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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re A.H., a Person Coming Under the Juvenile Court Law.	B255159
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. VENUS S., Defendant and Appellant.	(Los Angeles County Super. Ct. No. CK97119)

APPEAL from orders of the Superior Court of Los Angeles County. Marilyn K. Martinez, Judge. Affirmed.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

Richard D. Weiss, Acting County Counsel, Dawyn R. Harrison, Assistant County Counsel, and John C. Savittieri, Deputy County Counsel.

Venus S. (mother) appeals from the dependency court orders made at the 12-month review hearing (Welf. & Inst. Code, § 366.21, subd. (f)), continuing jurisdiction over her two-year-old son, A.H., and maintaining him in foster care.[1] Mother contends no substantial evidence supports the dependency court's finding that the Department of Children and Family Services (DCFS) made reasonable efforts to provide mother with court-ordered services, including: (1) a timely referral for "wrap-around services" and (2) court-ordered visits.[2] We affirm.

STATUTORY OVERVIEW

A brief review of the statutory scheme governing reunification services is helpful to an understanding of the facts of this case. With exceptions not relevant here, whenever a child is removed from parental custody, DCFS must provide the parents and child with family reunification services. (§ 361.5, subd. (a).) For a child under three years of age services must be provided for a minimum of six months. (§ 361.5, subd. (a)(1)(B).) Under some circumstances, services may continue for as many as 24 months from the date the child entered foster care. (§§ 361.49 [calculation of date child entered foster care]; 361.5, subd. (a)(3) [grounds to continue services for a total of 18 months], 361.5, subd. (a)(4) [ground to continue services for a total of 24 months].)

The child's status must be reviewed every six months from the date of the original dispositional hearing. (§ 366, subd. (a)(1).) At each status review hearing, the dependency court must determine, among other things: (1) the continuing necessity for the out-of-home placement (i.e., whether return to parental custody would be detrimental to the child's physical or emotional well being) (§ 366, subd. (a)(1)(A)) and (2) whether

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[1] All future undesignated statutory references are to the Welfare and Institutions Code.

[2] "[T]the Wraparound service program . . . provide[s] 'family-based service alternatives to group home care using intensive, individualized services . . . . The target population for the program is children in or at risk of placement in group homes . . . ." (*In re W.B. Jr.* (2012) 55 Cal.4th 30, 41, fn. 2; see § 1850 et seq.)

the agency has made reasonable efforts to return the child to a safe home (§ 366, subd. (a)(1)(B); see *Melinda K. v. Superior Court* (2004) 116 Cal.App.4th 1147, 1154 [at each review hearing, court must expressly find whether reasonable services were provided during the review period]).

Status review hearings are governed by section 366.21. Subdivision (e) of that section governs the first six-month status review hearing. For a child under the age of three years, if the dependency court finds the child cannot be returned to parental custody *and* that the parents failed to participate and make substantive progress in a court-ordered treatment plan, the court may schedule a section 366.26 permanent plan hearing. (*Ibid.*) However, the court must continue the case to the 12-month permanency hearing if it finds *either* (1) a substantial probability that the child may be returned to his or her parent within six months *or* (2) that reasonable services have not been provided. (*Ibid.*)

Permanency planning begins at the 12-month "permanency hearing," which is governed by subdivision (f) of section 366.21. (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 974.) At that hearing, the dependency court is once again tasked with determining whether the child can be safely returned to parental custody and whether "reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered . . . ." (§ 366.21, subd. (f).) If the child is not returned to parental custody at the 12-month permanency hearing, the dependency court has several options. Relevant here are the options set forth in section 366.21, subdivision (g)(1) and (4), pursuant to which the dependency court may: "(1) Continue the case for up to six months for a permanency review hearing . . . *The court shall continue the case only if it finds* that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended period of time *or* that reasonable services have not been provided to the parent or legal guardian . . . ." (§ 366.21, subd. (g)(1), italics added.) Alternatively, the dependency court may: "(4) Order that a hearing be held within 120 days, pursuant to Section 366.26, but *only* if . . . there is clear and convincing

evidence that reasonable services have been provided or offered to the parents or legal guardians. . . . ." (§ 366.21, subd. (g)(4), italics added.)

At the 18-month review hearing, the dependency court may continue the case for another six months under some circumstances, but "only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . within the extended period of time *or* that reasonable services have not been provided to the parent or legal guardian." (§ 366.22, subd. (b), italics added.)

