Filed 7/7/17 Jose T. v. Superior Court CA2/3

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

JOSE T., Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES et al., Real Parties in Interest.	B280775 (Los Angeles County Super. Ct. No. DK12866)

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

Children's Law Center of Los Angeles - CLC 3, Patricia G. Bell and Michael Ono for Petitioner.

No appearance for Respondent.

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

Children's Law Center of Los Angeles - CLC 1, Ronnie Cheung and Cecilia Woodard for Real Party in Interest D.H.

INTRODUCTION

Petitioner is the father of two-year-old D.H. The juvenile court assumed jurisdiction of the child upon a sustained allegation that father committed domestic violence against D.H.'s mother. On February 7, 2017, the juvenile court terminated reunification services and set a permanency planning hearing under Welfare and Institutions Code section 366.26.[1] Father filed a petition for extraordinary relief, in which he argues the evidence was insufficient to sustain the juvenile court's finding that the Los Angeles County Department of Children and Family Services (the Department) provided reasonable reunification services. We conclude the evidence was sufficient to support the court's finding and deny the petition.

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[1] Statutory references are to the Welfare and Institutions Code unless otherwise indicated.

FACTS[2] AND PROCEDURAL BACKGROUND

1. *Detention, Jurisdiction and Father's Case Plan*

In July 2015, the Department received a referral expressing concern that mother, then a 17-year-old minor dependent, and father, then an 18-year-old non-minor dependent, had not sought proper care and treatment for their newborn son. Both parents were described as chronic runaways, with a history of going absent without leave from their dependency placements.

During its investigation, the Department received reports that father had physically and verbally assaulted mother in recent months. Father also admitted to a history of using methamphetamine and heroin. Mother was reportedly diagnosed with unspecified mental health disorders, and she admitted she had obtained prenatal care for only the first four months of her pregnancy. A hospital social worker also observed that father appeared to have "control over mother."

In August 2015, the Department filed a dependency petition alleging D.H. was at risk due to father's history of domestic violence and mother's mental health issues. Later that month, father tested positive for methamphetamine at a medical appointment, prompting the Department to amend the petition to add a substance abuse allegation. The juvenile court detained D.H. from the parents' physical custody, finding the Department established a prima facie case for dependency jurisdiction. The court granted the parents visitation for a minimum of three

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[2] Consistent with our standard of review, we state the record in the light most favorable to the juvenile court's finding, indulging all legitimate and reasonable inferences to uphold the challenged ruling. *(Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 691 (*Kevin R.*); *In re Misako R.* (1991) 2 Cal.App.4th 538, 545 (*Misako R.*).)

hours per week and ordered the Department to assist father with obtaining proper identification so he could drug test.

On October 16, 2015, the court sustained the petition's domestic violence allegation and dismissed all other counts. The court removed D.H. from the parents' custody and granted the parents reunification services and monitored visitation. Father's case plan required him to complete a 52-week certified domestic violence batterer's intervention program and eight drug tests. If father missed a test or tested dirty, the case plan required him to participate in a full drug rehabilitation program. The court also ordered both parents to keep the Department informed of their current address and telephone number.

2. *Six-Month Review*

The Department's reports for the review period indicated father had failed to provide proof of participation in his court-ordered services. Father displayed hostility toward his social worker and refused to provide an updated telephone number, stating he could be reached through mother; however, the Department's attempts to contact him through mother went largely unanswered. Father also refused to provide the Department with a current mailing address. Attempts by two different social workers to verify father's address proved unsuccessful.

At the beginning of the review period, the Department enrolled father in drug testing through Pacific Toxicology. However, father failed to show for a test in December 2015. In January 2016, the Department again emailed father instructions for drug testing at Pacific Toxicology, but he failed to test. In March 2016, father's social worker reported that father had obtained a residency card, which would allow him to access services. But when father attempted to secure services at the

Tarzana Treatment Center, he was denied enrollment because he did not have active Medi-Cal.

