Filed 8/8/17 In re K.R. CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re K.R, a Person Coming Under the Juvenile Court Law.	B277290 (Los Angeles County Super. Ct. No. CK54501)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. K.R., Defendant and Appellant.	

APPEAL from orders of the Superior Court of Los Angeles County, Stephen C. Marpet, Temporary Judge. (Pursuant to Cal. Const., art. VI, §21.) Affirmed.

Daniel G. Rooney, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Peter Ferrera, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

K.R. (mother) appeals from jurisdiction findings and disposition orders made pursuant to Welfare and Institutions Code[1] section 300 removing her then-three-year-old daughter, K.R., from her custody and denying reunification services. Mother contends the court placed undue weight on her history of drug use and prior loss of custody of her other children, and failed to consider the lack of evidence of any current risk of harm to K.R., as well as evidence of her efforts at rehabilitation. As such, mother contends the court erred in sustaining the jurisdictional allegations against her and in denying reunification services. We disagree and affirm.

FACTS AND PROCEDURAL BACKGROUND

A. *Family Background*

K.R., born in 2012, is the youngest of mother's four children. The dependency court previously sustained the following allegations as to mother's three older children, J.S., R.S., Jr., and S.S.[2]: Both J.S. and mother tested positive for

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

[2] Only K.R. is the subject of this appeal. Neither her father, M.M. (father), nor R.S., the father of K.R.'s maternal half-siblings, are parties to this appeal. We therefore provide only limited background as to the allegations and findings concerning father.

amphetamines when J.S. was born in 2004. Mother then "failed in her attempt to complete a substance abuse rehabilitation program." Mother failed to reunify with J.S., her parental rights were terminated, and J.S. was adopted in 2006.

R.S., Jr. was born in 2005. Shortly thereafter, mother failed to disclose the whereabouts of R.S., Jr. to the Los Angeles County Department of Children and Family Services (DCFS) for over a year and was "living a transient lifestyle with different friends and relatives." The court granted full legal custody to the child's father, R.S., and terminated jurisdiction in 2007.

S.S. was born in 2006. At her birth, both she and mother tested positive for amphetamines. Mother failed to reunify with S.S., her parental rights were terminated, and S.S. was adopted in 2007.

B. ***Initial Detention of K.R. and Section 300 Petition***

K.R. came to the attention of the DCFS in February 2016, based on a report from an officer from the Whittier Police Department. The officer had stopped father at approximately 2:40 a.m. on February 17, 2016, because father was riding a bicycle erratically and without lights. The officer noticed that father's bike was towing a baby trailer, and that K.R. was asleep in the trailer. Father appeared to be under the influence of methamphetamine, and a packet of methamphetamine was discovered in his pocket during a search. Father was arrested and K.R. was placed with father's adult daughter (K.R.'s half-sibling) L.M.

A social worker (CSW) met with mother on February 17, 2016, the morning of K.R.'s detention from father. Mother said she and K.R. spent the night at the home of R.S. after visiting

R.S., Jr. there.[3] Mother stated she told father where she was, but should not have done so. According to mother, father took K.R. while mother was asleep, and mother discovered the child was missing when she woke up that morning. Mother did not call law enforcement; instead, she called around looking for father.

During her meeting with the CSW, mother agreed to submit to drug testing and agreed that K.R. would stay with L.M., and mother would have monitored visitation. Mother stated "she will do what is needed and just wants her daughter back." Mother's drug test on February 17, 2016 was positive for amphetamines and methamphetamines. When asked about these results, mother told the CSW that "I'm not on fucking drugs and that is not true," and claimed the staff at the testing site had mislabeled her sample.

