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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

NANCY V.,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

B237838

(Los Angeles County
Super. Ct. No. CK79410)

ORIGINAL PROCEEDING; Petition for extraordinary writ. D. Zeke Zeidler,
Judge. Petition for extraordinary writ denied.

Kenneth P. Sherman for Petitioner.

No appearance for Respondent.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County
Counsel, and Kim Nemoy, Principal Deputy County Counsel, for Real Party in Interest.

Nancy V. (mother) has filed a petition for extraordinary writ (Cal. Rules of Court, rule 8.452) challenging an order of the juvenile court terminating reunification services with her son Stanley, and setting a hearing pursuant to Welfare and Institutions Code section 366.26.¹ Mother contends the evidence presented at the hearing below was insufficient to support the juvenile court's finding that Stanley could not safely be returned to her custody. We find that substantial evidence supports the court's order. Accordingly, we deny the petition.

FACTS AND PROCEDURAL HISTORY

During the early morning hours of October 14, 2009, mother was arrested for spousal abuse and assault with a deadly weapon after an incident of domestic violence in which she struck her husband, Dennis M., on the head with a chair leg. Dennis M. was transported by ambulance to the hospital, where he was treated and received several stitches. At the time of her arrest, mother was "intoxicated and reeking with alcohol." When mother realized she was being arrested, she "started screaming and using profanity" toward the arresting deputy sheriff and the victim. A Los Angeles County Department of Children and Family Services (DCFS) social worker interviewed mother in her jail cell at the Santa Clarita Sheriff's station. When the social worker told mother she was taking Stanley into protective custody, mother "became belligerent and began using profanity." At the time of his detention, Stanley was 21 months old.

On October 16, 2009, DCFS filed a petition pursuant to section 300, subdivision (b) [failure to protect] alleging Stanley was at risk based on mother's violent behavior and history of alcohol abuse. After a contested disposition hearing, the juvenile court sustained the petition, as amended, on February 4, 2010. We affirmed the juvenile court's ruling on March 2, 2011. (*DCFS v. Nancy V.*, B223703 [nonpub. opn.] filed 3/2/11.)

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

At the time of the disposition hearing in February 2010, mother was attending parenting classes, a domestic violence program, and an outpatient program to treat her alcohol abuse. Mother was doing well in each program. She also visited Stanley regularly at his foster parents' home. Although mother's parenting skills were somewhat lacking, DCFS social worker Cindy Takamoto (Takamoto) was working with mother to improve her parenting techniques. One concern was mother's failure to respond appropriately to Stanley's tantrums and his habit of pulling his hair and scratching his face. Takamoto reported that mother did not "grasp the seriousness of Stanley's behavior nor does she understand the underlying reasons for his outbursts, and as a result does not respond appropriately."²

In May 2010, DCFS reported that mother was in compliance with all court-ordered programs and was committed to reunifying with Stanley. The court gave DCFS discretion to allow mother overnight visits with Stanley.

On July 19, 2010, DCFS filed a supplemental petition (§ 342), alleging that mother had failed to take her psychotropic medication, and had "demonstrated mental and emotional problems including auditory hallucinations, anxiety and paranoid behavior." Sayaka Shibazaki (Shibazaki), a social worker at the foster family agency, reported that she had received a "weird" call from mother, who sounded "like she was having a mental breakdown." Mother asked where Stanley was, and was not satisfied when Shibazaki replied that Stanley was most likely at his daycare. When mother's DCFS social worker, Rickena Jones (Jones), asked mother about the phone call, mother said she had run out of her medication (lorazepam) the week before and being without it "started to make her hear things." Mother apologized for scaring everyone and said she did not realize that being off her medication would make her "go crazy." Mother said she was "hallucinating" and thought something bad was happening to Stanley. Jones observed that mother was "more anxious and manic" and had "loose associations in her

² A therapist who treated Stanley at the Regional Center had "concerns that Stanley could possibly be a fetal alcohol child based on him banging his head and pulling his hair."

thoughts.” Mother told DCFS that her medicine was ““working as long as she takes it.”” Based on mother’s erratic behavior, DCFS changed mother’s visitation from unmonitored to monitored. In a report prepared for the disposition hearing on the supplemental petition, DCFS recommended that Stanley not be returned to mother’s care “due to her history of [d]omestic [v]iolence, alcoholism, and current mental instability. It is evident that mother is suffering from mental illness and needs to be assessed and diagnosed appropriately. She must be provided with on-going psychiatric care and counseling.”

