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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re BRYAN H., JR., et al., Persons Coming
Under the Juvenile Court Law.

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Plaintiff and Appellant,

v.

J.M. et al.,

Defendants and Respondents.

F089818

(Super. Ct. Nos. 24CEJ300014-1,
24CEJ300014-2)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Fresno County. Mary Dolas,
Judge.

Peter Wall, Interim County Counsel, and Lisa R. Flores, Deputy County Counsel,
for Plaintiff and Appellant.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant and
Respondent J.M.

Katie Curtis, under appointment by the Court of Appeal, for Defendant and
Respondent B.H.

* Before Detjen, Acting P. J., Meehan, J. and Snauffer, J.

Lauren K. Johnson, under appointment by the Court of Appeal, for Defendant and Respondent A.D.

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Appellant Fresno County Department of Social Services (department) appeals from the juvenile court's order at a 12-month review hearing held pursuant to Welfare and Institutions Code section 366.21, subdivision (f).¹ The department contends the court erred when it failed to find that reasonable services were provided for the 12-month review period. Respondent, J.M. (mother), requests that we dismiss the appeal because the department's contention is moot. The subjects of the dependency proceedings are mother's two children, Bryan H., Jr., and O.M. (collectively, the children). B.H., the father of Bryan, and A.D., the father of O.M., joined in the arguments made in mother's brief. We affirm.

PROCEDURAL AND FACTUAL SUMMARY

Initial Removal

On January 17, 2024, the department received a referral alleging physical abuse and general neglect of the children by mother. It was reported mother became angry and hit Bryan in the face with a belt buckle. As a result, Bryan had two black eyes, and stitches were inserted above his left eye. Bryan was observed to have lacerations and scars all over his body. Mother was unable to provide an explanation for Bryan's injuries, and she attributed them to his behaviors and a lack of adequate supervision. Mother eventually admitted to hitting Bryan with a belt for discipline in the past, but she continued to deny that she was responsible for his injuries. Law enforcement determined Bryan's injuries were consistent with physical abuse.

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

At a team decision making meeting, mother continued to blame Bryan's injuries on his aggressive behaviors and involvement in physical fights with other children. She insisted there were already services in place for Bryan's diagnoses of autism spectrum disorder and attention-deficit hyperactivity disorder. A social worker inquired about her ability to benefit from services, and she indicated that she could benefit from an autism class. The department informed mother that it was unable to offer voluntary family maintenance services due to the severity of Bryan's unexplained injuries. The children were taken into protective custody pursuant to a warrant.

The department filed a dependency petition alleging the children were described by section 300, subdivisions (a) and (b)(1). The allegations of the petition involved the physical abuse of Bryan and substantial risk of O.M. suffering serious physical harm by mother. The petition further alleged Bryan had been subjected to acts of cruelty by mother pursuant to section 300, subdivision (i).

On January 24, 2024, B.H. contacted the department by phone. B.H. explained that mother was a liar and violent, and he shared a story about mother trying to stab him in the past. B.H. was able to obtain a restraining order and temporary custody of Bryan, but mother was eventually awarded full custody due to his past criminal history and domestic violence. He was aware of Bryan having marks on his body during his visits, but he was afraid to go back to court with his concerns. B.H. stated mother would ask other people to put marks on her, and she would blame him for the marks to have him arrested.

At a detention hearing held on January 25, 2024, the juvenile court ordered that the children be detained, and mother was to be offered random drug testing by the department. A jurisdiction hearing was set for February 8, 2024.

Jurisdiction and Disposition

The department's jurisdiction report, dated February 6, 2024, recommended the allegations in the first amended petition be found true. The amended petition provided

updated addresses for mother and B.H., and it reflected the children's recently detained status. The report detailed mother's child welfare history, which included four prior referrals from 2016 through 2022. In February 2016, the Sonoma County Department of Social Services (Sonoma DSS) received a referral for general neglect, which was substantiated after mother and Bryan tested positive for methamphetamine and marijuana at the time of Bryan's birth. In May 2016, Sonoma DSS received a referral for severe neglect after mother failed to meet regularly with the child welfare agency.

The Sacramento County Department of Social Services received a referral for general neglect and physical abuse in May 2017. Law enforcement responded to a domestic violence incident between mother and B.H. B.H. reported mother punched and kicked him while he attempted to leave the home with Bryan. B.H. admitted that he and mother engaged in physical altercations in the past. Mother told law enforcement that B.H. pushed her into a wall, elbowed her, and put his hands around her neck. Mother was arrested and the referral for general neglect was substantiated.

In December 2022, the department investigated a referral of physical abuse. It was reported Bryan had a scratch on his face after mother hit him for lying. Bryan appeared to be afraid when mother indicated she would “ ‘ beat his a[**]’ ” for lying about the allegations. The disposition of the referral was unfounded.