On March 4, 2016, DCFS filed a petition under section 300, subdivisions (b) and (j). In count b-1, the petition alleged that father placed K.R. in a "detrimental and endangering situation" by transporting her unrestrained in the bicycle trailer early in the morning on February 17, 2016, while under the influence of methamphetamine. In count b-2, the petition alleged that father's lengthy history of illicit drug use and current methamphetamine use rendered him unable to care for K.R. and placed the child at risk of physical harm. Count b-3 alleged that mother had a "fifteen year history of substance abuse, including alcohol and marijuana, and is a current user of amphetamines and methamphetamines," and this substance abuse rendered mother incapable of providing for K.R.'s care and supervision, endangered K.R.'s health and safety, and placed K.R. at risk of

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[3] R.S. later denied that mother and K.R. spent the night at his home.

serious physical harm. The petition alleged that mother tested positive for amphetamines and methamphetamines on February 17, 2016. Additionally, two of mother's other children, J.S. and S.S., "received Permanent Placement Services due to the mother's illicit drug use." Finally, count j-1 alleged K.R. was at risk of harm from mother's abuse or neglect of her other children, based on the same allegations set forth in count b-3.

In the detention report, the CSW relayed a conversation she had with L.M. following K.R.'s placement in her home. L.M. stated father had a drug addiction and was not welcome in her home. L.M. denied ever seeing father or mother hit K.R., and denied any knowledge of domestic violence or mental health issues. K.R. appeared happy and was free of marks and bruises.

In an addendum report filed March 4, 2016, DCFS recommended no family reunification services for mother pursuant to section 361.5.

At the detention hearing on March 4, 2016, the court found a prima facie case for detaining K.R. pursuant to section 300, subdivisions (b) and (j). The court ordered continued placement with L.M., with monitored visitation and family reunification services for both parents. The court ordered DCFS to provide referrals to mother for "substance abuse counseling, weekly random drug testing, parenting counseling, individual counseling, etc." The court also cautioned mother that DCFS was recommending no reunification services, "based on the fact you lost your three other children to the department because of failing to comply with reunification." As a result, the court admonished mother that "it behooves you to do everything you can to show this court you're willing to do anything to get your child back which includes getting into an inpatient [substance

abuse] program by the time we come back to court, that's probably your best last hope. . . ."

C. *Adjudication*

DCFS filed the jurisdiction/disposition report on April 27, 2016. DCFS reported that mother remained "uncooperative" in attempts to interview her. The report also detailed mother's and father's lengthy history with substance abuse, criminal history (also largely related to substance abuse), and mother's loss of custody of her three older children due to substance abuse. L.M. reported that mother had been visiting K.R. three to four times a week and the visits were going well. According to L.M., mother stated she did not want to go into a residential treatment program because she did not "like the environment" and it "was not good for her." Mother did not provide proof to DCFS of enrollment in any substance abuse counseling program, but she did provide sign in sheets for Narcotics Anonymous meetings. Mother's drug test on March 15, 2016 was negative.

After multiple requests by DCFS, mother agreed to an interview on April 22, 2016. DCFS detailed that interview in a separate addendum report. Mother reiterated to the dependency investigator (DI) that she and K.R. were sleeping at R.S.'s home on the night of February 16, 2016. She denied taking any substances before going to sleep and stated she was "not under the influence of anything" the morning of February 17. She denied currently using drugs and stated that her positive drug test from that date "was either not mine or it was false positive." Mother stated that the bicycle and trailer used by father were hers, but she did not notice them missing until a few days later.

During her interview, mother repeatedly stated that "my attorney told me not to answer any questions about my

allegations and I just need to go." However, mother then continued to discuss the case and answer additional questions. Mother stated she submitted to drug testing "last week." However, the DI reported mother had been a no-show for drug tests on April 5 and April 18, 2016. Mother claimed she went to the testing site on April 8 but was unable to test because the site was holding an "HIV ceremony." Mother stated she returned to the testing site on April 11, but again was unable to test because her "name was not on the list." According to DCFS, mother called from the testing site on April 5 and said she could not provide the urine sample due to bladder problems. The CSW told mother to wait and warned her that failure to do so would result in a no-show report. Subsequently, the CSW received a letter from mother's doctor dated April 6, 2016, stating that mother had a condition "that complicates her ability to control her urine at this time" and that she had been referred to a urologist.

