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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

K.J., 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 et al., Real Parties in Interest.	B276281 (Los Angeles County Super. Ct. No. CK79009)

ORIGINAL PROCEEDING. Petition for extraordinary writ. (Cal. Rules of Court, rule 8.452.) Julie Fox Blackshaw, Judge. Petition denied.

Los Angeles Dependency Lawyers, Law Office of Marlene Furth, Nicole J. Johnson and Jody Marksamer for Petitioner.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Jeanette Cauble, Deputy County Counsel, for Real Party in Interest Los Angeles County Department of Children and Family Services.

In this juvenile dependency writ proceeding (Cal. Rules of Court, rule 8.452), K.J. (mother) challenges an order terminating reunification services for her three children and setting a hearing for the selection and implementation of a permanent plan (Welf. & Inst. Code, § 366.26).[1] Mother claims substantial evidence does not support the juvenile court's finding that the children would be at substantial risk if returned to her custody. We disagree. Accordingly, we deny the petition.

1. The Substantial Risk of Detriment Standard Applicable to This Writ Petition

Section 366.22, subdivision (a)(1) provides in pertinent part that at the conclusion of the 18-month review hearing, "[t]he court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." The Department bears the burden of establishing this detriment. (§ 366.22, subd. (a)(1).)

Thus, "there is a statutory presumption that the child will be returned to parental custody" at the conclusion of the review

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

hearing. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 308; accord *In re Jasmon O.* (1994) 8 Cal.4th 398, 420 ["at the mandatory review hearings . . . , the presumption is that the child should be returned to the parent unless the Department demonstrates that the child's return would" create a substantial risk of detriment].)

The substantial risk of detriment standard, "must be construed as a fairly high one. It cannot mean merely that the parent in question is less than ideal, did not benefit from the reunification services as much as we might have hoped, or seems less capable than an available foster parent or other family member." (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 789.)

"In evaluating detriment, the juvenile court must consider the extent to which the parent participated in reunification services. [Citations.] The court must also consider the efforts or progress the parent has made toward eliminating the conditions that led to the child's out-of-home placement." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400.)

However, "simply complying with the reunification plan . . . is not determinative." (*In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1143; see also *In re Joseph B.* (1996) 42 Cal.App.4th 890, 901 [That a parent "satisfied the requirements of the reunification plan does not mean [the parent] was entitled to custody of the minor regardless of the substantial risk of detriment that reunification would have on the minor's emotional well-being."].)

2. The Background of This Case

This dependency proceeding began after mother failed to pick up her three daughters from school one afternoon in September 2014. The girls – then nine-year-old M.J., seven-year-

old Ke.J., and six-year-old Ka.J. – were released from school at 2:50 p.m. School personnel called mother several times, but she did not answer. At around 6:00 p.m., the principal drove the children home, but mother did not answer the door. The principal returned to the school with the children. The school contacted mother's neighbor, a former school district employee, who knocked on mother's door until she responded. The neighbor believed mother was intoxicated.

Mother came to the school, but the after-school program coordinator did not want to release the children to mother because she appeared to be under the influence of alcohol. However, mother took the children and left the school grounds. School staff reported the incident to police.

Police were already at mother's home when she arrived with the children. Mother appeared "intoxicated and unstable," and was described by police as difficult, agitated, and upset. Mother was arrested for public intoxication. (Within a few days, however, the City Attorney advised mother that criminal charges would not be filed.)

The Department detained the children and placed them with their maternal aunt.

At the conclusion of the detention hearing in September 2014, the juvenile court found a prima facie case for detaining the children and ordered that they remain with their aunt. The court ordered monitored visits for mother, but gave the Department discretion to liberalize. It also ordered drug testing referrals for mother.

After the detention hearing, the Department learned that mother had been hospitalized in August 2014, about one month

before the September 2014 after-school incident that led to the filing of the dependency petition.

A dependency investigator spoke to the three girls, who confirmed that mother had been hospitalized, though they did not know many details. One or more of the girls told the investigator that mother was acting strangely, staring at the wall for "like an hour" and yelling about God and the devil. This apparently went on for several days. M.J. called the grandmother, who then called an ambulance. The girls were crying because they were scared of mother's behavior. Mother was hospitalized for three days and was acting normally after her release.

