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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

J.H.,

Petitioner,

v.

THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

DEPARTMENT OF  
CHILDREN AND FAMILY  
SERVICES,

Real Party in Interest.

B285626

(Los Angeles County  
Super. Ct. No. CK81609)

ORIGINAL PROCEEDING. Philip L. Soto, Judge. Petition denied.

Corey Evan Parker, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Aileen Wong, Deputy County Counsel, for Real Party in Interest.

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## **INTRODUCTION**

Mother J.H. (mother) filed a petition for extraordinary writ following the juvenile court's termination of reunification services for mother and her two children, A.H., born in March 2010, and G.H., born in April 2012. Mother asserts that the court's ruling under Welfare and Institutions Code, section 366.22, subdivision (a)(1)<sup>1</sup>—that returning the children to mother's custody would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of children—was not supported by substantial evidence. We find that the court's decision was supported by substantial evidence, and therefore deny the writ petition on its merits and lift the stay entered on January 3, 2018.

## **FACTUAL AND PROCEDURAL BACKGROUND**

The large record in this case consists of 12 volumes of clerk's transcript and three volumes of reporter's transcripts. Only facts relevant to the instant proceeding are included below, but the background facts are lengthy and complex nonetheless.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

**A. 2010 petition**

A.H. was born in March 2010. One week later, mother was “was hospitalized for the evaluation and treatment of her post-partum psychiatric condition” that “places the child at risk.” A section 300 petition, which was eventually sustained, alleged that mother had been diagnosed with bipolar disorder, and father had “mental and emotional problems, which if left untreated periodically render the father unable to provide regular care of the child.” A.H. was declared a dependent of the juvenile court in June 2010. She was released to father, the court ordered family reunification services, and eventually mother was allowed to move back into the family home. In December 2010, jurisdiction was terminated and A.H. was released to both parents.

**B. 2012 petition**

G.H. was born in April 2012. A section 385 petition was filed regarding both children on July 23, 2012, and was sustained in August 2012. The petition alleged that mother “has mental and emotional problems, including a diagnosis of Bipolar disorder with psychotic features, which render the mother unable to provide regular care and supervision of the children.” The petition also stated, “On July 6, 2012, in June of 2012, and on prior occasions, the mother was involuntarily hospitalized for the evaluation and treatment of the mother’s psychiatric condition.” The petition also said that father “knew of the mother’s mental and emotional problems and failed to protect the children. The father allowed the children to reside with the mother and allowed the mother to have unlimited access to the children.” A note in the detention report states that “the court ordered the children released to mother on the condition that mother resides with the

maternal grandmother, takes all prescribed medication and sees all mental health professional [sic] on a regular basis.”

A week after the petition was filed, on July 31, 2012, a reporting party stated that mother had been driving around in her car with the children for seven-and-a-half hours, saying that she was afraid to go home because maternal grandfather was going to kidnap the children and molest them. The report states that mother had made numerous reports to police regarding “the same allegation,” and she “continues to take the children to different hospitals asking for a sexual assault examination after acknowledging she wants a second opinion.” The detention report noted several allegations of sexual abuse by maternal grandfather, all of which were deemed unfounded.

The juvenile court sustained the petition, and in August 2012 the children were placed with paternal grandparents.

### **C. 2013 and 2014 reports of abuse**

A January 2013 report of physical and sexual abuse by father was found to be unfounded. The social worker who investigated the allegations concluded that “maternal grandparents have been instigating things by calling in so many referrals to jeopardize Father’s relationship” with the children, and noted that “Father was a non-offending parent.” The report also notes that as of February 2013, the court ordered the children to the home of father.

In February 2013, a report of general neglect relating to maternal grandmother was substantiated. This appears to arise from the reports of abuse by the maternal grandparents. The court ordered the children to father’s home, imposed a no-contact order for maternal grandparents, and ordered one-hour weekly monitored visitation for mother.

Following the court's order placing the children with father, mother continued to report that the children told her about physical and sexual abuse by father. Mother also reported that A.H. said she "got beat up" by her babysitter. These reports were determined to be unfounded.

In February 2014, a report that G.H. had severe diaper rash was determined unfounded. Allegations that the children's day care provider hit A.H. were also deemed unfounded.

**D. 2014 detention**

DCFS received another referral regarding A.H. and G.H. on December 23, 2014. The detention report stated that the reporting party, "RP," "believes the father was driving at high rates of speed (90-95 miles per hour) with the children in the car, in an attempt to get away from private investigators. . . . RP reports on 12/16/14, the private investigators went through father's trash and found three baggies with Methamphetamine and one bag with marijuana residue . . . . RP believes the father is using drugs in the presence of the children in the home."

The private investigators father was fleeing were hired by mother and/or maternal grandparents. At the time, mother had "one hour once a week monitored visitation and [was] attempting to regain custody through family law court." A five-year restraining order against mother and maternal grandparents was in place at the time.

On December 23, 2014, a social worker visited the children at the house of Anita A., who had been babysitting the children. Anita said that recently, "father left the minors in her care for three straight weeks only picking them up once so that they could visit with their mother." Anita said that father checked in with her daily to ensure the children could stay there.

The social worker interviewed A.H., who reported that she and G.H. lived with father but they were being “kicked out” because the landlord said they were too loud. A.H. said that father locks her in the bathroom when she gets into trouble. A.H. denied any sexual abuse.

The social worker attempted to contact father, but he responded with nonsensical texts. Paternal grandfather said father was acting like he was not taking his medications. Father later called the social worker and agreed to meet her in the DCFS office.

When father met with the social worker, he said he had full custody of the children, and mother had one-hour weekly monitored visitation. Father said he had been diagnosed with schizophrenia previously, but he no longer had it. He said he had not taken medication for two years, and he denied use of illegal drugs. When the social worker asked about father’s erratic driving, father said he thought he was being followed and was attempting to get away, and the social worker’s questioning confirmed that he was indeed being followed. Father said he was considering giving mother custody of the children. Some of father’s speech during this interview was erratic and nonsensical.

After the interview and observing father interacting with the children, the social workers took the children into custody. Father stated that it was a relief because he felt he was under too much scrutiny. The social worker’s report said that “caretaker incapacity is suspected and [the children’s] safety is of immediate concern.” The children were not immediately placed with mother or maternal grandparents “due to their history with DCFS” and because only monitored visitation was currently allowed.

A section 300 petition was filed on December 30, 2014. The petition alleged that father had a history of mental and emotional problems, including schizophrenia, that rendered him incapable of providing the children with regular care and supervision (count b-1). The petition also alleged that mother had a history of untreated mental and emotional problems, including bipolar disorder with psychotic features, that rendered her incapable of providing the children with regular care and supervision (count b-2). The petition also alleged that father's dangerous driving with the children in the car placed the children at risk of physical harm (count b-3).

At the detention hearing on December 30, 2014, the court ordered the children placed in shelter care. The court also ordered psychiatric evaluations for both parents, and drug testing for father. The court ordered separate monitored visits for mother and father.

**E. 2015**

A "replacement report" dated January 22, 2015 stated that on January 8, 2015, the children's foster parents asked that the children be re-placed because "[t]here have been ongoing issues with the biological mother and maternal grandmother. . . . For example, the biological mother has consistently made false allegations and refuses to work with our Resource Parents. The biological mother has created a hostile environment and we are requesting that the minors be removed from the foster home."

Mother's counsel filed an ex parte application on January 30, 2015, seeking, among other things, to have the children immediately released into mother's care pending the outcome of the proceeding. Mother also asked that the court order the relevant social workers and the children's former foster parents

to appear at the scheduled jurisdictional hearing. Mother also filed a demurrer and motion to strike the petition. Mother's requests were denied by the court the same day, and the scheduled hearings remained on calendar.

A jurisdiction/disposition report dated February 10, 2015 stated that the social worker asked mother why she did not have custody of the children following the previous DCFS case, and mother said she did not know. Mother said she had not experienced mood swings in the last two years. Mother said that her repeated allegations of sexual abuse by maternal grandfather were a result of a medication that made her paranoid.

Mother's psychiatrist, Alan Ruttenberg, M.D., told the social worker that mother was bipolar, but was in remission. He said she was stable on four different medications, and there was "[n]o reason she can't effectively take care of her children." Mother's psychologist, Anna Levi, Psy.D., told the social worker that mother went to therapy once per month, and she had not displayed depressive symptoms for three years. Levi also said that mother had "[a]djustment issues which is caused by you guys," meaning DCFS. Levi said there was no reason mother should not have the children.

The jurisdiction/disposition report noted that mother was not employed, but had familial support. She said she did not need additional services, but told the social worker, "I need my children back. I had full custody in Family Court. . . . I need to be their primary caregiver again. I love my children and I'm a very devoted mother." Mother also said that based on father's Facebook posts, she thought he was likely not taking his medications and using methamphetamines.



The jurisdiction/disposition report also said that the DCFS investigator was unable to locate or contact father. It also said that “the Department continues to have concerns with some of mother’s behavior. Therefore, at this time, the Department is deferring recommendations for the mother until an independent psychologist who has not previously assessed the mother can [evaluate] her.” The court noted that in October 2013, the Family Court ordered one hour per week monitored visitation. DCFS recommended a “slow and careful transition phase” to mother “if reunification were to happen” to “allow for an assessment of mother’s parenting while having unmonitored contact.” The social worker noted that maternal grandparents’ home, where mother also lived, was clean, safe, and had a bedroom ready for the children.

At monitored visitation on January 5, 2015, mother asked that the children’s foster mother not be present for the visit, because mother felt that she had interfered with mother’s interaction with the children on a previous visit. Mother expressed concern that the children’s play showed they were expressing traumatic experiences, and said this concern was supported by her psychologist. The visitation monitor observed that the children appeared to enjoy playing, “and the game does not appear to be traumatic.” Mother also expressed concern for the children’s safety when she was unable to reach the foster family for her daily 7:30 p.m. phone call. On January 13, 2015 the children were diagnosed with the flu and were running fevers; the social worker asked mother if they could reschedule her visit set for January 15 to the following day. Mother refused, and said the children would be fine for an hour-long visit on January 15.

The jurisdiction/disposition report also discussed that the children had been re-placed after the original foster mother complained about mother. The jurisdiction/disposition report said the foster mother reported that “mother had accused her of not allowing her to speak with the children for 5 days.” When asked about this, mother said that when she was unable to reach the foster mother immediately on five separate occasions, mother “called her attorney because that wasn’t right.” Mother later said she had been getting along just fine with the foster mother, but “[n]ext thing I know” the children were moved. Several days later, the new foster mother reported to a social worker that mother was calling “a lot,” and “even though the foster mother is following along with the 7:30pm phone call, mother starts calling around 4:30pm and calls every hour at least until the 7:30pm time when foster mother answers.”

DCFS stated that it had some ongoing concerns “based on some recent concerning behaviors by the mother: having the father and the children followed by private investigators; observing the children’s babysitter’s home from across the street; and, being hyper vigilant about the children’s hygiene, the Department has some concerns for the mother’s mental health.” The report continued, “There are also concerns for the mother’s behavior during the monitored visits,” noting that mother often perceived the children as scared or crying when such behavior was not observed by the monitor. The report also stated, “It is also concerning that when the foster parents do not pick up their phones and do not immediately contact the mother, the mother fears for her children’s safety. There are also concerns the mother insisted that she have a visit with her children although she was informed that the children were running high fevers.”

The report continued by noting that mother's "psychiatrist has not observed parent and child interaction," and the psychologist "last observed parent and child interaction in 2012/2013." DCFS recommended that an objective psychological evaluation be ordered, and deferred recommendations regarding mother until the evaluation was complete.

A declaration signed by mother in December 2014 is included in the record; it is apparently part of the jurisdiction/disposition report.<sup>2</sup> The declaration stated that A.H. "continuously reported getting beat up by the boys" at her daycare, and she and "G.H., not even two years old, were also being hit by the daycare owner and the worker there." Mother complained that father did not make the children brush their teeth. Mother said G.H.'s bottom and genitals had a rash that mother believed to be the skin disease molluscum contagiosum, and because it is contagious, "A.H. is probably infected with molluscum contagiosum as well." Mother said the children "developed chronic gastroenteritis caused by hand to mouth fecal contamination" due to the "gross negligence" of father. Mother complained that the children were dirty and hungry at visits. Mother stated, "The children still do not understand to this day why they were abruptly taken from their loving, safe home, and forced to go live with their dada." The declaration includes an extensive section describing father's posts on Facebook and other social media, including time, dates, content, and mother's conclusions that father is likely using marijuana and crack cocaine.

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<sup>2</sup> The declaration was filed in the Supreme Court in an appeal seeking a writ of mandate regarding the family law case.

At the jurisdiction hearing on February 10, 2015, the juvenile court sustained counts b-1 (father's mental illness placed the children in danger) and b-2 (mother's mental illness placed the children in danger) of the December 30, 2013 petition. The court ordered the children released to mother for a 29-day visit with restrictions that mother was not to discuss father or the case with the children. The court set a disposition hearing for March 5, 2015.

