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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 SIX

GABRIEL R. et al., Petitioners, v. THE SUPERIOR COURT OF SAN LUIS OBISPO COUNTY, Respondent; COUNTY OF SAN LUIS OBISPO DEPARTMENT OF SOCIAL SERVICES, Real Party in Interest and Respondent.	2d Juv. No. B279032 (Super. Ct. No. 15JD-00290) (San Luis Obispo County)

Petitioners J.B. (Mother) and G.R. (Father), appearing in propria persona, seek extraordinary writ relief from the juvenile court's order terminating reunification services and setting a permanent plan hearing for their two young children. We deny the petition.

FACTS AND PROCEDURAL BACKGROUND

In August 2015, the San Luis Obispo Department of Social Services (DSS) detained petitioners' son Raymond (born in 2012) and Mother's daughter Olivia (born in 2014).[1] Petitioners have a history of substance abuse, and Mother tested positive for methamphetamine. DSS received reports that the children were left alone for hours in soiled diapers and exposed to domestic violence between Mother and her partner, Daniel A. The children were placed in foster care with their maternal grandmother (MGM), and the court authorized supervised parental visits.

Raymond has cerebral palsy and microcephaly. His five to 20 daily seizures put him at risk for permanent brain damage, yet Mother missed so many of his medical appointments that the neurologist terminated Raymond's services. Father was minimally involved in Raymond's life, could not take custody, or take Raymond to the doctor, and had no demonstrated ability to meet Raymond's special needs. He was notified of domestic violence in Mother's household in 2014, but took no action to protect Raymond and was unconcerned that Raymond might be harmed in Mother's care.

On November 5, 2015, the juvenile court sustained allegations that petitioners failed to protect the children, who had to be removed from parental custody. Petitioners were given six months of reunification services because the children are a sibling group and Olivia is under the age of three.

By February 2016, Raymond had stopped having seizures since his placement with the MGM, who is fully engaged in his treatment and has a strong bond with the children. Petitioners renewed their relationship and were living in Fresno. They visited

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[1] Olivia's father Daniel A. is not a party to this writ proceeding. His reunification services ended in April 2016.

the children every two weeks, worked on completing the case plan, and were advised to attend Raymond's appointments and classes tailored for children with cerebral palsy, to gain an understanding of his special needs.

At the six-month hearing, DSS reported that the children are thriving in the MGM's care, receiving individualized therapy and had learned new skills. Petitioners were completing their program requirements. Mother saw the children weekly, but was "stressed out" by her first unsupervised visit. Father attended the next visit and helped her. Mother felt she needs more stability before she can fully care for the children. DSS described parental progress as "slow." The court authorized six more months of services.

In October 2016, DSS asked the court to terminate reunification services because petitioners made "minimal progress" toward mitigating the concerns that gave rise to dependency jurisdiction. The original concerns—parental inability to keep the children safe and meet their needs—remains. Petitioners lack suitable housing, live far away, and do not provide emotional support or attend medical appointments and therapy. Mother barely participated in her domestic violence, parenting education and substance abuse programs, cannot meet the children's needs, and was untruthful about giving Raymond his medication during her visits. Father did not attend specialized parenting education or demonstrate an ability to meet Raymond's extensive medical needs.

Petitioners' visits were unsatisfactory because they did not arrive with diapers, wipes, snacks and meals, instead relying on the MGM for provisions and on fast food or restaurant meals. Mother did not visit the children on her own, without the support of the MGM or Father, to grasp what it would be like to have them

returned to her care. Though DSS authorized longer unsupervised visits, twice a week, petitioners did not take advantage of the opportunity. They visited once a week for two and a half hours in June and the beginning of July 2016; on July 16-17; August 7, 17 and 26; and on September 2, 6 and 12, 2016. They did not arrive in time to administer Raymond's medication. They see Raymond at the MGM's home for about an hour, then take Olivia out in public. DSS pays for petitioners to stay overnight in a motel, in hopes that they would spend two days in a row with the children. Petitioners did not spend consecutive days with the children, but did get blacklisted from Motel 6 due to their unruly behavior.

The MGM makes Raymond's medical needs her first priority: she arranged for him to have major surgery and soothes him constantly. Raymond cannot talk, but the MGM understands what he wants based on his cries and moans. The children have a close sibling bond and Olivia tries to console Raymond and please him with toys. The MGM has a demonstrated ability to care for the children and is willing to adopt them. In her care, Raymond stopped having seizures and Olivia is calmer, better behaved, and able to speak.

A family therapist assessed Raymond and observed that Mother is unable to respond to his emotional needs or his cues, and steps back while the MGM attends to Raymond. Mother did not acknowledge the safety issues that brought the children into the dependency system, instead blaming "nos[y] neighbors."