With the foregoing in mind, we proceed to a summary of the factual and procedural background of this case.

FACTS

When mother gave birth to A.H. in October 2012, mother was 15 years old and had already been the subject of several DCFS referrals for neglect and abuse by maternal grandmother.[3] Two months later, DCFS received a referral alleging general neglect and emotional abuse of A.H. by mother and maternal grandmother, with whom mother and A.H. were then living. At the time, maternal grandmother was making plans to move the family, including mother and A.H., to Mexico, where paternal grandfather was already living. The DCFS investigation revealed that mother was hospitalized on December 13, after school authorities determined she was a danger to herself. The DCFS social worker who interviewed mother at the hospital that day noticed mother had scars on her arms; mother admitted cutting herself and suicidal ideations (which were confirmed by the school principal). Mother was adamant that she did not want to return to maternal grandmother's home. Rather than move to Mexico, mother wanted to be in a placement

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3 In 2008, DCFS concluded as unfounded allegations that mother had been physically abused by maternal grandmother and sexually abused by someone else. But the next year, DCFS concluded that allegations that mother was the subject of general neglect were substantiated. In December 2009, maternal grandmother agreed to a Voluntary Maintenance Contract which included obtaining mental health services for mother, who was acting out sexually at school. But in March 2011, mother was detained after she made two suicide attempts while at school.

with A.H. On December 18, before DCFS could find a placement for mother and A.H. together, mother was released from the hospital. But mother refused to go home with maternal grandmother and by the time of a Team Decision Meeting on December 21, both mother's and father's whereabouts were unknown. At the meeting, which was attended by maternal grandmother and a paternal aunt in addition to DCFS staff, it was agreed that DCFS would file a section 300 petition and A.H. would be detained and placed with paternal aunt.

Mother and father both appeared at the detention hearing on December 27. According to a Last Minute Information For Court Officer filed that day, father told the social worker that mother came to see him on December 25; after arguing with father, mother lay down in the gutter; father called 911 and mother was transported to the hospital. The next day, DCFS was informed by the Olive View Psychiatric Emergency Room that mother was brought there and tested positive for amphetamines; mother denied being suicidal and said she "uses that as her card to get out of situations." Mother was released from Olive View into a group home. Finding the requisite prima facie showing had been made, the dependency court ordered DCFS to look for a "whole family foster home," which we understand as a foster home in which mother and A.H. could live together; mother was given thrice weekly monitored visits.

By January 2013, A.H. was placed in foster care. Mother and father were arrested after stealing a car and engaging in a high speed chase with police. Mother was placed in juvenile hall, where she told the social worker she felt more comfortable than at home. Although diagnosed as bi-polar, mother was not taking any medication because she did not believe it necessary.

Mother pled no contest to a section 300 petition which, as sustained on February 11, 2013, alleged jurisdiction over A.H. under section 300, subdivision (b), based on mother having "mental and emotional needs that require a higher level of placement. Mother is unable to care for [A.H.] while she is in a higher level of placement. Such mental and emotional needs on the part of mother endanger [A.H.'s] physical health and safety and places [A.H.] at risk of physical harm." (Paragraph b-1.)

Mother was ordered to participate in individual counseling, parenting classes, and to take all prescribed psychotropic medications. She was given weekly monitored visits of at least three hours at mother's place of incarceration.

By May 2013, mother had been released from juvenile hall into a group home, where she was not living with A.H. During a meeting to discuss transitioning mother into intensive treatment foster care (see §§ 18358 et seq.; 16501.1, subd. (c)(1)), mother disclosed that father was using drugs, had forced mother to use drugs, had been violent towards mother and threatened additional violence against her and A.H. Based on mother's accusations, DCFS filed a section 342 subsequent petition alleging domestic violence and substance abuse as additional bases of dependency jurisdiction.

Mother was hospitalized twice in early June 2013. Mother was then returned to juvenile hall on a probation violation. She was still in juvenile hall at the time of the July 2013 jurisdictional hearing on the subsequent petition. The dependency court sustained that petition, finding jurisdiction under section 300, subdivision (b) based on father's domestic violence and substance abuse (paragraphs b-1 and b-4). Although mother was found to be non-offending under the subsequent petition, random drug testing and individual counseling to address domestic violence were added to her case plan. She was given once weekly monitored visits.

