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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

ARRIANNA G., Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Real Party in Interest.	No. B244486 (Los Angeles County Super. Ct. No. CK79445)

ORIGINAL PROCEEDING. Petition for extraordinary writ. (Cal. Rules of Court, rule 8.452.) Anthony Trendacosta, Juvenile Court Commissioner. Petition denied.

Children's Law Center of Los Angeles, Ronnie Cheung and Alyse Bloomfield for Petitioner.

No appearance for Respondent.

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

Children's Law Center, Charles Aghoian and Deborah Robinson for Minors Alyssa B. and Bobby B., Jr.

Arrianna G. (mother) has filed a petition for extraordinary writ (Cal. Rules of Court, rule 8.452), challenging orders issued by the juvenile court terminating family reunification services with minors Alyssa B. (Alyssa) and Bobby B., Jr. (Bobby), and setting a hearing pursuant to Welfare and Institutions Code section 366.26[1] to consider the termination of parental rights. Mother contends substantial evidence does not support the challenged orders. Minors' counsel has joined in the arguments raised by mother in her petition. We have reviewed the record in the light most favorable to the findings of the juvenile court, and conclude that substantial evidence supports the challenged orders. Accordingly, we deny mother's petition.

BACKGROUND

1. Mother's history with the Los Angeles County Department of Children and Family Services (DCFS)

Mother, born in June 1994, has been a dependent of the juvenile court since 2006. Mother has given birth to three children as a minor: Crystal B. (Crystal) (born in October 2009), Alyssa (born in April 2011), and Bobby (born in April 2012).[2]

In late 2009, DCFS detained Crystal based on allegations that mother had a history of chronic runaway behavior, and that mother and father had a history of domestic violence. After a period of attempted reunification, during which mother continued to run away from foster care and failed to visit with Crystal on a regular basis, the juvenile

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

[2] Bobby B. (Sr.) is the father of the three children. He is not a party to the present petition. We refer to him as "father" and reference him only when necessary to provide a complete account of the factual background.

court terminated mother's parental rights over Crystal. This court affirmed the termination order in a nonpublished opinion issued earlier this year. (*Los Angeles County Dept. of Children & Family Services v. Arriana G*. (July 2, 2012, B237590 [nonpub. opn.].) [3]

2. Section 300 petition and detention hearing as to Alyssa

Shortly after mother gave birth to Alyssa, mother entered into a Voluntary Family Maintenance (VFM) contract wherein she agreed to participate in parenting classes and individual counseling to address case issues, including domestic violence, grief regarding mother's own parents, and managing emotions. Under the VFM contract, mother promised to remain in placement, refrain from running away with Alyssa (referred to sometimes as "AWOLing" in the record), and cooperate with DCFS.

On October 21, 2011, when Alyssa was approximately five months old, DCFS filed a section 300 petition on her behalf. The petition alleged that mother had a history of chronic runaway behavior and had recently engaged in a violent altercation with Alyssa's paternal aunt in the presence of Alyssa.[4] The detention report filed in conjunction with the section 300 petition reported that mother, who was staying in the same foster home as Alyssa, had run away with Alyssa and that their whereabouts were unknown as of October 17, 2011. At the detention hearing, the juvenile court found that a prima facie case existed for detaining Alyssa under section 300 and issued a protective custody warrant over her.

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[3] DCFS has requested that we take judicial notice of our opinion in that case. We grant DCFS's request pursuant to Evidence Code section 452, subdivision (d) as a record of a court of this state. Also, we note that in case number B237590, mother's name was spelled "Arriana" and not "Arrianna" or "Adriana" as it is in this present case. There is no dispute, however, that both cases concern the same individual.

[4] DCFS later amended the petition to include an allegation that mother and father had an unresolved history of domestic violence, and that Alyssa's older sibling, Crystal, had received permanent placement services due to the domestic violence between mother and father.