A last minute information report dated February 18, 2015 stated that the social worker "reported that there are no issues with the children in the mother's care." At the March 5, 2015 disposition hearing, the court ordered that the children would remain released to mother, and a psychological evaluation of mother must be completed by March 30. The court continued the disposition hearing.

**F. Section 730 psychiatric evaluation by Dr. Dupée**

In an Evidence Code section 730 psychiatric evaluation report dated March 4, 2015, Suzanne M. Dupée, M.D., recounted mother's history with bipolar disorder. Mother said she had been psychiatrically hospitalized seven times since 2000; the most recent was a six-day hospitalization in 2012. Mother said that although she reported that A.H. had been sexually abused by maternal grandfather, mother now recognized that she had been delusional at the time and A.H. never actually said that. Mother told Dupée that "she has filed a multimillion-dollar lawsuit against DCFS and the Family Court judge for removal of the children."

Dupée said mother's thoughts were "linear, logical, and goal-directed. There was no evidence of psychosis, mania, depressive, anxious, obsessive or compulsive symptoms." Mother

“presented a binder full of letters from mental health professionals who have cared for her over the past 13 years.” The letters said mother is “compliant with medication and mental health treatment.” Mother had “excellent insight into her illness,” and she knew the “risks, benefits and warning signs of her disorder and the effects and benefits of her medications.” Dupée concluded, “[i]t is perplexing as to why [mother’s] children were removed from her custody for such long periods of time . . . . The multitude of mental health reports opining her compliance with treatment, her mental stability and absence of symptoms was overwhelming and compelling.” Dupée opined that mother’s “mental illness does not currently interfere with her ability to parent her children. . . . There is no indication that she currently requires individual therapy.”

**G. Children placed in mother’s care in April 2015**

An addendum report dated April 1, 2015 stated that the children were doing well in mother’s care, and were attending art, dance, and athletic classes. The report noted that Dupée found mother to be asymptomatic, with good insight, and capable of parenting the children. Mother had completed a parenting class. Ruttenberg and Levi both said mother was doing well. A psychological evaluation dated March 20, 2015 identified father as schizophrenic, in partial remission. Father’s drug test results were negative. DCFS recommended that the children be released to mother and that the court order family maintenance services.

At the April 1, 2015 disposition hearing, the court declared the children dependents of the court and ordered them to mother’s home under the supervision of DCFS. The court ordered family maintenance services, and set a review hearing for October 1, 2015.

#### **H. September 2015 request to remove children from mother's care**

On September 11, 2015, DCFS requested a court order removing the children from mother's home. Social worker Orlee Bakhshizadeh filed a declaration stating that she investigated the case in light of allegations regarding emotional abuse. The children lived with mother and maternal grandparents. On July 9, 2015, Bakhshizadeh had received approximately 25 text messages from mother, stating, for example, "PLEASE CALL ME on this number ASAP. It's an emergency! Me and my daughters are in real danger my dad is very ill and has a gun in the house[.]" Another message included, "[M]y mom elbowed [A.H.] and hurt her and made her cry and also slapped her on the face." Mother also texted, "We can never talk when you come over because all my dad does is stay home" and watches and listens to them. Mother said she had called the police "but they assessed the situation and said we are safer here than in a shelter." Mother also accused maternal grandmother of tampering with her medications and refusing to allow mother to leave the house.

Bakhshizadeh stated that she received text messages from mother on July 25 and 26, 2015, stating that mother needed "a safety plan for me and my daughters." Mother said that she and the children have "been in two shelters already that have not worked out!" Mother also said, "[M]y dad is a dangerous man and will harm us if we stay here!!!" On August 3, 2015, mother called Bakhshizadeh and said, "I was trying to water the issue down but things are not good." Bakhshizadeh visited the family home on August 10, 2015, and apparently did not feel immediate action was necessary at the time.

On August 14, 2015, Officer Lambarth with the Los Angeles Police Department (LAPD) Juvenile Division called Bakhshizadeh. Lambarth stated that he received calls from mother approximately once per week with new allegations that the children have been sexually abused. Lambarth had executed a search warrant of father's home and searched his camera, phone, and computer, and found no evidence to support mother's accusations. Lambarth said the District Attorney declined to file charges. Bakhshizadeh's declaration states, "Officer Lambarth stated that he believes mother has been coaching the children in terms of the sexual abuse allegations. Officer Lambarth stated that he believes the children should be in custody and should not be with the mother." Lambarth said "he is in possession of an audio recording given by mother where mother has clearly edited and cut the recording." Lambarth also said there was a report that mother left G.H. at a shelter alone for five hours.

Lambarth later sent Bakhshizadeh a letter stating that he found 21 suspected child abuse reports by mother or others relying on mother's statements, dating back to 2012. Lambarth said the allegations were determined to be unfounded. The letter continued, "In 2015, when [mother] regained custody of the children, she began making new sexual abuse reports within months. The children were both interviewed forensically . . . regarding the details of the alleged sexual abuse." A forensic medical examination on both children in May 2015 at the Northridge Hospital Medical Center "could not confirm or negate sexual abuse." Lambarth said that while the investigation into the allegations of abuse by father was pending in June 2015, mother "called on a near daily basis. Each time she called, she advised me there had been new allegations made by one or both

of her daughters.” Mother’s allegations eventually slowed down, but “[i]n July 2015, [mother] resumed stating that there were new allegations to report.”

Lambarth’s letter noted that the investigation of father’s belongings was completed on July 22, 2015, and the District Attorney’s office declined to file charges on August 5. Then on August 14, 2015, mother called Lambarth with new sexual abuse allegations. Lambarth said that the repeated allegations and lack of proof caused him to “become very concerned for the welfare of [the children]. It appears the children are being repeatedly questioned and spoken with regarding very explicit sexual behavior by their mother. . . . In an audio recording provided by [mother] containing statements from the children, I heard what sounded like candy wrappers as the children made statements, which were prompted by [mother]. At one point in the recording, [A.H.] asked her mother to tell her what to say. It appears the children . . . are being constantly coached or questioned regarding sexual abuse, with rewards given for making statements of abuse.”

Bakhshizadeh called the medical center where Lambarth said the children had forensic medical examinations. The administrative coordinator reported that A.H. was examined on May 8, 2015, and G.H. was examined on May 15, 2015. The administrative coordinator also noted that A.H. previously had been examined on July 13, 2012, and both children had been examined on February 7, 2013. The administrative coordinator expressed concern that the children were being subjected to multiple forensic examinations that all indicated no history of abuse, and hospital staff discussed whether mother may have Munchausen syndrome by proxy.



Bakhshizadeh called Dr. Ruttenberg, who said that “there was a short period of instability with mother.” Ruttenberg said that he adjusted mother’s medications and that mother is “doing well with the children and taking good care of them.”

Bakhshizadeh concluded her declaration by stating that mother’s mental instability “endangers the children’s safety and places them at risk of harm.” Bakhshizadeh asked that the children be removed from mother’s care.

At a hearing on September 28, 2015, the court ordered that the home-of-parent, mother order remained in full force and effect, and noted that the hearing set for October 1, 2015 was still on calendar.

#### **I. October 2015 review hearings**

A status review report dated October 1, 2015 stated that the children were living with mother, maternal grandmother, maternal grandfather, and maternal great grandfather. A.H. was in kindergarten. Mother told the social worker that “almost weekly” both children reveal sexual abuse allegations against father. Mother said the children are afraid that father “will come back to get them” and they are afraid to sleep without mother in the room. A.H. told the social worker, Bakhshizadeh, that mother sleeps in the bedroom with them at night with a dresser blocking the door. When asked what they are afraid of, A.H. said, “Just things, or someone breaking in and hurting us.”

Mother said she had taken the children to a shelter in July 2015 because she did not feel safe, and the children liked staying there because there were bunk beds. As of August 2015, mother said she was no longer concerned about staying in maternal grandparents’ home, and said she and the children are safe there.

However, mother continued to make sexual abuse allegations regarding father on a “nearly weekly basis.”

The status review report states that mother took A.H. to urgent care on September 8, 2015, stating that she had concerns about A.H.’s history of sexual abuse, and she was concerned about sores in A.H.’s mouth, vagina, back, and thigh. The physician’s assistant who examined A.H. found no sores other than a small bacterial skin infection on A.H.’s thigh that was normal. The report also notes that in June 2015, mother un-enrolled the children from their previous therapy and enrolled them in “more intensive services for their sexual abuse history.” A few weeks later, mother changed therapy for the children again.

Mother terminated family preservation services in May 2015, but re-enrolled in September 2015. Mother had also been seeing Dr. Levi approximately once per month. Levi acknowledged mother’s “manic episode in July,” but stated that mother was currently “doing well.” Dr. Ruttenberg said that mother has been “almost completely stable” for the past two to three years. He said mother had a “hypo-manic episode mid-July that lasted approximately two weeks.” He adjusted mother’s medications and she appeared to be stable.

Father had been arrested in June 2015, and was incarcerated awaiting a court date. Father had not had any visits with the children.

DCFS recommended an additional six-month period of family maintenance services for mother and the children. The report noted that despite all evidence to the contrary, “Mother continues to constantly promote that the children are victims of sexual abuse and there is no proof that the children have ever

been abused. This is of great concern as the children are being constantly told that they were abused and in danger of being hurt again. Therefore, the children report not feeling safe, which is essential for the development of a healthy emotional state.”

A last-minute information stated that on September 24, 2015, mother said A.H. reported abuse by father. Mother sent the social worker a voice recording of mother interviewing A.H. about sexual abuse allegations against father, as well as a written transcription of the conversation. According to the transcript, mother asked A.H. to repeat what father said to her. A.H. made a series of disjointed, non-linear statements about urination and genitals. Mother congratulated A.H. for being “very brave.”

The social worker told mother that DCFS was concerned about “what appears to be the constant discussion of sexual abuse between Mother and children.” The last minute report states, “Mother remains steadfast in her belief that the children have been sexually and physically abused by father.”

At the review hearing on October 1, 2015, the court ordered that the home-of-parent order remained in full force and effect, but ordered that mother was not to discuss father’s conduct with the children. The court set a hearing for October 20, 2015.

On October 20, 2015, the court kept the preceding orders in effect, and ordered DCFS to visit the children in their home monthly. The court set the next review hearing for April 18, 2016.

#### **J. Mother’s January 2016 hospitalization**

On January 22, 2016, DCFS filed a request for an expedited removal order stating that the children were at risk of harm within the next 24 hours. In the accompanying declaration,

social worker Bakhshizadeh stated that on January 20, 2016, mother “was placed on a 5150 hold”<sup>3</sup> at a local hospital and remained hospitalized as of January 22, 2016. The declaration said that mother “continues to demonstrate an inability to safely parent the children due to her ongoing mental health issues.”

Bakhshizadeh stated that on January 19 and 20, 2016, she received a series of text messages and calls from mother alleging that maternal grandparents were threatening and abusing mother and the children. For example, mother texted, “[W]e need help! My parents are out of their minds. [Maternal grandmother says] she wants to die and it’s all my and my daughter’s faults. She hits them and makes them cry and has been trying to provoke me non-stop.” Mother also said, “I’m almost positive [maternal grandfather is] doing cocaine or . . . smoking weed, but I’m almost positive it’s cocaine.” Mother also said, “I’m really afraid for our lives here. He’s psychotic, um just like he was a few months ago with the gun.” Mother also said that “tonight we went to dinner” and “my daughter was, what I felt like, I’m not crazy, talking to me in codes saying a bunch of stuff about sexual things with her food that she was doing with bananas and cherries and saying eat this and whipped cream, and all this stuff, and I felt that she was trying to let me know that she was sexually molested by, well obviously her father but possibly by my father.” It is unclear which daughter mother was referencing. Mother said she accused her father of molesting the child, and blamed him for letting her be called crazy for accusing him of molesting her and her daughter. Mother asked Bakhshizadeh to

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<sup>3</sup> Section 5150 allows for the involuntary hospitalization of a person who “as a result of a mental health disorder, is a danger to others, or to himself or herself.” (§ 5150, subd. (a).)

“please ask her if she’s been sexually molested by my father.”

Mother said that a previous examination showed “a tear on her labia, and my mom explained it away.”

In another message for Bakhshizadeh on January 20, at 6:58 a.m., mother stated, “Um, we’ve been in my daughters’ room . . . since about, um, 11pm last night.” Mother accused maternal grandfather of abusing A.H., and of tying mother up and forcing medication down her throat. Mother said, “I know this all sounds crazy, but I’m not crazy. He’s a very dangerous man, I don’t know how else to stress it.”

Mother also called A.H.’s school stating that she was locked in the bedroom and afraid for her life. Bakhshizadeh called LAPD, which reported that they were aware of the situation and had officers on site.

