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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re STEVEN H., a Person Coming  
Under the Juvenile Court Law.

B281983

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

(Los Angeles County  
Super. Ct. No. DK16063)

Plaintiff and Respondent,

v.

STEPHANIE R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Rudolph Diaz, Judge. Affirmed.

Christine E. Johnson, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, Jeanette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent.

Aida Aslanian, under appointment by the Court of Appeal, for Minor.

Stephanie R. (mother) challenges a juvenile court order finding the Los Angeles County Department of Children and Family Services (DCFS or the Department) provided reasonable reunification services to her. We affirm the juvenile court order.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In March 2016, DCFS received a report that mother had burned Steven H.'s older half-brother, Joseph, with a hot spoon. Steven (five years old) and his two half-siblings, Joseph (six years old), and Michelle (nine years old), lived with mother and the maternal grandparents. Steven and Joseph told a DCFS social worker mother was angry at them for taking money from her purse. According to both children, mother heated a spoon and used it to burn their legs. Mother denied intentionally burning the boys. She told a social worker she accidentally dropped a spatula while frying food, causing hot grease to splatter on Joseph. A nurse who examined the children concluded their account of the incident was consistent with their injuries, while mother's account was not plausible.

In a second DCFS interview, Steven reported he had witnessed mother's boyfriend choking her. The boyfriend had hit Steven with a sandal. Michelle told a social worker she had not seen the boyfriend hit mother, but she feared that he would because he balled his hands into fists while arguing with mother. Michelle also told the social worker mother had hit her more than once with a belt.

In her second interview with DCFS, mother admitted she lied about the spoon incident. She told the social worker she was angry that Joseph and Steven took her cell phone and left the house without her permission. Mother went to the kitchen, grabbed a spoon, "put it on the fire for an unknown amount of

time,” and then attempted to place the hot spoon on Joseph’s foot. Joseph moved, causing mother to burn his leg. The same thing happened when mother then tried to put the hot spoon on Steven’s foot. Mother denied ever burning the children before. She explained that she was overwhelmed. She was eight months into a high risk pregnancy with the boyfriend’s child, she cared for her children alone, and she had other family responsibilities.

The juvenile court detained the children. Steven was placed with his maternal grandparents.<sup>1</sup> DCFS filed a petition alleging the children were at risk of harm due to mother’s physical abuse and the domestic violence between mother and the boyfriend. In an interview for the jurisdiction and disposition report, mother denied physically abusing the children. She admitted the spoon incident but said she did not burn the boys “with anger,” and it was not her intention to burn them. She denied any domestic violence with her boyfriend. Still, mother was already scheduled to take anger management classes and had enrolled in a domestic violence group.

A social worker interviewed the children again. Michelle told the social worker that mother slapped her, had thrown a hanger at her, threw shoes at her and her brothers, and hit them with a sandal. Joseph recalled seeing mother throw a hanger at Steven. Both boys also indicated mother hit them with a sandal.

The juvenile court sustained the dependency petition’s allegations. At the May 2016 disposition hearing, the court removed Steven from mother’s custody. The court ordered DCFS to provide mother family reunification services. Mother was to

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<sup>1</sup> Steven’s siblings were placed with their father. After the jurisdiction hearing, proceedings as to Steven concerned him alone.

participate in a DCFS approved program for domestic violence support for victims and an anger management program. The court also ordered mother to “participate in parenting that is developmentally appropriate. She is to [p]articipate in PCIT [Parent-Child Interactive Therapy] . . . funded by First Five.”<sup>2</sup> The court additionally ordered mother to participate in individual counseling addressing case issues, including domestic violence. DCFS was ordered to “provide all therapists with a copy of the sustained petition, jurisdiction report, court-ordered disposition case plan, and all DCFS reports.”

In November 2016, DCFS filed a status review report in advance of the six-month review hearing. DCFS reported mother was in partial compliance with the case plan. She had completed anger management classes. She had been enrolled in domestic violence classes and parenting classes but was unable to complete either program because of a new full-time job. However, mother had recently re-enrolled in both domestic violence and parenting classes.

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<sup>2</sup> The record does not provide information about PCIT. The parties inform this court that PCIT is an “evidence-based treatment” in which therapists coach the parents from an observation room while the parent and child interact. Both mother and DCFS refer the court to the website [www.pcit.org](http://www.pcit.org), which states PCIT is a treatment “for young children with emotional and behavioral disorders that places emphasis on improving the quality of the parent-child relationship and changing parent-child interaction patterns.” (<http://www.pcit.org/what-is-pcit1.html> > [as of Dec. 5, 2017].)