In April 2016, a social worker met with the parents, reviewed the court orders with them, and provided them referrals for programs, including therapy, drug rehabilitation, mental health services, and parenting classes. The parents signed a form acknowledging they had received the referrals. The social worker "made it clear to [the] parents" that family reunification services would be offered for only 12 months and that they needed to be enrolled in programs to reunify with their child. Father was oppositional throughout the meeting and stated he did not want to regain custody of his child.

In June 2016, a social worker spoke with father about visiting with D.H. more consistently. Father had not visited the child since April 2016. Father became agitated and said he intended to " 'give up' his parental 'rights' to mother." When asked about services, father said he would not participate in any services because he wanted to give up custody of D.H. to mother. Father said he had a new address, but refused to provide it to the Department because he did not want the court " 'involved with his address.' " At father's request, the Department attempted to contact him by email in subsequent communications.

In advance of the six-month review hearing, the Department reported on its efforts to assist father with his case plan, which included two referrals for services and repeated attempts to discuss the drug testing requirements. The Department recommended continued services for the parents, as father had eventually indicated he would cooperate with the Department to achieve reunification with D.H.

On June 20, 2016, the court held the six-month review hearing. Father's counsel argued the Department had not referred father to the "correct programs." Specifically, she noted father's case plan required him to participate only in drug testing and a domestic violence program, but the Department had provided him with additional referrals for mental health, individual counseling and parenting classes. Counsel argued father should not receive additional referrals, even if beneficial, because too many services might cause father to feel "overwhelmed."

The court ordered the Department to "ensure that [father] is only receiving the referrals reflected in his case plan." (Capitalization omitted.) At father's request, the court modified the visitation order to permit the parents to visit D.H. together. Based on the parents' representation that they planned to remain in a relationship, the court ordered the parents to participate in one conjoint counseling session per month. Finally, the court admonished the parents once again that, if they moved, they must apprise the Department of their new address. The court added, "[a]t his point, you will not get any benefit of the doubt if you move and lose touch with the social worker."

At the six-month review hearing, the court expressly found the Department had provided the parents with reasonable services and that the parents had minimally complied with their case plans.

3. *12-Month Review*

In July 2016, a social worker attempted to meet with father to discuss his case plan and to provide referrals for services. Father refused to accept the documents. The social worker's report properly identified father's court-ordered services as a domestic violence program and drug testing, with a substance abuse program upon a missed or dirty test.

After the parents attended a visit together in June, mother attended a visit alone in July 2016. Following the visit, an off-duty probation officer observed father trying to physically force mother into his car. Father was verbally and physically abusive to mother during the ensuing altercation. Father followed mother as security escorted her inside, threatening that if she did not go with him she would "regret it later." Father later reported that he and mother were arguing because she " 'was forcing him to see his son.' " After the incident, mother said she no longer wanted to have visits with father. The Department helped mother enter a sober living facility, and mother requested that the Department keep her address confidential from father.

In August 2016, the Department filed a petition to modify the order permitting joint visitation. In addition to the July altercation, the Department reported on a series of profanity-laden phone calls and voice messages, in which father made menacing statements about the social workers and foster mother and threatened to take D.H. " 'by force.' " (Boldface and underscoring omitted.) The report also noted that father's non-minor dependent case had been terminated as of July 2016 due to father's noncompliance with services. The Department requested that father's monitored visits take place at the courthouse, that the parents not be allowed to visit together, and that the court issue a restraining order to prevent father from coming to the Department's office during mother's visits and the foster mother's drop-offs.

The Department filed another report in August 2016, describing a subsequent series of menacing voicemails that father left for the social worker. The report also noted that father had repeatedly stated he would not participate in his case plan and did not want to visit D.H.

On August 18, 2016, the juvenile court granted the petition to modify the terms of father's monitored visitation. The court also granted a temporary restraining order protecting identified social workers from all but certain specified peaceful contact with father.

In October 2016, a social worker sent referrals for domestic violence programs and substance abuse services to father, by email and certified mail. Father responded to the email minutes later, requesting the "times and dates" for his visits.[3] In a subsequent profanity-laden email, father made a series of threats against the social worker and foster mother, while insinuating that the Department had denied him visitation. The Department's records showed that, despite its many efforts to schedule visits, father had not visited D.H. in several months.