Mother's and Alyssa's whereabouts continued to remain unknown to DCFS and their foster caretakers for two weeks. On November 2, 2011, father called the case social worker (CSW), informed the CSW that mother had contacted him, and reported that he had plans to meet with mother and Alyssa at an eatery later that day. The CSW arrived at the eatery and confronted mother about her runaway status. Mother was surprised to see the CSW and angry with father for reporting her whereabouts. In the presence of the CSW, mother stated to father: "I'm going to file charges on you for hitting me last time. I didn't even want to do anything against you." The CSW took Alyssa, who appeared healthy, well groomed, and appropriately dressed at the time, into protective custody.

The juvenile court detained Alyssa in shelter care, ordered that mother participate in hands-on parenting classes and counseling, and permitted mother to have monitored visits with Alyssa at least three times a week.

3. Jurisdiction/disposition report and hearing as to Alyssa

DCFS filed its jurisdiction/disposition report as to Alyssa on December 6, 2011. The report contained the following information:

In mid-November 2011, mother went to the hospital because "[s]ome guy hit [her]." The hospital called the South Gate Police Department to report the assault. A police officer interviewed mother at the hospital. During the interview, mother gave conflicting statements about how she was injured. After learning that mother had an outstanding "no bail" juvenile warrant, the officer transported mother to juvenile hall. When a CSW interviewed mother at juvenile hall, the CSW observed that mother had two black eyes, and that the whites of her left eye were completely masked by blood. During the interview, mother was very evasive and curt when it came to questions about domestic violence with father. She did not want to discuss the topic other than to deny that father had ever hit her.

Mother's probation officer confirmed that mother had been on probation since January 2011 for taking someone's car without permission, and that her expected release date from probation was January 10, 2012. The probation officer stated to DCFS that

although mother had never acknowledged a history of domestic violence with father, the probation officer was nevertheless concerned about mother's safety because mother consistently returned from being AWOL from foster care with physical injuries. The probation officer recommended placement in a camp where it would be more difficult for mother to leave without authorization.

Mother's most recent foster caretaker reported that mother had been "doing okay" until father's release from prison in September 2011. Since father's release, mother had run away from foster care on multiple occasions to be with father. Although the foster caretaker had no knowledge of physical violence between mother and father, she stated that they "fought a lot."

Alyssa was examined and it appeared that she was developmentally on track and exhibited age appropriate behavior. Alyssa's foster parents (Mr. and Mrs. G.) had met all of Alyssa's medical needs to date, including taking her to medical appointments and immunizations.

In an addendum report, DCFS reported that mother had been declared a ward of the court pursuant to section 602 in early January 2012. Mother was placed in a group home under supervision by the probation department.

At the jurisdiction/disposition hearing, which took place on January 12, 2012, the juvenile court declared Alyssa a dependent of the court and sustained allegations that mother had placed Alyssa in a detrimental and endangering situation by engaging in runaway behavior with Alyssa, by participating in a physical altercation with Alyssa's paternal aunt, and by exposing her to an unresolved history of domestic violence between mother and father.

The juvenile court ordered that mother comply with the terms of her probation, enroll in hands-on parenting class, and participate in a program of individual counseling that addressed domestic violence, runaway behavior, and the effect of those issues on Alyssa. As to visitation, the court ordered that DCFS hold a team decision meeting to work out a written visitation plan for mother. The juvenile court identified July 12, 2012,

as the likely date by which Alyssa would either return to mother's custody or permanently placed elsewhere, either through adoption or some other permanent living arrangement.

4. Mother's arrest for grand theft auto, assault with a deadly weapon, and receiving stolen property

Mother immediately disregarded the orders issued by the juvenile court at the jurisdictional hearing and violated probation by failing to report to her group home. Because mother was again a runaway whose whereabouts were unknown, DCFS could not work with her to enroll her in parenting class or individual counseling, or to establish a visitation schedule with Alyssa. Mother remained AWOL for almost two weeks, i.e., from January 12 until January 25.