At 1:07 p.m. on January 20, Bakhshizadeh received a voicemail message from mother stating, “I’m in Northridge Hospital. I’m in the ER. Umm I was 5150’d as you know. . . . And I think I’m probably gonna need some kind of medication adjustment or something. But other than that I’m very stable.” Mother said she needed to come up with a plan to get housing away from maternal grandparents, and the plan “definitely means keeping me and my daughters together no matter what. Umm, cause that’s where they belong, umm safe with their mother.”

Mother left another voicemail a few minutes later, stating that maternal grandfather is dangerous and lied to the social worker. Mother also said that her abuse allegations had been brushed off in the past, and “you need to question my daughters properly this time. Because they will be given depositions, for the lawsuit and it’s going to look really bad for you guys if you

don't question her and my daughters give full blown deposition[s]. Giving detailed description of sexual abuse."

Later the same day, mother left a message stating, "This is not okay. I'm very, I'm fine, I didn't get a lot of rest last night." Mother also said, "I'm fine and I'll bounce back as soon as I get my medication." Bakhshizadeh later spoke with maternal grandparents who said that mother's "medication is not settling right with her." A social worker at the hospital said that mother "was lucid and presents very well, and . . . what she is stating (regarding her fears of being abused) is very convincing."

Bakhshizadeh went to the family home, and met A.H. in her bedroom, which smelled of urine and was "extremely messy with clothing and baskets spread throughout the room." A.H. said she, G.H., and mother all slept together in A.H.'s bed the night before with the dresser blocking the door because they were afraid someone was going to come get them in the middle of the night. When asked why the room smelled of urine, A.H. said that G.H. sometimes urinates on the floor when the door is blocked by the dresser.

Bakhshizadeh spoke with Dr. Levi, who opined that the children should be in the care of maternal grandparents. Levi agreed that in her current mental state, mother is a danger to the children. Levi said that mother is a great mother when not in a manic state, but Levi also said that mother does not correct or discipline the children.

The following morning, January 21, 2016, mother called Bakhshizadeh and left a voicemail message saying she was back on her medication and was well rested. Mother called to report "that my father has sexually molested [A.H. and G.H.] severely not just the kissing or something like that but in a, a very serious

way. So they're gonna have to be questioned, umm it's gonna have to be a thorough investigation." Mother added, "[S]econdly I'm letting you know that they need to be questioned about my mother sexually abusing them as well. Umm I know that sounds kind of funny, that two old people would be sexually abusing umm children but they need to be questioned as well, okay."

The juvenile court granted the request for removal on January 22, 2016.

**K. January 2016 section 342 petition**

On January 27, 2016, DCFS filed a section 342 petition. The petition alleged that mother's bipolar disorder, paranoia, and delusions endangered the children's health and safety and placed the children at risk of physical harm (count b-1). The petition also alleged that mother failed to protect the children by allowing maternal grandfather to have unlimited access to the children despite knowing that he sexually abused mother as a child (counts b-2 and d-1).

A detention report dated January 25, 2016 stated that the children were in foster care.<sup>4</sup> The report noted that maternal grandparents were ruled out as caregivers due to the sustained allegation of neglect by maternal grandmother and the sexual abuse allegations against maternal grandfather. The report noted that mother has "partially recanted her claims" that maternal grandfather sexually abused the children, but maintains that maternal grandfather abused her as a child.

At the detention hearing on January 27, 2016, the court held that a prima facie case had been established to show that the children were persons described by section 300, subdivisions

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<sup>4</sup> The date on the footer of the detention report reads "12/31/2099." The report was signed on January 25, 2016.

(b) and (d). The children were ordered to remain in shelter care. The court ordered monitored visitation for mother. The court continued the hearing to January 29, and then February 3.

A last-minute information filed on January 29 stated that a family preservation worker reported to Bakhshizadeh that on January 20, mother had called him several times throughout the night and told him she was on the roof of the home and police were trying to get her down. The last minute information also repeated some of the information in the earlier report regarding calls with Levi and a social worker at the hospital.

The last-minute information also included a transcript of a voicemail from mother to Bakhshizadeh on January 28, in which mother says that A.H. told Bakhshizadeh of the times “that her father trained her to kill [G.H.] and she showed you how. She straggled [*sic*] herself and showed you how her father trained her to kill [G.H.]” Mother also said she never abused the children, and “I had a medication issue and I should not be penalized for that.”

At the February 3, 2016 hearing, the court stated that it was conducting a *Dennis H.* hearing<sup>5</sup> to determine “whether or not the documents supplied to the court last week were sufficient for the court’s decision to remove the children from the mother.” Mother said that she wanted to speak, but the court would not allow it. Mother complained that she was not getting due process. The court asked mother to stop speaking, and when mother refused, the court stated, “We are going to have a short recess, I want back up. and I don’t want her outburst.” After the proceeding reconvened, the court found that there was sufficient

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<sup>5</sup> See *In re Dennis H.* (1971) 19 Cal.App.3d 350.



evidence to detain the children. Mother then asked the court, “How can you do this without hearing my side, your honor?” She also said, “My daughter had a black eye,” suggesting abuse by the children’s current caregiver. Mother again refused to stop talking, and insisted that she was not getting due process. The judge had mother removed from the hearing.

The court ordered the children to remain in shelter care, with three monitored visits with mother per week for at least one hour per visit. Mother was ordered to not discuss the case with the children at all. Mother was allowed monitored calls with the children on days when they did not have a visit. The court also ordered that mother was to no longer send lengthy texts or voicemails to the social worker; short communications to arrange visits and meetings were allowed. The court also allowed monitored visitation with other family members, who were also barred from discussing the case with the children.

Several long letters from mother to Judge Soto are included in the record. One letter dated February 2, 2016, stated, “This is the second time this has happened to me, and the second time my children have been taken out of my full custody for it! it is illegal! My voice has NEVER been heard in regard to this.” Mother asked the judge to “bring my daughters back into my loving arms today where they truly belong and want and deserve to be!” The letter included allegations of sexual abuse by maternal grandfather when mother was a young girl, and mother’s conviction that maternal grandfather abused A.H. while mother was in the hospital giving birth to G.H. The letter concluded, “Please help us Judge Soto, we deserve a happy, healthy life free from abuse and fear! Please give us that chance!”

A six-page handwritten letter by mother to Judge Soto dated February 4, 2016 stated, “I am very sorry for speaking out of turn in your courtroom.” Mother continued, “I have been framed by my father and the DCFS . . . and they have illegally taken my children away from me.” (Ellipses in letter.) Mother said DCFS “are ‘child predators!’ They just want to make profit off my children!” Mother asked Judge Soto to “reunite me and my daughters ASAP!” Another handwritten letter, 11 pages long, stated, “I have never been able to tell you my side of the story . . . and I need to! I am an innocent, loving [crossed-out word] protective mother . . . I DID NOTHING WRONG!!!” (Ellipses in letter.)

A February 18, 2016 letter from Dr. Levi is in the record. In it, Levi stated that mother “had a manic/psychotic/delusional episode, was hospitalized for 4 days and released on 1/25/16. Although her hospitalizations/exacerbations in functioning do occur, they happen rarely and she has been stable since October 2012 until now.” Levi also said that mother has “cared very well for her children” and “[t]here were never any signs of abuse or neglect by grandparents or [mother].” Levi opined that although mother alleges abuse of the children when she is having “acute bipolar episodes,” the “episodes never cause children’s abuse, any coaching of children to report abuse or parental alienation.” Levi stated that in her opinion, the children should be placed with maternal grandparents until mother could regain custody.

A March 15, 2016 jurisdiction/disposition report stated that the children were living in foster care. When the DCFS investigator visited on February 10, A.H. said she enjoyed living there. She also said, “mommy told me, tell the social worker everything about daddy abusing you.” A.H. said that living with

mother and maternal grandparents was good, but “[s]ometimes grandma and grandpa and my mom used to argue a lot.” She said that no one did bad things to her there, and no one touched her private parts.

The investigator interviewed mother on February 25. Mother said she had been overmedicated for 16 years. She that on the night of January 20-21, “I had a panic attack and I called the police.” She was on two stimulant medications “and that is what caused me to have a manic episode.” Mother said, “I am not taking the medication anymore. . . . When I’m on medication I have no connection with myself.” She said, “I am finding a doctor who will help me in other ways. Who will help me with alternative means, with calming teas. I will do yoga again because it’s not about being doped up on medication. . . . I need a different avenue to take care of this. I’m going to exercise. . . . I’m going to meditate, use prayer[,] healthy eating, herbal things and calming teas.” Mother also said, “There is no reason to take my children away, I am a loving mother, I am an amazing mother.” Mother also said she had been misdiagnosed, that she was not bipolar; “This is all [due] to my sexual abuse and psychological abuse.”

Mother said that A.H. was initially detained because father was schizophrenic and framed her. She recounted calling the police regarding the sexual abuse allegations against maternal grandfather in 2012. Mother said that after the children were returned to her care, A.H. “reported horrific abuse” by father but mother was accused of coaching her. Mother said she was overmedicated and exhausted from the medication, and she was so tired she could not properly care for the children.

Maternal grandmother said that the night mother called police, January 20, mother had been on a new medication and she experienced paranoia as a side effect. Maternal grandmother said, “That night we were sleeping and we had no idea what was going on.” Maternal grandmother said they were surprised when the police came, and once they did, mother went out onto a flat roof to talk to them. Maternal grandmother also said that mother was not exhibiting any symptoms of unusual behavior “except for the day of the Jan. 29th court hearing. She had that severe outburst, and blurted out horrible things.”<sup>6</sup> Maternal grandmother also said, “We just found out this past Friday that [mother] is not taking any medication and has not done so for several weeks.” Maternal grandmother blamed mother’s attorney for convincing mother to stop taking medications. Maternal grandmother said mother is “not thinking clearly and she is not stable.” Maternal grandmother asked that the children be placed with her and maternal grandfather.

A letter from maternal grandmother to Bakhshizadeh dated March 1 states that maternal grandmother had seen mother briefly the day before. Maternal grandmother said that “on the surface [mother] seems fine” and “face to face she presents well and may seem fine but her thinking is not right.” Maternal grandmother also said that mother never alleged sexual abuse by maternal grandfather until after G.H. was born in 2012.

Dr. Levi spoke with the investigator by phone on February 26, 2016. Levi said that she recently had a phone session with

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<sup>6</sup> The record on appeal does not include a transcript from January 29, and the minute order from that hearing does not indicate anything unusual.

mother, but mother was deciding whether to change doctors. Levi blamed mother's recent episode on a medication that can cause delusions and agitation. Levi said there was no reason to take the children from the maternal grandparents, and that mother was not currently stable. Levi said a re-evaluation under Evidence Code section 730 was warranted.

The investigator spoke with Dr. Ruttenberg on February 29, 2016. Ruttenberg said. "[I]t is a mistake to uproot the children and place them in foster care. The children should be with [mother] and also with maternal grandparents. Whenever [mother] is not well and in a manic state she is not dangerous and does not pose a threat to the children." Ruttenberg also said, "She is out of the hospital and is stable now. The children should be brought back as this is upsetting to the children." Ruttenberg said mother was on three medications. When the investigator stated that mother reported a few days earlier that she was off all medications, Ruttenberg said that mother must be on medications to stabilize, and he would address the issue with mother at an upcoming appointment.

The jurisdiction/disposition report includes a long description of an interview with mother. Mother provided an extensive background. Mother said she was no longer seeing Dr. Ruttenberg because he had been overmedicating her. Mother said she is seeking more holistic treatments. Mother said she was collecting Social Security and planned to get a job, and she was thinking of getting back into singing and acting. The interview notes include almost no information about the children or mother's living situation with the children before they were removed from her care. However, mother did say that she wants the children to come live with her again soon.

At visits, the monitor observed that mother “does not set boundaries or limits with the children” and she “does not engage with the children.” Instead, “Mother is observed to gather information from the children as well as trying to whisper with” A.H. Mother brings the children snacks, and the children are happy to see her. The foster parents said that “mother is calling continuously” and on February 25, “mother called six times back-to-back.” The report also notes that “mother has threatened foster parents,” and the foster family agency (FFA) social worker said “mother has been inappropriate with the foster parents and is now calling the children at 7:00 A.M. to speak with them prior to going to school.” Foster parents said that they are busy getting all of their foster children ready for school in the mornings, and therefore do not have time to monitor a phone call at 7:00 a.m., which leads to A.H. and G.H. having “meltdowns.”

The jurisdiction/disposition report stated that the children “cannot remain safely in the care of their mother as she has unresolved mental health issues.” The report stated, “It is apparent that mother has no insight into her mental health issues,” and “mother refuses to take medications as she states that she is not bipolar and does not have bipolar symptoms.” The report also stated, “In the past, mother complied with medication and psychiatric treatment though at this time mother is refusing such treatment.” DCFS asked that the petition be sustained and that a section 730 evaluation be ordered for mother.

