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Court of Appeal, Second
District, Division 4, California.

ANITA C., 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.

No.
B213283
.
|
(Los Angeles County Super. Ct. No. CK66663).
|
Sept. 8, **2009**.

ORIGINAL PROCEEDINGS in mandate. Marilyn Mackel, Court Commissioner. Petition denied.

Attorneys and Law Firms

Law Office of Timothy Martella, Eliot Lee Grossman, and Sarah Shon for Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Tracey F. Dodds, Principal Deputy County Counsel, for Real Party in Interest Los Angeles County Department of Children and Family Services.

Martha Matthews for Real Party in Interest Minor.

Opinion

SUZUKAWA, J.

***1** **Anita** C. (mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, seeking to set aside the juvenile court's order setting a Welfare and Institutions Code section 366.26 hearing. [1] She contends: (1) the Los Angeles County Department of Children and Family Services (DCFS) failed to provide reasonable reunification services; (2) the juvenile court abused its discretion by not extending reunification services; and (3) DCFS failed to prove it would be detrimental to return her son to her custody. For the reasons set forth below, we deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

J.A. (born 12/06) and his three half-siblings came to the attention of DCFS on January 16, 2007, due to allegations of general neglect by mother and domestic violence and drug sales against J.A.'s father (father). [2] During an interview with mother, she initially denied the allegations of domestic violence. She later admitted that on January 12, 2007, father became upset when mother refused to let him take J.A. and he bit her. Mother denied father struck her. DCFS learned that father had been arrested for the January 12 incident. Later, mother conceded that father had punched her and caused her to sustain a black eye. He also threatened to throw her out of the window of the apartment. She said there had been prior incidents of violence. Mother admitted the children witnessed the incidents. She denied using physical discipline on the children. DCFS filed a section 300 petition against father on behalf of J.A. With respect to the half-siblings, J.C. (born 8/97), M.C. (born 3/99), and K.C. (born 7/05), a voluntary family maintenance case was opened. The children were returned to mother.

On January 19, 2007, J.A. was detained from father and released to mother's custody. The court ordered DCFS to provide mother with referrals for domestic violence counseling, parenting classes, and individual counseling.

On January 22, 2007, DCFS received a referral from the Huntington Park Police Department, alleging that mother had left the children unattended and without any provision of support. A social worker went to the family home and learned from the children that mother had gone to work at 10:00 a.m. and was expected to return at 6:00 p.m. The social worker learned from neighbors that mother had left her children alone on other occasions. The children were removed from the home and mother was arrested for child cruelty. An amended section 300 petition was filed, alleging that mother had left J.A. in the care of a nine-year-old sibling and K.C. in filthy and unhygienic conditions.

On April 20, 2007, after mother pled guilty to child cruelty (or child endangerment, the record is not entirely clear), she was deported to Guatemala. [3] After several attempts, on June 22, 2007, the social worker had telephonic contact with mother. Mother reported that she was interested in taking the required courses and receiving counseling in Guatemala. She was hoping to obtain a visa to return to California by July 2007 and requested a continuance of the hearing until the end of July.

***2** On May 10, 2007, DCFS inspected the home of a maternal aunt to determine whether the children could be placed with her. DCFS found that the home was unsafe and there was no room for the children. In addition, the aunt's son had a felony conviction.

Mother did not appear at the June 27 disposition hearing; however, she was represented by counsel. Three of the children, J.A ., J.C., and M.C. were declared dependents of the court and placed in a foster home. [4] Mother was provided reunification services. She was ordered to complete parenting classes and participate in domestic abuse and individual counseling. DCFS was ordered to provide the parents with correspondence and online courses to address case issues and the children with phone cards to facilitate monitored telephonic visits. The six-month review hearing was set for January 4, 2008.