Father failed to appear for the scheduled 12-month review hearing on December 12, 2016. After an off-the-record discussion, the court set the matter for a contested hearing on February 7, 2017. The court ordered the Department to once again provide father with appropriate referrals and to try to set up drug testing for him. The court also stated that if father immediately enrolled in services it would take that into account in deciding whether to extend services at the contested hearing.

On December 15, 2016, a social worker informed father that he was scheduled to complete a drug test near the courthouse. At father's request, the social worker also agreed to provide additional referrals for domestic violence programs near the courthouse. On December 16, 2016, father met the social worker for a visit with D.H. After a controversy arose over whether father was permitted to take pictures of the child, father

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[3] The paper mailings were returned undelivered.

became increasingly aggressive. He cursed and berated the social worker, ultimately requiring sheriff's personnel to escort the social worker and D.H. to a car. The following week, the social worker sent referrals for domestic violence programs to father's two most recent addresses and his email address. As of a report filed on February 7, 2017, the social worker had not heard back from father.

On February 7, 2017, the court held the contested 12-month review hearing. Father failed to appear, though the court found he had received proper notice.

Father's counsel asked the court to find the Department had not provided father with reasonable reunification services. Counsel argued the Department initially provided father with overbroad referrals, then incorrect referrals in July 2016. Father's counsel acknowledged the Department provided correct referrals in October 2016, but argued the initial errors should be remedied by granting father six more months of services. The court asked father's counsel if father had made any progress in services since October 2016, to which counsel conceded, "I wouldn't be able to present that information to the court today."

The child's counsel joined with the Department, arguing the parents had received reasonable services and that the court should terminate services.

After hearing argument, the court expressly found that the Department provided the parents with reasonable services, that the parents were not making progress in services or consistently visiting D.H., and that there was no basis to extend services. With respect to father, the court stated, "I do find that reasonable services were offered by the Department. The Department did make efforts after my last order that they provide father with more appropriate referrals. [The] Department did make repeated efforts to get in touch with the father, finally making contact in

October. [¶] The difficulties were really father's doing. He has been nonresponsive to the Department on occasion. When he has been responsive, he has been belligerent and aggressive. Even though the father did finally receive his appropriate referrals in October, the evidence before me is that there has been absolutely no compliance with the case plan since then." Accordingly, the court terminated reunification services and set the matter for a permanency planning hearing.

DISCUSSION

1. *Controlling Law and Standard of Review*

When a child under the age of three is removed from parental custody, court-ordered reunification services generally must be provided for a period of six months after disposition, but no longer than 12 months from the date the child entered foster care. (§ 361.5, subd. (a)(1)(B).) The juvenile court must hold a permanency hearing on or before the end of the 12-month period, at which time the court must determine whether to return the child to parental custody. (§ 366.21, subd. (f).) In most cases, if the child is not returned to parental custody at the permanency hearing, the juvenile court must either "[c]ontinue the case for up to six months for a permanency review hearing" (*id.*, subd. (g)(1)), or "[o]rder that a [permanency planning] hearing be held within 120 days, pursuant to Section 366.26" (§ 366.21, subd. (g)(4)). The court is authorized to continue the case "only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent." (*Id.*, subd. (g)(1).) If the case is not continued and "there is clear and convincing evidence that reasonable services have been provided or offered to the parents," the court must terminate services and order a section 366.26 hearing to determine whether

adoption, guardianship, or continued placement in foster care is the most appropriate permanent plan for the child. (§ 366.21, subd. (g)(4).)

Father contends the evidence was insufficient to find he was provided or offered reasonable reunification services; hence, he argues the court erred when it ordered the services terminated. (See § 366.21, subds. (g)(1) & (g)(4).) "The adequacy of the reunification plan and of the [Department's] efforts to provide suitable services is judged according to the circumstances of the particular case." (*Christopher D. v. Superior Court* (2012) 210 Cal.App.4th 60, 69 (*Christopher D.*).) The Department "must make a good faith effort to develop and implement reasonable services responsive to the unique needs of each family. [Citation.] The effort must be made, in spite of difficulties in doing so or the prospects of success." (*Ibid.*) "Reunification services implement 'the law's strong preference for maintaining the family relationships if at all possible.' " (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787.)