The initial jurisdiction hearing was continued to provide proper notice for A.D., and a combined jurisdiction and disposition hearing was set for March 7, 2024. The disposition report, dated March 6, 2024, recommended family reunification services be provided to mother. The department determined that reunification would be in the children's best interests despite the applicability of section 361.5, subdivision (b)(6) based upon mother's infliction of severe physical harm to Bryan. Family reunification services were not recommended for either of the children's fathers.

The children were placed in separate resource family homes due to the care provider's unwillingness to handle Bryan's tantrums and jealous behaviors. The

department had located a placement willing to take both children, but O.M. had not yet been placed there. The report detailed mother's criminal history, which included two misdemeanor convictions for possessing a stolen vehicle in 2016.

On February 1, 2024, mother requested services that would help her understand autism. She was also open to parenting classes, anger management, and mental health services. Mother was in the process of starting outpatient substance abuse treatment.

During a family reunification bypass panel meeting held on February 13, 2024, mother admitted to using an extension cord to physically discipline Bryan on two occasions. The marks on Bryan's back were caused by mother " 'who[o]ping' " him. However, she continued to assert that Bryan's black eyes were from a fight. Mother explained that she was " 'who[o]ped' " as a kid, and she did not believe there was anything wrong with it. She reported that a lot of " 'stuff' " happened to her in childhood and adulthood. Mother felt therapy would benefit her because she recognized postpartum depression in herself. She admitted to using inappropriate discipline when she was tired and frustrated from having a newborn.

At the continued jurisdiction and disposition hearing, a contested hearing was set at the request of B.H. A third amended petition was filed by the department on April 12, 2024. In an addendum report, dated April 24, 2024, the department recommended mother be denied family reunification services. Bryan participated in an interview at the Multidisciplinary Interview Center on April 4, 2024. Bryan provided descriptions of additional instances of physical abuse by mother, and he stated that mother treated him like a "boxing bag." A physical examination at the Child Advocacy Clinic noted several scars all over Bryan's body that he attributed to mother " 'whooping' " him.

On June 25, 2024, the juvenile court sustained the third amended petition with additional amendments. The allegations filed pursuant to section 300, subdivisions (i) and (j) were found to be not true. The court found there was insufficient evidence to support a finding that it would not benefit the children to pursue reunification with

mother under section 361.5, subdivision (b)(6). Family reunification services were ordered for mother, which included: parenting classes; domestic violence assessment and recommended treatment; substance abuse evaluation and recommended treatment; mental health evaluation and recommended treatment; and random drug testing. A six-month review hearing was set for December 3, 2024.

Family Reunification Period

In its report for the six-month review hearing, dated November 25, 2024, the department recommended continued family reunification services for mother. The children were placed together in the home of their great-aunt. Mother was living with her nondependent two-month-old daughter and her daughter's father. Mother completed her parenting classes in May 2024. She participated in a domestic violence inventory, which recommended she complete the child abuse intervention program (CAIP). Mother attended her first CAIP class on August 13, 2024, and she was working on identifying the source of her anger.

On August 21, 2024, she completed the alcohol and drug education sessions and support group. All random drug tests had been negative for substances since February 28, 2024. Mother was an active participant in her biweekly therapy sessions. Visitation between mother and the children had progressed to overnight visits in November 2024. Bryan reported feeling safe and comfortable during his first overnight visit, and he denied receiving any form of physical or verbal abuse from mother. Mother identified autism education and family therapy as services that would be helpful to her.

The juvenile court ordered mother's family reunification services were to continue at the six-month review hearing. The extent of mother's progress toward alleviating the causes necessitating the children's placement in foster care was determined to be significant. The court also found the department had provided reasonable services to aid mother in overcoming the problems which led to the initial and continued removal of the children. A 12-month review hearing was set for March 18, 2025.

The department filed a section 388 petition on February 13, 2025. The petition alleged Bryan no longer felt safe during overnight visits because mother shoved food in his mouth and forced him to do wall sits to the point of throwing up. The department requested an order that visits be reduced to supervised at once per week between mother and Bryan. A second section 388 petition was filed on March 6, 2025, requesting visits be reduced to supervised for O.M. due to a domestic violence incident between mother and the nondependent sibling's father on March 1, 2025. The incident resulted in mother's arrest, but O.M. was not in the home at the time of the altercation.

The department's report for the 12-month review hearing, dated March 7, 2025, recommended the juvenile court terminate family reunification services for mother and set a section 366.26 hearing for the children. The children were placed together in the home of their maternal great-aunt. Mother attended individual therapy on a monthly basis. On December 13, 2024, mother tested positive for alcohol, and she failed to appear for a test on February 17, 2025. Mother had completed 27 of 52 sessions of the CAIP.