In the report for the six-month review hearing, the children's social worker (CSW) informed the court that she had telephonic contact with mother on December 18, 2007. Mother told the CSW that she wanted to have custody of the children. Mother reported she had attended parenting and domestic violence classes in Guatemala and said she would mail confirming letters. Mother informed the CSW that she had been unable to attend individual counseling, as it was not available in Guatemala. Mother stated she had contact with father, who inquired about the status of her case. The CSW received a letter from Elsa Arevalo, a social worker in Guatemala, who wrote that mother attended classes from July 2007 to October 2007. Mother had monitored telephonic contact with her two older children, J.C. and M.C., who told the CSW they no longer wished to speak to her. J .C. said he did not want " 'to go back with [mother] for the things she's done, she hit me[.] [E]verything is fine here.' " M.C., when asked about reunifying with mother stated, " 'She's mean and she left my brother J. [with] mark[s] on his hands.' " DCFS recommended that mother's reunification services be terminated.

At the January 4, 2008 six-month review hearing, mother was not present and was represented by counsel. The court found DCFS had made reasonable efforts to enable the parents to comply with the case plan, determined mother was in compliance with the case plan, and continued the 12-month review hearing to July 1, 2008. The court asked DCFS to contact the Guatemalan consulate to assist mother with finding appropriate counseling services. J.C. and M.C. were to be released to their father once they obtained passports to travel to Guatemala. [5]

In the report for the 12-month hearing, the CSW stated that mother continued to reside in Guatemala and the two maintained telephonic contact. The CSW spoke with Ms. Arevalo, the social worker in Guatemala, who informed her that mother had completed six parenting classes and six domestic violence sessions. Each class or session lasted about one and a half hours. Mother scored well on an exam on the two subjects. Arevalo said mother was referred to a psychologist to address case issues, but mother had not attended any individual counseling sessions. J.A. had adjusted to his current foster home and had become attached to his foster parents, especially his foster mother. He appeared to have issues with delayed speech and was referred to the regional center for an assessment. J.A.'s caregivers expressed interest in adopting him and a home study was started. DCFS found

J.A. to be adoptable and recommended that mother's reunification services be terminated and adoption be made the permanent plan.

***3** At the July 1, 2008 12-month review hearing, mother was not present and was represented by counsel. [6] The court found that DCFS had provided reasonable reunification services. County counsel noted that mother was being referred to a psychologist to address case issues. She expressed concern that the counseling mother had received did not constitute substantial compliance with the case plan, given the severity of the domestic violence and child neglect issues. The court noted that mother's circumstances had to be considered and, up to that point in time, she had done all she could. It ordered reunification services continued to the date of the section 366.22 hearing (18-month review hearing). DCFS was ordered to arrange for visits between J.A. and the maternal aunt and explore possible placement with her. The 18-month review hearing was set for July 24.

DCFS informed the court that it had arranged a visit between J.A. and the maternal aunt. J.A. began crying during the visit. When the aunt tried to comfort him, he crawled under the CSW's chair. The CSW assisted the aunt in getting J.A. out from under the chair and the CSW placed him in the aunt's arms. He continued to cry and eventually fell asleep. The CSW determined the aunt's home was still not safe for J.A., as it had a balcony with no rails, an exposed water heater, and an inoperable smoke detector. In addition, the aunt's son, who had a prior robbery conviction, was living at the home. The aunt claimed that he was expected to move soon, but he had not done so by the time the report was written. DCFS reported that J.A. was very attached to the prospective adoptive applicants and viewed them as his parents. It continued to recommend termination of reunification services and adoption as the permanent plan.

In a last minute information report to the court, DCFS reported that a second visit between J.A. and the maternal aunt had taken place. As during the first visit, there was minimal contact between them, as J.A. cried and fell asleep. The aunt placed a rail on the balcony in the home and said her son had moved out.