On August 20, 2010, the juvenile court dismissed the section 342 petition without prejudice, but ordered that mother undergo an Evidence Code section 730 evaluation to determine if she had a specific mental illness and, if so, what treatment might be recommended.

Kristin Ochoa, M.D. of the USC Institute of Psychiatry and the Law conducted the evaluation on September 13, 2010. Dr. Ochoa diagnosed mother as having Schizotypal Personality Disorder (Cluster A), manifested by “a pervasive pattern of social and interpersonal deficits, a reduced capacity for close relationships, cognitive distortions and eccentricities of behavior. The DSM-IV-TR describes the odd thinking and speech common in Schizotypal Personality as ‘vague, circumstantial, metaphorical, overelaborate or stereotyped’ which is in keeping with how [mother] presented for this evaluation, and how others report experiencing her.” For example, the Child and Family Center had described mother as ““rambling”” and ““disorganized due to her constant digression and change in topics.”” Stanley’s foster parents noted that mother was ““polite and agreeable,”” but made ““odd statements”” and might ““have problems following a logical thread.”” Dr. Ochoa also noted that mother exhibited other signs of Schizotypal Personality Disorder, including “social anxiety associated with paranoia” and a tendency to “misinterpret the actions of others, especially while intoxicated, which could lead her to act violently based on her perceptions.” Dr. Ochoa cited as an example the events of October 14, 2009, the domestic violence incident that led to Stanley’s detention: mother “repeatedly stated that she thought Mr. [M.] was entering the bedroom of her son . . . and that he might be a danger, saying ‘he was holding a banana . . . there was a banana on the

floor when the police came.’ Even though he had not harmed her son in the past, she felt that he might use this banana to sexually violate him.”

Dr. Ochoa recommended that mother continue attending Alcoholics Anonymous meetings, begin individual psychotherapy with an individual familiar with treating Cluster A personality disorders, and see a psychiatrist familiar with these disorders to assess what, if any, psychotropic medication could benefit mother. (Previously, mother received her medications from her primary care provider.) On October 8, 2010, the court ordered that mother continue to attend aftercare such as AA meetings, that mother’s individual therapist be familiar with treating Cluster A personality disorders, and that mother see a psychiatrist familiar with Cluster A personality disorders to assess whether mother would benefit from medication.

Dr. Murray Brown, a psychiatrist, interviewed mother twice in January 2011, at the request of mother’s attorney. Dr. Brown reported that during both interviews, mother “had considerable difficulty staying on topic. Her responses were often times tangential, rambling and not goal oriented. She tended to contradict herself at times and the interviewer needed to ask the same questions multiple times in order to obtain a clear response to specific questions.” In Dr. Brown’s opinion, mother suffered from bipolar disorder and not a Cluster A personality disorder. He opined that mother had “a reasonably good prognosis provided she has ongoing psychiatric treatment and monitoring. She would function better in both parenting and vocational areas were she to be even-tempered, free of mood swings, maintaining her sobriety, and without symptoms of depression.”

In a letter to mother’s counsel dated March 9, 2011, Dr. James Long stated that he had evaluated mother in January 2011. He diagnosed mother as having a bipolar disorder and he placed her on “a mood stabilizer called Abilify,” as well as “a low dose of Xanax for day time anxiety and sleep.” Dr. Long stated that mother had been compliant with her medications.

Twelve-month review

The 12-month review hearing (§ 366.21, subd. (f)) on the section 300 petition had originally been set for February 3, 2011, but did not take place until May 24, 2011. In a status report prepared for that hearing, DCFS social worker Jones stated that she had met with mother monthly and had contact with her via e-mail on a regular basis. Mother's e-mails were "always positive and she always expresses her love for Stanley." However, Jones said that mother's speech was often fast, and it was difficult for mother to "stay on topic" or listen to Jones without talking over her, often on unrelated topics.