Mother had also been participating in individual counseling on a weekly basis since May. The therapist informed the case social worker that he had originally planned to close mother's case in July. But he continued with the sessions when mother informed him that she was a victim of domestic violence. The social worker also learned mother "[initially] failed to disclose" her physical abuse of Steven to the therapist. The report noted the social worker provided the therapist with copies of the "PRC" and detention reports in September.

The report concluded mother was in partial compliance with court-ordered services and had partially addressed the issues that led to the detention. DCFS recommended Steven remain out of mother's custody and that mother continue receiving reunification services. The report did not mention PCIT.

Mother requested a contested hearing to challenge the DCFS recommendation that her visits remain monitored. The matter was set for a hearing in January 2017. DCFS filed an interim review report in advance of the hearing. A social worker confirmed that mother had enrolled in parenting classes and attended two classes at the end of November. Mother had completed a domestic violence course but still needed to pass an exit exam.

At the end of November 2016, mother's therapist informed the social worker that mother had successfully completed her therapy with him. According to the report, the therapist "advised CSW that [mother] does not present any functional impediments and stated that she has not disclosed any additional concerns for services to continue. [The therapist] advised CSW that [mother] does not show any symptoms of depression like she would when

they first started meeting when she would isolate herself from everyone. [The therapist] advised CSW that [mother] has learned new coping skills and is keeping herself busy with work, school and participating in court ordered services.” Mother was consistent in stating she no longer wanted to continue a romantic relationship with the boyfriend. The therapist had no concerns for mother or her ability to care for her children.

At the January 2017 review hearing, mother testified she had completed therapy, a domestic violence program, and an anger management program. She planned to attend seven more parenting classes. Mother visited Steven twice each week. When asked what she had learned from her programs, mother testified she at first did not want to admit she was a domestic violence victim. But the programs had helped her understand that she in fact was a victim. The parenting program taught her how to “use the correct words for discipline” and how to use a time out.

On cross-examination, DCFS’s counsel asked if mother was aware her therapist indicated she was not forthcoming in telling the therapist about her physical abuse of the children. Mother responded that she had been honest with the therapist from the beginning. When confronted again with the sustained allegations that mother burned the children and also hit them with belts, shoes, and hangers, mother said she agreed she had burned the children with spoons, but denied ever agreeing that she hit the children with any implement.

Mother admitted she was involved in a violent incident with the boyfriend earlier that week. Mother had agreed to give the boyfriend a ride to work. When she told the boyfriend she no longer wanted to be in a relationship with him, he attacked her, punching her head and face.

Following mother's testimony, the court allowed argument, stating: "The issue is unmonitored visits." DCFS argued visits should not be liberalized because the Department felt mother needed to make more progress in therapy. Counsel argued mother had not readily admitted physical abuse to the therapist and seemed to deny the physical abuse allegations in court. Counsel contended mother's "lack of full substantial compliance and therapy, lack of insight" created a concern that domestic violence, or physical abuse of Steven, would reoccur during unmonitored visits.

Steven's counsel agreed with DCFS, pointing to mother's pattern of claiming the children lied about "very serious events." Counsel contended mother's decision to drive the boyfriend to work showed she had not learned enough and needed more counseling. Steven's counsel further argued the content of the counseling was insufficient in that it appeared to focus more on self-esteem and self-help rather than the serious physical abuse of the children. Steven's counsel suggested there was a "reasonable services problem" because the case plan indicated mother was to engage in a PCIT parenting program but the Department had not referred her to one.

Mother's counsel argued that if there was a problem with the individual counseling it meant mother had not received reasonable services from DCFS. DCFS referred mother to her therapist and he, on his own, had ended her counseling sessions. Counsel argued mother had attended the programs to which she was referred.

The court found Steven could not be safely returned to mother and conditions continued to exist that justified the court's assertion of dependency jurisdiction. The court expressed

concern that DCFS had not done all it should have with respect to the individual counseling and it ordered the parties to return in one month for a progress report. Noting the recent incident with mother's boyfriend, the court indicated it was not satisfied the therapist had sufficiently addressed domestic violence. Nor was it clear that mother had specifically addressed the physical abuse of the children in the therapy sessions. Still, the court found DCFS "provided reasonable service, but certainly not perfect services." The court ordered six more months of reunification services, set the matter for a Welfare and Institutions Code section 366.21, subdivision (f) hearing in May 2017, and ordered DCFS to refer mother to PCIT.<sup>3</sup>

This appeal followed.