The dependency investigator also interviewed mother about the August 2014 incident. When asked if she had ever been hospitalized, mother became defensive, and said that she did not want to answer. She volunteered that she had "never been hospitalized for mental health issues." When confronted with the children's statements that she had been hospitalized, mother did not believe the children had said so. When asked again why she was hospitalized, mother responded, "I don't have a history of mental health issues. I have no diagnosis, I am not taking any medication, and I have no convictions for anything." Mother then stated, "I wasn't feeling well." When pressed for more information, mother said that her hospitalization was not relevant to the allegations in the petition. When the Department investigator advised mother that the petition could be amended to include mental health allegations, mother said, "I do not want my mental health exposed. There are HIPPA laws and I do not have to have my medical history be public knowledge."

With respect to the September 2014 after-school incident, mother insisted she had been falsely arrested and she denied

being intoxicated. Mother believed the Department had made false allegations against her. Mother denied that school officials had called her to pick up the children on the day of the incident. When mother pulled up her phone records on the computer and they reflected two incoming calls from the school, mother claimed that those calls were "not here before" and that her phone bill had "changed" since the last time she reviewed it.

The adjudication took place in October 2014. Shortly after it began, mother voiced dissatisfaction with the witnesses her attorney intended to call, prompting the court to conduct a *Marsden* hearing.[2] Following the *Marsden* hearing, mother repeatedly interrupted the court, prompting the judge to leave the courtroom out of fear for her safety. After the judge's departure, mother refused the deputies' commands to leave the courtroom and she had to be handcuffed and detained.

At the conclusion of the adjudication, the juvenile court sustained only the allegations concerning mother's mental health that were added by way of the first amended petition. The court dismissed the allegations regarding the after-school incident that were the subject of the original petition.

The court proceeded to disposition, where it expressed concern that mother was doing nothing to address her mental health and concluded the children were therefore at risk and should not be returned to mother. The court ordered that the children remain with their aunt and that mother's visits continue to be monitored. The court directed the Department to provide mother with family reunification services, to include individual

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[2] *People v. Marsden* (1970) 2 Cal.3d 118, 123-125; *In re Z.N.* (2009) 181 Cal.App.4th 282, 289 (*Marsden* principles apply by analogy to dependency proceedings).

counseling to address case issues, a parenting class, a psychological assessment and evaluation, and weekly drug testing.

Mother appealed. We affirmed. The following quotation from our opinion adequately summarizes our reasoning: "When jurisdiction is based on a parent's mental illness, expert evidence of mental illness is *not* required. (*In re Khalid H.* (1992) 6 Cal.App.4th 733, 736.) Mother cannot frustrate the court's and Department's efforts to protect the children by refusing to release her medical records, and then claim that insufficient evidence supports jurisdiction. There was substantial evidence that mother had recently suffered a significant mental health episode which required hospitalization, and that she was in denial and had made no subsequent attempts to address her mental health issues. Mother's condition during the episode frightened the children, who had no other appropriate supervision at the time. There was also evidence that mother's mental health issues persisted, based on her erratic behavior in the courtroom and her paranoid belief that she was being targeted by the Department. Therefore, there was ample evidence that mother suffered from a mental health problem sufficient to support jurisdiction under section 300, subdivision (b), and that mother's unresolved mental health issues posed a very real risk of harm to the children." (*In re M.J.* (July 15, 2015, B260210) [nonpub. opn.].)

In late April 2015, the Department submitted a report for the upcoming six-month review hearing. According to the Department, the children were "flourish[ing]" in their aunt's home.

The Department characterized mother as "uncooperative" because "[a]ny effort that [the Department] has made to provide services is often met with resistance, complaints, excuses and/or

demands. Additionally, the mother has maintained the position that the children were unjustly removed from her care as there was no abuse, injury or harm to her children." Mother was (1) sending numerous emails to the Department "repeatedly arguing the law and demanding that [the Department] submit a report to the Court asking the Court to 'undo' the sustained petition," (2) taking her complaints and requests to the next managerial level within the Department, (3) refusing to sign releases, (4) causing meetings to take longer than necessary because she insisted on arguing the children were unjustly detained, and (5) "attending non-approved programs," apparently a reference to an online parenting class that mother had taken.

In late April 2015, the juvenile court continued the six-month review hearing for a little over two months. At the conclusion of the contested six-month review hearing in early July 2015, the juvenile court found mother to be in partial compliance with the case plan and ordered additional reunification services. The court also appointed two experts under Evidence Code section 730 – psychiatrist Suzanne Dupée and psychologist Chuck Leeb – to provide psychiatric and psychological assessments, respectively. In addition, the court determined mother's drug testing should now be on demand testing.

