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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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

G.U., 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, Real Party in Interest.	B242270 (Los Angeles County Super. Ct. No. CK78877)

ORIGINAL PROCEEDING. Petition for extraordinary writ. (Cal. Rules of Court, rule 8.452.) Elizabeth Kim, Referee. Petition granted.

Law Office of James M. Meizlik and James M. Meizlik for Petitioner.

No appearance for Respondent.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Aileen Wong, Deputy County Counsel, for Real Party in Interest.

INTRODUCTION

Petitioner is the mother of J.R., a dependent of the juvenile court. On June 12, 2012, the juvenile court terminated mother's reunification services and set a permanency planning hearing under Welfare and Institutions Code section 366.26.[1] We agree with mother that this was error. Accordingly, we grant the petition for extraordinary writ.

PROCEDURAL AND FACTUAL BACKGROUND

Mother, as well as real party in interest Los Angeles County Department of Children and Family Services (DCFS), set out the complete history of the juvenile court proceedings, which does not require repetition except when necessary to address the claims for extraordinary relief.

Mother was 15 years old when J.R.'s older sister, A.R., was born in September 2008. In October 2009, the juvenile court sustained a section 300 petition as to A.R., finding her to be a person described by section 300, subdivision (b) as a result of domestic violence between mother and father. A.R.'s dependency case was ongoing when J.R. was born in January 2011. After another incident of domestic violence, DCFS filed a dependency petition as to J.R., which was sustained under section 300, subdivisions (a), (b) and (j) in May 2011. A.R. and J.R. were placed together in foster care.

Over the next several months, mother visited with both children consistently. Although by all accounts the visits went extremely well, DCFS repeatedly expressed concern that mother was minimizing father's domestic violence. She said father's violence "wasn't that serious" because she "never went to the hospital or anything like that." Moreover, mother consistently resisted the social worker's recommendation that mother enter a domestic violence shelter program so that she could better understand the domestic violence she experienced. Mother did so because entering the program would mean she could not continue participating in extracurricular activities and timely graduate

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

from the high school she was attending. In October 2011, mother's parental rights were terminated as to A.R. following a section 366.26 hearing. Mother timely appealed from the order terminating her parental rights as to A.R.

While the appeal of the termination order was still pending, dependency proceedings continued as to J.R. Mother refused to meet with the social worker without her attorney, and when the social worker indicated that was not the protocol and that her refusal to meet would be reported to the court, mother replied, "I'm okay with that." Although mother completed more parenting education classes, a domestic violence program, and maintained weekly therapy, she still refused to enter the domestic violence transitional housing shelter program recommended by the social worker. Following a 12-month hearing on June 12, 2012, the court found mother was not in compliance with the court-ordered case plan and that there was not a substantial probability J.R. would be returned to her by the 18-month hearing. It therefore terminated reunification services and set a permanency planning hearing pursuant to section 366.26.

On July 19, 2012, mother filed a timely writ petition.

On July 26, 2012, we reversed the order terminating parental rights as to sister A.R. (*In re A.R.* (case No. B236550)).

DISCUSSION

Mother contends the juvenile court erred in terminating reunification services because there is no substantial evidence to support its determination of a substantial risk of detriment to J.R. if returned to her care. We reverse the order terminating reunification services and remand to the trial court for reconsideration in light of our opinion in *In re A.R.*

In our unpublished opinion in *In re A.R* we stated:

> "Mother exhibited extraordinary efforts to reunify with A.R. and was thwarted only by father's conduct. Mother, herself a dependent child, was in full compliance with her case plan. She attended parenting and domestic violence

classes, in addition to individual therapy. Mother did this while attending high school and participating in after school sports. DCFS initially recommended placing A.R. in mother's care, stating that A.R. was stable with mother, and mother completed all her services. That recommendation changed only after father threatened mother when she confronted him about his two children born by other women. Then mother failed to report to the social worker that father sat next to mother in court and pinched her notwithstanding a restraining order, and when confronted with these facts mother did not characterize father's conduct as domestic violence. [¶] Mother's parental rights cannot be terminated based on father's conduct toward her and his violation of the restraining order. Mother and father have no ongoing relationship and even assuming mother minimized father's abusive conduct, there was no evidence that such minimization ever placed A.R. at risk of harm. Under these circumstances, the trial court erred in finding the section 366.26, subdivision(c)(1)(B)(i) exception to the preference for adoption did not exist. We therefore reverse the order terminating parental rights and remand to the trial court for further proceedings. [footnote omitted] [¶] We make one additional observation. On October 11, 2011, the date of the .26 hearing in this case, A.R. and J.R. were at different stages of the dependency process: reunification services had been terminated as to A.R., but J.R. had been a dependent child for less than six months and reunification services were still ongoing as to him. (See § 361.5, subd. (a)(1)(B) [for child under three years of age at time of removal, no less than six months but no more than 12 months of reunification services].) J.R. is now 18 months old and it has been more than 12 months since he was declared a dependent child. The trial court may find it appropriate to hold future hearings for the two children at the same time."

Everything we said about mother's efforts to reunify with A.R. applies equally to J.R. Even assuming mother minimized father's abusive conduct, there was no evidence

that such minimization ever placed J.R. at risk of harm, any more than it placed A.R. at risk. Under these circumstances, the trial court erred in terminating mother's reunification services and setting a section 366.26 hearing as to J.R. On remand, the juvenile court in J.R.'s matter will be able to take into account our observations made in A.R.'s matter, including our suggestion that the court may find it appropriate to hold future hearings for the two children at the same time.

DISPOSITION

The petition is granted. This opinion is final forthwith as to this court pursuant to rule 8.490(b)(3) of the California Rules of Court.

RUBIN, Acting P.J.

WE CONCUR:

FLIER, J.

GRIMES, J.