"To support a finding reasonable services were offered or provided, 'the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult . . . .' " (*Kevin R., supra,* 191 Cal.App.4th at p. 691.) " 'The standard 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.' " (*Id.* at p. 692; see *Misako R., supra,* 2 Cal.App.4th at p. 547 ["In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect"].)

"In reviewing the reasonableness of the services provided, this court must view the evidence in a light most favorable to the respondent. We must indulge in all legitimate and reasonable inferences to uphold the verdict. If there is substantial evidence supporting the judgment, our duty ends and the judgment must not be disturbed. [Citations.] ' " '[W]hen two or more inferences can reasonably be deduced from the facts,' either deduction will be supported by substantial evidence, and 'a reviewing court is without power to substitute its deductions for those of the trial court.' [Citations.]" [Citation.]' " (*Misako R., supra,* 2 Cal.App.4th at p. 545.)

Although there is a clear and convincing standard specified in section 366.21, subdivision (g)(4), it is for the edification and guidance of the trial court and not a standard for appellate review. (See *In re Amos L.* (1981) 124 Cal.App.3d 1031, 1038.) " ' "The sufficiency of evidence to establish a given fact, where the law requires proof of the fact to be clear and convincing, is primarily a question for the trial court to determine, and if there is substantial evidence to support its conclusion, the determination is not open to review on appeal." [Citations.]' [Citation.] Thus, on appeal from a judgment required to be based upon clear and convincing evidence, 'the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence, however strong.' " (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-881.)

2. *The Evidence Supports the Finding that Reasonable Services Were Offered*

Father challenges the order terminating reunification services on essentially two grounds. First, he contends the referrals were initially overbroad and later inadequate to remedy

the problems that led to the loss of custody. Second, he argues the Department failed to reasonably assist him when compliance with his case plan proved difficult. Neither contention has merit.

a. *The referrals were reasonable*

With respect to the referrals, father contends the Department failed to offer reasonable services for several reasons. He claims that in addition to the domestic violence program and drug testing mandated by his court-ordered case plan, the Department initially provided him with "overbroad" referrals for mental health counseling and parenting services. Although the juvenile court found the Department provided "appropriate referrals" in October 2016, father contends the court was mistaken because the referrals included a program for drug treatment, rather than drug testing. Additionally, father argues the October 2016 referrals were inadequate because they did not include a referral for conjoint counseling with mother, as ordered by the court at the June 2016 review hearing.

To support his contention that these purported shortcomings demonstrate the Department failed to provide reasonable services, father relies upon *Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340 (*Amanda H.*). In that case, the mother argued she was denied reasonable services because the supervising agency misled her about the adequacy of her compliance with the court-ordered case plan. (*Id.* at p. 1345.) The record on appeal showed the social worker "incorrectly informed mother that she had enrolled in all the court-ordered programs and then, at the 12-month mark, told her that she actually was not enrolled in all of the required programs," after which, the social worker "used this lack of enrollment as a basis to recommend that services be terminated." (*Id.* at p. 1347.) This record, the appellate court concluded, compelled a finding that the agency failed to offer reasonable reunification services.

The *Amanda H.* court observed that "[t]he social worker's conduct in this case not only failed to demonstrate a good faith effort to implement a family reunification plan, but it also may have thwarted mother's ability adequately to address, before the 12-month hearing, the fundamental problem that led to the children's detention: domestic violence. While it was mother's responsibility to attend the programs and address her problems, it was the social worker's job to maintain adequate contact with the service providers and accurately to inform the juvenile court and mother of the sufficiency of the enrolled programs to meet the case plan's requirements." (*Amanda H., supra,* 166 Cal.App.4th at p. 1347.) Though the appellate court acknowledged there were legitimate concerns about the mother's attendance at her parenting class and other conduct, it held the agency could not establish reasonable services had been offered when it had "told mother and the court for a year that mother was enrolled in the right programs and then, at the 11th hour, used that mistake to ask the court to terminate reunification services." (*Ibid.*)