At the contested 12-month hearing in November 2016, the social worker testified that petitioners completed their case plan programs, and there is no reason to believe that Mother is using drugs; however, they have not taken recommended classes targeted at caring for special needs children, nor have they provided

adequate care during visits, which was the very reason for taking the children into protective custody. Out of 44 opportunities since June 1, the parents administered Raymond's medications seven times, despite being urged to arrive during his twice daily dosings. They attended less than half the 9.5 hours Olivia spent in speech therapy. The children adore their local service providers.

According to the social worker, petitioners showed poor judgment by getting a new puppy when Mother was about to have a third child, giving them too many responsibilities when they were so pressed for time that they did not take full advantage of opportunities to visit Raymond and Olivia or participate in medical visits or treatment. In six months, Mother attended only one of Raymond's 12 medical appointments. The social worker opined that petitioners lack the skills to keep the children safe, and parental custody would pose a substantial risk of harm. She did not believe that the children could be returned to petitioners within the statutory time frame.

Mother testified that she has Section 8 housing for the family in Fresno, but is unsure whether Raymond's wheelchair can fit through the doorways. She understands that Raymond requires life-long care and can provide him with medication to prevent seizures and brain damage. Mother also attends therapy for Olivia. When she visits on weekdays, without Father, Mother only sees Olivia.

Mother was asked to visit with Raymond after Olivia's therapy sessions, but leaves to avoid conflicts with her grandmother. The social worker encouraged Mother to visit more often, and for longer periods, and offered reimbursement for hotels if Mother stays overnight, but Mother has not availed herself of the opportunities for increased visitation. In the last six months,

Mother has bathed Raymond only once, but knows how to dress and feed Raymond, change his diaper, brush his teeth, and get him to the school bus. She sometimes arrives at the MGM's home by 9:00 a.m., to get the children up and feed them breakfast. She calms Raymond by hugging him and singing when he has outbursts of screaming or biting.

Mother has not undergone training to help Raymond with physical or occupational therapy exercises. She acknowledged that Raymond has "a really strong bond" with the MGM, and is unsure whether moving him would be damaging. If the children are returned to her care, Mother is willing to follow-up with Raymond's therapy and continue his relationship with the MGM.

Six months after dependency proceedings began, DSS offered to transfer the case to Fresno and put the children in foster care there, but Mother did not agree to the transfer. She knew that leaving the children in San Luis Obispo County would make visitation difficult, but felt that if the children were not in her care, they should stay with the MGM. Mother enrolled in a course for parenting special needs children, but was dropped from it when she missed three classes in a row because she was visiting the children.

Father has never lived with Raymond. Still, they have a strong bond, and Raymond smiles and laughs when he sees Father. Father understands Raymond's diagnosis and his need for anti-seizure medication. Father has arranged his work schedule so that he can visit Raymond. Although Olivia is not his biological child, he loves her and treats her as family. Father does not feel responsible for the circumstances resulting in the children's detention; at the time, he "wasn't in the right state . . . to take care of them." He is now in the right state and wants them back. The

month before the hearing, petitioners began using all of their visitation allotment.

The MGM felt that transferring the children to Fresno would be "devastating" for Raymond, who would not progress to his full ability, and would be bereft without his teachers and therapists. Petitioners' attorneys did not ask the court to return the children to parental care. Rather, they sought six more months of services, to show that the parents can care for the children on a daily basis, during overnight visits. The children's attorney opposed additional reunification services because the parents cannot meet the children's special needs and lack insight into why the children were declared dependents of the court.

The juvenile court stated that the parents were originally given six months to reunify with the children. The circumstances at detention were dire: Raymond's neurologist had terminated services, the child lacked proper medication and was suffering life-threatening seizures, and Mother had substance abuse issues. Parental progress was commendable, but slow. In foster care, Raymond stopped having seizures and made notable progress. No one seeks to return the children to petitioners, who cannot meet the children's needs or keep them safe. There is no substantial probability that the children can be returned to petitioners by February 24, 2017, at the 18-month deadline. The court terminated reunification services and set a permanency hearing for March 8, 2017.

DISCUSSION

Petitioners have not satisfied the formalities for writ relief, which require a memorandum citing the record and legal authority. (Cal. Rules of Court, rule 8.452(b)(2)-(3).) Still, they have attempted to summarize the facts and identified the order

being reviewed; their petition must be liberally construed and decided on the merits, absent exceptional circumstances. (*Id.*, (a)(1)-(2), (b)(1), (h)(1).)