The DI asked mother during her interview about enrolling in a substance abuse program and reminded mother of the prior discussion she had on this topic with the court. Mother "started crying and stated, [T]here is no reason for me to enroll in a residential treatment program, when I'[m] not using drugs. I attend [Narcotics Anonymous] meetings 3-4 times a week." Mother confirmed she had received counseling referrals from DCFS. The DI concluded that mother "appears to be in denial about her substance abuse problems. She does not acknowledge the problems that led to the filing of the petition and she also does not take responsibility for her own action." Because of her no-show reports in April, mother had not submitted to a drug test since March 15, 2016 and had not enrolled in a substance treatment program. DCFS concluded that mother "appears to be

unwilling to cooperat[e] with DCFS recommendation[s] or comply with court orders to enroll in a drug treatment program. In addition, the mother is not showing any efforts to comply" because she refuses to submit to "random drug testing on a regular basis." DCFS recommended no family reunification services for mother pursuant to section 361.5, subdivisions (b)(10), (11), and (13).

DCFS filed a last minute information on May 18, 2016, reporting that mother continued to visit K.R. regularly and the visits appeared to be going well. However, mother still had not provided DCFS with proof of enrollment in any counseling programs. DCFS also reported that mother tested negative for drugs on May 3, 2016.

On May 18, 2016, the court continued the scheduled adjudication and disposition hearing to allow DCFS more time to interview father and submit additional information regarding any progress by either parent "in their programs and visits." DCFS filed an interim review report on June 16, 2016, detailing an interview with father conducted May 20, 2016. Father confirmed that mother and K.R. were asleep at R.S.'s home on February 16, 2016 when he picked up K.R. Father left with K.R. and did not inform mother he was taking the child. He admitted to smoking methamphetamine earlier that day but denied drug use in K.R.'s presence. Father stated he might have used drugs with mother before she became pregnant with K.R., but never since. He denied knowledge of drug use by mother and was adamant that mother had not used any drugs since K.R. was born.

The CSW reported that mother refused to meet with her in May 2016 because DCFS had recommended denial of

reunification services. Mother had not submitted any proof of enrollment in counseling, but she did submit sign-in sheets from a New Directions program. The program director at New Directions stated on June 15, 2016 that mother "used to attend" parenting classes but "is not active right now" and had not attended class for the past two months. Mother's submitted forms showed attendance at five parenting classes between February and April, 2016. She also submitted a proof of attendance sheet for 31 "self-help meetings" with Narcotics Anonymous between March and June, 2016. Since the last court hearing, mother had a negative drug test result on May 27, 2016 and no-shows on May 23, June 3, and June 6, 2016. DCFS maintained its recommendation to deny family reunification services to both parents.

Mother submitted exhibits to the court including her parenting and Narcotics Anonymous attendance sheets and her doctor's letter from April, 2016. She also submitted two additional drug test reports, taken at a different testing facility, showing negative test results on February 19 and 26, 2016.

At the adjudication hearing on June 16, 2016, counsel for DCFS and counsel for K.R. argued that the counts against mother should be sustained as alleged. Both counsel pointed to mother's longstanding substance abuse issues, and argued that her recent failed drug test, failure to submit to regular random drug testing, and failure to enroll in a substance abuse program suggested mother continued to have problems with drug use. Mother's counsel acknowledged her positive drug test on February 17, 2016, but noted that mother subsequently tested clean twice within ten days of that result, and had additional clean tests on March 5 and May 27, 2016. He also argued there

was no other evidence to show drug use by mother subsequent to K.R.'s birth.

The court sustained the petition. Turning to disposition, the court received mother's exhibits into evidence. DCFS recommended no reunification services for either parent and counsel for K.R. agreed. The court asked mother whether she was currently enrolled in a drug program and she confirmed that she was not, but that she attended Narcotics Anonymous meetings.