## **DISCUSSION**

### **Substantial Evidence Supported the Juvenile Court's Reasonable Services Finding**

On appeal, mother argues there was insufficient evidence to support the juvenile court's finding that DCFS provided reasonable reunification services. We disagree.

Under section 361.5, at the disposition hearing, the juvenile court is to order reunification services for the parents. Under section 362, subdivision (d), the court may direct the parent to participate in a counseling or education program. "The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by section 300." (§ 362, subd. (d).)

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<sup>3</sup> All further statutory references are to the Welfare and Institutions Code.



“The adequacy of reunification plans and the reasonableness of DCFS’s efforts are judged according to the circumstances of each case. [Citation.] Moreover, DCFS must make a good faith effort to develop and implement a family reunification plan. [Citation.] ‘[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult . . . .’ [Citation.]” (*Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1345 (*Amanda H.*))

“Some six months [after the disposition hearing], the court typically holds a status review hearing. (§ 366.21, subd. (e)(1).)” (*In re J.P.* (2017) 14 Cal.App.5th 616, 624.) If the court does not return the child to his or her parent at that time, “the court shall determine whether reasonable services that were designed to aid the parent or legal guardian in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent or legal guardian.” (§ 366.21, subd. (e)(8); *In re J.P.*, *supra*, 14 Cal.App.5th at p. 624.) We review a juvenile court’s reasonable services finding for substantial evidence. (*Amanda H.*, *supra*, 166 Cal.App.4th at p. 1346.)

Mother asserts DCFS did not provide reasonable reunification services to her because she never received a referral for PCIT. We disagree that the absence of a PCIT referral precluded a finding that DCFS provided reasonable services in this case. The juvenile court ordered mother to participate in a parenting program and, under the umbrella of “parenting,” PCIT.

It is undisputed that DCFS did not refer mother to the PCIT program. Yet, DCFS provided referrals for other parenting programs, which mother took advantage of. Mother began taking parenting classes, stopped due to her employment, and later re-enrolled.

Although the parenting classes mother was taking were not the same as PCIT, there is no evidence the classes were insufficient to address the issues with mother's parenting skills that led to dependency jurisdiction. Nor was mother faulted by DCFS or the court for not having completed PCIT, one particular parenting program. DCFS's failure to facilitate mother's participation in PCIT did not impair her ability to participate in other aspects of the case plan, and did not prevent her from addressing her parenting skills. Under these circumstances, DCFS's failure to refer mother to PCIT did not establish it failed to provide reasonable reunification services.

Mother further contends DCFS failed to provide reasonable services because it delayed in providing mother's therapist the case documents. Mother began seeing the therapist in May 2016. In September 2016, the case social worker gave the therapist copies of the PRC and detention reports. Mother argues that because DCFS did not timely provide the reports to the therapist, the resulting therapy was not tailored to the unique needs of the family.

However, "the reasonableness of the services provided may depend to some degree upon the parent's willingness to cooperate in the completion of his or her reunification plan . . . ." (*In re K.C.* (2012) 212 Cal.App.4th 323, 330.) The reunification services requirement "is not a requirement that a social worker take the parent by the hand and escort him or her to and through classes

or counseling sessions. A parent whose children have been adjudged dependents of the juvenile court is on notice of the conduct requiring such state intervention.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) The parent must also seek to correct his or her own behavior.

Here, DCFS referred mother to a therapist. Mother participated in therapy but did not raise with the therapist the issues mother knew were the basis for the dependency case. Mother did not tell the therapist she was a victim of domestic violence until July 2016, and, by September 2016, mother had not told the therapist that she had physically abused Steven. Four months after mother began counseling, DCFS checked in with the therapist. Immediately upon realizing the therapist did not have critical background information, the social worker provided the therapist with case reports. Under the circumstances of this case, the four-month gap did not preclude the finding that DCFS provided reasonable services.