At the July 24 hearing, mother's counsel requested that J.A. be placed with the maternal aunt. The court declined, noting that the safety of the home had not been reassessed and DCFS had not verified that the aunt's son had moved out. The court set the matter for a contested 18-month review hearing on September 29, 2008. The CSW wanted mother's circumstances in Guatemala assessed prior to the hearing. It asked counsel to determine whether, given mother's location, an alternative to terminating her parental rights was available. The court felt mother had done all she could in an attempt to comply with the case plan, but expressed concern that she had not seen J.A. in over a year and a half.

On August 15, mother filed a section 388 petition asking the court to remove the requirement that she complete individual counseling. She argued that she had successfully completed the parenting and domestic violence classes and could do no more because there were no individual counseling programs in Guatemala. The court ordered a hearing on the petition and set it on September 29, the same day as the contested hearing.

***4** On August 29, DCFS told the court that in order for it to initiate an International Home Study (ICPC), the court needed to provide a signed minute order directing DCFS to request the assessment. The order was provided that day.

In a supplemental report prepared for the September 29 hearing, DCFS advised the court that mother had been caught attempting to illegally cross the border into the United States. On September 15, 2008, the CSW was informed that mother was in custody at the Century Regional Detention Facility in Lynwood and was given her booking number. At the direction of the deputy county counsel, the CSW submitted a request to the Sheriff's Department that mother be transported to the September 29 hearing. However, mother could not be located in the Sheriff's holding facility. The CSW learned that mother was possibly in the custody of immigration authorities in Santa Ana. On September 17, the court issued an order that mother be transported to the hearing. It appears the court was under the impression that the immigration judge was going to hold mother until she had an opportunity to attend the dependency hearing. The CSW attempted to submit a transportation request

to immigration authorities. Although she made several telephone calls to numbers she had been provided, the CSW was unable to secure mother's attendance at the hearing.

At the September 29 hearing, the court continued the matter to November 13 and ordered DCFS to comply with its order to complete the ICPC.

Prior to the November 13 hearing, the court was informed that the ICPC had not been completed. A CSW had spoken to a Guatemalan social services representative, who requested that the home study request be sent again (it was originally transmitted on September 3). The representative was asked if Guatemala Social Services would be willing to provide courtesy supervision of mother. The representative said he would email a response. The CSW advised the court that in her experience it would take three to four months before the home study paperwork was processed. The CSW assigned to the case was unable to contact mother despite leaving several messages. The court learned that mother had received individual counseling from October 18 to October 28, 2008. No further information with regard to the number of sessions she attended or the substance of the counseling she received was provided.

At the contested hearing on November 14, mother requested a continuance until the ICPC was completed. County counsel objected, noting that it had been 22 months since J.A. was detained and, at that point, J.A.'s interests were paramount. The court decided to hear the evidence to determine whether the ICPC was necessary.

The only witness to testify was the CSW assigned to mother's case, Laura Castro. She testified to the services she provided mother since the time she took over the case in late 2007. She contacted mother in December. Mother had already received referrals from the prior case worker and had submitted documentation showing she had completed parenting classes and domestic violence counseling. Castro informed mother that she needed to complete individual counseling to comply with the case plan. Mother said she had been given a referral to see a psychologist and was trying to obtain a letter verifying her sessions. Castro had successfully arranged for J.C. and M.C.'s father to obtain a visa in order to take custody of his sons and attempted to do the same for mother; however, the United States Embassy denied mother's request. She contacted Guatemalan social services and the consulate in an effort to ensure mother received the proper referrals and had a number of telephone conversations with mother. After mother was deported the second time, Castro tried unsuccessfully to contact her. She last spoke to mother in June 2008.

***5** Although Castro acknowledged that mother had complied with the case plan as best she could under the circumstances, she believed the classes and counseling mother had received did not adequately address the issues which led to DCFS intervention-severe domestic violence and child endangerment. Castro believed that 52 weeks of domestic counseling would begin to address the case issues mother had in that regard. She stated that normally parents were expected to complete 12 parenting classes. She testified J.A. had special needs. He had issues with speech development and was receiving services from the regional center. He had a therapist who came to the home twice a week. Castro testified that DCFS's adoption worker believed it was in J.A.'s best interest to remain in his current placement due to the fact that it was the only stability the child had ever known.