Drs. Dupée and Leeb completed their reports in late September 2015. Both interviewed mother and reviewed numerous records, mostly Department reports, juvenile court orders and letters from the crisis center where mother had received therapy. Dr. Dupée also spoke to the children's aunt and mother's therapist. Neither had reviewed any medical records from mother's August 2014 hospitalization.

Dr. Dupée found "no evidence of psychosis, mania, depressive, anxious, obsessive or compulsive symptoms." She concluded that mother "does not suffer from a mental illness and does not need further psychiatric evaluation." Dr. Dupée opined that mother "has suffered an ongoing Adjustment Disorder due to the high level of stress of the inefficiencies of the system, which has failed her and her family. She continues to be accused of feeling an injustice when in fact there appears to be significant reasons for her to do so." Dr. Dupée also noted that mother "has completed therapy by two different therapists who have both noted no evidence of any major mental illness."

Dr. Leeb concluded his report by stating that "mother has numerous issues that may impair her ability to comply with a reunification plan. They include . . . [¶] Poor executive functioning in dealing with emotional/attachment issues. [¶] Empathically dysfunctional. [¶] Affect regulation issues. [¶] Denial she has issues or problems. [¶] Deflection of issues. [¶] [And] [d]oes not accept responsibility for her actions." He noted that mother's intelligence was in the average range and she displays the ability to attain goals when properly motivated. Dr. Leeb opined mother could benefit from long term counseling.

The Department confirmed that mother had completed a parenting class in June 2015. The Department also provided a November 2015 letter from mother's new therapist, who confirmed mother had attended 10 sessions in a little less than five months. The therapist stated that mother "has actively participated in her growth and learning process" and has "made progress on all treatment goals and has demonstrated a willingness to share and process feelings." The therapist

recommended that mother continue individual therapy "to maintain stability."

Mother would not sign releases, so the Department could not determine if mother was meeting her treatment goals. The Department recommended that the court terminate mother's reunification services and schedule a section 366.26 hearing for the selection and implementation of a permanent plan for the children.

3. The Contested 12-month Review Hearing

Dr. Dupée testified at the contested 12-month review hearing. Dr. Dupée testified that she found no evidence mother had any major mental health issues, except for an adjustment disorder related to the stresses of the dependency case. Dr. Dupée had no concerns about mother's parenting. She found mother to be "very stable, apart from . . . her concerns about the" dependency case.

With respect to the August 2014 incident, Dr. Dupée testified that mother told her she was a religious person and was praying. Dr. Dupée stated that one can become "a little delirious briefly if you're dehydrated." Dr. Dupée explained that when someone the age of mother (approximately 30 years old) experiences a psychotic type event, one usually finds preexisting mental health issues or clues for years leading up to the event. "A sudden out-of-the-blue psychotic episode" is more likely to be due to some sort of physical problem or is drug-induced. Mother's August 2014 experience appears to have been a "circumscribed event."

Dr. Dupée was unaware of any mental health history of mother except for her participating in a year of counseling for victims of domestic violence. On cross-examination, Dr. Dupée

confirmed she did not have the medical records from mother's hospitalization and admitted those could be helpful.

Dr. Dupée acknowledged asking mother to release her medical records from the August 2014 hospitalization, but mother declined.

After Dr. Dupée's testimony, the court agreed with counsel for the Department that mother's medical records from the August 2014 incident needed to be reviewed. The court continued the hearing to early March 2016, so that mother's medical records could be subpoenaed. The court also agreed the records should be supplied to Drs. Dupée and Leeb and it agreed to order supplemental section 730 evaluations following their review of those records. The court also stated that it had hoped to order unmonitored visits leading to a possible home-of-parent order in a few months, but it was not able to do so because mother had not released her medical records to Drs. Dupée and Leeb.

In early March 2016, the court continued the hearing to mid-May 2016. In the interim, the court ordered certain medical records from mother's August 2014 hospitalization to be provided to both Drs. Dupée and Leeb, as well as to mother's therapist, and it directed counsel for the Department to obtain certain additional records from the hospitalization. The court also ordered Drs. Dupée and Leeb to supplement their reports after reviewing the records.