On January 26, 2012, DCFS learned of mother's whereabouts after mother was arrested for grand theft auto, assault with a deadly weapon, and receiving stolen property.

Two days before her arrest, mother, who was pregnant with Bobby at the time, went with father to a doctor's office. As they were leaving the office parking lot, father saw a Honda Civic that he wanted to steal. Father instructed mother to get in father's car (a Ford Explorer) and wait for him to steal the Civic. Mother agreed. After father emerged driving the Civic, mother followed him out of the parking lot in the Explorer. As they stopped at a red light, the owner of the stolen Civic ran up to the vehicle and jumped on its hood. Father sped away with the owner on the hood, and mother followed in pursuit. At one point, the owner slid off the hood and was dragged some distance by father. The owner eventually lost his grip and fell to the street. According to the owner, mother bore down on him in the Explorer and would have run over him had he not rolled out of the way. Mother claimed, however, that she was simply trying to keep up with father and had no intention of running over the owner of the stolen vehicle. Mother explained that she and father were hoping to sell the stereo, amplifier, and speakers in the Civic for "some quick cash."

Mother was arrested for grand theft auto, assault with a deadly weapon, and receiving stolen property. She was charged with one felony count of grand theft auto. On February 22, 2012, the count was found true and mother was sentenced to nine months in community camp placement. Because mother was pregnant, however, and could not receive medical clearance for camp placement, she remained in probation custody at Central Juvenile Hall.

5. Mother's participation in reunification services

Between late January and mid-March 2012, mother was transferred between the Central Juvenile Hall and Los Padrinos Juvenile Hall. During this time period, mother did not have access to any parenting classes or counseling. On March 15, 2012, mother was transferred to the Elite Family Unit[5] at Central Juvenile Hall. While at the Elite Family Unit, mother enrolled in parenting classes and commenced individual therapy with a psychiatric social worker. The unit's coordinator explained that as long as mother remained in the Elite Family Unit, she could '"see the therapist as much as she need[ed] to."' The coordinator remarked that her "concern with [mother] is that she doesn't seem to accept responsibility for her actions. She is blaming her consequences on everyone else."

Around the same time that mother was accepted into the Elite Family Unit, DCFS established a visitation schedule that permitted mother to visit with Alyssa every first and last Saturday of each month. The visitation plan, however, was "contingent" on mother remaining in the Elite Family Unit and maintaining progress in her parenting classes and counseling. As of late March 2012, mother had visited with Alyssa two times with no concerns reported about the nature of mother's visits with Alyssa.

On April 11, 2012, a detention service officer at the Elite Family Unit wrote a letter on mother's behalf. According to the officer, mother was enrolled in parenting classes and counseling, displayed a positive attitude toward her peers and staff members,

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[5] The Elite Family Unit (sometimes referred to as "EFU") is a specialized unit to house minors who are both dependents and wards of the juvenile court. (See § 241.1)

and appeared '"determined and willing"' to do what was required to regain custody of her children.

6. Bobby's birth and mother's expulsion from the Elite Family Unit

In April 2012, mother gave premature birth to Bobby. Bobby was born approximately 26 to 27 weeks in gestation, and was diagnosed as "pre-term" with a "cerebella[r] hemorrhage." Bobby was placed in the neo-natal intensive care unit for the time being.

In early May 2012, mother was moved from the Elite Family Unit to Camp Scott to begin her nine-month community camp term. At the time, mother did not have access to parenting classes or counseling at Camp Scott. A probation officer explained that mother would have access to these services in transitional living once she was done with her camp term.