Amanda H. does not support father's contention. Nothing in the record suggests the Department misled father to believe his conduct was sufficient to meet the case plan's requirements, and nothing in *Amanda H.* suggests the Department's over inclusion of referrals for services compels a finding that reasonable services were not offered. On the contrary, *Amanda H.* stands simply for the logical principle that the supervising agency cannot rely on a parent's failure to meet the requirements of his or her case plan after leading the parent and court to believe the opposite for much of the review period. That is not what happened here.

Father did not contest the reasonableness of the services offered at the six-month review hearing; rather, his counsel merely suggested that the inclusion of other services in addition to those mandated by the case plan, while potentially beneficial, could be "overwhelming."[4] Though the juvenile court directed the Department to limit its referrals to only those services mandated by father's case plan, the court expressly found at the same hearing that the services offered were reasonable. Father did not object to that finding. Moreover, unlike the situation faced by the mother in *Amanda H.*, here, after the court clarified and emphasized what services father needed to complete, it granted him an additional six months to meet the demands of his case plan. The undisputed evidence shows father made no progress in his case plan during the extension.

Father's contention that the Department persisted in offering him inappropriate referrals after the six-month review hearing has no merit. He argues the Department failed to follow the case plan when it offered him referrals for a drug treatment program, but fails to acknowledge that the case plan called for a drug treatment program in the event he missed or tested dirty on a prior drug test. The evidence showed that father missed his first scheduled drug test in December 2015, and he continued to miss tests, despite the social worker emailing him explicit

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[4] Elsewhere in his petition, father incongruously argues that the case plan and the Department's referrals were inadequate because they did not provide him with enough services; specifically, by failing to address his history of going away without leave from his placements as a non-minor dependent. This argument is duplicitous and untenable in view of father's successful assertion at the six-month review hearing that reunification could best be achieved by limiting services to only those identified in the agreed upon case plan.

instructions for drug testing at Pacific Toxicology. Thus, under the terms of his case plan, father was required to enroll in a drug treatment program.

Father's contention that the Department failed to offer conjoint counseling referrals similarly fails to acknowledge the surrounding circumstances, which the court was compelled to consider in its reasonableness inquiry. (See *Christopher D., supra,* 210 Cal.App.4th at p. 69.) The record shows the court ordered conjoint counseling at the six-month review hearing based on the parents' representation that they intended to continue living together as a couple in a relationship. However, less than a month later, father verbally and physically berated mother outside the Department's offices, prompting mother to enter a sober living facility and to request that the Department keep her address confidential from father. During the same time frame, father began asserting that he did not want to regain custody of his child and was content to give up his parental rights to mother. Thereafter, the Department filed a petition to modify the order permitting joint visitation, which the juvenile court granted.

Under these circumstances, it was reasonable to conclude that conjoint counseling between the parents was no longer necessary or at least should be deferred until father completed his court-ordered domestic violence program and the parents reconciled. The record shows father never made any effort to enroll in, much less complete, such a program. The juvenile court rightly concluded the referrals were reasonable and appropriate under the circumstances.

b. *The Department took reasonable measures to assist father, notwithstanding his difficult conduct*

Father contends the Department failed to make a good faith effort to assist him with services when compliance with his case plan proved difficult. In that regard, father argues the Department and juvenile court should have been more cognizant of his non-minor dependent status in calibrating the measures that were reasonably required to help him achieve reunification. Father also contends the juvenile court erred when it relied upon his failure to make progress as a basis for finding the Department offered him reasonable services. These arguments are not supported by the record.

As we have noted, to support a finding that reasonable services were offered, the record should show that the supervising agency "maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult . . . .' " (*Kevin R., supra,* 191 Cal.App.4th at p. 691.) "Reunification services are voluntary, however, and an unwilling or indifferent parent cannot be forced to comply with them." (*In re Mario C.* (1990) 226 Cal.App.3d 599, 604.) Further, "[w]hile it is true the social worker is charged with maintaining reasonable contact with the parents during the course of the reunification plan, he or she cannot do so without some degree of cooperation from the parent." (*In re T.G.* (2010) 188 Cal.App.4th 687, 698.)