At the request of mother's counsel, and with the concurrence of counsel for the children, the court granted mother's request to begin having two-hour unmonitored visits with the children. In doing so, the court told mother: "I will order short unmonitored day visits based on the fact that you do appear to be stable. Whatever happened, right now there has

been a period of stability and you have completed your case plan. Your visitation with your children is going well."

The court also ordered that mother and the children have at least one joint counseling session in the next month.

In mid-April 2016, the Department reported that mother had had four unmonitored visits with the children and both the children and their aunt reported that there had been no problems during the visits. As for the conjoint counseling session, mother's therapist advised that her agency had a waiting list for such counseling and she told mother to sign up with other agencies. The Department was unable to determine if mother had done so. The Department was able to determine that mother had regularly attended her individual counseling, but mother was not willing to discuss matters with the Department, except for her claims that she had never had any mental health issues and that the dependency case should be dismissed. The Department continued to recommend that the court terminate mother's reunification services and set a section 366.26 permanent plan hearing.

Shortly before the continued contested 12-month review hearing in mid-May 2016, the Department reported that mother was not communicating with the Department social worker and it recommended that mother's visits with the children revert to being monitored. At the hearing, the court did not address this request and no changes were made.

In mid-May 2016, mother consented that the medical records from her August 2014 hospitalization – which had already been provided to Drs. Dupée and Leeb – be released to counsel for the parties. The records came from two facilities.

Records from Providence Saint John's Health Center Hospital (Saint John's) reflected that mother arrived by ambulance at the hospital's emergency room shortly after midday. She was described as "extremely agitated" and as being in an "altered mental state." She was immediately ordered secluded and restrained for a period of four hours. Mother tested negative for all drugs and alcohol except for benzodiazepines, which she apparently received from paramedics.

Within minutes of her arrival, mother was given Haldol (described by Dr. Dupée as an antipsychotic medication). About half an hour later, she was given Ativan (described by Dr. Dupée as a sedative).

About three hours after her arrival, mother was feeling better, but was drowsy and was claiming that a neighbor had put voodoo on her. By early evening, mother was calm and cooperative, but she was placed on a section 5150 hold and transferred to Aurora Las Encinas Hospital (Las Encinas).

Mother arrived at Las Encinas in the evening. She told hospital staff she had been taken to the hospital because of dehydration and anxiety. She said she had not been eating and drinking normally for several days. She could not remember her arrival and stay in the Saint John's emergency room.

While at Las Encinas, mother was prescribed Celexa for depression, Ativan for anxiety and Restoril for insomnia. She was discharged from Las Encinas two days after arrival with a written prescription for Celexa. Her Axis 1 discharge diagnosis was "psychosis disorder, not otherwise specified. [¶] Substance-induced psychosis." Hospital notes included an entry that "No CPS [(Child Protective Services)] report [is] warranted at this time."

In May 2016, Drs. Dupée and Leeb prepared supplemental section 730 evaluations based on their review of the medical records from Saint John's and Las Encinas. Dr. Dupée opined that mother "did suffer from an Altered Mental Status with Psychotic Symptoms due to a delirium secondary to her fasting. Her symptoms promptly cleared without further psychiatric intervention and she was discharged prior to the expiration of the 72 hour hold – indicating that she was no longer a danger to herself, others or was gravely disabled. My only lingering concerns about [mother] are regarding her credibility, since some of her story to me is correct and other parts are incorrect, in that she did not disclose to me that she was transferred to the Aurora Las Encinas Hospital and neither did her mother. Nevertheless, I confirm my original diagnosis and evaluation of [mother] that she does not suffer from an underlying mental disorder, major mental illness, and does not require any further ongoing mental treatment or psychiatric evaluation. Further there is no evidence to support a substance abuse [diagnosis]. Therefore I find no indication to prevent her from reunifying and regaining custody of her minor children."

Dr. Leeb offered a different view. He opined that mother "has numerous issues that will impair her ability to comply with the reunification plan. The major impairment will be her delusional system. [Mother] meets the criteria for Delusional Disorder – Persecutory Type . . . ."

When the hearing on the 12-month review resumed, the court explained the standard it would apply. The court stated that, although the matter was technically a 12-month review hearing, the 18-month review date had already passed so it would apply the standards that apply to an 18-month review.

Neither party takes issue with the statutory standard the juvenile court applied.

Several witnesses testified, but we summarize here only the pertinent parts of the testimony of the key witnesses and do not mention testimony that is essentially cumulative.