In early June 2012, mother was transferred back to the Elite Family Unit so that she could pump breast milk for Bobby, who continued to experience health issues due to his premature status. While in the Elite Family Unit, mother was permitted to visit with Bobby. Mother's time in the Elite Family Unit, however, was short lived. On June 12, the unit's detention services officer (the same officer who had written the positive letter for mother just months before) contacted DCFS to report that mother had been expelled from the unit. According to the officer, mother had instigated a racially motivated incident over the weekend that led to a fight between other minors in the unit. Mother then became "extremely disrespectful and defiant with staff." When staff members reminded mother that she was at the Elite Family Unit to provide Bobby with the health benefits of her breast milk, mother quipped that she no longer wanted to provide Bobby with breast milk and that she wanted to return to community camp so that she could finish her term there. The officer reported to DCFS:

"[Mother's] negative attitude toward her peers and staff as well as her disregard for her baby's health have totally disappointed the staff here in the Elite Family Unit. As a team we have all gone above and beyond to accommodate this minor's needs.

However, we cannot tolerate this type of behavior at EFU. It creates a negative unit tone and poses a threat to the safety and security of the other minors as well as staff."

Mother was transferred back to Camp Scott. When asked about the reasons why she was expelled from the Elite Family Unit, mother maintained: "Some girl got into a fight with another girl and they blamed it on me."

7. Section 300 petition and detention hearing as to Bobby

On June 25, 2012, DCFS filed a section 300 petition on behalf of Bobby, who was two months old at the time. The petition alleged that mother had engaged in runaway behavior with Bobby's siblings, that mother had participated in an altercation with Bobby's paternal aunt in the presence of a sibling (Alyssa), and that mother and father had an unresolved history of domestic violence. The detention report filed in conjunction with the section 300 petition stated that once Bobby was released from the hospital, he would require medical equipment at home, follow-up visits to the high risk infant clinic every two weeks, and additional appointments at the pulmonary clinic.

At the detention hearing, the juvenile court found that a prima facie case existed for detaining Bobby under section 300 and placed him in hospital/shelter care with temporary custody vested with DCFS.

8. Six-month status review report as to Alyssa

In its six-month status review report, filed July 12, 2012, DCFS reported that Alyssa continued to thrive in the home of her foster parents and that she was meeting all of her developmental thresholds. Alyssa's foster parents had expressed an interest in adopting Alyssa. DCFS completed an adoption assessment with a positive recommendation for adoption.

Meanwhile, mother continued her term at Camp Scott. A probation officer reported that mother was cooperative and had not been in any altercations since returning to the camp. During an interview with the CSW, mother maintained that father did not present a negative influence on her life choices. Mother stated: '"He (father) does not

make me do anything. I make my own choices, and I chose to do that (steal a car). It is not his (father) fault."'

DCFS conducted a safety assessment and determined that Alyssa would be at "a very high risk level" of harm if returned to mother's custody. It recommended that the juvenile court terminate reunification services for mother and order permanent placement services for Alyssa.

9. Jurisdiction/disposition as to Bobby; termination of reunification services as to Alyssa and Bobby.

In conjunction with its six-month status review report as to Alyssa, DCFS filed its jurisdiction/disposition report as to Bobby on July 12, 2012. The report contained the following information:

Bobby remained in the neo-natal intensive care unit at the hospital where he was placed. Upon his discharge, Bobby would require an oxygen machine, a "medically fragile placement," follow-up medical appointments, eye examinations, and a Regional Center referral.

The CSW interviewed mother in early July 2012 while she was at Camp Scott. Mother reported that she was participating in some therapy and counseling while at camp. When asked where she would turn to for support if the juvenile court placed Alyssa and Bobby in her care, mother stated that she would turn to father for support and that she had no other close friends or family members to contact. Mother maintained that she communicated with father well, and that "he helps [her] as much as he can." Mother maintained that father had never physically assaulted her and that there were no problems of domestic violence between them.

Mother's parole officer reported that mother was "not getting into trouble at this camp" and was "pretty respectful" to staff members. He noted that mother was working on obtaining her General Education Degree (GED), and seeing a therapist at Camp Scott.

