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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

G.R., Petitioner, v. THE SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES, Respondent; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Real Party in Interest.	B242217 (Los Angeles County Super. Ct. No. CK76189)

ORIGINAL PROCEEDING. Petition for extraordinary writ. (Cal. Rules of Court, rule 8.452.) Debra Losnick, Commissioner. Petition denied.

Law Offices of Katherine Anderson, Jennifer Pichotta and Christina Curtis for Petitioner.

No appearance for respondent.

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

Petitioner G.R. (mother) has three boys who were declared dependents of the juvenile court. At the conclusion of a contested 18-month review hearing, the juvenile court terminated reunification services for mother, ordered the two oldest children be placed with their biological father, and scheduled a hearing for the selection and implementation of a permanent plan for the youngest child, D.G. (Welf. & Inst. Code, § 366.26).[1]

Following that order, and in response to an earlier writ petition by mother, we concluded that substantial evidence did not support the juvenile court's finding that the Los Angeles County Department of Children and Family Services (Department) had provided mother with reasonable reunification services. We directed the juvenile court to order the Department to provide mother with six additional months of reunification services. (*G.R. v. Superior Court* (Sept. 17, 2011, B229802) [nonpub. opn.] (*G.R. I*).)

After an additional reunification period, the juvenile court again terminated mother's reunification services and scheduled a section 366.26 permanent plan hearing for D.G. Mother has now filed another writ petition challenging this most recent order. (Cal. Rules of Court, rule 8.452.) She again claims substantial evidence does not support the juvenile court's findings that the Department provided her with reasonable reunification services. We disagree. Accordingly, we deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

1. Summary of Events Through The Filing of Our *G.R. I* Opinion.

The history of this case leading up to the filing of our *G.R. I* opinion is presented in great detail in that opinion. Because mother's current writ petition focuses exclusively on the services she received after that opinion was issued, we offer only a summary of the facts leading up to the filing of the opinion.

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

In February 2009, the Department detained mother's three children after receiving reports alleging that D.G.'s father had physically abused one or both of mother's two oldest children and that, on at least one occasion, mother had seen the abuse and had taken no action.[2] Subsequently, the oldest child claimed mother had also abused him.

In April 2009, the juvenile court sustained dependency petition allegations that father had physically abused all three children, and that mother had physically abused and had failed to protect the oldest child. The court ordered the Department to provide reunification services to the parents. With respect to mother, she was ordered to attend a parenting program and individual counseling, and to participate in conjoint counseling with the two oldest children when deemed appropriate by a therapist.

Mother completed a 20-week parenting class and attended more than 50 individual therapy sessions. However, the juvenile court later learned that the Department did not provide the therapists with some basic information about the case until just weeks before the contested 18-month review hearing. The Department also caused some disruption in the therapy process when it asked the entity providing the therapy services to replace mother's therapist based on an erroneous statement that the court had so ordered, only to turn around and agree two months later to have the original therapist restored to the case.[3]

At the conclusion of a contested 18-month review hearing in late 2011, the juvenile court expressed its frustration with the "incompetent social worker, the incompetent therapy, [and] the abusive parents." However, it found that, while the Department's reunification efforts were "less than ideal," the efforts were reasonable. The court terminated reunifications services for both parents, ordered that the two oldest

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[2] Unless otherwise specified, all subsequent references to father are to D.G.'s father.

[3] As for conjoint therapy, mother had a limited number of conjoint sessions with her oldest child. At some point, however, the child did not want to have additional sessions with mother. In addition, mother angrily walked out of two conjoint sessions, in one case yelling at her child and shoving a chair into a table. The second oldest child participated in a very limited number of conjoint sessions, but the therapist concluded those were not appropriate because he had some developmental and speech issues.

children be placed with their father in Missouri, and scheduled a section 366.26 hearing for the selection and implementation of a permanent plan for three-year-old D.G.[4]

Mother filed a writ petition, claiming substantial evidence did not support the juvenile court's findings that (1) returning D.G. to her custody would create a substantial risk of detriment to him, and (2) the Department had provided her with reasonable reunification services. We agreed with the second contention. Accordingly, in our *G.R. I* opinion issued in September 2011, we directed the juvenile court to vacate its order finding the Department had provided mother with reasonable reunification services and to thereafter order the Department to provide mother with six additional months of services.