Dr. Leeb, a forensic and clinical psychologist, testified that mother had "an attachment system that is less than optimal, that is dysfunctional . . . ." He believed this would affect her parenting because she would have difficulty with empathy and meeting the needs of her children. He opined that mother would have a tendency to deflect issues and "deny negatives" about herself. Dr. Leeb believed mother was intelligent and has the ability to stick to a goal. If she "g[o]t herself involved into some serious therapy and work[ed] on her issues," Dr. Leeb believed "she would have the ability to resolve her issues in an effective manner." By "serious therapy," Dr. Leeb meant psychoanalytically based attachment focused therapy, starting twice per week and then going to once per week.

Dr. Leeb believed that mother's behavior in August 2014 was caused by a psychotic break and was not the result of dehydration. A possible cause could be delusional disorder, which was his diagnosis. Dr. Leeb believed another psychotic episode was likely without the treatment he recommended.

Counsel for the children called mother to testify. When counsel asked mother whether she would acknowledge having a psychotic or mental break at some point, mother offered a long response in which she claimed that, if there was a psychosis, it was induced by the medication she received from paramedics and hospital staff. She claimed she fasted and prayed for three days. She became dehydrated, and started feeling weak, nauseous and

dizzy. She told her daughter she was feeling ill and asked her daughter to call grandmother. Grandmother and her husband came to the home, assessed the situation, and called an ambulance. Mother claimed she felt "perfectly fine" and was caring for her children "perfectly fine" during the previous two days. She denied staring at the walls. She claimed she was "fasting and praying and it caused dehydration, but it was framed differently in these [medical] reports." Mother claimed her children had no idea that anything was wrong with her until she told them she was not feeling well. Mother maintained her children were not scared by her behavior; rather, they were scared when the ambulance arrived to take her to the hospital.

Mother testified that she has spoken with her therapists about the stress she is experiencing as a result of the dependency case, her visits with the children, dehydration and a safety plan in case of emergency. The safety plan she has discussed with the therapists is "the same safety plan that I've always had." Mother's children know to call 911 if there is a "serious emergency." They also know they can call someone like their grandmother, even if mother does not ask them to call. And they know they can knock on the doors of neighbors they know.

When asked if she had spoken to therapists about how to prevent a recurrence of what happened in August 2014, mother stated that she took a nutrition course at a community college and the course dealt with dehydration and water fluid balance. She has also done her own research into dehydration. Mother has also learned the "proper ways to fast" where one does not have to go without food and water for the whole day or for days at a time.

Mother maintained that the August 2014 hospitalization was solely the result of fasting. It was an isolated incident.

Mother explained that her children have participated in a few of the fasting days at the church, so they know the proper way to fast and pray. The last time mother fasted was in January 2015 with her church. It was a 21-day fast.

Mother claimed the children had never heard her say the devil's name. The only time she said anything about the devil was after the paramedics came and injected her. She became a little upset because the injection was against her will and she said "[t]he devil is a liar" but she did not say it in the children's presence. She denied having any hallucinations before she asked her children to call their grandmother. When she was fasting and praying, her prayer was mostly silent, but she mentioned to her children that God is good and everything is about to be great. Mother still prays in the same fashion.

Mother remembers virtually nothing from her stay at Saint John's. She believes many statements in the Department's reports regarding what she said during the August 2014 incident and what the children observed during the incident are not accurate.

4. The Court's Ruling That Is The Subject of This Petition

After hearing counsel's arguments, the court terminated mother's reunification services and scheduled a section 366.26 hearing for the selection and implementation of a permanent plan. The court concluded it could not return the children because it believed "the children are not yet safe" in mother's care. The court believed mother was "still greatly in denial of important issues in this case."

According to the court, in many ways, mother complied with the case plan. She had many negative tests and participated nominally in therapy. The court then told mother: "But . . . I need to make the assessment as to whether or not you really have grasped the concepts for which the case plan was designed and that you really have learned the lessons that you need to learn in order to parent the children in a way that does not continue to expose them to risk or danger. And that is where I don't believe you have accomplished the goal of the case plan."