A letter from the McKinley Children’s Center to social worker Bakhshizadeh states that on March 28, 2016, mother “lost control,” “became confrontational,” and “attempted to destroy FFA property.” Mother was screaming and using profanity toward the staff, without regard to the fact that the children were

present. Staff called 911 to have mother escorted off the property. Mother tried to force the front door open, and threatened to kill staff, foster parents, and social workers for taking away the children. The children's center requested that "visits with this biological parent be facilitated elsewhere as a safety measure due to biological parent unpredictability."

**L. April 2016 events and hospitalization**

In a 15-page letter, dated April 5, 2016, mother asked Judge Soto to "protect and save my children from being abused in foster care." Mother recounted a detailed history in which she stated that A.H. repeatedly reported abuse by father, but DCFS ignored it and sent A.H. back to father nonetheless. Mother said she is a "loving, warm, fun, stable, excellent" mother. She said, "I did nothing wrong . . . I never abused my children."

Mother said in the letter that at a recent visit A.H. came in crying, and when mother asked what was wrong, "She looked at me as if to say, Mom, I am lying," and told her that another child in the home had bitten her. Mother continued, "I saw no bite or teeth marks, but instead a very BIG, RED, ADULT HSAND [sic] MARK!!!" Mother asked A.H. if the foster mother did that, and at first A.H. hesitated but then she nodded. Mother also asserted several times that she is an excellent mother, and insisted that she never did anything wrong and never abused the children.

Mother filed a form request to change a court order on April 7, 2016. Mother stated that the children were "illegally detained" and that she "never abused my children or placed them in harm." Mother requested that "the judge return my 2 children to me immediately and close the DCFS case forever!!!" When asked for a reason, mother wrote that she was a "loving,

protective, stable mother” and the children were “being abused by foster father.” Mother’s request was denied.

A last-minute information filed April 8, 2016 included information about mother’s outburst at the monitored visit on March 28, and stated that “[s]afety measures need to be in place as mother becomes belligerent in front of the children and creates an emotionally traumatic environment which greatly upsets the children emotionally.”

Another last-minute information, filed April 8, 2016, stated that mother called the child abuse hotline on March 28, made three more calls on April 1, and called again on April 4. Mother alleged that the children were given alcohol by the foster parents, because G.H. told mother she drinks “sweet juice.” Mother also reported that she believed DCFS was sex trafficking the children. When asked for details, mother said she just knows or has “feelings” that it is true. The foster parents, upset by the allegations against them, gave DCFS notice to have the children re-placed.

The second last-minute information also included information about the March 28 visit in which mother lost her temper, stating that after mother began to yell and curse at the social worker, Pamela Mejia, Mejia locked herself and the children in a room for safety while mother continued yelling outside. Mother said she knew the children had something to tell her, but the “fat bitch” would not allow her to talk to the children. Mother was pounding on the door; Mejia did not know if she was hitting or kicking it. Mother also screamed, “What are you doing, Pamela? Are you giving my children an injection you mother fucker? Is that what you are doing you God Damn cunt? Come on bitch, I can take on your fucking ass you fat cunt!” Mother



also asked, “What are you doing to my daughters? I know you are molesting them!” Mother was also asking A.H., “What is Pamela doing to you?” and, “Is she giving you an injection?” A.H. was crying and G.H. “began to talk like a baby stating ‘ma ma ma’ in a baby voice. Then [G.H.] began singing Jesus Loves Me.”

**DCFS recommended that the court suspend visitation until** mother could be evaluated and determined to be compliant with her medication needs.

At a hearing on April 8, 2016, the court ordered mother not to call the court clerk, and communication with the court only be through her attorney. The court also ordered mother not to contact the child abuse hotline. The court ordered that mother be evaluated.

A status review report dated April 27, 2016 stated that mother has “continued to demonstrate erratic and irrational behavior that has been observed since the beginning of this case.” Mother said that her new psychiatrist, Criselda Abad-Santos, M.D., does not believe that mother has bipolar disorder, and mother was off medications and attempting to treat herself with natural remedies. Mother believed the children were wrongly removed from her care and she wanted them returned as soon as possible.

The children’s foster parents reported that mother was calling them up to 20 times a day. The foster parents also said that during phone calls, mother threatened the foster parents and asked the children inappropriate questions. The visitation monitors noted that mother “has had to be redirected on multiple occasions” and mother fails to set limits for the children. A.H. told Bakhshizadeh that mother whispered to her during a visit, and instructed A.H. to tell the judge that she wants to live with

maternal grandparents. A.H. also told Bakhshizadeh that she does want that.

DCFS found that the risk of future abuse or neglect with mother was high. DCFS asked that the court sustain the petition and order family reunification services.

A last-minute information prepared for the April 27, 2016 hearing<sup>7</sup> stated that mother went into a bathroom stall with A.H., in violation of the order that visits be monitored. At another visit, A.H. said something about being bitten by another child. Mother told A.H. that she saw the bite mark, it was not really a bite mark, and A.H. needed to tell her what really happened. The monitor also said that mother does not set limits for the children, and attempts to gather information from them.

Bakhshizadeh reported that mother continued to violate court orders by continuing to text Bakhshizadeh “excessively.” Mother was also using Facebook to post pictures of the children and videos of mother talking about the case. Mother also continued to make child abuse allegations, both by calling the child abuse hotline in violation of the court order and by telling mandated reporters about abuse. As part of these calls, mother also threatened DCFS, threatened to ram her vehicle into the DCFS office, and threatened to choke a DCFS worker. Bakhshizadeh filed a police report as a result of the threats. A.H. denied any abuse at the foster home. The children had been placed in a new foster home on April 15, 2016. The former foster parents, with whom the children had been placed in January 2016, requested that the children be re-placed “due to safety concerns for the foster parents due to biological mother[']s

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<sup>7</sup> The last-minute information does not include a notation of the date it was written or filed.

unpredictable behavior, phone threats, and calling the hotline.” The FFA’s notes state that “mother seems to be sabotaging the placement.” As of April 19, 2016, the children were enrolled in a new school and were doing well.

Another last-minute information prepared for the April 27, 2016 hearing stated that mother’s psychologist, Dr. Abad-Santos, participated in a telephone interview on April 21. Abad-Santos said she had seen mother for three to four sessions; she did not provide specific dates. Abad-Santos said she had not contacted Dr. Ruttenberg regarding mother’s previous care or diagnosis, and she was not aware of Dr. Levi. She also was not aware that mother had been hospitalized in January. Abad-Santos said that if mother “is symptomatic, then she will need to be medicated,” but mother is not symptomatic now. DCFS noted that Abad-Santos was on probation in California for prescribing narcotics for relatives, and was barred from practicing in Delaware.

At mother’s visit on April 21, mother was holding G.H. in her arms and G.H. was watching a video of mother talking about how the children had been illegally detained and were being sexually abused. When asked why G.H. was watching that video, mother responded, “I don’t know.” The visit monitor had mother turn off her cell phone at the beginning of the visit, but mother had two additional phones hidden in her purse. During this visit, mother lifted up her shirt to expose her bra, and asked the children if they thought her lingerie was pretty. Later in the bathroom, A.H. said, “My pee pee hurts when I pee.” Mother started saying sarcastically, “[M]y pee pee doesn’t hurt. I wonder why mine doesn’t hurt and yours does.” The monitor tried to end the visit, but mother did not leave until security was called.

Foster mother said that mother is also not appropriate on the phone with the children. For example, mother asked A.H. if her boobs grew. The foster mother ended the call. Another time, mother asked the children if they were going to wear something sexy to bed. The foster mother said sometimes mother just mumbles on the phone. The foster mother also said that mother's phone calls are disruptive in that mother calls continuously and the children are hyperactive after they speak with mother. The foster mother said that if the calls continue to be disruptive, she will not be able to keep the children.

Some of mother's Facebook posts are included with the last-minute information. Several posts state that DCFS "killed me and my daughters." Several other posts say that maternal grandfather and maternal grandmother are trying to kill or beat mother. Many messages include so many typos that they are unreadable. Mother posted a video on April 23; a transcript is included in the record. Mother said DCFS was holding a knife to her head and was threatening to kill her. Mother said that DCFS posed as clones of her parents to steal her children. The video continues with a meandering monologue that includes allegations that the children have had cosmetic surgery and are being sexually abused.

In a second video posted on April 24, mother, maternal grandmother, and maternal grandfather are having a conversation in which mother is complaining that maternal grandmother took away her car keys. In the video, maternal grandmother states that she took the keys away because she did not want mother to kill herself and mother had "lost it."

The last-minute information noted that mother had been hospitalized on April 25, 2016 on a section 5150 hold. Mother

called Bakhshizadeh on April 25 and said she had gotten into a fight with maternal grandparents, refused to leave their home, and was arrested. Mother requested that the children be brought to the psychiatric ward for their scheduled visit. Bakhshizadeh told mother the children would not be visiting while mother is on a section 5150 hold.

Bakhshizadeh spoke with maternal grandmother on April 26. Maternal grandmother said mother was hospitalized after “the stress got to her because she didn’t get to see her kids and she hadn’t heard from them.” Bakhshizadeh asked if maternal grandmother called the police, and maternal grandmother said no, someone who had seen mother’s Facebook posts called and requested a welfare check. Bakhshizadeh asked maternal grandmother why she had not called police when it was clear from the Facebook video regarding taking away mother’s car keys that maternal grandmother did not think mother was okay. Maternal grandmother said, “I didn’t know she was videotaping. She seemed okay.” Maternal grandmother said, “She did talk about aliens but I thought she was fooling around. She wasn’t manic.”

At a hearing on April 27, 2016, the court ordered that mother was not to have telephone contact with the children and visitation was suspended while mother was hospitalized. The court set a hearing for May 23, 2016.

**M. May 2016**

On May 6, 2016, DCFS filed an ex parte request asking the court to limit mother’s visitation to one hour per week and to limit mother to two ten-minute phone calls per week. The request stated that “Mother has repeatedly failed to adhere to the visitation guidelines and has demonstrated inappropriate

behavior in the presence of the children that has resulted in terminating visits early and/or involve security.” In addition, “Mother has repeatedly called the caregiver at all hours of the day, leaving incoherent and concerning text messages that could be described as harassing.” The foster parents said that if the harassment continued, they would have to have the children replaced. In addition, the professional visitation monitor asked that visitation be limited because it was hard to control mother over longer periods of time.

The ex parte application said that mother said she was on medications, but she refused to provide a release for her hospital records to allow DCFS to confirm that statement. The application also stated that “it appears that Dr. Abad-Santos is not able to recognize the characteristics associated with Bi-polar Disorder,” because just days before mother was hospitalized Abad-Santos said mother was fine and did not need to be medicated. Also, DCFS was concerned that because of her disciplinary action, Abad-Santos would not be able to prescribe medications.

The court granted the application, and ordered visitation limited to one hour per week and two ten-minute phone calls per week. The court also granted DCFS’s requests to bar mother from bringing a purse or bag into visits, requiring mother to provide verification of treatment, and any change in visitations must be court-approved.

At the hearing on May 23, 2016, the court ordered mother’s Evidence Code section 730 evaluation to be completed, ordered that the adoption investigation of maternal grandparents be addressed in the next report, and ordered mother to provide information to DCFS regarding her treating physicians.

**N. June 2016 psychiatric evaluations**

An Evidence Code section 730 report by George Elias, M.D., and Alicia Bales, M.D., dated June 3, 2016, concluded that mother meets the diagnostic criteria for bipolar I disorder, severe with psychosis, in partial remission. The report also stated, “There continues [*sic*] to be concerns about reunification considering that [mother] continues to exhibit residual signs of mania with ongoing delusions of her daughters being sexually abused. Depending on [mother’s] progress, it would not be unreasonable to envision reunification in the future, however [mother] needs to show a sustained remission of all her manic and psychotic symptoms.” The report stated that mother recently began seeing Dr. Ruttenberg again, and she was taking medications again.

In the examination, mother “perseverated on various sexual themes throughout the evaluation,” repeatedly referencing sexual abuse by maternal grandfather, father, a priest, and the priest’s brother. When asked if she thought it might be problematic to repeatedly question the children regarding sexual abuse, mother said, “[W]hen your child is masturbating, you have a right to get your children checked.” “She displayed very little regard to how her children may feel because of them being exposed to her behaviors and repetitive examinations and questioning about sexually explicit subject matter.” Mother “also showed very poor judgment considering that she continued to persevereate on themes of sexual abuse and mentioned putting her daughter on a stand to testify despite the fact that her constant allegations of sexual abuse by others toward her children have contributed to her losing custody of them.” “She also continued to firmly believe most of her sexual abuse

allegations despite being challenged with evidence that points towards the contrary, which is concerning for being in an ongoing delusional state.” Mother blamed DCFS for allowing the children to be abused by father for two years. Mother also made “grandiose” statements about changing laws and suing DCFS for millions of dollars.