The court found by clear and convincing evidence that "there is a substantial danger to the minor's physical and mental well-being. There is no reasonable means to protect without removal." Over mother's counsel's objection, the court found mother was not entitled to family reunification services pursuant to section 361.5, subdivisions (b)(10), (11), and (13). The court told mother that "I can't ignore a positive test this February and a long history that you have with regard to the abuse of drugs and your failure to enroll in a drug program between the time this case came in . . . and today." The court further stated to mother, "even though I didn't give you reunification services today, this case will continue, at least, for the next six months so if you have any intent to get this child back in your life, you show me by getting involved in a drug program and comply with these orders." The court told mother that if she complied, it would consider modifying its order.

Mother filed a timely notice of appeal.

DISCUSSION

A. *Justiciability*

Mother acknowledges that we are not required to reach the merits of her jurisdictional challenge, as the dependency court

will maintain jurisdiction over K.R. based on the unchallenged findings regarding father. "[A] jurisdictional finding good against one parent is good against both" because dependency jurisdiction attaches to the child, not the parents. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) However, she urges us to exercise our discretion to review the sustained allegations in counts b-3 and j-1. We generally will reach the merits of a challenge to a jurisdictional finding where the finding "(1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) 'could have other consequences for [the appellant], beyond jurisdiction' [Citation]." (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763 (*Drake M.*); see also *In re D.C.* (2011) 195 Cal.App.4th 1010, 1015; *In re Anthony G.* (2011) 194 Cal.App.4th 1060, 1064-1065.) Here, mother contends, and DCFS does not dispute, that the jurisdictional findings related to her drug use serve as the basis for the dispositional order denying her reunification services, which she also challenges on appeal. We accordingly exercise our discretion in favor of considering mother's claims on the merits.

B. *Jurisdiction*

Mother contends substantial evidence did not support the dependency court's conclusion that K.R. was at substantial risk of harm from her drug abuse history or current use. We disagree.

We review the dependency court's jurisdictional findings and order for substantial evidence. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966; *In re R.C.* (2012) 210 Cal.App.4th 930, 940.) Under this standard, "[w]e review the record to determine

whether there is any substantial evidence to support the juvenile court's conclusions, and we resolve all conflicts and make all reasonable inferences from the evidence to uphold the court's orders, if possible." (*In re David M.* (2005) 134 Cal.App.4th 822, 828.) If a dependency petition enumerates multiple statutory bases on which a child is alleged to fall within the court's jurisdiction, we may affirm a finding that jurisdiction exists if any one of those statutory bases is supported by substantial evidence; in such a case, we need not consider whether other alleged jurisdictional grounds also enjoy substantial evidentiary support. (*Drake M.*, *supra*, 211 Cal.App.4th at pp.762-763; *D.M. v. Superior Court* (2009) 173 Cal.App.4th 1117, 1127.)

Section 300, subdivision (b) permits the assertion of jurisdiction where "the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child . . . or by the inability of the parent . . . to provide regular care for the child due to the parent's . . . substance abuse." Where the child has not suffered actual harm, the evidence must establish "'that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm. . . .' [Citation.]" (*In re A.G.* (2013) 220 Cal.App.4th 675, 683.) Under section 300, subdivision (j), the court may assert dependency jurisdiction where "[t]he child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions."

"Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1396;

In re Rocco M. (1991) 1 Cal.App.4th 814, 824), the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. (*In re N.M.* (2011) 197 Cal.App.4th 159, 165.) The court may consider past events in deciding whether a child currently needs the court's protection. (*Ibid.*) A parent's "'[p]ast conduct may be probative of current conditions" if there is reason to believe that the conduct will continue.' (*In re S.O.* (2002) 103 Cal.App.4th 453, 461; accord, *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216 [(*Christopher R.*)].)" (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383–1384.)

In addition, assertion of jurisdiction is warranted where the child is "of such tender years that the absence of adequate supervision and care poses an inherent risk to [his or her] physical health and safety." (*In re Rocco M., supra,* 1 Cal.App.4th at p. 824; accord, *Christopher R., supra*, 225 Cal.App.4th at p. 1216.) Moreover, for such a child, "'the finding of substance abuse is prima facie evidence of the inability of a parent or guardian to provide regular care resulting in a substantial risk of harm.'" (*Christopher R., supra*, 225 Cal.App.4th at p. 1219; see also *Drake M., supra*, 211 Cal.App.4th at p. 767.)