The court also noted that it did not have "the benefit of any of the work that [mother] did in . . . therapy with [the] former therapist" because mother had asserted a privilege and did not permit the former therapist to provide details regarding the therapy. The court only had information from the current therapist, "which basically is not at all addressing the issues of the court." Although mother and the therapist had discussed the stress the dependency case was causing mother, they did not discuss anything "relating to the underlying reasons why we came here and the fact that there was a psychotic episode and that there were other events of concern [such as the September 2014 incident involving the failure to pick up the children after school and the October 2014 courtroom incident]." The fact the court did not sustain the count based on the September 2014 after-school incident does not mean "it doesn't provide some amount of concern for the court."

Addressing mother, the court appeared to summarize its concerns as follows: "[Y]ou do acknowledge that you had dehydration, but you don't acknowledge that it caused a psychotic episode and that you had days, hours and days in which your children were put at risk because of your delirium and your

inability to take care of them. You don't understand that your children were frightened. You acknowledged that they made statements, but you really don't at a meaningful level understand that they were frightened and they were frightened because of you. And they did not feel well cared for because of you and because of self-induced actions that you took. [¶] So that is the problem that I have. I don't have – until you understand that, until you understand your responsibility for creating a situation in which you had a psychotic episode that put your children at risk, I don't believe that your children are safe in your care."

After noting that mother's interactions with the children were positive, the court expanded mother's unmonitored visits to overnight visits, starting with twice a week. The court gave the Department discretion to liberalize to weekends.

The court also ordered mother to see a licensed therapist and stated that it wanted mother to sign the appropriate waivers "so we can learn what you're doing in therapy because, unless I know that, I won't be able to feel comfortable to release the children to you."

Mother filed a writ petition challenging the juvenile court's order setting a section 366.26 hearing for the children. Her sole contention is that substantial evidence does not support the finding that returning the children to her would create a substantial risk of detriment to them. She asks this court to direct the juvenile court to return the children to her custody, with the provision of family maintenance services.

We issued an order to show cause and received a response from the Department in which it maintains that the challenged finding is supported by substantial evidence.

5. Substantial Evidence Supports the Trial Court's Findings.

We review the juvenile court's finding that returning the children to mother would create a substantial risk of detriment to them under the substantial evidence test. (*In re E.D.* (2013) 217 Cal.App.4th 960, 966.)

" 'Substantial evidence' means evidence that is reasonable, credible and of solid value; it must actually be substantial proof of the essentials that the law requires in a particular case." (*In re Yvonne W.*, *supra*, 165 Cal.App.4th at p. 1401.)

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.)

In claiming substantial evidence does not support the juvenile court's detriment finding, mother focuses on (1) the fact she completed the case plan, (2) the juvenile court's apparent acceptance that her psychotic episode in August 2014 resulted from her fasting and dehydration, and (3) the fact the three major episodes where mother exhibited belligerent or unstable behavior (the August 2014 hospitalization, the September 2014 after-school incident and the October 2014 courtroom episode) occurred long ago.

As discussed above, and as aptly stated by the Court of Appeal in *In re Dustin R.*, *supra*, 54 Cal.App.4th at page 1143, "simply complying with the reunification plan by attending the required therapy sessions and visiting the children is to be

considered by the court; but it is not determinative. The court must also consider the parents' progress and their capacity to meet the objectives of the plan; otherwise the reasons for removing the children out-of-home will not have been ameliorated."

As for the psychotic episode in August 2014, the juvenile court properly determined that the cause of that episode, while relevant, is not the issue. The issue is whether mother has sought to truly understand the psychological factors at play, as well as the impact the episode had on her children. In this regard, the juvenile court appropriately noted that mother did not discuss "any of the issues that really are of concern to th[e] court." Similarly, mother was not even willing to tell Dr. Dupée that she had been placed on a section 5150 hold and was hospitalized in Las Encinas. Mother herself testified that she told Dr. Dupée she did not feel comfortable talking about it "and we moved on." Avoiding unpleasant issues that are critical to the case and "moving on" does not show that mother has made sufficient progress towards eliminating the conditions that led to the children's removal.

Finally, the fact that the three major episodes referenced above occurred in 2014 does not mean mother has sufficiently addressed the underlying psychological factors. For example, until recently, mother refused to even acknowledge the August 2014 hospitalization and a section 5150 hold, much less discuss them, even with therapists. In addition, mother has not been cooperative with the Department and has made it difficult for both the Department and the court to determine whether mother has sufficiently addressed the issues that resulted in these dependency proceedings.

DISPOSITION

The writ petition is denied. Our October 17, 2016 order temporarily staying the section 366.26 hearing is hereby vacated.

This opinion is final forthwith as to this court. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.