The CSW interviewed mother's therapist at Camp Scott. The therapist estimated that she and mother had met for approximately 10 sessions, typically 45 minutes to an

hour in duration for each session. During the sessions, they addressed issues about "being close to the baby, being able to get breast milk to the baby, [and] mother's concerns with the baby." The therapist stated during the interview that mother had not raised any concerns of domestic violence by father, and thus the therapist had not addressed the topic with mother.

The CSW interviewed the maternal grandmother. Maternal grandmother stated that on past occasions, mother admitted to her that father "[had] hurt her" and was "abusive" toward her. Mother, however, later recanted these statements and claimed that father had not harmed her. In maternal grandmother's opinion, father was verbally abusive in the form of '"yelling, screaming, cussing, [and] all that stuff"' toward mother, but not physically abusive.

As a follow-up to the jurisdiction report, DCFS submitted information to the juvenile court that mother had reported an incident of domestic violence between her and father in August 2009. According to the deputy sheriff who was called to the scene, mother (who was seven months pregnant at the time) told the deputy that father, who was "angry" and "kept accusing her of sleeping with another guy," had struck mother on the face two to three times without warning. The deputy observed "redness and scratches" on mother's face. He asked whether mother required medical attention and she declined. When the deputy confronted father with mother's statements, father denied that he abused her, claiming: '"We were just arguing, I didn't touch her."' The deputy arrested father for the charge of spousal abuse based on mother's statements and her visible injuries.

On August 21, 2012, DCFS filed an interim status report with an update on mother's progress at Camp Scott. According to the report, mother continued to receive individual counseling with her therapist. Topics discussed during counseling included "developing new coping skills, exploring family dynamics, parenting skills, and building healthy relationships/boundaries." The report also noted that mother was receiving parent education twice a month at Camp Scott and appeared "open and willing to learn all

that is available to becom[ing] a good parent." Additionally, mother was working at the camp kitchen, attending church services, and participating in various classes including art and drumming.

Although DCFS commended mother for doing well in camp where father could not contact her, it nonetheless expressed concern that mother showed poor judgment in father's presence and permitted him to influence her in a negative fashion. DCFS recommended that the juvenile court terminate reunification services and order permanent placement services for Alyssa.

On September 24, 2012, the juvenile court presided over a contested hearing on whether to assume jurisdiction over Bobby, and continue reunification services for both minors.

After considering arguments by counsel for DCFS, minors' counsel, and mother's counsel, the juvenile court made the following findings: Mother had been in dependency proceedings (as an offending parent) since October 2009, and subject to a few exceptions, "has never been in compliance with this court's order[s] and isn't in compliance with this court's order[s] now." The court elaborated that actions spoke louder than words, and "all I know is that when she's not in custody, she does nothing but run away." Additionally, the court noted that even if it wanted to release Alyssa to mother by the end of the 12-month review period, which was in December 2012, it could not do so because mother would still be institutionalized at Camp Scott and an early release date for mother seemed speculative.

Further, the juvenile court recognized that under section 366.25, it had the statutory authority to extend the permanency planning hearing beyond 12 months after initial detention so long as mother demonstrated that she made consistent and substantive progress over the course of the dependency proceeding. The court found, however, that mother had failed to demonstrate consistent and substantive progress overall, notwithstanding her limited compliance with court orders while institutionalized at Camp Scott. The court concluded that returning Alyssa to mother's care would create a

substantial risk of detriment to Alyssa's well-being, and that there was no reasonable likelihood that Alyssa could be returned to mother's care by the 12-month review hearing.

As to Bobby, the juvenile court sustained the section 300 petition allegations pertaining to mother's runaway behavior, mother's physical altercation in front of Alyssa, and mother and father's unresolved history of domestic violence. The juvenile court noted that the case was no further along than it was two years ago, and that Bobby had never been in mother's custody. The court declared Bobby a dependent and exercised its discretion not to order family reunification services pursuant to section 361.5, subdivisions (b)(10) and (b)(11). The juvenile court scheduled the permanency planning hearing to consider the termination of mother's parental rights over Alyssa and Bobby for January 18, 2013.