The department was concerned that mother was not utilizing the knowledge gained from services by removing herself from stressful situations and allowing her anger to get the best of her. On March 4, 2025, mother reported she was arrested for spray painting " 'cheater' " on the vehicle of the nondependent sibling's father. An emergency meeting was held by the department on the following date, and it was determined that O.M.'s extended visit should be terminated. The department obtained a police report, which indicated mother bumped into the nondependent sibling's father, slashed his tires with a knife, and shattered a side mirror.

At the 12-month review hearing, a contested review hearing was set for April 8, 2025, at mother's request. The contested 12-month review hearing began with testimony from the assigned family reunification social worker. The social worker testified mother had completed five additional sessions of the CAIP, and she continued to attend monthly

therapy sessions for her mental health. Her random drug testing results included a recent positive test for alcohol on March 12, 2025. Supervised visitations occurred between mother and the children each week.

The social worker testified that mother minimized the incident that resulted in her arrest on March 1, 2025. The domestic violence incident was identified as the reason the department was recommending termination of family reunification services for O.M. A parent's engagement in domestic violence after completing services was noted as a concern for the department.

The juvenile court inquired of the social worker regarding the types of programs that could be recommended from a domestic violence inventory. The social worker identified the CAIP, a domestic violence program, and a batterer's anger management program. The CAIP focuses on child abuse and the effect of domestic violence on children. The domestic violence program took place over 26 sessions and covered domestic violence between a couple. The social worker testified that the domestic violence assessment would determine which program would be offered.

The children's relative care provider testified about her supervision of visits between mother and the children. She also testified that mother was physically, mentally, and sexually abused by her stepfather as a child, and she did not believe mother had completely dealt with her own childhood trauma.

Mother testified that she had learned a lot during her participation in family reunification services for the past year. She explained that her "anger and pain" were triggered after she caught her boyfriend cheating. Her anger issues were a topic of individual therapy, and she denied that there were any past incidents of fighting between herself and her boyfriend. She testified the CAIP class focused on how to handle children's behaviors and emotions, the effects of alcoholic parents on children, and child abuse. Mother testified she was told by the department that her services would be terminated because she went to jail on March 1, 2025.

In closing argument, counsel for the department argued that it met its burden to prove that it would be detrimental to return the children to mother's custody. It also asserted that there was no substantial probability the children would be returned by the next review period. Counsel for the children agreed with the department's position.

Mother's counsel argued that the department failed to provide reasonable services because an assessment was necessary to determine if mother could benefit from a domestic violence program or anger management. Her counsel requested the juvenile court order continued family reunification services for mother.

After hearing argument from all counsel, the juvenile court continued the matter for a ruling. On April 24, 2025, the court provided its ruling. The court found there was sufficient evidence that return of the children to mother would create a risk of detriment to their safety and protection. However, the court determined the department had not shown, by clear and convincing evidence, that reasonable services were provided to aid mother in overcoming the problems leading to the initial and continued removal of the children.

The juvenile court acknowledge that the case arose out of issues of inappropriate discipline, but it did not believe that mother's issues with domestic violence and past trauma had been addressed. The court cited the department's failure to seek out a referral for one of the additional domestic violence programs that were available, and there was no evidence mother's current counseling services were specifically designed to address mother's domestic violence issues.

The juvenile court concluded its discussion on reasonable services by stating,

“[t]herefore, the Court finds that reasonable services ... have not been provided because the services have not been specifically tailored to the particular needs of this family, in that although mother has consistently visited with her children, she has been successfully participating in services to address child abuse and discipline issues; however, based on the information, she has not received services to address her own domestic

violence issues, which appears to be another factor which has led to the removal of the children.”

The juvenile court also found that mother’s progress toward alleviating or mitigating the causes necessitating the children’s placement in foster care had been significant. Mother’s family reunification services were continued, and an 18-month review hearing was scheduled for July 17, 2025.

DISCUSSION

A. Mootness

The department contends that the juvenile court erred when it refused to find that reasonable services were provided for the 12-month review period. Mother argues the issue is moot because she would have already received an additional six months of services by the time of the 18-month review hearing that was scheduled for July 18, 2025.

“A court is tasked with the duty ‘to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.’” [Citation.] A case becomes moot when events ‘render[] it impossible for [a] court, if it should decide the case in favor of [the appellant], to grant him any effect[ive] relief.’” (In re D.P. (2023) 14 Cal.5th 266, 276.) “‘On a case-by-case basis, the reviewing court decides whether subsequent events in a dependency case have rendered the appeal moot and whether its decision would affect the outcome of the case in a subsequent proceeding.’” (In re M.C. (2011) 199 Cal.App.4th 784, 802.) Courts also have discretion to resolve appeals that are technically moot if they present important questions affecting the public interest that are capable of repetition yet evade review. (In re A.M. (2013) 217 Cal.App.4th 1067, 1078–1079.)