2. Events After The Filing of Our *G.R. I* Opinion.

Shortly after the juvenile court received the remittitur in *G.R. I*, mother filed an affidavit of prejudice (Code Civ. Proc., § 170.6) against the judicial officer who had issued the order that was the subject of our *G.R. I*. opinion, and the case was reassigned to another judicial officer.

In October 2011, the juvenile court proceeded in accordance with our directive in *G.R. I* by, among other things, awarding mother six additional months of reunification services. The court scheduled another 18-month review hearing for the end of April 2012. It also scheduled a progress hearing for mid-January 2012 to receive an update regarding the status of an Interstate Compact on Placement of Children (ICPC) (Fam. Code, § 7900 et seq.) evaluation that had been ordered to assess the home of D.G.'s paternal aunt in Arizona.

The Department submitted a report for the progress hearing in mid-January advising the juvenile court that the paternal aunt in Arizona could not go forward with the placement of D.G. in her home. The Department also advised the court of its efforts to

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[4] D.G. was in foster care during the entire reunification period.

contact mother regarding reunification services. According to the report, between the beginning of November and mid-December 2011, the Department social worker (social worker) left three voicemail messages on mother's cell phone voicemail, asking Mother to call back as soon as possible so she could be provided with reunification services. The social worker also asked mother to provide a new mailing address. Mother did not respond to any of these messages.

During the same period, the social worker mailed two letters to mother at her last known address, asking Mother to contact the social worker so she could be provided with reunification services. One of the letters was sent via certified mail and was returned with a notation from the postal service reflecting that the letter was unclaimed and could not be forwarded.

The report also noted that mother had visited D.G. sporadically during the last six months of 2011. Mother visited D.G. once during the months of July, September and December; twice during the months October and November; and not at all in August.

According to the report, the foster parents were claiming that D.G. started exhibiting "concerning behaviors to the foster parents like screaming, whaling his closed fists in the air and screaming, throwing himself on the floor and screaming as if someone was hitting him." D.G. was cursing at the foster father with whom he always had a good relationship. This began in approximately November 2011. The foster parents believed D.G.'s behavior was connected to his visits with his parents. The foster parents were considering removing D.G. from their home.

Mother appeared at the progress hearing in mid-January 2012. At the hearing, mother's counsel informed the court that mother was now living in Arizona and provided her new address. Counsel also stated mother's phone number had not changed. Father's counsel advised that father was residing at the same address in Arizona.

At the hearing, mother's counsel claimed he had provided the court with a letter that day "indicating that mother has fully complied with the case plan." At the request of the parents' counsel, the court directed the Department to include an update on the

parents' progress as part of a pre-release investigation (PRI) report the Department was scheduled to submit later that month.[5]

Later that month, the Department reported its social worker called mother the day after the progress hearing, asking if she could ask Mother some questions regarding an ICPC. Mother said she was at work and was unable to talk. She provided the social worker with an email address and asked her to send the questions via email. The social worker sent two emails to mother, but they were returned as undeliverable. Two days after the telephonic exchange, mother left a voicemail message for the social worker at 4:50 a.m. saying she had not received the questions. She also said on the voicemail that, according to her attorney and his supervisor, she was "not to do any other programs such as individual [counseling] or parenting or anything like that would be required of me . . . ." She seemed to say the only thing she might still be required to do was conjoint counseling with her oldest child who was residing with his biological father in Missouri.[6]

In late January, the juvenile court conducted the PRI hearing. The minutes reflect that the PRI report was negative. The court continued the matter to the previously scheduled 18-month review hearing date in late April.

According to a report the Department submitted shortly before the 18-month review hearing in late April, the social worker had still not heard from mother. Between late January and early April, the social worker mailed five letters to mother at her Arizona address, asking her to call. One letter contained information about community resources – including counseling services – that are available in Phoenix. In the letters, the social worker specifically asked mother to provide the name of her new therapist,

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5 The PRI concerned possible placement of D.G. with the paternal grandmother.