Jones further reported that mother remained oblivious to Stanley's behavioral issues. "[A]ccording to the monitors for the mother's visits, the mother allows Stanley to do whatever he wants during his visits and the mother sometimes joins in when Stanley is not behaving." Jones cited one example, reported by the foster parents, in which Stanley "was ripping up paper and throwing it in the air. Instead of the mother redirecting Stanley and not encouraging that behavior, the mother joined Stanley in throwing paper in the air, which encouraged Stanley to become hyper and unmanageable." During a visit at a mall, Stanley slapped a girl who was playing in the same play area. Mother "left Stanley where he was and sought out [the foster father] to ask him what to do." When it was time to leave, mother "didn't assist with Stanley transitioning to leave, she just ignored it, and continued to play with him." Mother failed to recognize Stanley's need for structure, even during his visits with her. Mother also brought Stanley toys that were inappropriate for his age, "such as mature DVD's (Teenage Mutant Ninja Turtles), action figures that had angry faces, large fists, or that said rude things that encourage Stanley to act out aggressively"

Jones concluded by saying that although mother loved Stanley, mother did not have realistic ideas about parenting and failed to recognize that Stanley has behavioral issues that will need to be monitored, regulated, and treated with appropriate services. "The mother speaks about Stanley as if he is 'perfect' and only discusses the cute and funny things that he does during her visits with him. The mother does not have a clear idea on how to appropriately parent Stanley during the visits and the mother often

overwhelms Stanley by the amount of food, toys, and activities she brings to the visits.” Mother also told Jones that if Stanley is adopted by [the foster parents], she would like to be Stanley’s “Godmother” so that she could still be a part of his life.

Stanley was bonded with his foster parents, Mr. and Mrs. B., who have expressed their desire to adopt him and “have even disclosed that they would be open to exploring an open adoption with mother.”

Mother had continued her attendance at AA meetings, but had only partially complied with the court’s order that she participate in individual therapy. When Jones asked mother whether she had found a therapist, mother said she was “completing extra sessions” with the therapist who treated her for anger management, and she had been “receiving support from a friend of hers.” On December 28, 2010, mother gave Jones contact information for Dr. Brown. However, Dr. Brown advised Jones that he was only seeing mother for a psychiatric assessment requested by her attorney, and did not know whether mother was seeing a therapist regularly to treat her personality disorder. Dr. Brown opined that the section 730 evaluator, Dr. Ochoa, had “missed some things,” and he believed he had an explanation for “why the mother behaves the way she does.”

In January 2011, mother advised Jones that she was undergoing therapy with Dr. Stanley Katz. Dr. Katz told Jones that he had interviewed mother twice, and was currently working on communication with mother because she “[t]alks a lot and does not listen.” Dr. Katz reported that although mother did not think it was right to “pull” Stanley from the home of Mr. and Mrs. B., she still wanted to be Stanley’s mother and would “contest[] the Department’s recommendation.”³

Mother continued to have monitored visits with Stanley three times per week, with two of the visits monitored by the foster family agency (FFA) and one monitored by the foster father. Both the FFA social worker and the foster father confirmed mother’s devotion to Stanley, but commented that although mother had made “some progress with not bringing so many toys and checking the age-appropriateness of toys,” she had made

³ DCFS had recommended that the court terminate mother’s reunification services.

“very little to no progress” in the area of setting limits and boundaries with Stanley. For example, mother tried to calm Stanley down by “listening to him and doing whatever he asks her to do, which often results in increasing his maladaptive behaviors. It almost seems [as if mother] is afraid of disciplining Stanley and the power hierarchy seems to be switched.” FFA social worker Sayaka Hur (Hur), who monitored two of mother’s weekly visits, observed that mother “continues to show her lack of common sense and good judgment. For example, she would go up to the jungle gym and scream with Stanley when he is overexcited, instead of helping him to calm down. Another example of poor judgment is when Stanley asked [mother] to put him down on the ground so that he could run in the parking lot, the [mother] asked the monitor if she could do so, instead of telling him how dangerous it could be.”

The foster father, who monitored one weekly visit, reported that mother often “brought a large amount of toys” to each visit, and had to be reminded to bring just one toy so Stanley would not be overly stimulated. During one visit at a park, mother spread a picnic blanket on the newly-fertilized grass, not realizing that “the brown stuff on the ground was mulch or manure.” Mother finally “got it” the fourth time the foster father told mother there was manure on the ground. However, he had to “keep reminding her to not set food on the ground or to wash [Stanley’s] hands before letting him eat, and not to change Stanley on the grass.”

Jones concluded her status report by stating that although mother appeared committed to reunifying with Stanley, she “treats Stanley more [like] a doll than a child with behavioral issues.” Mother never spoke of Stanley’s negative behaviors; she “appears oblivious to them and fails to acknowledge that the child acts out in inappropriate ways and [mother] is unable to re-direct him/address them.” DCFS recommended that mother’s reunification services be terminated.