The section 730 report further stated that mother “displayed very poor insight into her illness. She had a tendency to minimize how concerning her behavior was and had a tendency to project blame onto others.” She said the children were detained just because she is bipolar, and “displayed minimal insight” into how her behavior, rather than her diagnosis, led to the detention. When asked about her outburst at the visitation when she was banging on the door, mother said that DCFS “locked my daughters in a room for 45 minutes.” When asked about the Facebook videos with a knife, mother said, “I went to acting school and I wanted to be dramatic.” The report stated, “What distinguishes [mother’s] illness from a primary psychotic disorder, such as Schizophrenia, is it’s episodic rather than chronic [in] nature (i.e. periods of decompensation are separated by periods of wellness).”

The report concluded that mother “continues to exhibit symptoms of mania and delusions. Given her history of behaviors when in such a mental state, there continues to remain a concern for a potential of emotional abuse of the children secondary to being exposed to their mother’s agitated behaviors . . . , ongoing exposure to sexual abuse themes, needless physical examinations for sexual abuse, and being barricaded in a room with no access to a bathroom.” The report also noted that mother “has shown the ability in the past to be a capable mother and also



had the support from her treatment providers who have witnessed her doing well. . . . It is possible for her symptoms to go into remission with appropriate treatment. However[,] continuous lifetime treatment will be essential to minimize the risk of her relapsing into future manic episodes.” The doctors recommended that the children remain in foster care with monitored visitation until mother can “exhibit a sustained remission of all her symptoms.”

Mother also submitted an independent psychiatric evaluation by Dr. Dupée, with dates of evaluation on June 22 and July 14, 2016. Mother told Dupée her January 2016 involuntary hospitalization was caused because she took a stimulant medication to combat lethargy, and her April 2016 hospitalization occurred after “she became increasingly frustrated with [DCFS] because she was unable to communicate with her daughters and she was concerned they were being physically abused.” Mother said she posted the knife videos because “she was pushed over the edge because she was not getting information about her children, and that is why she posted the videos in desperation. She says that she regrets doing so.” Mother reported that she is back under Dr. Ruttenberg’s care and is compliant with her medications.

Dupée noted that mother was appropriate in her interview, and “[s]he described her mood as ‘great’ [since her daughters were coming home].” (Brackets in Dupée report.) Mother “was preoccupied with concerns of her children and sexual themes throughout the evaluation.” Dupée noted that mother had a long history of bipolar disorder, and “has mostly been very stable over a long period of time.” Mother “presented in a hypomanic state with some preoccupation with sexual abuse themes that appear

to be partly delusional but with some factual basis. She is a very religious person and her religious overtones are also part of her hypomania.” Dupée stated, “While I do not believe she is ready to regain full custody of the children right now, it is very likely that she will be more stable within the next month once her medications are stabilized and her lithium levels are within therapeutic levels.” Dupée’s opinion conflicted with that of Dr. Elias and Dr. Bales in that Dupée said that mother has shown “insight into her illness and long-term stability.” Dupée recommended that visitation be monitored and more liberalized, and that reunification services continue.

**O. June and July 2016**

According to a last-minute information filed June 28, 2016, mother told Bakhshizadeh that she was no longer seeing Dr. Ruttenberg because he wanted to put her on the same medications she was on in the past, which was “way too much” medication. When Bakhshizadeh called Ruttenberg, he said he was not aware of the events that preceded mother’s most recent hospitalization. When told about the knife videos, Ruttenberg agreed that mother had been delusional. When Bakhshizadeh expressed concerns that mother was doctor-shopping to find someone who agreed with a different course of treatment, Ruttenberg said that was “very dangerous.”

Mother had started seeing a new psychologist, Rashin D’Angelo, Ph.D. On June 8, 2016, D’Angelo said that mother “can present very well but [if] you know her or can sit with her longer than 20 minutes then you can see that she’s delusional.” D’Angelo also said that the relationship between mother and maternal grandparents was “dysfunctional.” D’Angelo also noted that mother “does appear to be very concerned about physical

and/or sexual abuse toward the children.” In addition, “mother appears to believe that the children will be returning to her care in July. Dr. D’angelo [sic] stated that Mother is nowhere near ready and this will need to be a process for mother to gain insight into the issue and understand what went wrong in order to be able to prevent this from happening in the future.”

A last-minute information filed July 19, 2016 stated that Bakhshizadeh spoke with D’Angelo again on July 15, 2016. D’Angelo said mother seems more stable lately, but continues to display “limited insight” into the issues that caused the children to be removed from her care. D’Angelo said that mother believes the children will be back in her custody after the July hearing, and “that’s part of her delusional thinking. She goes to that place really quickly when she’s uncomfortable.” Mother told D’Angelo that she agrees with DCFS’s decision to not place the children with maternal grandparents, because maternal grandfather is “unstable,” abusive, and has anger issues.

The last-minute information included a report from the visitation monitor for the children’s visits, Debora Hooriani. Hooriani said that A.H. asked if she could talk to the judge, because she wants to ask the judge to tell her mother to stop “[q]uestioning me all the time.” A.H. also said that mother lied to her by saying the children would be back in her care days after she was hospitalized.

Hooriani also noted that G.H., now four years old, had been having behavioral issues. The children’s caregiver noted that G.H. had been screaming, not following instructions, and hitting other people, including a baby and a dog. G.H. would report that God wanted her to do or not do things, for example, stating that

God did not want her to go to school. When asked how she knew that, G.H. said that “God is in my ear and tells me everything.”

**P. Section 342 petition sustained**

At the July 19, 2016 hearing, the court set an adjudication hearing for August 17, 2016. Mother submitted exhibits in advance of the hearing, including the June/July 2016 evaluation by Dr. Dupée, and 10 visitation reports summarizing visits with the children by mother and maternal grandparents. A letter from Dr. D’Angelo, dated July 17, 2016, stated that mother was compliant with psychotherapy sessions and was improving in her overall condition. A letter from Dr. Ruttenberg, dated July 18, 2016, stated that mother is “doing very well and is stable and steady at this time.” Ruttenberg asked the court to return the children to mother’s custody. Mother also submitted a report from Dr. Levi, dated August 15, 2016, which stated that mother “has been my client since 6/18/12 until now.” Levi said she had evaluated mother twice in August, “which confirms her stability and normal functioning.” Levi also said that mother “cared very well for her children for almost a year until this January 2016. . . . There were never any signs of abuse or neglect by grandparents or [mother].”

Mother also submitted a note stating that the foster parents were violating the court orders by “not answering my calls when I called to talk to my children on my designated nights and not calling me back,” with a list of 11 dates. Another page submitted as an exhibit states, “Judge Soto said I could see my daughters 9 hours that week” with a list of 12 dates.

A last-minute information filed August 17, 2016 said visitation monitor Ms. Hooriani reported that “Mother continues to speak with the girls about going home during face to face visits

and telephone contact,” thus “leading the girls to believe they are going home.” When a social worker discussed this issue with mother, she denied that it happened.

Foster father reported behavioral issues with G.H., who intentionally flooded the home’s toilets. G.H. often appeared depressed and withdrawn because the other children did not want to play with her, but she knew it was because she was not nice to the other children. Foster father also reported that mother and maternal grandmother figured out which school A.H. attended and showed up at the school.

On August 17, 2016, the court sustained count b-1 of the petition, which alleged that mother’s bipolar disorder, paranoia, and delusions endangered the children’s health and safety and placed the children at risk of physical harm. The remaining counts were stricken. The court ordered mother to continue treatment with Dr. Ruttenberg and continue compliance with her medications. The court set a status review hearing for February 15, 2017.

**Q. Mother’s August 2016 hospitalization**

DCFS filed an ex parte application on September 8, 2016, seeking to bar mother from having telephone contact with the children. DCFS stated that mother’s “ongoing mental health issues interfere with her ability to hold healthy conversations with the children” and mother’s “continued telephone contact with the children will continue to jeopardize future placements and replacements which causes undue stress and trauma to the children, and places the children at risk of emotional harm.”

The application stated that mother was involuntarily hospitalized on August 22, 2016, five days after the hearing, “for being gravely disabled and a danger to self.” Mother called

Bakhshizadeh multiple times from the hospital, stating that she wanted telephone contact with the children and saying that she voluntarily hospitalized herself due to DCFS only allowing mother to have one hour of visitation per week. Mother also said, “I just feel like I’m being pushed over the edge, these are my children. I haven’t abused them, haven’t hurt them.” Although mother insisted that she had been voluntarily hospitalized, an attending nurse told Bakhshizadeh that mother was involuntarily hospitalized, but mother thinks she checked herself in. Mother was discharged from the hospital on August 26, 2016.

On August 27, 2016, the foster family with whom the children had been placed in April 2016 submitted a notice to have the children re-placed. Mother had called and while speaking to A.H., accused the caregiver of not allowing mother to speak with the children and of collecting money to care for the children. The caregiver noted that several calls had to be ended early because mother could not be appropriate with the children. The caregiver also noted that G.H.’s behavior was increasingly problematic and the intensive therapy the children needed was placing a strain on the family. The children were re-placed in September 2016.

A letter from Dr. Levi dated September 7, 2016, is included in the record. Levi stated that mother is “emotionally stable at this time and has been since May 2016. From my professional opinion, I think she should be allowed unmonitored visits with her children . . . .”

A last-minute information filed September 8, 2016 stated that the children have continued to live with the foster parents beyond the seven-day notice period while DCFS looks for a new placement for them. The last-minute information also noted that mother stayed at the DCFS office after a visit on September 6,

2016. Hooriani suspected that mother was under the impression that the children were being moved that day, and intended to follow the children to their new home. Security eventually asked mother to leave. Mother then posted a nine-minute video on Facebook stating her suspicions that something was happening to her children and “it’s all over the internet that they’re sex trafficking children supposedly with the DCFS in Los Angeles with foster care.” Mother also stated in the video that she did nothing wrong and the children should not have been removed from her care.

The last-minute information also noted that Dr. D’Angelo stated that mother terminated her treatment following the court hearing on July 19, 2016.

At the September 8, 2016 hearing, the court ruled on DCFS’s ex parte request to modify mother’s visitations. The court ordered mother to have a single, 15-minute phone call per week with “both children, if possible.” The court added, “Mother is not to discuss case, placement, and school with children. If mother fails to comply with court order, telephone calls are to be terminated.” The court continued mother’s monitored visitations, and added one additional hour of visitation.

**R. November 2016 to January 2017**

On November 22, 2016, mother filed a section 388 petition asking that court “return the children to her,” or in the alternative, liberalize visitation. Mother said she was “in total compliance with the case plan” and was taking her medication as prescribed. The court set the motion for a hearing for January 6, 2017.

Mother submitted a letter from Dr. Ruttenberg, dated October 17, 2016, stating that mother was stable and doing well,

and the children should be reunited with mother “as soon as possible.” A letter from Dr. Levi, dated November 1, 2016, stated that mother had “3 significant episodes of illness this year, which were associated with lack of or inappropriate medications.” Levi stated that mother “has been consistent on the same medications for 5 months, which helped create health and stability in [mother’s] life.” Levi said there is nothing barring mother from regaining custody of her children.

DCFS opposed the petition, citing mother’s most recent hospitalization and the need to re-place the children. DCFS also noted that after a recent visit near Christmas, mother told the children that after a hearing in January, the children would be coming to live with her. When Hooriani attempted to redirect the conversation because mother was not supposed to discuss the case with the children, mother became loud and argumentative, causing the children to cry. DCFS stated in its opposition, “It is apparent that mother has not demonstrated stability in her interactions with the children, foster parents and DCFS staff to warrant having the children returned to her care.” DCFS also noted that “Mother does not appear to have any insight into how her unstable mental illness affects her interactions with the children.”

A last-minute information filed January 13, 2017 stated that on January 10, 2017, the foster family with whom the children had been placed in September 2016 was considering having the children re-placed. The foster parents said they had a strong interest in adopting the children if reunification efforts failed, but with increased visitation with mother and paternal grandparents, G.H.’s behavior became more problematic. Both children were worried that they would be removed from their



current placement based on mother's comment that they were going to live with her.

The court denied mother's request on January 13, 2017, finding that "[r]eturn of minors to mother is not in minors' best interest." The court ordered mother's visitation to be extended to nine hours per week. In response to a petition filed by maternal grandparents seeking additional visitation or custody, the court granted maternal grandparents unmonitored visitation for four hours per visit, two times a week. The court also stated that if maternal grandparents' visitation went well, maternal grandparents would get overnight visitation, and that overnights would be increased weekly. (It appears that sometime around this time frame, mother moved into an apartment and was no longer living with maternal grandparents.) On January 17, 2017, the foster parents gave notice to have the children re-placed, because "they had invested so much time and energy into stabilizing the children and feared that their own efforts and work could not counter-act the toll these extended visits would create."