Mother has filed the present petition for extraordinary writ challenging the juvenile court's orders regarding the minors. Minors' counsel has joined in the arguments raised in mother's petition.

DISCUSSION

1. Standard of Review

The standard of review for orders terminating reunification services and setting a permanency planning hearing under sections 361.5 and 366.26 is whether substantial evidence supports the challenged orders. (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216-217 [review of orders under § 361.5]; *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763 [review of orders under § 366.26].)

"Under this standard of review we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. (*In re Tania S.* (1992) 5 Cal.App.4th 728, 733-734.) We must resolve all conflicts in support of the determination and indulge all legitimate inferences to uphold the court's order. Additionally, we may not substitute our deductions for those of the trier of fact." (*In re Albert T.*, *supra*, 144

Cal.App.4th at pp. 216-217.) If there is substantial evidence in the record to support the challenged orders, then the appellate court must affirm. (*Ibid*.)

2. Orders as to Alyssa

"'[T]he focus of reunification services is to remedy those problems which led to the removal of the children. . . .'" (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1362.) '"[I]n determining whether return of custody to the parent "would create a substantial risk of detriment" to the child, the court must consider . . . *whether the parent has "cooperated and availed himself or herself of services provided.*'" [Citation.]" (*Id*. at p. 1365.)

If a child is under three years of age when he or she is initially removed from the custody of his or her parent, "court-ordered services shall be provided for a period of six months from the dispositional hearing . . . but no longer than 12 months from the date the child entered foster care . . . ." (§ 361.5, subd. (a)(1)(B).) The Legislature shortened the presumptive period of reunification from 12 months to six months for a child who is under the age of three to "expedit[e] the dependency process in order to facilitate the placement of minors in stable, permanent homes, particularly in the cases of the youngest children." (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 745.)

Mother argues that the juvenile court erred by terminating reunification services with Alyssa because "substantial evidence does not support the . . . finding . . . that [she] was not in compliance with her case plan." According to mother, she "took advantage of all the services available to her while detained," and urges this court to "take into account the particular barriers that are posed to an incarcerated or institutionalized parent's access to court-ordered services and contact with their child."

Incarcerated or institutionalized parents undoubtedly face numerous challenges in obtaining reunification services. Courts have consistently held that DCFS must exercise its best efforts in assisting incarcerated or institutionalized parents to achieve reunification with their children "in spite of difficulties in doing so or the prospects of success." (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1011.) But this is not

a case in which DCFS failed to make efforts to provide reunification services, or a case in which petitioner was prevented from taking advantage of available reunification services because of her institutionalized status. Rather, this is a case in which mother took affirmative actions that effectively prevented her from utilizing reunification services that were available to her and complying with the court-ordered case plan.

On January 12, 2012, the juvenile court declared Alyssa a dependent of the court. At the time, mother was placed in a group home supervised by the probation department and the juvenile court ordered her to remain there, comply with the terms of her probation, and commence a case plan that included parenting education, individual therapy, and domestic violence. Although a minor at the time, mother was not new to dependency proceedings given her prior experience with Crystal and thus understood the gravity of failing to comply with the juvenile court's orders.

Nevertheless, instead of remaining in the group home, complying with the terms of her probation, and working with DCFS to commence the court-ordered case plan, mother ran away again to meet up with father, actions which were in direct contravention to the juvenile court's orders. Worse yet, mother, who was pregnant at the time, assisted father in highly dangerous criminal activity that culminated in the victim being dragged by a moving vehicle and nearly run over. Although mother would like to fault the juvenile hall and camp facilities that she was placed in for not offering reunification services while she was there, it was mother's own poor judgment and criminal actions that landed her in the juvenile hall facilities in the first place.