According to the report for the six-month review hearing on August 12, 2013 (§ 366.21, subd. (e)), mother was only in partial compliance with the case plan and had not made significant progress towards alleviating the problems that brought A.H. into the dependency system. In particular, mother had been "unable to fully benefit from psychiatric care and individual counseling . . . due to Mother constantly running away . . . ." While in juvenile hall, mother received mental health services, including medication, but she did not have access to drug testing or a drug treatment program; she was waiting for approval to attend a parenting class. Mother visited A.H. consistently from February through May 2013, but there had been no visits since mother's return to juvenile hall. The dependency court found mother in partial compliance, but "given her own conduct, it's been difficult." The matter was continued for a section 366.21,

subdivision (f) 12-month permanency hearing on February 14, 2014. Meanwhile, "counseling and visit orders remain, including: while mother is in custody, [DCFS] shall ensure [mother has visits with A.H.] on Saturdays."

On September 4, 2013, mother was placed through probation into the Harborview Adolescent Center, a skilled nursing facility which provides 24-hour care to severely and emotionally disturbed adolescents. At Harborview, mother was diagnosed with "Depressive D/O NOS" and "Polysubstance dependence, in remission due to locked environment;" she was prescribed medication. In her first month at Harborview, mother assaulted another resident, "tagged" her own bedroom wall and threatened suicide while standing on a window sill with a string tied around her neck. Nevertheless, the staff at Harborview saw improvement in mother's behavior over the course of her three-month stay there. While at Harborview, mother had only weekly visits with A.H.

On December 3, 2013, mother was released from Harborview back into juvenile hall. Over the next month, mother received counseling and psychiatric services but had no visits with A.H. because of a DCFS strike and the social worker's time off during the holidays. On January 2, 2014, the delinquency court released mother on probation to maternal grandmother's home on the probation condition that mother receive "in-home wraparound services." (See footnote 2, *ante*.) Mother's weekly monitored visits with A.H. resumed on January 7, 2014. Mother was scheduled to begin a 12-week parenting program on January 9.

When the probation department did not make the wraparound referral, mother's counsel filed a Walk-On Request in the dependency court seeking an order that DCFS provide the referral. On January 29, 2014, the dependency court ordered DCFS to (1) "forthwith" refer mother to wraparound services; (2) have a written schedule for twice weekly visits for mother and A.H.; (3) assess maternal grandmother as a monitor; and (4) ensure that random drug testing was set up for mother. That same day, the social worker followed up with mother's probation officer regarding the wraparound referral. The probation officer promised that a referral would be forthcoming sometime after February 3, 2014 (i.e., the following week). Neither the social worker nor the probation

department appears to have taken any further steps to provide a wraparound referral to mother.

According to the report for the 12-month section 366.21, subdivision (f) hearing on February 14, 2014, the foster mother was interested in becoming A.H.'s permanent caretaker. Mother was still only in partial compliance with the case plan. She was consistently visiting A.H. once a week and those visits were going well, except two occasions when mother "appeared uninterested . . . and was sleepy. During the visit, mother had to be directed and prompted to feed A.H. a bottle, to change his diaper, and to supervise him so that he did not fall or hurt himself while crawling." Mother was taking a parent education class, but was still not in individual counseling because, according to the report, individual counseling was included in the wraparound services for which the probation department had yet to provide a referral. Mother's failure to participate in individual counseling was one reason DCFS gave for recommending that A.H. remain in foster care.

At the hearing, mother did not challenge the dependency court's finding that returning A.H. to parental custody would be detrimental. However, she asked the dependency court "to make a finding the department has not made reasonable efforts during this last review period in providing services to my client." In particular, mother challenged DCFS efforts to ensure that visits occurred and that she be referred to individual counseling. Regarding individual counseling, mother argued that DCFS's reliance on the probation department to give mother a wraparound referral was inadequate.

DCFS countered it had "provided an enormous amount of services" during the last period of supervision (August 2013 through February 2014), but as the result of a lack of resources, "for a short period of time, there [were] no visits going on, but that was a very short period of time and it was due to some unusual circumstances, including the mother being placed in juvenile hall [from December 3, 2013, through January 2, 2014]." Regarding wraparound services, DCFS blamed the probation department and, in any case, "[DCFS's failure to provide a wraparound services referral] may not be the best

services . . . , but it's not what one would consider a lack of reasonable services. So certainly things can be better, but they're reasonable under the circumstances."