Father contends the Department and juvenile court failed to adequately account for his non-minor dependent status in assessing what efforts were reasonable to assist him with meeting the requirements for reunification. He principally argues that, as a non-minor dependent, he was "reliant on the

Department to obtain the proper identification to enroll in programs"; yet, the Department failed to assist him when he was turned away from the Tarzana Treatment Center because he did not have Medi-Cal. This discrete incident does not establish the Department's overall efforts were unreasonable. Indeed, even with respect to drug testing and drug treatment, the record shows the Department provided father with referrals for substance abuse programs both before and after his attempt to enroll at Tarzana. This includes at least two instances when the Department arranged appointments for father to drug test at Pacific Toxicology, yet he failed to show. And, with respect to identification paperwork, the undisputed evidence shows that father obtained a residency card in March 2016, but he still failed to enroll in court-ordered services.

Apart from the matter of identification, father largely rehashes his argument that the Department provided "overbroad referrals," while stressing that non-minor dependents face numerous unique "barriers," including "access to services, employment, education, transportation, and vital support systems." But the record does not suggest the Department or the court were indifferent to these challenges. On the contrary, the Department's reports detail its social workers' steadfast efforts to communicate with father about the requirements of his case plan and the steps he needed to take to reunify with his child. The record shows an extraordinary degree of oppositional and combative behavior by father. At almost every turn, father was resistant to the Department's services, failed to maintain contact, rarely visited his child, and was so belligerent and threatening that the Department had to seek a protective order from the court. Throughout all of this, the Department put aside father's

difficult behavior and persisted in offering him appropriate services in a professional manner.[5]

The court likewise displayed a firm commitment to ensuring that father received reasonable assistance. The court ordered detailed reports regarding the Department's communications with father, it specified that referrals should be limited to the services required by the case plan to accommodate the concern that father may be "overwhelmed," it allowed joint visitation with mother to ease the purported burden father faced in traveling to visits, and the court repeatedly reminded father of the compressed timeline mandated by the statutory scheme for a dependent child under three years old. The court made clear at every reported hearing that father must keep the Department apprised of his current contact information and work with the Department to enroll in services that would allow him to reunify with D.H. Despite those clear admonitions, father remained largely hostile to the Department's efforts. Under the circumstances, we agree with the juvenile court's conclusion that the Department made reasonable efforts to assist father with his case plan.

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[5] In this regard, father's reliance on *In re T.W.*-1 (2017) 9 Cal.App.5th 339, is entirely misplaced. In that case, there were clear deficiencies in the supervising agency's services to the father (failure to identify service providers, delay in providing an appropriate case plan, failure to address drug counseling, and others). The father lived out of state and was slow in responding to the agency's efforts, prompting the court to note that "Father's lack of involvement, while discouraging, does not excuse the Department from complying with its obligation to provide reasonable services." (*Id.* at p. 348.) The present case includes a much different category of behavior that goes far beyond "lack of involvement."

Finally, father contends the juvenile court erroneously relied upon his failure to make progress on his case plan in concluding the Department put forth reasonable efforts. The argument is not supported by the record. Contrary to father's contention, the record shows the court's reasonableness finding preceded its comments on father's failure to make progress. The court observed, "[e]ven though the father did finally receive his appropriate referrals in October, the evidence before me is that there has been absolutely no compliance with the case plan since then." Having found reasonable services were offered, it was entirely appropriate to consider father's failure to make progress in assessing whether to terminate services and set the matter for a permanency planning hearing. (See § 366.21, subd. (f)(1)(C) [in determining whether to return dependent child to parent at 12-month permanency hearing, the court must, *inter alia*, "consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided"].) We find no error in the court's ruling.

DISPOSITION

The petition for extraordinary relief is denied.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

JOHNSON (MICHAEL), J.*

We concur:

EDMON, P. J.

ALDRICH, J.

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.