Contested 12-month review hearing

A contested 12-month review hearing was held on May 24, 2011. Doctors Brown and Long testified for mother, and mother testified on her own behalf. Mr. B. and FFA social worker Sayaka Hur testified on behalf of DCFS. Mr. B. and Hur, both of whom

monitored mother's visitation, testified about events occurring during visitations, including Stanley's behavior and mother's parenting skills. Dr. Brown stated that mother's bipolar disorder had been left untreated, resulting in the symptoms observed by Dr. Ochoa. Dr. Brown opined, in response to a hypothetical question, that a mother who had bipolar disorder Type 1, who was compliant with her medication and psychiatric treatment, would be capable of taking care of her children.

Dr. Long, also a psychiatrist, agreed with Dr. Brown's conclusion that mother had been "misdiagnosed and previously wrongly medicated."⁴ He believed mother suffered from bipolar disorder with a moderate degree of severity of mania. Mother's moods and improvements had improved. Persons with bipolar disorder, properly treated, can live normal lives. Dr. Long opined that there was nothing about mother's psychological condition that rendered her a risk to a child. Dr. Long also stated that mother's ability to focus had improved and her manic episodes had diminished almost entirely.

Mother testified that she had recently moved to a child-friendly apartment complex and was living with David D., a longtime friend with whom she had been romantically involved for eight months. Mother stated she was attending AA meetings once per week, was in compliance with other court-mandated programs, was being treated by Dr. Long, and remained medication compliant. Mother's direct testimony was somewhat controlled by her counsel's skillful questioning. However, on cross-examination, mother rambled and was often off-topic.

At the conclusion of the contested 12-month hearing, the court found that returning Stanley to mother's custody would create a substantial risk of detriment to him. The court terminated mother's reunification services and set the matter for a section 366.26 hearing on September 20, 2011. The court noted that the 12-month hearing was taking place 19 months after Stanley was detained. Although mother was improving, she

⁴ Dr. Long was referring to the diagnosis of the 730 evaluator, Dr. Ochoa. Dr. Ochoa testified in rebuttal that she had ruled out bipolar disorder because mother's behavior, related in DCFS reports, demonstrated a "pervasive pattern," over a year or more, of being "rambling" and having to be redirected. With a mood disorder, "you see some resolution or it would be more of a cycling effect."

was not yet capable of providing for Stanley's safety, protection, physical and emotional health and special needs. Mother relied heavily upon the support of her significant other, but the relationship was "not a sure thing." The court also characterized mother's relationship with Stanley as that of a "playmate," and said that mother's testimony was "truthful[, but unfocused and] scattered. She didn't show a true understanding of what Stanley's special needs are. She didn't show an understanding of why Stanley is a Regional Center client. I don't even know if she knows what that means."

Application for rehearing and supplemental reports

Superior Court Referee Donna Levin presided at the May 24, 2011 hearing. On June 3, 2011, mother filed an application for a rehearing of Referee Levin's orders.⁵ The superior court granted the motion on June 21, 2011.

On July 28, 2011, DCFS filed a supplemental report addressing several topics. First, Jones reported that she had conducted an inspection of the apartment which mother shared with David D. Mother related all the child-friendly features of the apartment complex and the neighborhood. Mother had installed safety latches on kitchen and bathroom cupboards, and had furnished a bedroom for Stanley. David D. had submitted to a live-scan, which revealed criminal convictions for conspiracy to obstruct justice in the 1980's.

Jones also reported on the status of mother's relationship with her husband Dennis M., the victim of the assault that had led to Stanley's detention. Although Dennis M. had declined to press charges, and mother had long since left him, she was still legally married. Dennis M.'s daughter reported that although Dennis M. was once a wealthy man, he "had lost everything and his home in Valencia due to the \$250,000 that the mother had taken out of his bank account while they were residing together." Dennis M. was currently residing in a low-income apartment.

⁵ Section 252 provides in pertinent part: "At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, a minor or his or her parent or guardian or, in cases brought pursuant to Section 300, the county welfare department may apply to the juvenile court for a rehearing."