The dependency court found DCFS has "maintained contact with [mother], attempted to ensure that her services were provided at least while at Harborview, and they were, and then again at probation. I believe there are some lapses and the department needs to be instructed by their attorney that they're not to sit idle waiting for probation to do something. [¶] The social worker did follow up with probation to determine when wraparound is going to begin, and the response from probation was, [']well, I'm a new probation officer and I need more training or whatever but I will take care of this referral.['] [¶] I believe in hearing this, the department should have taken the reins and followed up on the referral, but that lapse is not going to make me find the department has not made reasonable efforts towards reunification. [¶] Is it appropriate for this child to have frequent visits with the parent at juvenile hall? I'm not certain of that. But for the period that [mother] was there, I don't find that there is a sufficient lapse in not arranging at least weekly visits to not find reasonable services. [¶] I'm taking the totality of the case and will be very watchful now because I will make specific orders to the department." In addition to the prior counseling orders remaining in full force and effect, the dependency court authorized maternal grandmother to monitor mother's visits with A.H. "several times a week at a minimum." Additionally, DCFS was ordered to "ensure that within two weeks wraparound is providing services to this mother. . . . [¶] . . . [W]e're not waiting for probation."

Mother timely appealed from "all findings and orders made at the [section] 366.21(f) hearing including but not limited to reasonable efforts to enable the child's safe return home."

DISCUSSION

A. Substantial Evidence Supports the Reasonable Efforts Finding

Mother's sole contention on appeal is that insufficient evidence supports the dependency court's finding that DCFS made reasonable efforts to (1) refer mother to wraparound services and (2) facilitate court-ordered visitation.[4] We find no error.

We review the dependency court's reasonable efforts/reasonable services finding for substantial evidence. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 691; *In re H.E.* (2008) 169 Cal.App.4th 710, 725.) Under this standard, we "must view the evidence in a light most favorable to the respondent. We must indulge in all legitimate and reasonable inferences to uphold the verdict. If there is substantial evidence supporting the judgment, our duty ends and the judgment must not be disturbed. [Citations.] ' " '[W]hen two or more inferences can reasonably be deduced from the facts,' either deduction will be supported by substantial evidence, and 'a reviewing court is without power to substitute its deductions for those of the trial court.' [Citations.]" [Citation.]' [Citation.]" (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

Both the reasonableness of DCFS's efforts to provide services and the adequacy of those services are judged according to the circumstances of each case. (*Kevin R., supra*, 191 Cal.App.4th at pp. 690-691.) If, as in this case, the parent's mental illness is what brought the child into the dependency system, then mental illness is the starting point and "the reunification plan, including the social services to be provided, must accommodate the family's unique hardship.' [Citation.]" (*In re K.C.* (2012) 212 Cal.App.4th 323, 333.)

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[4] The record does not support mother's assertion that she was entitled to *twice* weekly visits while in juvenile hall during the month of December 2013. The February 11, 2013 dispositional order specified one weekly monitored visits of three hours; the July 1, 2013 dispositional order (following the hearing on the subsequent petition) was for weekly monitored visits, but did not specify a number of hours; the August 12, 2013 order following the section 366.21, subdivision (e) hearing ordered DCFS to ensure that mother, who was then in juvenile hall, had visits "on Saturdays." It was not until January 29, 2014, that mother was given twice weekly visits.

" 'To support a finding reasonable services were offered or provided, "the 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.]" (*Kevin R., supra,* at p. 691; *K.C., supra,* at pp. 329-330 [same].) " '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.' [Citation.]" (*Id*. at p. 692.)

Where reunification services are extended, the prejudice arising from an erroneous finding that reasonable services were provided during the preceding review period is not immediately apparent; it comes at each successive review hearing. (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 970 [vacating finding made at 6-month hearing that reasonable services had been provided, but affirming order to continue services to the 12-month hearing].) For example, if the dependency court terminates reunification services and sets a section 366.26 hearing at the 18-month hearing based in part on an erroneous finding that reasonable services were provided between the 6- and 12-month hearings, the parent can no longer challenge the prior reasonable services finding. (Cf. *In re T.G.* (2010) 188 Cal.App.4th 687, 696 [making the same point with regards to a reasonable services finding at the six-month hearing].) Additionally, time is critical in dependency cases and the longer the child is in the dependency system, the less likely reunification will occur. (*Id*. at p. 695 [it is significantly more difficult for a parent to reunify if the parent was not provided with reasonable services].)

As we shall explain, substantial evidence supports the dependency court's finding that DCFS made reasonable efforts to provide mother with reunification services, and the services provided were reasonable under the circumstances of this case.