For sibling groups that include a child under the age of three at removal, reunification services are provided for six months from the disposition hearing, and no longer than 12 months from the date the children entered foster care. (Welf. & Inst. Code, § 361.5, subd. (a)(1)(B)-(C).) At the 12-month hearing, the children must be returned to their parents unless it would create a substantial risk of detriment to the children's safety, protection, or physical or emotional well-being. (Welf. & Inst. Code, § 366.21, subd. (f); *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 249; Cal. Rules of Court, rule 5.708(d).) If the court does not return the children at the 12-month hearing, and finds no substantial probability of return to the parents within 18 months of the original removal date, the court must terminate reunification efforts and set the matter for the selection of a permanent plan. (*Cynthia D.*, at p. 249.)

To make the "substantial probability" determination and extend services to 18 months, the court must find that the parents (1) visited regularly; (2) made significant progress to resolve the problems that led to removal; and (3) have demonstrated the capacity and ability to provide for the children's safety, protection, physical and emotional well-being, and special needs. (Welf. & Inst. Code, § 366.21, subd. (g)(1).) Mere completion of case plan programs does not require the court to return the children, if the parents are not equipped to raise them. (*Armando D. v. Superior Court* (1999) 71 Cal.App.4th 1011, 1019-1024.) The court's findings must be upheld if they are supported by substantial evidence. (*Id.* at p. 1024.)

Substantial evidence supports the court's finding that returning the children to petitioners would present a substantial risk of detriment because they have not demonstrated the capacity and ability to provide for the children's safety, protection, physical and emotional well-being and special needs. Before detention, Raymond was suffering up to 20 seizures daily, risking permanent brain damage, because Mother was not administering Raymond's life-saving medication. Mother was using drugs and in a violent relationship with Daniel A.

Upon removal from parental custody, Raymond received proper medical treatment and promptly stopped having seizures. He and Olivia began specialized therapy, with the result that both children achieved new skills. Petitioners cannot take credit for any of the strides made by the children, because they did not initiate—and for the most part did not participate in—the treatments and exercises secured by the children's caregiver.

In his petition, Father writes that he played no part "in getting the children placed into the foster system." This is untrue. The dependency petition was sustained against Father, for failing to protect Raymond. Father was notified in 2014 that his son was at risk in Mother's care, but he did not ensure that Raymond was safe from harm and received proper medical care. Father did not take action when Mother missed so many medical appointments that Raymond's neurologist terminated his services. Father adopted an "out of sight, out of mind" attitude because he was living in Fresno and felt no personal responsibility for Raymond, though parental duties continue throughout childhood, particularly for a special needs boy like Raymond. Over a year after detention, Mother similarly showed little insight, blaming "nos[y] neighbors" instead of taking responsibility for her neglect.

Father works full-time. Nothing in the record shows that Mother is capable of single-handedly caring for Raymond, who requires constant attention and soothing, plus Olivia, her newborn baby, and a puppy. The juvenile court found that reunification cannot occur unless Mother is able to meet the children's needs. DSS encouraged Mother to undertake solo care of the children during unsupervised visits, without assistance from Father or the MGM. She did not do so, and there is no basis for concluding that he would be able to properly care for all three children by the 18-month cut-off date in February 2017.

It is true, as petitioners argue, that they have made laudable efforts to achieve sobriety, complete the programs specified in their case plan, visit the children, obtain housing and (in Father's case) secure steady employment. Before ruling, the juvenile court summarized every report in the file, starting with the detention report describing the conditions requiring intervention to protect the children. The court acknowledged that "both parents have done well" and had put the children's interests first.

Though petitioners made progress, it was slow and minimal by the time the 12-month hearing arrived. Given the expedited schedule required by statute for sibling groups including a child under the age of three, petitioners did not progress quickly enough to demonstrate their ability to overcome barriers to reunification. Petitioners live in Fresno. They declined an offer to move the children to foster care in Fresno because the children are happy with and bonded to the MGM and their service providers in San Luis Obispo. This meant that petitioners had to redouble their efforts to visit the children; however, they did not avail themselves of the opportunity to have more visits, for longer hours, until DSS asked the court to terminate services. DSS paid for petitioners

to stay overnight, but they did not seize the chance to spend two full, consecutive days with the children to prove their ability to be full-time parents instead of occasional visitors. Mother was unsure whether Raymond would be harmed if removed from the MGM.

At the 12-month hearing, petitioners did not ask for the children to be returned to their care, effectively conceding that neither they nor the children are ready for reunification. In light of evidence in the entire record, there is sufficient basis for concluding that petitioners have not demonstrated the ability to care for and properly medicate a child with cerebral palsy and microcephaly, and care for a second child with developmental delays, nor would they be able to do so by February 2017.

DISPOSITION

The petition is denied.

PERREN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

Linda D. Hurst, Judge

Superior Court County of San Luis Obispo

Gabriel R., in pro. per. for Petitioner Gabriel R.

Jessica B., in pro. per. for Petitioner Jessica B.

No appearance for Respondent.

Rita L. Neal, County Counsel, Leslie H. Kraut, Deputy County Counsel, for Real Party in Interest and Respondent.