*Amanda H.* offers an instructive contrast. In *Amanda H.*, the mother was ordered to participate in “domestic violence counseling.” (*Amanda, supra*, 166 Cal.App.4th at p. 1343.) Before the six-month review hearing, the social worker reported the mother had enrolled in domestic violence counseling. The social worker informed the court the mother was complying with the case plan and, with continued compliance, she might be able to regain custody of her children by the next review hearing. But before the 12-month review hearing, the social worker recommended termination of reunification services because the mother had not enrolled in a *separate* domestic violence program. At the hearing, the mother testified the social worker had only

recently informed her that she needed to participate in a separate domestic violence program. (*Ibid.*)

On these facts, a panel of this court concluded there was insufficient evidence to support the juvenile court's finding that DCFS provided reasonable reunification services. The social worker misinformed the mother that she was enrolled in all court-required programs. As a result, for a full year the mother falsely believed she was in compliance with the case plan. Only then did the social worker tell the mother she was not meeting the case plan's requirements. This court concluded the social worker's conduct "not only failed to demonstrate a good faith effort to implement a family reunification plan, but it also may have thwarted mother's ability adequately to address, before the 12-month hearing, the fundamental problem that led to the children's detention: domestic violence. While it was mother's responsibility to attend the programs and address her problems, it was the social worker's job to maintain adequate contact with the service providers and accurately to inform the juvenile court and mother of the sufficiency of the enrolled programs to meet the case plan's requirements." (*Amanda, supra*, 166 Cal.App.4th at p. 1347.)

In contrast, DCFS did not misinform mother about her compliance with the case plan. Mother was not led to believe she was complying with the court-ordered plan, only to be informed at a late date that she was missing a critical program. Further, the social worker maintained adequate contact with service providers, and, for that reason, was able to correct any earlier failure to provide the therapist with the case reports.

Similarly, in *In re Alvin R.* (2003) 108 Cal.App.4th 962 (*Alvin R.*), the court reversed a reasonable services finding where the Department's failure to timely facilitate one aspect of the court-ordered services prevented the father from making progress on other aspects of the case plan. The father in *Alvin R.* was ordered to participate in conjoint counseling with his son, after the son completed eight individual counseling sessions. (*Id.* at p. 967.) Several months into the reunification period, the son had not started individual counseling. He also refused to visit the father. At a progress report hearing, the court acknowledged the son would be unwilling to have visits until the conjoint counseling started. (*Id.* at pp. 967–968.)

By the date set for the six-month review hearing, the son had not completed eight counseling sessions and, while the father was ready to begin conjoint counseling, no sessions were yet scheduled. At a subsequent contested hearing, the court found DCFS had provided reasonable reunification services. The reviewing court disagreed. The son's therapy was delayed because of the caretaker's schedule and location demands, yet DCFS made no effort to overcome those obstacles. Further, everything hinged on conjoint therapy: "[R]eunification was not going to be accomplished without visitation, and the social worker knew that [the son] would be unlikely ever to consent to visitation without conjoint therapy. And conjoint therapy was not going to be accomplished unless some efforts were made to get [the son] into individual therapy. [¶] Father had done all that was required of him under the plan. Thus, *one* service, getting [the son] into eight sessions of individual therapy, stood in the way of all measures remaining under the reunification plan, and the Department submitted no evidence of having made

a good faith effort to bring those sessions about.” (*Alvin R.*, *supra*, 108 Cal.App.4th at p. 973.)

This case is different. The lack of a PCIT referral did not stand in the way of mother addressing her parenting skills in the other programs to which DCFS referred her. Further, the social worker’s delay in sending case reports to the therapist did not prevent mother from providing the background of the case to the therapist herself. Moreover, DCFS remedied this issue before the six-month hearing.

“In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) The services DCFS provided here were directed to the case issues: domestic violence, anger management, and mother’s parenting skills. DCFS facilitated mother’s involvement with these services and maintained periodic contact with the service providers. Under the circumstances of this case, substantial evidence supported the juvenile court’s finding that DCFS provided reasonable reunification services.<sup>4</sup>

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<sup>4</sup> DCFS and Steven both argue any juvenile court error was harmless since, despite the finding that DCFS provided reasonable services, the juvenile court extended the reunification period and ordered continued services. However, DCFS acknowledges at least one court has concluded a harmless error analysis does not apply to reasonable services finding. (*In re A.G.* (2017) 12 Cal.App.5th 994, 1004–1005.) Mother also contends any error was not harmless because she could be prejudiced in future proceedings. For example, under section 366.26,

**DISPOSITION**

The juvenile court order is affirmed.

BIGELOW, P.J.

We concur:

RUBIN, J.

FLIER, J.

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subdivision (c)(2)(A), if at *each* review hearing during the reunification period there is a finding of lack of reasonable services, the juvenile court may not terminate parental rights. We need not address these issues in light of our conclusion that substantial evidence supported the juvenile court's reasonable services finding.