On November 25, the parties presented their arguments. County counsel argued that DCFS had provided reasonable services to mother. She contended that mother had not substantially complied with the case plan. She claimed that even if mother had completed all of the programs available in Guatemala, there was still a question whether they adequately addressed the problems which led to the filing of the petition. Mother was involved in two abusive relationships with the fathers of her children, including father, denied father sold drugs, and left a one-month-old child in the care of a nine year old. Finally, even if mother had substantially complied with her case plan, return of J.A. to mother would be detrimental to him. J.A. had lived with his foster parents for 22 of the 23 months of his life and his current home provided the stability and medical care he needed.

Mother's counsel faulted DCFS for mother's failure, if any, to complete the case plan. If CSW Castro felt mother's counseling was inadequate to address case issues, she had the responsibility of informing mother or the

Guatemalan social service counselors and failed to do so. She argued mother had done all that was possible to regain custody of J.A. and requested that he be returned to her. She asserted, at the very least, mother should be given additional reunification services because of the unusual circumstances of the case. This would provide additional time for the ICPC to be completed. She disputed that a return to mother would be detrimental to J.A., urging that DCFS failed to provide any evidence to support such a finding.

J.A.'s counsel recognized the unique circumstances presented by the case. However, he pointed out that at that stage in the proceedings (22 months since J.A.'s detention), the court had to focus on what was best for the child. He concurred with county counsel that mother's classes and counseling were inadequate and urged the court to terminate her reunification services because it was in J.A's best interest.

The court found DCFS provided reasonable services, stating that "the worker has made some pretty stupendous efforts in this case." While noting that mother's attempt to reunify with J.A. was a sad consequence of illegal immigration and she did all she could under the circumstances, the court found "those efforts have been limited by the situation in which she has found herself." It concluded, "that the compliance of the mother is not sufficient for this court to find that the child would not be at risk if returned to her care and custody." The court found by clear and convincing evidence "that to return the child to the care and custody of the mother does pose a substantial risk of detriment." The court terminated reunification services and set the matter for a section 366.26 hearing.

***6** After the court denied mother's motion for reconsideration, this writ petition followed.

DISCUSSION

I. DCFS Provided Mother Reasonable Services

Mother strongly criticizes DCFS for failing to take more stringent measures to help her in this case. She argues the CSW did not make a good faith effort on her behalf. We disagree.

At the 18-month review hearing, the court must find by a preponderance of the evidence that DCFS provided reasonable services. (*Katie V. v. **Superior** **Court*** (2005) 130 Cal.App.4th 586, 595.) "We determine whether substantial evidence supports the trial court's finding, reviewing the evidence in a light most favorable to the prevailing party and indulging in all legitimate and reasonable inferences to uphold the court's ruling. (*Id.* at p. 598.)

We acknowledge the unusual circumstances of this case and recognize that "[t]he adequacy of reunification plans and the reasonableness of the DCFS's efforts are judged according to the circumstances of each case." (*Armando L. v. **Superior** **Court*** (1995) 36 Cal.App.4th 549, 554.) DCFS must identify the problems that led to the loss of custody, offer services designed to address those problems, maintain reasonable contact with the parent, and make reasonable efforts to assist the parent where compliance with the case plan proves difficult. (*In re Riva M.* (1991) 235 Cal.App.3d 403.) We emphasize that DCFS's efforts must be reasonable. We must "recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances." (*Elijah R. v. **Superior** **Court*** (1998) 66 Cal.App.4th 965, 969.)

Mother attacks the reunification plan for providing her an unrealistic opportunity to reunify with J.A. She asserts that the only realistic reunification plan, given that she was deported and her country provided limited services, was to transfer jurisdiction to the Guatemalan authorities and allow them to supervise J.A.'s return to her custody.