Thus, because K.R. was only three years old at the time of her detention, a finding of substance abuse by mother was prima facie evidence that K.R. was subject to a substantial risk of harm. Mother does not dispute the finding that she engaged in substance abuse. Rather, she argues that under *Drake M.*, the fact that a child is of "tender years" does not "dispense with the necessity of 'evidence of a specific, defined risk of harm,' ([*Drake M., supra*, 211 Cal.App.4th] at [p.] 769)" and that such risk of

physical harm "cannot be presumed from a parent's substance use, or even abuse." This misreads the holding of *Drake M.*, particularly the distinction between "abuse" and "use."

In *Drake M.*, the Court of Appeal reversed a jurisdictional finding based on a father's use of medical marijuana. (*Drake M.*, *supra*, 211 Cal.App.4th at pp. 757-758.) The court first distinguished between substance "use" and substance "abuse," noting that "jurisdiction based on 'the inability of the parent or guardian to provide regular care for the child due to the parent's . . . substance abuse,' must necessarily include a finding that the parent at issue is a substance *abuser*. (§ 300, subd. (b).)" (*Id*. at p. 764.) Where the court makes a finding of substance abuse in cases involving a child of tender years, that finding constitutes prima facie evidence that, alone, would support jurisdiction. (*Id*. at p. 767 ["At the time of the hearing, Drake was only 14 months old. DCFS needed only to produce sufficient evidence that father was a substance abuser in order for dependency jurisdiction to be properly found."].) In *Drake M.*, however, there was insufficient evidence to support a finding of substance abuse. (*Ibid*.) Accordingly, the court proceeded to consider whether jurisdiction was supported based on the father's marijuana *use*, noting that in such a case, the evidence of drug use must be coupled with evidence of "'a specific, defined risk of harm.'" (*Id*. at pp. 768-769 [citation omitted].)

Here, the dependency court properly based jurisdiction on evidence that K.R. was a child of tender years and that mother had struggled with substance abuse over the course of many years, resulting in the loss of custody of her three other children. Mother's citations to cases discussing mere drug use, or involving older children, are inapposite. (See *Drake M., supra*, 211

Cal.App.4th at p. 769; *In re Rebecca C.* (2014) 228 Cal.App.4th 720. 727 [no evidence that mother's methamphetamine abuse caused a substantial risk of harm to teenaged child].)

In addition, we disagree with mother's assertion that the court relied solely on her "past conduct" and did not identify evidence of a current risk to K.R. based on continued drug abuse. This argument ignores mother's recent positive drug test, her multiple no-show reports,[4] her excuses regarding those tests, her refusal to enroll in a drug treatment program despite the court's repeated warnings that her ability to reunify with her child was dependent upon it, and her past experience losing three other children for similar conduct. In sum, the record demonstrates substantial evidence supporting the allegations that mother continued to suffer from a substance abuse problem that she refused to treat seriously. (See, e.g., *In re Kadence P., supra*, 241 Cal.App.4th at p. 1384 ["'The provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child. Successful participation in a treatment program for substance abuse may be considered in evaluating the home environment.' (§ 300.2.)"].) Mother highlights evidence that could support a contrary inference, including the lack of testimony by any family members that she was currently using drugs, her negative test results, and her positive interactions with K.R. But we do not reweigh the evidence or overturn a lower court's finding that was based on substantial evidence. (See *Drake M., supra*, 211 Cal. App.4th at p. 766 ["the trial court

[4] While the court did not expressly do so, it was entitled to treat the no-show reports as equivalent to positive results. (See *Christopher R., supra*, 225 Cal.App.4th at p. 1217)

is in the best position to determine the degree to which a child is at risk based on an assessment of all the relevant factors in each case"].)

Under these circumstances, we conclude that the dependency court's finding of jurisdiction under section 300, subdivision (b) was supported by substantial evidence.