6 As noted above, at the conclusion of the 18-month review hearing that was the subject of the *G.R. I* proceeding, the juvenile court placed mother's two oldest children with their biological father. Shortly before we issued our opinion in *G.R. I*, the juvenile court terminated jurisdiction over the two oldest children and they were released to the custody of their biological father.

noting in at least two letters that such information "is imperative so that your therapy sessions can be appropriate." Mother did not respond to any of the letters.

The report also noted that in early February, the social worker contacted Phoenix police and asked them to verify who resided at the address mother's counsel provided to the court. Phoenix police reported back the same day that they had gone to the residence and a man there identified himself as father. Father would not let the police enter, but he confirmed that mother resided at the address. Police observed a child in the home.

Two days later, the social worker called a child abuse hot line in Phoenix and made a referral. Approximately one week later, the social worker received a call from the Phoenix social worker (Phoenix worker) who had been assigned to investigate the case. The Phoenix worker confirmed that mother had given birth to a boy in September 2010. The boy was doing well. According to the Phoenix worker, mother claimed the Department social worker here was aware of the birth of the child. The social worker advised her colleague this was not the case. In fact, the social worker suspected mother had given birth to a child and asked mother about it, but mother denied there was another child. At the request of the Phoenix social worker, the social worker sent copies of the court reports and minute orders relating to the California dependency proceeding. In April, the Phoenix social worker advised she would be referring the family for family maintenance services and further assessment.

According to the Department's report, between January and mid-April, mother had appeared for 5 of 15 scheduled visits with G.R.

In light of mother's lack of cooperation and the Department's inability to verify mother's participation in counseling, as well as mother's alleged deceit with respect to the birth of her latest child, the Department recommended the court terminate reunification services and schedule a section 366.26 hearing for D.G.

When the parties appeared for the 18-month review hearing in late April, mother asked for a *Marsden* hearing (see *People v. Marsden* (1970) 2 Cal.3d 118, 124-125; see also *In re V.V.* (2010) 188 Cal.App.4th 392, 398 [discussing application of *Marsden* procedure in dependency cases]). The court granted her request and replaced her

appointed counsel. The court then scheduled a contested 18-month review hearing for mid-June.

The contested hearing took place as scheduled in mid-June. Only one witness testified – Elbis Severo (Severo), the Department social worker assigned to the case since August 2010. Severo confirmed the accuracy of all the information in the Department's reports regarding her efforts to contact mother following the juvenile court's order awarding her six more months of reunification services. She confirmed the only time she was able to speak with mother was during a telephone conversation in January in which mother stated she was at work and not able to talk. The conversation lasted about one minute. Severo also testified she did not know if mother was receiving any therapy in Arizona. Although Severo sent mother a list of resources that were available to her in Phoenix, she did not ask the child services agency in Phoenix to assist in referring mother to services.

After Severo testified, counsel for the Department asked the court to terminate mother's reunification services and schedule a section 366.26 hearing for D.G. Counsel for the department said the social worker had made considerable efforts to get mother to contact her so that services could be provided, but mother never did so. According to counsel, mother "was given a fair opportunity, and . . . mother declined that opportunity." Counsel also pointed out that mother had missed more visits with D.G. since the *G.R. I* opinion than before that opinion. Counsel claimed D.G. spent most of his young life in foster care, was entitled to some permanency.

Mother's counsel asked the court to order an additional six months of services. Counsel claimed the social worker did not know for several months which services mother required. According to counsel, mother could not be blamed for not knowing which services she still needed to receive. In mother's "mind, she completed all the court-ordered programs." Counsel claimed that besides sending letters to mother and calling her, there were other opportunities when the Department social worker could have contacted her. For example, the social worker knew when mother was scheduled to visit D.G., and could have approached her during one of those visits.

Father's counsel also asked the court to award mother additional reunification services.

Counsel for D.G. stated the social worker could have done more, but mother moved away to Arizona which "made it difficult [to] . . . contact her." Counsel also referred to mother's "track record" with visits to D.G. Counsel did not believe mother was going to be able to reunify with D.G.

