mother.

On May 4, 2012 the juvenile court continued the 12-month review hearing to June 27, 2012 for a contest on request of counsel for A.H. On June 21, 2012 the Department submitted a Delivered Services Log indicating that, on May 17, 2012, Mother's parenting instructor told the social worker that Mother would be permitted to bring A.H. to her parenting sessions, but expressed concern that Mother is often delusional and attempts to portray that she knows everything about caring for a small child. In an entry dated May 21, 2012 the Department reported that Mother had not yet been permitted to visit with A.H. at Mother's foster home. The visitation monitor told the social worker that, during a recent visit, Mother began to feed A.H. hot sauce directly from a Taco Bell hot sauce packet and, when the monitor intervened, Mother defended her action explaining that A.H. would complain of heartburn if the sauce was too hot.

The contested 12-month review hearing was conducted on June 27, 2012. The court admitted the Department's reports into evidence, and the parties stipulated that Mother had completed a second parenting class for newborns, infants and toddlers. The Department then submitted on its recommendation for extension of reunification to the 18-month date.

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where she had placed her belongings.

Counsel for A.H. requested that the court terminate reunification services for Mother. Counsel observed that Mother remained unable to maintain her own hygiene; was not capable of performing routine daily tasks without prompting; had not progressed beyond monitored visitation with A.H.; engaged in inappropriate and unsafe behavior during the visits; and she was at times delusional during her parenting sessions. Counsel urged that, under these circumstances, there was clearly not a substantial probability A.H. could be safely returned to Mother by September 4, 2012, the date the 18-month statutory limit for reunification would expire. (§ 361.5, subd. (a)(3), 366.22.)

Counsel for Mother argued reunification services should be extended, urging Mother had made best efforts to become a responsible parent, had cooperated fully in her referrals during the entire pendency of the case, and had made progress in resolving the problems that led to A.H.'s removal from her home.

After hearing argument the court announced its decision to terminate reunification services. The court determined that, although Mother had made consistent efforts to become able to care for A.H., the record made clear she had not made significant progress to resolve the problems that led to the removal of A.H. from her care, and there was not a substantial probability that A.H. could be returned to Mother's care within the two months remaining before the 18-month date. The court proceeded to set the matter for a hearing pursuant to section 366.26.

### **CONTENTION**

Mother contends reunification services were improperly terminated, because there was not substantial evidence to support the juvenile court's finding there was not a substantial probability that A.H. could be returned to Mother by the 18-month date.

### **DISCUSSION**

The record in this case fully supports the juvenile court's decision to terminate reunification services. Under the provisions of section 361.5, subdivision (a)(3) and section 366.21, subdivision (g)(1), the juvenile court lacks power to continue services beyond the 12-month date unless it finds there is a substantial probability the child can safely be returned to the parent's care by the 18-month date or that reasonable services have not been provided. To determine a substantial probability exists that a

child will be returned to the parent's custody within an extended period of time, the court is required to find that the parent has consistently and regularly contacted and visited the child; has made significant progress in resolving the problems that led to the child's removal; and has demonstrated the capacity and ability both to complete the objectives of her treatment plan and to provide for the child's safety, protection, physical and emotional well-being and special needs. (§ 366.21, subd. (g)(1)(A)-(C).)

The record, summarized above, contains substantial evidence to support the juvenile court's determination there was not a substantial probability A.H. could safely be returned to Mother within the very short period remaining before the case reached the statutory limit for reunification.<sup>4</sup> Although Mother complied with all of the requirements of her reunification plan and fully cooperated with the Department and the other service providers, this is not sufficient. In order to make a finding of a substantial probability the child can be returned to a parent's custody, the court must also find that the parent has made significant progress in resolving the problems that led to the child's removal from the home, and that the parent has demonstrated the capacity and ability both to complete the objectives of her treatment plan and to provide for the child's safety, protection, and physical and emotional well-being. (§ 366.21, subd. (g)(1)(B)-(C).)

The evidence before the court at the 12-month review hearing belies any claim Mother could become able to provide a safe and stable home for A.H. within the very short time before the case reached the 18-month limit for reunification. The record establishes that, as of the date of the 12-month review hearing, Mother had not progressed beyond monitored visitation with A.H., and during her visits she engaged in inappropriate and unsafe conduct, and demonstrated inability to attend to A.H. at the most basic level without direct and ongoing supervision. The record further establishes

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<sup>4</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 Katrina C.* (1988) 201 Cal.App.3d 540; *In re John V.* (1992) 5 Cal.App.4th 1201, 1212.)



that, after receiving almost 16 months of intensive services, Mother remained unable to maintain her own hygiene or perform routine tasks without prompting. The court thus properly declined to extend reunification services to the 18-month date.

**DISPOSITION**

The petition is denied on the merits.

**WOODS, J.**

**We concur:**

**PERLUSS, P. J.**

**JACKSON, J.**