At oral argument, mother, for the first time, advanced the claim that the juvenile court had a sua sponte duty to consider whether the doctrine of forum non conveniens required it to transfer mother's case to Guatemala. She relied on a footnote in *In re Stephanie M.* (1994) 7 Cal.4th 295, where our Supreme Court, in determining if the trial court in that case had appropriately taken jurisdiction in a dependency case involving Mexican citizens, stated, "We

do urge courts in the future, however, to carefully consider the problem of forum non conveniens in dependency proceedings involving foreign nationals." (*Id.* at p. 313, fn. 7.)

Setting aside whether forum non conveniens in the dependency context applies to a case involving a mother who is a foreign national and a child who is an American citizen, mother's contention is without merit. First, nothing in *In re Stephanie M.* suggests that a court has a sua sponte duty to consider whether California is a convenient forum every time a foreign national is involved. Second, mother is barred from raising her claim on appeal. Family Code section 3427, subdivision (a) provides, in part, that "The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court." Because the subject whether California was an inconvenient forum was not raised by the parties, the court, or another court during the proceedings below, "[i]t thus was not properly raised in the juvenile court and is not an issue before this court." (*In re S.W.* (2007) 148 Cal .App.4th 1501, 1511.)

***7** In any event, an examination of the factors the court is to consider when determining if another state (or country) is a more convenient forum for a child custody case reveals that California was the appropriate forum here. We need look no further than that the court, in deciding whether to decline to exercise jurisdiction in a matter, is to consider "[t]he length of time the child has resided outside this state." (Fam.Code, § 3427, subd. (b)(2).) During his short life, J.A. has lived exclusively in this state and has absolutely no ties to the country of Guatemala.

Mother blames DCFS for causing the situation which led to her arrest by failing to offer childcare services to her. She asserts the CSW should have intervened with the district attorney's office to request that the charges against her be dismissed and gone to court to ask that mother be released on her own recognizance. She urges the CSW should have appeared at the immigration proceedings and demanded her release in order to allow her to attend the dependency hearings.

Mother forgets that she did not request childcare services. Mother originally claimed that she had arranged for a babysitter and was surprised to learn that she failed to show. Her eldest son reported that mother left the four children unattended on approximately five other occasions. For whatever reason, mother believed she could discreetly leave the children alone in the home and no one would be the wiser. As for her suggestion that the CSW should have intervened in her legal and immigration proceedings, a children's social worker is not expected to be a parent's legal advocate. Mother's attempt to equate extraordinary efforts with reasonable services is unavailing.

Once mother was deported, the CSW spoke with Guatemalan social workers and mother and expressed the need for mother to complete parenting classes, domestic violence counseling, and individual counseling. These services were designed to address the issues that led to mother losing custody of her children. The CSW maintained regular contact with mother until mother unsuccessfully tried to enter the country in July 2008. The CSW attempted to obtain a visa for mother in order to allow her to attend the court proceedings and visit with J.A. While mother may have reason to complain about Guatemala's failure to comply with the ICPC request in a timely fashion, DCFS requested a home study twice. Moreover, given that mother left home in July and was later incarcerated, she prevented a study that required her presence from being completed. In determining whether DCFS provided reasonable services, we may also consider that mother placed herself out of reach of many of the services, including visitation, it could have provided. (See *In re Lauren Z.* (2008) 158 Cal.App.4th 1102, 1111.)

Under the circumstances, substantial evidence supports the juvenile court's conclusion that DCFS provided mother reasonable reunification services.

II. The Court Properly Refused to Extend Reunification Services

***8** Mother contends the court abused its discretion by failing to extend reunification services due to the extraordinary circumstances caused by her deportation. "Where, as here, a discretionary power is inherently or by express statute vested in the trial judge, his or her exercise of that wide discretion must not be disturbed on appeal *except* on a showing that the court exercised its discretion in an arbitrary, capricious or patently absurd manner that

resulted in a manifest miscarriage of justice." (*People v. Jordan* (1986) 42 Cal.3d 308, 316.) On this record, it would be difficult to characterize the juvenile court's exercise of its discretion as arbitrary or capricious.