After hearing the arguments, the juvenile court found that the Department's efforts were reasonable. The court emphasized the social worker's repeated efforts to contact mother, who was "hiding another child" from the Department and failed to respond to any of the social worker's inquiries. The social worker communicated with authorities in Arizona to locate mother and then to obtain a list of resources that were available to mother in that state. The court stated that it was "unconscionable that this child has been in the system 40 months of 51 months of life." The court terminated reunification services for mother and scheduled a section 366.26 hearing for the selection and implementation of a permanent plan for D.G.

Mother filed a writ petition challenging the juvenile court's decision. She claims substantial evidence does not support the juvenile court's finding that the Department provided her with reasonable reunification services during the extended six-month reunification period. The Department filed an answer opposing the granting of relief. Mother filed a reply.

DISCUSSION

1. The Standard of Review.

We review the juvenile court's finding that mother received reasonable reunification services under the deferential substantial evidence test. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) Under this test, we must resolve all conflicts in support of the court's determination and indulge all legitimate inferences to uphold the court's order. If substantial evidence exists, we must affirm. (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1020-1021; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820; *In re*

Katrina C. (1988) 201 Cal.App.3d 540, 547; *In re Tracy Z.* (1987) 195 Cal.App.3d 107, 113.)

2. Substantial Evidence Supports The Juvenile Court's Finding That The Department Provided Mother With reasonable Reunification Services.

"A social services agency is required to make a good faith effort to address the parent's problems through services, to maintain reasonable contact with the parent during the course of the plan, and to make reasonable efforts to assist the parent in areas where compliance proves difficult." (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 598.) A reunification plan must be tailored to fit the circumstances of each family and designed to eliminate the conditions that led to the juvenile court's jurisdictional finding. (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777.)

The standard for assessing the adequacy of services "is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R., supra,* 2 Cal.App.4th at p. 547; see also *Katie V. v. Superior Court, supra,* 130 Cal. App.4th at p. 598 ["in most cases more services might have been provided and the services provided are often imperfect"].)

In this case, the problem was not the adequacy of services provided to mother during the extended reunification period. Rather, it was mother's utter failure to respond to any efforts by the Department to provide her with services. The social worker contacted mother repeatedly, both by phone and by mail, and urged mother to call her to discuss reunification services. Mother never responded to these inquiries.

Although the social worker may have been able to do more to contact mother and impress upon her the importance of participating in services, at the end of the day, mother has to assume responsibility for her situation. Rather than show some initiative and actively seek out the social worker, mother did just the opposite. She moved to Arizona without advising the Department of her new address. She failed to respond to the social worker's many letters and telephonic messages, which urged mother to call to discuss

reunifications services. She missed most of her scheduled visits with G.R. and unilaterally declared that she was "not to do any other programs such as individual [counseling] or parenting or anything like that would be required of me . . . ." She simply waited for the social worker to appear, "take [her] by the hand and escort . . . her to and through classes or counseling sessions." (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5.) The social worker was not required to do so. (*Ibid.*)

In her petition, mother makes much about the fact the social worker had some questions regarding the services mother should receive following the issuance of our *G.R. I* opinion, as evidenced by inquiries she made to County Counsel. However, the problem in this case was not whether the social worker knew from the outset precisely which services should be provided. The problem was that mother never responded to the social worker's repeated inquiries to determine precisely which services she should be receiving. Moreover, the social worker made it clear to mother that she was expected to participate in counseling. In at least two letters the social worker asked mother to provide the name of her new therapist as such information was "imperative so that your therapy sessions can be appropriate." Mother did not respond to these or any of the social worker's other inquiries.

As counsel for the Department stated at the conclusion of the contested hearing, "Mom [wa]s not available [and] [wa]s not making herself available." Indeed, she was making herself unavailable. "'Reunification services are voluntary . . . and an unwilling or indifferent parent cannot be forced to comply with them. [Citations.]'" (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1365.)

Based on the record before us, we cannot say the juvenile court's finding of reasonableness is not supported by substantial evidence.

DISPOSITION

The writ petition is denied. This opinion is final forthwith as to this court. (Cal. Rules of Court, rule 8.490(b)(3).)

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.