Jones concluded that although mother was committed to reunifying with Stanley, she “treats Stanley [like] more of a doll than a child with behavioral issues. The mother does not set appropriate boundaries with Stanley during her monitored visits and allows Stanley to behave in any manner that he wants. The mother appears oblivious to Stanley’s behavioral issues and was unable to recall why Stanley had previously been receiving services through the Regional Center although the mother had been in attendance for one of Stanley’s Regional Center meetings along with Stanley’s foster mother, Susan [B.]. Due to the mother failing to acknowledge that Stanley acts out in inappropriate ways, the mother is unable to re-direct Stanley and address Stanley’s inappropriate behaviors with him when they occur.”

In a second supplemental report submitted on September 19, 2011, Jones stated that mother had continued to receive therapy from Dr. Long and had maintained her prescriptions. Dr. Long reported a reduction in mother’s symptoms, and said he and mother had “gone over the variety of details that are necessary for the mother to take care of Stanley on a daily basis.”

Stanley’s foster parents, Mr. and Mrs. B., had referred Stanley for therapy at the Child and Family Center because he exhibited symptoms of being “emotionally volatile, [having] difficulty transitioning, tantrums, clingy, difficulties following directives, throwing things, very active during the day, difficulty falling asleep, and tries to hurt the cats by hitting and chasing them.” As of September 25, 2011, Stanley and the foster parents had attended eight weekly sessions, and the therapist considered Stanley’s progress to be “fair.”

In her evaluation dated September 19, 2011, Jones stated it was “apparent that the mother does not know how to parent a child with behavioral issues as Stanley [has]. During the mother’s visits with Stanley, she is not assertive with him when he misbehaves and rewards him with toys or food when he is defiant. Although the mother has taken parenting classes in the past, the mother needs to recognize what types of behavioral issues Stanley has and how to appropriately set boundaries for him before the Department would liberalize the mother’s visits to unmonitored. It appears that the

mother wants to be judged in the best possible way during her visits with Stanley, however, the Department's concerns are how the mother would handle Stanley's tantrums and defiance when no one is monitoring her."

DCFS also expressed concerns about mother's mental health. Although mother's psychiatrist had reported she was "more logical" and "able to appropriately engage in interactive conversation," mother continued to "appear eccentric and odd at times." Visitation monitors reported that mother "'rambled on' incessantly" during her visits with Stanley.

Also of concern to DCFS was mother's "lifestyle choices and her co-dependency issues." Mother had a pattern of relying on "significant others" for financial support, most recently David D., in whose apartment mother was currently living. Mother had been married "many times"⁶ and chose "significant others" who were not positive role models. DCFS also expressed concern about mother's pattern of "dating, and eventually marrying, wealthy older men with health issues so they can financially support her."⁷ The environment that the mother chooses to reside in is not a healthy or stable environment for a young child. Mother selects 'significant others' based on financial status and terminates the relationship when the 'significant other's' financial resources run out."

DCFS once again recommended that mother's reunification services be terminated, and it supported Stanley's adoption by his foster parents, Mr. and Mrs. B. DCFS noted that the prospective adoptive parents had a "respectful relationship with the mother" and had expressed a willingness to have an "open adoption" so that mother could continue to have a relationship with Stanley as he grows up.

Second Evidence Code section 730 evaluation

When the court granted mother's petition for rehearing, it ordered that mother undergo a new Evidence Code section 730 evaluation. Dr. Michael Maloney conducted

⁶ The record indicates that mother had been married three times.

⁷ Mother is 47 years old. Dennis M. is 63 years old and suffers from alcoholism, dementia, and other health issues. Mother's current fiancé, David D., is 67 years old and reported that his health is "fine."

the evaluation on August 26 and September 9, 2011. Prior to interviewing mother, he reviewed all DCFS reports, including the reports of doctors Katz, Brown, Long and Ochoa. Dr. Maloney also administered standardized psychological tests. Dr. Maloney stated that mother's "approach to both of these tests is quite consistent with her behavior during the present interview wherein she broadly denies problems and minimizes any challenges. She presents as lacking in psychological insight and, if taken at face value, is quite naïve. She does have a mental disorder . . . but firmly states she has no mental problems and aspires to cease taking psychotropic medications." Dr. Maloney diagnosed mother as having a Bipolar I disorder with manic features. He concluded that mother's bipolar disorder, coupled with her lack of insight and inability to assume an appropriate parental role, would "clearly combine to pose a risk to the minor if placed with his mother. Her prognosis for significant change is questionable."