**S. February 2017**

A status review report dated February 15, 2017, stated that the children had been placed in a new foster home as of January 2017. Mother stated that she had recently gotten a job through the Los Angeles Unified School District (LAUSD) and intended to begin work within the next few months. The report stated, "Mother continues to maintain that she has never done anything to deserve her children being detained from her." Mother continued to post social media messages saying that she had done nothing to warrant having the children removed from her care. Mother also posted direct attacks on the children's former foster

parents, possibly in response to the foster parents' statement in a DCFS report that they would be interested in adoption if reunification efforts were not successful. Various posts from January 2017 were included in the report, with statements such as "I wonder if they have any idea just how rich and famous they have made me and my daughters." and "You are holding my precious children in your wicked clutches . . . trying to adopt them . . . when you know they have a loving mom, who has never abused them, never neglected them and did nothing wrong to get them taken away in the first place."

On January 10, 2017, Dr. Ruttenberg said that mother was stable and was taking lithium as prescribed, and recommended that the court return the children to mother's care. DCFS noted in the status review report, "The Department would like to respectfully inform the Court that Mother and Dr. Ruttenberg see each other for a maximum of 15 minutes every six weeks." Dr. Levi reported that mother was working on recognizing danger and learning to contact other adults, rather than questioning the children, when she sees an injury or rash. Levi said mother is not delusional, she is simply "overly anxious," she feels like her every move is being judged, and she is "sometimes being stubborn, or anxious." DCFS said that "it is concerning that Dr. Levi would minimize Mother's diagnosis of Bipolar Disorder with Psychotic Features and describe her as only having a difficult personality."

Issues involving father are beyond the scope of this appeal, and therefore such facts are generally not included here. However, it is worth noting that father had been arrested, convicted of assault, hospitalized in a mental health facility, treated for his mental illness, and recently had been stabilizing.

The court awarded father monitored visitation in April 2016 and phone visitation in August 2016. The status review report noted that father had not yet visited with the children, and stated that he did not want to have visitation with the children while mother and maternal grandparents are involved with the children, since father believed that harassment from mother and maternal grandparents jeopardizes his mental stability.

Reports from the visitation monitor, Hooriani, stated that mother had multiple inappropriate interactions with the children. For example, on September 13, 2016, G.H. said it hurts when she urinates. Mother asked G.H. if anyone touches her there, and insisted that Hooriani take photographs of the redness near G.H.'s genitals. Hooriani refused to take a picture, and the following day a doctor diagnosed the redness as a rash likely from G.H. not cleaning herself properly after using the bathroom. On September 27, mother followed the children and their foster mother when they left for a visit in their car. DCFS already had to create rules with mother in an attempt to get her to not follow the children and the monitor after visits, but mother often violated the rules. On October 25, G.H. had a bruise beneath her eye, and mother would not stop questioning G.H. about it; the visit was terminated. Mother made a child abuse hotline report about the incident. On December 6, A.H. said she fell on her behind and was bleeding; mother questioned whether someone touched her there. A.H. said, "No, I just fell." Mother continued to ask questions, and also asked G.H. if her behind was sore.

On January 17, 2017, Mother submitted the name of a new professional monitor, Jennifer Silverstein, to oversee mother's visits with the children. The status review report noted that Silverstein was told that mother had become addicted to

painkillers as a result of a dental procedure, which is why mother was required to have a monitor during visitation. DCFS clarified to Silverstein that the children were removed from mother's care due to mother's mental health issues.

DCFS determined that the assessment risk level for mother is "very high." Although mother met with her therapist and took her medication as ordered by the court, "Mother continues to lack the insight into the issues that brought her before the Court, including the severity of her mental health issues." Mother continued to see herself as a victim of DCFS, and claimed the children were taken away for no reason. DCFS said that "it appears that the issues that brought Mother to the attention of the Court for a third time have not yet been resolved."

The status review report discussed a possible permanent placement for the children. It noted that family with whom the children had been placed in September 2016 was interested in adopting the children, but asked that the children be re-placed after the court expanded mother and maternal grandparents' visitation due to the strain this placed on the children. The report also stated that maternal grandparents are interested in legal guardianship, but "[i]t can be anticipated based on the multiple 388 petitions submitted to Court on behalf of Mother that should Legal Guardianship be the permanent plan, this will allow Mother to continue to bring the children in front of the Court, which will only continue to exacerbate and disrupt any type of bonding and stability that the children may have."

DCFS said that "the children deserve to have a life that is free from abuse, neglect, and emotional harm, in order to develop healthy bonds and nurturing, loving relationships with others and that ultimately severing the parents' legal rights is the only

means necessary [*sic*] to provide the children with a healthy and stable home environment.” The report noted that the children have been in four different placements in the previous 13 months, and the changes have been “due to Mother’s behavior, having to monitor Mother’s interactions even telephonically, and then dealing with the emotional toll and the backlash of regression in the children’s behavior.” DCFS recommended that reunification services be terminated.

A last-minute information filed February 15, 2017 stated that the foster parents with whom the children had been placed in January 2017 reported that the extensive visitation schedule with mother and maternal grandparents left the children exhausted and overwhelmed. The children also had physical therapy and counseling sessions scheduled throughout the week. The last-minute information said that father expressed a preference that the children be placed with the foster family that had expressed an interest in adopting the children.

At the February 15, 2017 hearing, the court ordered mother to not go within 100 yards of maternal grandparents or their home. The court found mother in partial compliance with the case plan.

#### **T. March through May 2017**

Due to the court’s January 2017 order that the maternal grandparents progress to increasing overnight visits, by the week of March 23, 2017, the children were “visiting” maternal grandparents seven days and six nights per week. A.H.’s teacher noted that around this time, A.H.’s behavior regressed and A.H. seemed “nervous” and “on edge.” The teacher later said that these behaviors receded.

During the week of March 14, 2017, mother asked that the children's therapy appointment be cancelled so mother could reschedule her visitation. Mother also asked Bakhshizadeh if she could attend A.H.'s birthday party at maternal grandparents' house. Bakhshizadeh told mother she could not do this without violating the court order. Mother also posted on Facebook that she had a conversation with the children on the phone while they were visiting maternal grandparents, which was in violation of the court order. When Bakhshizadeh asked maternal grandfather about mother calling while the children were at maternal grandparents' house, maternal grandfather said that "he needs to have contact with mother as he pays for Mother's monitor and gives Mother money for the activities during the visitation with the children."

Reports by the new visitation monitor, Jennifer Silverstein, dated March 28, 2017, are included in the record. Unlike the previous reports by Hooriani that documented each visit, Silverstein prepared a single, two-and-a-half-page summary report for 26 visits. Silverstein said that two visits were terminated early due to G.H. "getting out-of-control." Silverstein said that mother complies with the monitor's instructions and is appropriate at visits. Silverstein also noted that mother engaged the children in conversation and listened attentively while they talked. G.H. often whined and would not take no for an answer, and mother often gave in. Although mother attempted to redirect G.H. and was sometimes successful, at times mother's efforts did not work and the monitor had to step in.

On April 5, 2017, Silverstein reported to Bakhshizadeh that she was concerned that the maternal grandparents were providing information to mother through the children. For

example, the children reported to mother that maternal grandfather was upset about mother's Facebook posts,<sup>8</sup> and maternal grandparents said mother was stealing money from them.

DCFS filed a motion seeking to limit the children's visitation with the maternal grandparents because the visitation "placed undue emotional stress on the children to the extent that the children have seriously regressed and are exhibiting concerning acting out behaviors in school." DCFS expressed concern that maternal grandparents "claim that the children do not have behavioral problems in their home and dismiss the children's behavior as being related to the fear that they will return to foster care." DCFS also expressed concern that the court's orders were being violated by the maternal grandparents monitoring phone calls between the children and mother. DCFS said that maternal grandparents' home is not a suitable placement, as they cannot protect the children from mother and they tend to minimize mother's mental health issues.

Mother filed a request to change a court order on April 11, 2017. Mother again requested the return of the children, stating that she is "in total compliance with the case plan" because she sees Dr. Ruttenberg and Dr. Levi, and she was in compliance with her medication requirements. Mother also said her monitored visitation was proceeding "without any incident." Mother asked that if the children were not returned to her custody, that her visits be partially unmonitored. The court set a hearing for the request.

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<sup>8</sup> Mother had posted on Facebook that reunification with the children was imminent.

On April 19, 2017, DCFS filed a request to limit grandparents' visitation to every other weekend. The court set the request for a hearing on the same day as mother's request.

On May 2, 2017, DCFS filed an ex parte application seeking to have Silverstein removed as mother's visitation monitor. Although Silverstein was supposed to file reports regarding mother's visitation, she had not submitted any reports to DCFS between January 24 and March 22, 2017. DCFS also disagreed with how Silverstein was monitoring visits, because she did not understand how to act as a monitor in a DCFS case. For example, Silverstein said she would allow mother to have the children visit at mother's apartment. When DCFS expressed concern about how the children would feel about seeing the bedroom mother had set up for them (as noted in mother's Facebook posts about the children being returned to her care), Silverstein agreed that such a visit would not be appropriate.

Silverstein also noted that sometimes mother could not control G.H. In one instance, G.H. attempted to stab Silverstein with a fork, and hit her with a large stick. In another visit, G.H. "went completely out of her mind" and the children refused to come off the play equipment at McDonald's. Silverstein had to go up on the play equipment and get the children down. A few visits were terminated early because of G.H.'s behavior. When asked if the visits need a monitor, Silverstein said that mother is "great with the girls," but she "needs to establish herself as the adult. I don't think she would hurt them." Silverstein had not informed DCFS about these issues.

DCFS said that Silverstein had not worked with DCFS before, and her "lack of experience and understanding in DCFS's role has impacted her ability to keep DCFS apprised" as required.



Silverstein had not reported that any visits had been terminated early; nor had she reported G.H.'s serious behavior problems. DCFS noted that Hooriani had noted concerns with mother's behavior at nearly every visit, but Silverstein did not note any concerns.

At a hearing on May 2, 2017, the court ordered that DCFS may attend monitored visitation with mother and end visitation if appropriate. The court continued the matter to May 22, 2017.

DCFS's May 22, 2017 response to mother's section 388 petition included transcripts from several of mother's Facebook posts in which mother said she did nothing to have her children taken from her. For example, on April 4, mother said, "The only reason why my children got taken away, and it wasn't even a good enough excuse, is because I had a medication complication and I had to go to the hospital for a few days." Mother said in a video posted on April 11, "[W]hat's been done to us . . . is downright criminal. It really is criminal." Mother added, "I'm writing a book and it's going to be published. And there might even be a movie about our lives, because people need to hear our story and our voices need to be heard." DCFS also stated that although mother said her visitation was "without incident," this was not true because Silverstein had to terminate visits early and noted that mother was unable to control the children.

Silverstein testified at the May 22 hearing; the transcript is not included in the record on appeal. The court partially granted DCFS's section 388 petition, ordering that one of mother's visits per week would be at the DCFS office, and Silverstein was to prepare reports paid for by DCFS. The court also ordered that visitation with maternal grandparents be changed to unmonitored visits every other weekend. The court denied

mother's section 388 petition, stating that it was not in the children's best interests to modify mother's visits. The court set a section 366.22 hearing for June 22, 2017.

**U. Documents submitted prior to the section 366.22 hearing**

In preparation for the section 366.22 hearing, mother submitted a report by Dr. Dupée, whom mother had retained for a psychiatric evaluation. Dupée examined mother on February 6 and May 30, 2017. Dupée did not review the DCFS file in preparing her report. Dupée said there was no evidence that mother had an "elevated mood," and her "thought processes were linear, logical, and goal directed. There was no evidence of psychosis, mania or depressive, anxious, obsessive, or compulsive symptoms." Dupée said mother's "difficulty in interacting with DCFS are [sic] due to personality issues and are not due to any mental illness or instability of her mental state." Dupée opined that there was "no evidence that [mother's] mental illness impairs her ability to parent her children."

Mother also submitted a letter from Dr. Levi, dated June 6, 2017, stating that "for the last 8 months" mother "has had no significant mental health symptoms, specifically or [sic] Bipolar Disorder." Levi also said, "[I]t is important to note that for 11 months, [mother] has had no delusions regarding anyone hurting her children." Levi opined that mother "is emotionally stable and can resume full custody of her daughters." Dr. Ruttenberg also submitted a very short letter, dated May 30, 2017, stating that mother was on three medications and "[s]he is stable and I do not anticipate any recurrence of bipolar symptoms."

Mother also submitted an email from visitation monitor Silverstein, dated June 7, 2017. In it, Silverstein stated that

mother “is one of the most loving and patient understanding mothers that I have ever met. Not just in my career as a monitor, but in my lifetime.” Silverstein stated that she had witnessed an increase in mother’s ability to “have more authority and control when minors act out or misbehave.” Silverstein said mother warns children away from hazards (jumping off high objects, for example) and practices appropriate hygiene (e.g. washing hands). Silverstein stated that mother “builds [the children] up with a lot of positive reinforcement, acceptance and unconditional love.”