Mother had another chance at complying with the case plan in June 2012 when she was returned to the Elite Family Unit in order to pump breast milk for Bobby, who was coping with significant health issues related to his premature birth. At the Elite Family Unit, mother had the opportunity to visit with Bobby, take advantage of parenting classes, and see a therapist as much as she needed to. Having just recently experienced the lack of services at juvenile hall and camp placement, the juvenile court could reasonably assume that mother understood remaining in the unit was vital to reunification with

Alyssa and Bobby. But, mother again elected to engage in behavior that would land her back in places without access to reunification services. Specifically, mother instigated a racially motivated fight and displayed disrespect and defiance toward Elite Family Unit staff members, conduct that led to her expulsion from the unit. Mother showed no contrition afterward and instead blamed the incident on others.

In short, the record contained substantial evidence, if not ample evidence, that mother showed a marked unwillingness to comply with the court-ordered case plan.

Mother also contends that the juvenile court erred by finding there was no substantial probability that Alyssa would be returned to mother by the 12-month review period date in December 2012.[6] According to mother, even though her projected release date from Camp Scott was as late as February 2013, there was a chance that she would be released early and placed in transitional living where she would have access to more reunification services.

The record supports the juvenile court's findings that there was no substantial probability that Alyssa would be returned to mother by December 2012. According to mother's counsel, mother was scheduled to complete her term at Camp Scott in February 2013, well after the 12-month review period date. Although mother's counsel noted that it was "possible" that mother might be released in November or December if she managed to get credit for the time spent at the Elite Family Unit, a mere possibility is not a substantial probability, and here, the juvenile court was justified in concluding that mother would still be institutionalized by the 12-month review date.

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6 Where, as here, a child is initially removed from a parent's custody before she is three years old, the juvenile court may schedule a hearing to terminate parental rights at the six-month status review hearing if the court finds by clear and convincing evidence that the offending parent failed to participate regularly and make substantive progress in a court-ordered treatment plan. If however, the court finds that there is a substantial probability that the child may be returned to his or her parent or legal guardian within six months, the court shall continue the case to the 12-month permanency hearing. (§ 366.21, subd. (e).)

In addition, there was substantial evidence in the record from which the juvenile court could conclude that mother had failed to ameliorate at least one condition, specifically her unresolved history of domestic violence with father, that led to Alyssa's removal in the first place. Mother continued to deny that there was a history of domestic violence between her and father, despite evidence that: (1) she reported to a deputy sheriff in 2009 that father struck her in the face multiple times out of jealously; (2) mother told maternal grandmother that father was "abusive" toward her;[7] and (3) mother threatened, in front of a CSW, to press charges against father for "hitting" her. Additionally, not only did mother deny that father had ever abused her, she identified father as the *sole* source of support she would seek out if Alyssa were returned to her care. Mother consistently spoke of father in positive terms, even though father intentionally involved her in a criminal scheme and mother's runaway behavior was directly correlated with father's release from incarceration. Although mother contends that she had made progress on resolving her domestic violence issues with father while at Camp Scott, mother's therapist confirmed that mother had not raised the issue of domestic violence during their therapy sessions.

In short, the record contained substantial evidence to support the juvenile court's order denying reunification services for Alyssa.

3. Termination of reunification services as to Bobby

Section 361.5, subdivision (b) provides in relevant part:

> "Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following: [¶] . . . [¶]
>
> "(10) That the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that,

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[7] We recognize that mother later recanted this statement, but the juvenile court was entitled to discredit mother's recantation.

according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian.

"(11) That the parental rights of a parent over any sibling or half sibling of the child had been permanently severed, and this parent is the same parent described in subdivision (a), and that, according to the findings of the court, this parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from the parent."