October 31, 2011, Supplemental Report

Mother's petition for rehearing was set for October 31, 2011. DCFS prepared another supplemental report in anticipation of the hearing. DCFS agreed with Dr. Maloney's assessment that mother was very "guarded and self-favorable," attempting to present herself in a "fake good" way. DCFS noted that mother "wants to be judged in the best possible way during her visits with Stanley, however, the Department's concerns are how the mother would handle Stanley's tantrums and defiance when no one is monitoring her. DCFS cited a recent example of mother's "eccentric and odd" behavior. Jones monitored mother's visit on September 15, 2011, at a McDonalds. "[A]t the end of the visit, the mother laid on the ground at McDonald's and had Stanley lay partially on her in a cuddling fashion. This behavior was a bit odd considering that McDonald's has a lot of traffic and people walk all over the floor in their shoes. If mother wanted to cuddle or hug Stanley, she could have cuddled him while sitting on a clean bench instead of laying [sic], without a blanket, on the floor"

DCFS continued to recommend that the court terminate mother's reunification services and that Stanley be freed for adoption by Mr. and Mrs. B.

Rehearing

The juvenile court conducted a rehearing over a period of three days on October 31, November 2, and November 8, 2011. The hearing was conducted as a combined section 366.21, subdivision (e) [12-month] and section 366.22 [18-month] hearing. The court admitted into evidence DCFS reports (and supporting documents) beginning on July 19, 2010, and concluding with the October 31, 2011, supplemental report. The court also admitted the reporter's transcript of the May 24, 2011 hearing, the curriculum vitae of Dr. Ochoa, the Evidence Code section 730 evaluation conducted by Dr. Mahoney, and all of the DCFS delivered service logs. Doctors Maloney and Long, Jones, mother's fiancé David D., and mother herself testified at the rehearing. All of these witnesses were called by mother.

Under questioning by mother's counsel, Dr. Maloney elaborated on his Evidence Code section 730 evaluation. When asked whether it might have been helpful for him to review the transcripts of the prior hearing, at which Doctors Brown and Long had testified, Dr. Maloney stated he had read the other doctors' reports, but his conclusions were based on his own evaluation and "mother's presentation to me." Dr. Maloney testified that his opinion, supported by psychological testing, was that mother was "extremely defensive and guarded and has no insight about that." Mother also tested as "high[] on the lie scale," a colloquial term used to describe people who "tend to present themselves as not even having human foibles that most people have." On another validity scale referred to as "positive impression," mother's score was "so high that . . . you can't interpret it." Dr. Maloney testified that at the end of two sessions with mother, he asked her very directly about her mental issues, and she "verbally said to me, 'I do not have a mental problem.'" Mother also wanted to rid her system of the medication she was taking at the time, which in Dr. Maloney's view was "very risky for a person who seems to have a significant long-term mental disorder." When questioned by mother's counsel about Dr. Long's conclusion that mother had made "significant improvement," Dr. Maloney reiterated that his job was "very different than a treating psychiatrist or mental health professional. My job is to do an objective evaluation,

forensic evaluation.” When Dr. Maloney saw mother, “despite how Dr. Long described her, she had pressured speech. She had flight of ideas. She was extremely defensive.” Dr. Maloney stood by his conclusions: “This lady does appear to have a mental disorder. I’m not getting a clear picture of what it is. And if she doesn’t believe she has such a disorder, and will not take medication at sometime in the near future, she presents a risk. The nature of these kinds of emotional controlled conditions are long-term.”

Dr. Long testified that he had begun treating mother in January 2011. At that time, mother was taking a drug called Celexa, which can “push [the patient] into a manic phase.” He put mother instead on a medication called Abilify, with a different mild tranquilizer, Xanax, for daytime anxiety. Dr. Long noticed a difference in mother’s behavior after about a month; “she started to calm down, be able to sit still, be able to listen.” Dr. Long had “tapered [mother] up . . . to 30 milligrams” of Abilify, which he said was a “whopping dose of that medicine.” At the time of the hearing, mother was taking 10 milligrams, twice per day. Dr. Long planned to reduce mother’s dosage “very cautiously and very gradually.” Dr. Long attributed mother’s “disorganized and confused” behavior in June 2010 to the drug Celexa prescribed by another doctor. He did not agree with Dr. Ochoa’s conclusion that mother had a personality disorder. Mother told Dr. Long many times that she would remain compliant with her prescribed medication. Dr. Long monitored one, two and a half hour visit between mother and Stanley, in which mother was “attentive and appropriate” and Stanley did not present with any behavioral problems. Dr. Long also disagreed with much of Dr. Maloney’s report, and opined that mother’s current medications did not inhibit her ability to care for Stanley, and she could parent Stanley unassisted.