A June 22, 2017 status report stated that the children were living in the same foster home they had been in since January 2017, and they were doing well. Maternal grandparents were upset that DCFS asked the court to have the children placed back into foster care with only weekend visits to maternal grandparents.

The report noted mother’s Facebook video posts from April 2017, in which mother was angry about seeing the children and maternal grandparents at a party mother was not allowed to attend. In one video posted on April 13, for example, mother said, “It’s like, enough is enough. I’m not allowed to call my parents. I’m not allowed to go over there. They have my children. They’re going all around town with my children. And I am just left out in the cold.” Later in the video mother stated, “I have a right to be upset. They are MY children. They were stolen from me. They were actually stolen from me. I had a medical problem, a medical issue that arose. I went to the hospital for 2 lousy days and when I came out my children were gone and placed in foster care. This is a nightmare. But you know what? This is about to end. My daughters are coming home to me. . . .

We don't deserve any of this." On April 25, mother posted a video in which she said, "[I]t's so difficult to fight a broken, corrupt system. When you become a victim of a broken, corrupt system that takes your children away when you've never abused them, you've never harmed them, when you've never placed them in danger[,] when you weren't doing drugs and alcohol." Mother also said, "I know I have truth on my side, I've got God on my side, and I know I've got an amazing team . . . who is working really hard to reunite me and my daughters. And we're going to be reunited soon. God willing in the next couple of weeks." The status review report noted that as of the last court hearing on May 22, mother's Facebook page was no longer online.

Mother's visitation was to occur partially at the DCFS office. At the visit on May 31, Silverstein terminated the visit early due to G.H.'s uncontrollable behavior. Silverstein agreed that there were issues with mother being unable to establish her authority as a parent and control the children. Silverstein also noted that mother tends to observe the children, and is less able to get the children involved in activities. Silverstein said visits at places where there are activities, such as the zoo, often go better because there are things mother and the children can talk about. Silverstein suggested that mother's lack of engagement could be due to mother's high dose of lithium.

DCFS determined that the risk of future neglect or harm, should the children be returned to mother's care, is "very high." Mother had not displayed insight into her mental health issues and did not accept responsibility for her actions that led to the children's removal. Mother continued to consider herself a victim, and continued to state that she did not abuse or neglect the children. DCFS noted that mother was in compliance with

her medications. DCFS also stated that mother had been unable to establish her authority as a parent, and therefore visitation had not been liberalized to allow unmonitored visitation.

The status review report noted that mother has never been granted custody of the children without additional assistance. When the court released A.H. in 2010, she was released to both parents. At the termination of the case in 2013, the children were released to father alone. In 2015, the children were released to mother on the condition that she live with maternal grandparents. The report noted that the children have a bond with mother, but her ability to parent the children was limited.

DCFS noted that the children are adoptable and the foster parents with whom the children had lived from September 2016 to January 2017 were still interested in establishing a permanent placement for the children. DCFS recommended that reunification services be terminated.

The court set a date for a contested hearing. A last-minute information filed on August 1, 2017 stated that DCFS approved mother's new visitation monitor, Phyllis Block, in July 2017. Block stated that visits between mother and the children had been "good." Block said she had not terminated any visits early, but the children had been fighting with each other. Block said mother is generally appropriate during visits. A last-minute information filed August 4, 2017 noted that Dr. Levi said mother was displaying no symptoms of bipolar disorder, and Dr. Ruttenberg said that mother was compliant with her medications.

#### **V. Section 366.22 hearing**

At the contested section 366.22 hearing on September 14, 2017, Judge Soto took judicial notice of the previously sustained

petitions, minute orders, DCFS reports, previously admitted exhibits, and case plans. Mother's exhibits were admitted.

1. *Mother's testimony*

Counsel for DCFS called mother to testify, and asked why they were in court. Mother answered, "In January of 2016, I was prescribed a medication by my doctor that I had a very adverse reaction to. I had to go to the hospital to get off that medication and put on a different medication. And when I went into the hospital, the DCFS took my children away." When asked if she was taking care of the children appropriately before January 2016, mother answered, "Absolutely." Mother said she never accused father of molesting the children; the children accused their own father. When asked about the 2015 recording mother sent the social worker in which the children said things about what father did, mother said she did not remember the recording. When presented with the transcription of the recording that mother prepared, mother said she remembered.

Mother also said she and the children do not talk about father. She said they had in the past, "[b]ut at this point, we are – I don't break the court order. We don't discuss the father." A few minutes later, DCFS counsel asked, "Do you remember the court telling you to stop recording the children, stop talking to them about your concerns about the father?" Mother replied, "No, I don't recall that actually." DCFS counsel asked, "Do you think the court has ever told you to stop talking about it with the kids?" Mother responded, "I don't recall."

Mother said she believed the allegations reported by the children. When asked if she submitted reports about the children's allegations of abuse, mother said she had, "as any parent would." When asked if she submitted more than one

report of abuse, mother said, “I don’t recall.” Mother said she did not think she reported abuse more than five times; she said she remembered reporting it one time, but not a second time.

When asked if she believed that maternal grandfather molested her, mother said, “What do you mean? I mean, that’s a word that – what do you imply by ‘molest’? Rape? Are you implying rape? Because that’s a strong word.” When asked about her prior allegations against maternal grandfather, mother said, “[M]y therapist helped me to realize that it was not sexual molestation.” Mother elaborated on her answer, then said, “And this whole what you’re calling molestation which is not molestation, came up after the birth of my daughter when I was experiencing some postpartum depression.” Later in the hearing, mother also said, “[W]hen my children were taken away from me in 2012, it was devastating for me, because it was postpartum depression. I didn’t abuse them. I didn’t neglect them. I simply had a little bit of postpartum depression.”

When asked about a Facebook video in which mother said maternal grandparents were clones, mother said that it had been a difficult time because “[m]y children were taken away from me. I had not yet had a chance to testify or let the court know that I never abused them; that I never neglected them; that I simply had a medication complication. . . . And I was trying to prove a point that I was really needing help at that time because the DCFS was not letting me see my children.” Mother also denied that she said her parents were clones.

Mother agreed that she suffers from bipolar disorder. Mother testified that from April 1, 2015 through December 2015 she was seeing Dr. Ruttenberg and Dr. Levi. She said she was in compliance with her medications, including lithium, at the time.

She said that in January 2016, Dr. Ruttenberg “added a new medication, six days before I called the police. And it caused me to be very paranoid and think that they were in danger when we weren’t.”

Mother testified that she did not accuse any foster parents of molesting the children. Mother also testified that she was not hospitalized after August 2016. Mother agreed that she was “totally stable” during the previous dependency cases.

Mother’s counsel also called mother to testify on her own behalf later in the hearing. Mother testified that she worked for LAUSD three hours per week as a campus aide, but she was about to change to 6.5 hours per week. Mother said her bipolar episodes are acute, and typically last “anywhere from a day to three or five days,” until a medication adjustment takes effect. Mother said she does not suffer symptoms outside of these episodes. Mother said that although she stopped taking lithium briefly in 2016, she has been on it since April 2016 and she had not had a bipolar episode since August 2016. Mother said she works with Dr. Levi on parenting skills and on identifying triggers for bipolar episodes. She also said that she has a strong community through her social community and doctors. Mother said none of her visits with the children since August 2016 have been cut short because of something mother did. Mother said that she felt she was ready to have the children returned to her custody.

When minors’ counsel asked mother what she would do if she felt she were having a bipolar episode, mother said she would call her doctors or her parents. Mother said the 2010 case began when father called DCFS saying that mother was neglecting A.H., which was false. Mother said the detention was not



justified, “[b]ecause having postpartum depression and being scared of your husband who is abusing you is not a reason to get your children taken away or your four-day-old baby taken away.” Mother said the 2012 detention was also due to postpartum depression, and the doctor put mother on a stimulant that made her paranoid. Mother said the 2012 detention was also not justified.

Mother explained the 2016 detention by saying that she called her doctor because she was feeling lethargic, and he put her on a stimulant that she had a “very adverse reaction to.” She said the children were not at risk of harm at the time, stating, “I know I locked the door and everything. I shouldn’t have done that. But I didn’t abuse them. I didn’t neglect them. They were sleeping actually.” When asked about a Facebook video in which mother said having her children taken from her was a “crime,” mother said, “[W]hat I feel is a crime is that to continue to punish me as if I have abused my children, to hold me to the same standards of a parent who has abused or neglected their children and to try to terminate my reunification services because I had a medication complication.” Minor’s counsel asked, “So you don’t feel you’ve abused or neglected your children?” Mother replied, “No, I don’t.”

When DCFS counsel questioned mother, she said the only reason the children had been detained in January 2016 was the medication reaction. Mother said she was paranoid, which is a version of panic or a fight-or-flight response, and “I closed the door, and I called the police and that was it.” Mother testified that her hospitalization in August 2016 was voluntary; DCFS counsel showed mother medical records indicating that the

hospital stay was not voluntary. Mother responded, “I read this. It’s not true. It’s not true.”

On redirect, mother said she is better able to handle a bipolar episode because she lives in her own apartment as an “independent woman.”

2. *Dr. Levi’s testimony*

Mother’s counsel called Dr. Levi to testify; she said she had been mother’s therapist since 2012. Levi said that mother has a “reality checklist” and tests her thinking to see whether it is accurate. Since 2016, mother has become more aware in recognizing problem thinking and managing it. Levi said mother is also using behavioral techniques such as “very proper nutrition, exercise, sleep, yoga, meditation, relaxation.”

Levi said mother’s last hospitalization was for depression, and it was voluntary. She said the depression was caused by mother not seeing or speaking with her children. Levi said that mother is “incredibly receptive and honest,” and “[h]er functioning has dramatically increased” compared to the past. Regarding her medications, Levi said that mother is “very consistent and very well aware of what she needs to take and why.” Levi said that mother has strong community support through her church and choir, and she has the confidence to seek out support when she needs it. Levi said that maternal grandparents are part of mother’s support system. Levi said that in her professional opinion, mother was “absolutely emotionally stable,” and she could provide a stable environment for the children on a full-time basis.

When questioned by the minors’ attorney, Levi said that she had not observed any of mother’s visits with the children. Levi said she determined that mother was appropriate by looking

at the reports by visitation monitors. Levi said that stress and anxiety are triggers for mother's bipolar disorder, and the minors' counsel asked about the stress of suddenly becoming a single parent to two children. Levi said that "it's a lot less stressful to parent them when there is no monitor that is taking notes and criticizing you." Levi also said that she has already talked with mother about "devising a schedule" to accommodate the children's extracurricular activities.

Levi testified that "the hospitalizations in April and August [2016] involved great depression because of not seeing or speaking with her children." Levi testified that in April 2016 and August 2016, mother did not pose a risk to the children. Levi said mother's hospitalizations at those times were voluntary, because mother "admitted that she needed hospitalization due to being very depressed." Levi testified that mother has been stable for a year. DCFS counsel showed Levi Dr. Ruttenberg's July 20, 2017 letter stating that prior to mother's January 2016 hospitalization, mother had been stable and free of bipolar symptoms since October 2012. Levi said she felt that statement needed clarification, because "[f]rom 2012 to 2016, there were episodes of illness during which [mother] was not stable."

### 3. *Dr. Dupée's testimony*

Mother's counsel called Dr. Dupée to testify. Dupée recalled that she met mother in March 2015, and found that she was stable and able to parent her children. Dupée stated that she had met with mother three to four times since then. After meeting with mother in June and July 2015, Dupée had some concerns about some "lingering mental health issues." In 2017, Dupée concluded that mother did not currently display any symptoms that would interfere with her ability to parent the

children. Dupée said mother has always had “understanding and insight” about her condition, and “great insight into her symptoms.” She said mother was “very aware” of the warning signs that an episode is about to occur.

Dupée noted that she had never met the children. She also said that having bipolar does not bar someone from being an excellent parent, and mother is capable of being an excellent parent. Dupée said that other than the time period when mother was misdiagnosed and off her medications, mother was very compliant with her medications. Dupée also said that “from a psychiatric standpoint,” she did not have concerns about the children being returned to mother as long as mother remained compliant with her medications.

When questioned by counsel for the minors, Dupée said, “I don’t think she’s ever had episodes where she hasn’t taken medications. This entire episode that has precipitated this particular case was due to medications prescribed by her psychologist that she took.” She later clarified that in 2016 when mother changed doctors, “Even when she was seeing . . . the different psychiatrist, she still took the medications. And I spoke to that psychiatrist. She was still compliant with her medications that were prescribed during that time.”

When questioned by counsel for DCFS, Dupée said she was not aware of any issues from July 2015 to December 2015 while mother had custody of the children. Dupée said that barricading the children in the bedroom would create a dangerous situation for the children. Dupée acknowledged that in July 2016 she thought that mother would stabilize within a month on medications, and in fact mother was hospitalized in August 2016.