"The purpose of section 361.5 was explained *In re Baby Boy H.* [1998] 63 Cal.App.4th [470,] at page 478. 'As a general rule, reunification services are offered to parents whose children are removed from their custody in an effort to eliminate the conditions leading to loss of custody and facilitate reunification of parent and child. This furthers the goal of preservation of family, whenever possible. [Citation.] Nevertheless, as evidenced by section 361.5, subdivision (b), the Legislature recognizes that it may be fruitless to provide reunification services under certain circumstances. [Citation.] Once it is determined one of the situations outlined in subdivision (b) applies, the general rule favoring reunification is replaced by a legislative assumption that offering services would be an unwise use of governmental resources. [Citation.]"' (*Renee J. v. Superior Court, supra,* 26 Cal.4th at p. 744.)

'"The inclusion of the 'no-reasonable effort' clause in the statute provides a means of mitigating an otherwise harsh rule that would allow the court to deny services simply on a finding that services had been terminated as to an earlier child when the parent had in fact, in the meantime, worked toward correcting the underlying problems."' (*In re Albert T., supra,* 144 Cal.App.4th at p. 218; see also *Renee J. v. Superior Court* (2002) 96 Cal.App.4th 1450, 1464 ["the 'reasonable effort to treat' standard found in former subdivision (b)(10) (now subd[s]. (b)(10) & (11)) is not synonymous with 'cure'"].)

Mother does not dispute that the first prongs of subdivisions (b)(10) and (b)(11) apply to Bobby's situation, i.e., that the juvenile court terminated reunification services as to a sibling, Crystal, because mother failed to reunify with Crystal, and that mother's

parental rights over Crystal have been permanently severed. Rather, mother takes issue with the second prong, i.e., whether she has made reasonable efforts to treat the problems that led to Crystal's removal. According to mother, the record contained "substantial evidence that mother had made a reasonable effort to treat the problems that led to the removal of her children, and [thus] the court should not have denied reunification services . . . for Bobby."

Mother misunderstands this court's task on review of the juvenile court's order. Our inquiry is not whether there is substantial evidence to support a finding that mother has made a reasonable effort to treat the problems that led to Crystal's removal. Rather, our inquiry is whether there is substantial evidence to support the juvenile court's finding that mother has *not* made a reasonable effort to treat those problems.

As noted above, Crystal was removed from mother's physical custody based on mother's history of chronic runaway behavior, and mother and father's unresolved history of domestic violence.

Here, the record shows that mother ran away from foster care with Alyssa in October 2011, which prompted the juvenile court to issue a protective custody warrant over Alyssa. Mother's whereabouts were discovered only after father called the CSW. In January 2012, after Alyssa was declared a dependent of the court, mother ran away from her group home and her whereabouts were discovered only after she was arrested on felony charges. Although it is true mother had not run away since the January 2012 episode, she was institutionalized in facilities where running away was not an option. Being institutionalized as a result of criminal activity can hardly be described as a reasonable effort at working on runaway behavior. The record contains substantial evidence that mother has not made a reasonable effort to address her chronic runaway behavior.

Second, as discussed above in greater detail, mother continues to deny the history of domestic violence between her and father. As recently as a couple of months before the contested hearing, mother maintained to the CSW that father had never assaulted her.

This statement was directly contradicted by mother's 2009 domestic violence report, mother's statements to her own mother, and mother's statements in front of a CSW. Mother's failure to recognize the domestic violence between her and father was underscored by the fact that mother had not raised this issue during the multiple sessions she had with her therapist at Camp Scott. Mother's refusal to acknowledge the history of domestic violence, coupled with mother's view of father as a positive source of support for her and her children, certainly constituted substantial evidence that she had failed to make a reasonable effort to address this issue.

In sum, substantial evidence supports the juvenile court's orders terminating reunification services for Alyssa and Bobby, and setting a hearing under section 366.26.

DISPOSITION

The petition for extraordinary writ is denied. Pursuant to California Rules of Court, rule 8.264(B)(3), this opinion is made final forthwith.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, P. J.
BOREN

We concur:

_____, J.
DOI TODD

_____, J.
CHAVEZ