Jones, who had been assigned the case in April 2010, testified that after mother’s “psychotic break,” she terminated mother’s unmonitored visitation. She and mother had monthly meetings until February 2011, and each meeting revolved around mother “finding a therapist and seeing a psychiatrist.” Jones provided mother with a list of referrals in the Santa Clarita area, where mother formerly lived and where Jones’s office was located. Although mother had moved to Hollywood, she visited Stanley in Santa

Clarita because the foster parents lived nearby, and, for a time, mother submitted to drug testing in Santa Clarita until she requested that the testing be moved to Hollywood. Jones also referred mother to the Department of Mental Health because “she was having financial issues, and it was going to be difficult for her to find a therapist or a psychiatrist without medical insurance.” At the beginning of 2011, mother began seeing Dr. Brown and Dr. Long. After mother hired private counsel, Jones had less contact with her “because I was advised that I was not able to contact mom without their permission.” She and mother were not able to meet until she started monitoring mother’s visitation and conducted an inspection of mother’s home. After mother retained private counsel, Jones’s role was limited to observing mother’s interactions with Stanley.

Jones opined that mother would pose a risk to Stanley if he were returned to her. Aside from mother’s mental health issues, Jones noted that Stanley had been “out of the mother’s care for a long period of time.” He was attached to his current foster parents, and exhibited emotional and behavioral issues that were currently being addressed in therapy. Mother’s time with Stanley is “very playful. It’s not in a parental type situation.” Jones observed that “Stanley does not listen to his mother. When she has tried to set boundaries with him, she’s not able to control his behaviors when he does have some issues.” When asked why she did not ask to include mother in the same therapy that the foster parents were getting to learn how to deal with Stanley, Jones replied that the foster parents had found Stanley’s therapist on their own; she did not recall mother having asked to participate in the therapy. Mother was invited, and did participate in, Stanley’s therapy when he was receiving Regional Center services. Jones had not liberalized mother’s visits with Stanley to unmonitored because she did not believe mother was able to parent Stanley if he had tantrums outside a monitored setting. Jones opined that mother and Stanley were “not parent and child. They’re playmates.” To have unmonitored visitation, a parent must “show insight into the child’s behavioral issues and know appropriately how to correct them. The child would need to show some kind of . . . acceptance of this parent’s discipline. And at this time, this child does not.” Jones cited two instances in which she monitored Stanley’s visits with mother at

McDonalds. Stanley was jumping on a chair in a situation where he could have fallen and hurt himself. Mother “was trying to tell him not to do that, and he just continued to do it, and then he just took off running.” In another instance, Stanley was “having some aggressive issues with another child in the play yard.” Mother tried to get Stanley to come out of the play yard; Stanley ignored her, and mother “just . . . left it at that.” When asked by Stanley’s counsel whether Jones believed mother could parent Stanley unassisted, Jones replied that mother could do so “maybe for short periods of time.” Jones explained that “the last time Stanley was in [mother’s] physical care, he was a toddler. Now he’s going on four, and there [have] been a lot of changes in his life. And he’s starting to act out because this child thrives on structure and stability. When that doesn’t happen, he starts to act out.” Jones further testified that mother had never asked Jones for advice on how to handle Stanley, nor had she ever asked for information about classes that would help her with Stanley.

Mother’s fiancé, David D., testified that he had known mother for 17 years and had been dating her for a year. Mother had moved in with him in July 2011. Before mother began seeing Dr. Long, she hallucinated, acted confused, and had blurred vision. Those symptoms ceased with her current medication. David D. observed mother taking her medication and never had to remind her to do so.

Mother remembered vaguely that she had asked to be part of Stanley’s therapy at the Regional Center, but was told either by Jones or her predecessor that she (mother) would be a “distraction.” Mother acknowledged that Stanley acts out, has “anger issues,” and has “transitional trouble,” but when he exhibited that behavior mother would give him a time out and let him know his behavior is inappropriate. Mother claimed Stanley responded to her “nine times out of ten.” She described Stanley as “really responsive and smart.” Mother acknowledged that she was bipolar, but planned to continue taking her medication “because I know I need it.” Mother was “completely ready” to have Stanley in her home.