C. *Disposition*

Mother also challenges the dependency court's order denying her reunification services pursuant to section 361.5, subdivisions (b)(10), (11), and (13).

When a minor is removed from parental custody, the court must provide services designed to reunify the family unless one of several statutory exceptions applies, including the so-called "bypass provisions" of section 361.5, subdivisions (b)(10), (11), and (13). (*Tyrone W. v. Superior Court* (2007) 151 Cal.App.4th 839, 845.) Under section 361.5, subdivision (b)(10), services may be denied if the court finds by clear and convincing evidence that reunification services for a sibling were terminated because the parent failed to reunify with that sibling and the parent has not subsequently made a reasonable effort to treat the problems that led to the sibling's removal. Similarly, section 361.5, subdivision (b)(11), provides for denial of services when parental rights to a sibling have been terminated and the parent has not subsequently made a reasonable effort to treat the problems that led to the sibling's removal. Finally, a court may deny services pursuant to section 361.5, subdivision (b)(13), where a parent "has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's

attention." We review an order denying reunification services for substantial evidence. (*Cheryl P. v. Superior Court* (2006) 139 Cal.App.4th 87, 96.)

Mother does not dispute that she falls within the first part of section 361.5, subdivisions (b)(10) and (b)(11), based on her failure to reunify with two of K.R.'s half-siblings and her ultimate loss of parental rights over those children. Instead, she asserts that the court failed to make an express finding under the second prong, based on clear and convincing evidence, that she had not made a reasonable effort to treat her substance abuse problems. She also argues that the court could not have made such a finding, because the evidence established she "had in fact made a 'reasonable effort' to treat her problem with amphetamine and methamphetamine."

We disagree with mother's contention that the court failed to make the required findings on the record. The court expressly cited the clear and convincing standard when considering its dispositional orders. The court then found denial of services was warranted based on mother's recent positive drug test and her failure to enroll in a treatment program in the months between detention and disposition, despite warnings from the court. These findings support the court's application of section 361.5, subdivisions (b)(10) and (11).

We also reject mother's contention that there is insufficient evidence to support the court's conclusion that she failed to make reasonable efforts to treat her drug problem. As mother points out, the "'reasonable effort to treat' standard 'is not synonymous with "cure."' [Citation.] The statute provides a 'parent who has worked toward correcting his or her problems an opportunity to have that fact taken into consideration in subsequent

proceedings.'" (*K.C. v. Superior Court* (2010) 182 Cal.App.4th 1388, 1393.) However, "[w]e do not read the 'reasonable effort' language in the bypass provisions to mean that any effort by a parent, even if clearly genuine, to address the problems leading to removal will constitute a reasonable effort and as such render these provisions inapplicable. It is certainly appropriate for the juvenile court to consider the duration, extent and context of the parent's efforts, as well as any other factors relating to the quality and quantity of those efforts, when evaluating the effort for reasonableness. And while the degree of progress is not the focus of the inquiry, a parent's progress, or lack of progress, both in the short and long term, may be considered to the extent it bears on the reasonableness of the effort made." (*R.T. v. Superior Court* (2012) 202 Cal.App.4th 908, 914.)

Here, the record shows the dependency court properly considered the extent and context of mother's efforts, rather than placing an undue focus on the outcome of those efforts. Indeed, the court's repeated remarks to mother at each hearing make clear that the court would reconsider its order based on *any* progress by mother toward enrollment in a drug treatment program. Conversely, the court was entitled to weigh the lack of such progress in the face of explicit warnings by DCFS and the court, coupled with mother's positive and missed drug tests, in determining mother had not made reasonable efforts to treat her drug problem. (See *Francisco G. v. Superior Court* (2001) 91 Cal.App.4th 586, 601; cf. *Cheryl P. v. Superior Court, supra*, 139 Cal.App.4th at p. 98 [although parents resisted services at times, they complied with case plans and showed progress].) Substantial evidence supports this finding. Because we conclude that the court properly denied mother services under section

361.5, subdivisions (b)(10) and (11), we need not reach the same issue under subdivision (b)(13).

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.