A court has discretionary authority under section 352 to extend reunification services beyond the 18-month review period where “deprivation of reasonable services”

impedes the court's ability to properly evaluate the prospects for family reunification. (*Michael G. v. Superior Court* (2023) 14 Cal.5th 609, 636.) Given the absence of evidence that the 18-month review hearing has proceeded or resulted in any adverse consequences for the parties, we cannot find that subsequent events have rendered the appeal moot. Mother's assertion that she would have received family reunification services until the 18-month review hearing does not prevent this court from ordering termination in the event of an erroneous decision. Moreover, the result requested by mother would prevent the department from correcting an improper finding that reasonable services were not provided despite that finding's ability to support an extension of services at a future review hearing. (See *In re T.G.* (2010) 188 Cal. App. 4th 687, 696 [Father permitted to challenge reasonable services finding based upon the adverse consequences that finding would pose at future review hearings].) Thus, we conclude the issue is not moot.

B. Reasonable Services

"Family reunification services play a critical role in dependency proceedings. [Citations.] At the dispositional hearing, the court is required to order the agency to provide child welfare services to the child and his or her parents. (§ 361.5, subd. (a).) Services 'may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children.' (§ 300.2.) Reunification services should be tailored to the particular needs of the family." (*In re M.F.* (2019) 32 Cal.App.5th 1, 13.)

At each review hearing, "if the child is not returned to his or her parent, the juvenile court is required to determine whether 'reasonable services that were designed to aid the parent ... in overcoming the problems that led to the initial removal and the continued custody of the child have been provided or offered to the parent ...' (§§ 366.21, subds. (e)(8) & (f)(1)(A), 366.22, subd. (a)(1))." (*In re M.F., supra*, 32 Cal.App.5th at pp. 13–14.) The adequacy of reunification plans and the reasonableness of the efforts of

the department are decided according to the circumstances of each case. (*In re Edward C.* (1981) 126 Cal.App.3d 193, 205.)

“[T]he 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 (such as helping to provide transportation and offering more intensive rehabilitation services where others have failed).” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414, italics omitted.)

In making this determination, we bear in mind that “[i]n almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. 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.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

The department must establish by clear and convincing evidence that such services have been offered to the parents. Under this burden of proof, “evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind.” (*In re David C.* (1984) 152 Cal.App.3d 1189, 1208.)

Where, as here, the trial court concluded that the party with the burden of proof did not carry the burden, “the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. [Citations.] Specifically, the question becomes whether the appellant’s evidence was (1) ‘uncontradicted and unimpeached’ and (2) ‘of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.’” (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1528.)

The department contends that the juvenile court erroneously based its reasonable services finding on the lack of services to address mother's issues with trauma and domestic violence. It argues that it was not reasonable to believe the department could have provided domestic violence centered services after mother's arrest on March 1, 2025.

In the present case, the children were removed from mother's care due to the physical abuse of Bryan. The requirements of mother's case plan included components to address the issue of child abuse along with mental health and substance abuse services. During the 12-month review period, mother's involvement in a domestic violence incident created an additional problem that was affecting her ability to regain custody of the children. More than a month passed from the occurrence of the incident on March 1, 2025, and the beginning of the contested review hearing on April 8, 2025.

The social worker acknowledged that the department relied upon mother's involvement in domestic violence when it recommended to terminate mother's family reunification services. However, there was no evidence presented by the department regarding its efforts to reassess the appropriateness of the current case plan following the incident. There were at least two domestic violence programs that could have been recommended by an additional domestic violence assessment, but mother was never referred for an additional assessment after the incident. Given the department's express reliance on the issue of domestic violence in making its recommendation to terminate reunification services, the juvenile court reasonably concluded that domestic violence services were a necessary component of mother's case plan.

As discussed previously, the record must demonstrate that the 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" (*In re Riva M.*, *supra*, 235 Cal.App.3d at p. 414, italics omitted.) Here, the

department met with mother after the domestic violence incident to discuss its concerns, but there was no documentation of the steps it was taking to help mother address this barrier to reunification. We acknowledge that additional time may have been necessary for mother to enroll in a domestic violence program before the contested hearing, however, there was ample time for the department to either refer mother for an additional domestic violence inventory with consideration of the recent incident or identify ongoing services that were capable of addressing this issue.

In sum, there was insufficient evidence presented to establish that the juvenile court was compelled as a matter of law to find that reasonable services were provided by the department. Based upon the record before us, we conclude the court did not err when it failed to find the department provided reasonable services. We therefore decline the department's request to reverse the findings and remand the cause and we affirm the juvenile court's order.

DISPOSITION

The juvenile court's order is affirmed.