Court's ruling

The court found, by clear and convincing evidence, that returning Stanley to mother's care at that time would create a substantial risk of detriment to his physical and/or mental health. The court found mother was in compliance with the case plan. The court stated it could not find that DCFS had provided mother with reasonable services, but that amounted almost to "harmless error" because in February 2011, mother had retained an attorney, immediately got into court-ordered programs, and was "doing everything that the Department had asked . . . without them being the ones to help her do it." However, the court felt that despite its finding that DCFS had not provided mother with reasonable reunification services, she was not entitled to additional reunification services because she had had "24 months" to be working towards reunifying. The court noted that at the first six-month review it was found that services were reasonable, and mother "still, at this point, is just at the point of being able to start having a very limited amount of unsupervised contact." The court terminated mother's reunification services, but allowed her to have unmonitored day visits, in a public setting, not to exceed two hours.

DISCUSSION

We review the juvenile court's order under the substantial evidence standard, viewing the evidence in a light most favorable to the dependency court's findings. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) Where there is any substantial evidence to support the court's order, contradicted or not, we must affirm the juvenile court's decision. (*In re Tracy Z.* (1987) 195 Cal.App.3d 107, 113.)

Mother contends there was no substantial evidence to support the court's determination that returning Stanley to care would pose a risk of harm to him. First, mother cites testimony by Jones that she believed mother's mental health was stable if she took her medication. That testimony by Jones was a statement taken out of context. In her report prepared for the October 31, 2011 hearing, Jones expressed concerns about mother's mental health because she "continues to appear eccentric and odd at times," despite psychiatrist reports that she was was "more logical, and is able to appropriately

engage in interactive conversation.” The essence of Jones’s testimony at trial was the improvement in mother’s mental health notwithstanding, Stanley could not be returned to mother’s care because she lacked judgment and the skills necessary to parent her special needs child.

Mother also cites the testimony of Doctors Brown and Long, who believed mother could lead a normal life with proper treatment. Mother attacks the testimony and report of Dr. Maloney because his conclusions differed from those of her treating doctors. However, Dr. Maloney emphasized that his role was that of a forensic examiner, not a treating physician. The court was entitled to weigh Dr. Maloney’s testimony with that caveat in mind.

The court found that mother could not safely parent Stanley because of his behavioral issues, despite her having had two years to achieve reunification. In support of her contention that this finding is not supported by substantial evidence, mother cites all the evidence that might weigh in her favor. The proper inquiry, however, is whether there is substantial evidence that supports the court’s ruling. The following evidence, which we find to be substantial evidence, supports the court’s ruling.

By the time of the rehearing, Stanley had not been in mother’s care for two years, and she had not had unmonitored visitation (let alone an overnight visit) with Stanley in over a year. Despite her success in coping with her dependence on alcohol, and in controlling her bipolar issues with medication, mother still lacked common sense, judgment and necessary parenting skills. Despite mother’s testimony at the rehearing that she understood Stanley had “anger issues” and “transitional trouble,” the overwhelming weight of the evidence before the court demonstrates that mother clearly had not grasped the full import of Stanley’s behavioral issues, nor had she learned how to cope with them. Mother continued to minimize Stanley’s behavior and perceived him more as a “playmate.” Despite two years of coaching from monitors experienced in child behavioral issues, mother still did not provide Stanley with the structure he needed, and as a result, Stanley simply ignored mother’s weak efforts to discipline him. In fact, mother sometimes aggravated Stanley’s negative behavior by participating in it along

with him. Mother lacked judgment where it was needed most -- for example, when Stanley demanded to run free in a parking lot or struck another child in a play area. These are instances in which a parent should not need to seek the advice of a visitation monitor.

Mother raises one other issue that deserves only passing mention. She contends the juvenile court undermined her efforts to create an unbiased, complete record by improperly enforcing artificial time limits on examination, adversely controlling examination, and denying her counsel an opportunity to provide a closing argument. Having reviewed each and every page of the transcripts in this case, we must respectfully disagree with counsel's assertions. In our view, the court was more than generous.

DISPOSITION

The petition for extraordinary writ is denied and the stay of the section 366.26 hearing issued on January 30, 2012, is vacated. This opinion is made final forthwith as to this court.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J.
DOI TODD