1. Wraparound Services

Mother complains that, following her placement with maternal grandmother by the delinquency court on January 2, 2014, DCFS did not provide mother with a referral for wraparound services to fulfill her individual counseling requirement. *K.C.*, *supra*, is instructive. In that case, the evaluator who concluded father had psychological conditions which interfered with his ability to safely parent recommended that he be examined to determine whether psychotropic medications could alleviate those conditions; the father went to the public mental health clinic recommended by DCFS for the recommended evaluation, but the clinic declined to treat him because he did not meet the clinic's treatment criteria (basically, incapacitating mental illness). The dependency court terminated the father's reunification services, finding no probability that the children would be returned to his care and that reasonable services had been provided. (*K.C.*, *supra*, 212 Cal.App.4th at pp. 327-328.) The appellate court reversed, reasoning, "we fail to see how the Department's failure to do more to secure the recommended evaluation—or show that no more could be done—can be reconciled with the requirement of reasonable services." (*Id.* at p. 331.)

Here, the evidence shows that mother received intensive mental health services while in Harborview from September 3 through December 4, 2013; she had individual counseling while in juvenile hall during December 2013. When it released mother home on probation on or about January 2, 2014, the *delinquency court* ordered the *probation department* to refer mother to wraparound services. On January 29, 2014, after mother brought to the dependency court's attention that probation had not done so, despite being prodded by the social worker, the *dependency court ordered DCFS* to provide mother with a wraparound referral. Two weeks later, at the permanency hearing on February 14, 2014, DCFS had not provided mother with a wraparound referral and the dependency court ordered it to do so "forthwith." While it may have been preferable for DCFS to provide mother with a wraparound referral immediately upon learning of the delay in the probation department doing so, we cannot say the approximate six-week delay (from

January 2 through February 14, 2014) rendered DCFS's efforts to provide mother reunification services unreasonable, or that the services provided to mother were inadequate. We assume DCFS has complied with the juvenile court's order of February 14, 2014, directing immediate referral to wraparound services. This case is not like *K.C.*, in which DCFS did nothing to help the father for several months, and then recommended termination of reunification services. Here, mother received significant reunification services, which were continued an additional six months.

2. Visitation

Also without merit is mother's contention that DCFS did not facilitate monitored visits while mother was in juvenile hall during the month of December 2013.

For an incarcerated parent reunification services include "[v]isitation services, where appropriate." (§ 361.5, subd. (a)(1)(C).) *Christopher D. v. Superior Court* (2012) 210 Cal.App.4th 60, provides guidance for the assessment of the reasonableness of such services. In that case, the father was incarcerated from September 2011 (the date of the jurisdiction/disposition report) until December 2011, during which time he received no visits. From December 2011 until March 2012, he was in a residential drug treatment program, during which time he received two visits; the social worker's heavy caseload and transportation problems made additional visits "very difficult." After leaving the residential treatment program two days early, the father secured one visit. Within a week, the father was arrested on new drug charges and incarcerated again. At the first six-month status review hearing, the juvenile court terminated the father's reunification services and set the matter for a section 366.26 hearing. On appeal, the father challenged the reasonable services finding. The appellate court concluded the finding that reasonable visitation services were provided during the three months the father was in the residential treatment program was not supported by substantial evidence, but rejected the father's challenge to the lack of visits while he was incarcerated. It reasoned the child's extreme anxiety warranted deferring visits until the father was no longer incarcerated, but found efforts to provide visits while the father was in the residential treatment program

"were totally inadequate." (*Id.* at p. 74.) The social worker's excuse of being too busy and the rehabilitation center too far away "simply do not provide substantial evidence that the Agency exercised a good faith effort to provide the visitation ordered by the court." (*Ibid*.) The court noted that three months without visits was not "a short period of time" relevant to the short six-month reunification period. (*Ibid*.)

Here, while DCFS's failure to ensure A.H. visited mother while she was in juvenile hall during the month of December 2013 is regrettable, it does not rise to the level of a failure to make reasonable efforts to provide services. This case is inapposite to *Christopher D.* in several ways. First, mother missed one month of visits, not three months. Second, unlike the social worker in *Christopher D.*, there is no evidence the social worker in this case shirked her duty; she was entitled to take a vacation. Third, mother's parental rights were not terminated at the six-month hearing, as were those of the father in *Christopher D.*

DISPOSITION

The orders appealed from are affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.