4. *Ms. Block's testimony*

Visitation monitor Phyllis Block testified that she had been a monitor in this case for 27 weeks, for visits occurring three times per week. Block said that mother is never late and she has not missed a visit. Block said that she had never had to terminate a visit early. She said mother provides an appropriate parenting structure, and she has never observed any conduct by mother that made her concerned for the children's safety. Block said she would have no concerns about mother having unmonitored visitation with the children.

5. *Closing arguments*

DCFS said that the issue was not whether mother was stable enough to remain out of the hospital, but instead whether mother was able to not pose a risk to the children. Mother testified that she was a good parent other than a medication reaction, but the evidence does not support that. DCFS also said that mother does not appreciate and address the issues that warranted the initial detention. DCFS also pointed out that the section 342 petition was partially based on the fact that mother kept calling the police to her house. DCFS asked that the court terminate services and set a section 366.26 hearing.

Minors' counsel joined DCFS's argument and asserted that DCFS had met its burden. He pointed out that Dr. Levi had not observed mother with the children, and she did not know about other things in mother's life. Counsel also pointed out that Dr. Dupée was wrong about mother stabilizing. Minors' counsel also expressed concern about going from monitored visits to full custody, while mother and Dr. Levi both testified that stress was a trigger for mother. Counsel noted that mother always references herself as a victim, and does not take responsibility for

her actions that led to the detention. Counsel asked that the court terminate reunification services and set a section 366.26 hearing.

Mother's counsel argued that mother loves and adores the children, and she wants to raise and nurture them. Counsel pointed to the testimony of Dr. Dupée, who said a diagnosis of bipolar does not limit the ability of a person to be a good parent. He also pointed out that mother has been compliant with her medications and has not had any episodes recently. Counsel argued that mother has insight into her illness that she did not have in the past, and she testified that she will be vigilant in managing her illness. Counsel said that mother's doctors all believe custody could be awarded to mother, and a court order to the contrary would contradict all of these opinions. Counsel also pointed out that mother and the children are bonded. Counsel asked that the children be placed in mother's custody.

#### 6. *Court ruling*

The court said that mother's testimony in response to her counsel's questions was compelling, but her answers in cross-examination were more telling. "[T]oday what I heard from mother was the same throughout the entire pendency of this lawsuit: In response to legitimate, straightforward questions, she was evasive, non-responsive, and gave self-serving answers calculated to achieve her goals instead of demonstrating a genuine concern for the children's safety." The court continued, "I do not believe the mother's testimony. I do not find her credible nor her witnesses credible." The court said that although mother has worked hard and is currently doing well, "it is very clear from the cross-examination that she is still of a mind that there is not a problem with her mental health issues. And

she has tried to avoid them, downplay them, demonstrate that it's not her fault. It's always something else." The court said, "She doesn't see this as a court of protecting her children. She describes it in terms of, 'I shouldn't be punished. I'm the victim. My children were stolen from me.' . . . This is evidence of her mindset that it's about her. It's not about the children's protection. And she won't admit that the department was correct and the court was correct in removing the children on the three times that they were removed." The court said this indicates that mother lacks insight as to the nature of her illness and its effect on the children.

The court also said that mother's safety plan did not involve calling social workers or the police, because mother knew that doing so would likely get the children taken away again. The court said it was hard to believe the experts had been saying for years that mother would be fine with the children, which was clearly not correct. The court also noted that mother's aggressive conduct resulted in the children's removal from multiple foster placements. The court noted that it would be unusual to move children from monitored visitation directly to full custody, without a period of unmonitored visitation and overnight visits.

The court concluded that a substantial risk remained, and "given the fact that we've already been in a service phase for over two years, there's really no grounds for going out any further for services." The court found that continuing jurisdiction was required, and returning the minors to their parents' care would create a substantial risk of detriment. The court found by clear and convincing evidence that parents were not in compliance with the case plan. The court ordered reunification services to be terminated, and visitation orders to remain as previously

ordered. The court set a section 366.26 hearing, and ordered DCFS to prepare a section 366.26 report and initiate an adoptive home study.

Mother gave notice on September 26, 2017 that she intended to file a writ petition, and she filed the instant petition on December 29, 2017. DCFS filed an answer on January 25, 2018.

### **DISCUSSION**

Section 366.22, subdivision (a)(1) provides that at the 18-month review hearing, “the court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child.”

DCFS has the burden of establishing detriment. (§ 366.22, subd. (a).) “The standard for showing detriment is ‘a fairly high one. It cannot mean merely that the parent in question is less than ideal, did not benefit from the reunification services as much as we might have hoped, or seems less capable than an available foster parent or other family member.’ [Citation.] Rather, the risk of detriment must be substantial, such that returning a child to parental custody represents some danger to the child’s physical or emotional well-being. [Citation.]” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400.)

We review a dependency court’s order terminating reunification services and setting a section 366.26 hearing for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763.)



Mother asserts that “the trial court erred in ignoring the expert testimony and terminating [mother’s] reunification services.” She argues that the court did not cite evidence in support of its decision; instead, “the judge merely stated that he did not believe the experts and relied on his own impressions of [mother’s] me[n]tal fitness.” Mother also contends that the judge “arbitrarily substituted his own judgment” for that of “highly, qualified trained experts who have been treating [mother] for years.”

Mother’s assertions are largely limited to the evidence presented by the witnesses who testified at the section 366.22 hearing. However, in determining the risk of detriment the court is not limited to the testimony at the hearing. To the contrary, the court “shall review and consider the social worker’s report and recommendations [and] shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided. . . .” (§ 366.22, subd. (a)(1).) Here, the judge stated that he considered the extensive record in this case, and the court’s findings are amply supported by that evidence.

Mother asserts that several specific findings are not supported by the evidence. For example, mother contends the court was incorrect in stating that mother suffers from episodes even when taking medication. Mother points to “five bipolar episodes that occurred, respectively, in: 2010, 2012, January 2016, April 2016, and August 2016.” She asserts that each of these episodes occurred when she was either not taking medications at all or while her medications were being adjusted.

However, the record demonstrates that mother has suffered bipolar episodes and concerning behavior at other times as well.

In July 2015, for example, mother was purportedly on her medications when she texted Bakhshizadeh stating that she was terrified of paternal grandfather, and she moved the children into a shelter because she was afraid to be in maternal grandparents' house. Dr. Levi acknowledged that mother had a manic episode in July 2015.

In addition, in the short time period mother had custody of the children—April 2015 to January 2016—mother demonstrated concerning behavior even while purportedly medicated. In May 2015, she took the children for forensic examinations for sexual abuse, even though past examinations showed no evidence of abuse. In August 2015, she made multiple sexual abuse allegations, and Officer Lambarth from the LAPD expressed concern that the children were being coached in making accusations of sexual abuse. In October 2015, A.H. reported to Bakhshizadeh that mother slept with them in their bedroom and barricaded the door with the dresser. Despite all of this, mother testified at the hearing that she “absolutely” was an appropriate parent before the children were detained on January 20, 2016.

Mother's insistence that her episodes are short and occur only when she is off medications or her medications are being adjusted is not supported by the record. Moreover, mother's fixation on alleged sexual abuse of the children even while she was medicated is concerning, especially coupled with mother's testimony at the section 366.22 hearing that she continues to believe the children were sexually abused but she had no recollection of making multiple abuse allegations. This evidence supports a continuing concern for how mother's mental health might affect the children, even while mother is compliant with her medications.

Mother also asserts that the court stated that there was not a sufficient safety plan in place to protect the children. Mother contends that the evidence showed that mother would act appropriately if she had a bipolar episode, because when she had an episode in August 2016 she called her mother and checked herself into the hospital. However, when confronted with evidence that the August 2016 hospitalization was involuntary, mother insisted that it was not true.

Moreover, at the hearing mother referenced her call to police on January 20, 2016 as indicating what she might do if she had a bipolar episode: “I closed the door, and I called the police and that was it.” In fact, mother called police, DCFS, and the children’s school. Importantly, in these calls she never indicated that she was having a bipolar episode and therefore she and the children needed assistance. To the contrary, mother seemed to be oblivious to the fact that she was delusional, and she called police, DCFS, and the school, stating that she and the children were in danger. When the police came, rather than opening the bedroom door, mother went onto the roof to talk to them. Mother’s failure to acknowledge the danger she posed to the children—even more than a year and a half later, while fully medicated and after intensive therapy with Dr. Levi and others—shows that mother is unable to realistically recognize the gravity of her mental illness and the effect it has on her children’s lives.

In addition, mother said part of the safety plan was for mother to call maternal grandparents if mother were to experience issues. However, maternal grandmother made clear that she is unable to recognize when mother is having a bipolar episode. In April 2016, when mother was posting Facebook videos about DCFS stealing her children and maternal

grandparents being clones, maternal grandmother said she thought mother was only kidding and she was not manic. Mother was hospitalized the following day.

In addition, the court correctly expressed concern that mother's safety plan did not involve calling a social worker, DCFS, or the police. Mother testified that she felt she was wronged by having the children removed from her care, and that none of the detentions were justified, despite the sustained petitions involving the children. Mother's distrust of authority with respect to her children therefore also supports the court's conclusion that the purported safety plan did not ameliorate a risk of detriment to the children.

Mother asserts that the court further erred by finding that she was not in compliance with the case plan. Mother states that she was never late for her visits, she was on her prescribed medications, and she maintained regular appointments with her therapist. As mother acknowledges, "Compliance with the reunification plan is certainly a pertinent consideration at the section 366.22 hearing; however, it is not the sole concern before the dependency court judge." (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 704.) In cases like this one, where the parent has complied with parts of the case plan, "[t]he problem is not, as it were, quantitative (that is, showing up for counseling or therapy or parenting classes . . . ) but qualitative (that is, whether the counseling, therapy or parenting classes are doing any good)." (*Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, 1748.) Even assuming that mother had been in full compliance with the case plan, therefore, returning the children to her custody would not be warranted because mother has not demonstrated that she has gained insight into the issues that

resulted in the detention or how to address those issues in order to best protect the children.

Mother also contends that her witnesses' testimony compels a conclusion that she did not pose a risk of harm to the children. The court found mother and her witnesses not credible. This finding was supported by the record. Mother's inability to acknowledge her role in the children's detention is discussed above. Dr. Dupée testified that mother was stable, but she had never met the children and had never witnessed mother interact with them. Dr. Levi also testified that mother was stable, but almost all of the letters in the record from Dr. Levi going back to 2013, state that mother is stable and capable of parenting the children. Indeed, in a letter dated August 15, 2016, Dr. Levi said mother was stable and exhibited "normal functioning"; mother was hospitalized a week later. Furthermore, several of Levi's letters insist that mother never abused or neglected the children, when in fact allegations against mother have been sustained on multiple occasions.

Mother also points to the statements by visitation monitor Ms. Block, who testified that she had observed the children and mother in monitored visitation for three hours per visit, three visits per week, for 27 weeks. Mother argues in her petition that "[t]his is clearly a significant amount of observation time," and therefore "[t]he evidence from Ms. Block's observation of [mother's] visits with the children supports granting custody" to mother. However, Block's testimony does not match the evidence. DCFS records show that DCFS approved Block as a monitor in July 2017. Even assuming Block began monitoring visitation at the very beginning of July 2017, the section 366.22 hearing was held on September 14 and 15, 2017—12 weeks later.

In sum, the court's finding that mother's witnesses were not credible is supported by substantial evidence.

Finally, mother contends that the court erred by expressing concern about an immediate transition from monitored visitation to full custody. Mother argues that "to deny a parent custody and terminate her reunification services merely because DCFS has chosen not to extend the parent's visitation beyond a particular limit would improperly abdicate the trial court[s] authority in favor of the various child service agencies." However, throughout the case, mother sought multiple changes in orders seeking to regain custody, and each time the court found that doing so would not be in the children's best interests. The court did not cede its decision-making ability to DCFS in this case.

Overall, the court's findings are supported by substantial evidence. Mental illness is a complicated, challenging issue, especially with a parent such as mother, who clearly loves and cherishes her children. However, the record makes clear that over the course of the children's short lives, mother has been unable to be appropriate as a parent. She has seriously damaged the children's relationships with their grandparents through accusations, paranoia, and delusions. She has undermined the children's stability with aggression and accusations toward the foster families who have cared for the children, causing the children to be re-placed multiple times. Mother has subjected the children to physical intrusion, forcing them to undergo multiple forensic physical examinations and repeated questioning about sexual issues, none of which have revealed evidence of sexual abuse. She has barricaded herself in a bedroom based on unreasonable fear, forcing G.H. to urinate on the floor because she could not get to a bathroom. Even though A.H. told the social

worker about these conditions, mother testified at the hearing that the children did not even know about them because they were sleeping. Throughout this case, mother has never demonstrated insight into how any of her actions might have been detrimental to the children. The court's order finding that returning custody to mother would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the children is amply supported by substantial evidence.

### **DISPOSITION**

The petition for extraordinary writ is denied on the merits. The stay entered on January 3, 2018 is lifted. The decision is final in this court immediately. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

COLLINS, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.