The fundamental flaw in mother's claim is that the court did not find mother failed to substantially comply with the case plan because she failed to attend the appropriate classes or counseling sessions. It found that mother's efforts "have been limited by the situation in which she has found herself. A deported person, into her own land, where services are minimal." In other words, the court recognized that due to her circumstances, mother could not adequately address the issues that led to her losing custody of the children because the appropriate services were not available to her. We cannot say this was an unreasonable conclusion to draw given the nature of mother's transgressions and the number of classes and counseling sessions she attended, which we discuss in greater detail below. (Section III, *post.*)

The cases mother cites to support her claim do not help her cause. They stand for the proposition that under extraordinary circumstances the court is not compelled to terminate reunification services at the section 366.22 hearing. It is undisputed that the court recognized it had the ability to extend services beyond the 18-month date and exercised its discretion to decline mother's request because it was not in J.A.'s best interest.

The facts in *In re Dino E.* (1992) 6 Cal.App.4th 1768 are illustrative. There, DCFS failed to provide the father with a reunification plan. Nonetheless, the dependency court believed that it had to terminate reunification services at the 18-month review hearing. The appellate court disagreed, finding that the lower court had the discretion to extend further services. It was careful to point out, however, that the fact DCFS had provided inadequate reunification services to the father did not require the juvenile court to grant a continuance and an extension of further services to him. The dependency court retained its discretion to determine "that the child's need for prompt resolution of his custody status outweighed any need for a continuance to provide further services to appellant." (*Id.* at p. 1779.) In that regard, "[t]he court may consider the likelihood of success of any further reunification efforts, the fact that nearly a year has passed in Dino's life during the pendency of this appeal, ... and the circumstance that appellant, as the parties have informed us at oral argument, is presently incarcerated." (*Id.* at pp. 1779-1780.) That is precisely what the court did in the instant case. The court was aware that mother was requesting an additional three to four months of services, which would cause further delay in providing J.A. with a stable permanent home. Due to mother's conviction and deportation and the lack of available services in her country, the court reasonably determined that her reunification effort was unlikely to be successful.

III. Substantial Evidence Supports the Trial Court's Finding of Detriment

***9** Mother contends the trial court erred in finding that return of J .A. to her custody would create a substantial risk of detriment. We are not persuaded.

At the 18-month status review hearing, "The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.22, subd. (a).) While the court must consider the parent's efforts to comply with his or her case plan, "the decision whether to return the child to parental custody depends on the effect that action would have on the physical or emotional well-being of the child." (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 899.) The juvenile court's findings will be upheld if they are supported by substantial evidence and all reasonable inferences are made in support of the court's order. (*In re Tanis H.* (1997) 59 Cal.App .4th 1218, 1226-1227.)

We need only examine J.A.'s circumstances to find support for the court's order. The court was rightfully concerned with moving "the child from the family that he has connected himself to and bonded with in his important early years of his life." J.A. was one month old when he was taken from mother's custody and, with the exception of futile attempts to have telephone conversations, he had not had contact with her since. For the ensuing 22 months between detention and the section 366.22 hearing, he lived in the home of the foster parents who propose to adopt

him. Their home is virtually the only one he has ever known and, not surprisingly, he has become extremely bonded with them. He is a special needs child, as he has issues with speech development and receives services from the regional center.

Mother complains that "DCFS offered its speculation of emotional harm to [J.A.] from being separated from his foster parents, but provided no evidence that there was a substantial (or any) risk of such harm occurring. No psychologist or psychiatrist ever examined [J.A.] to opine as to any risk of emotional harm to him from being returned to his mother." Mother ignores the fact that the court need not be convinced that J.A. *will* suffer emotional damage as a result of being returned to her custody. DCFS has the burden of proving by a preponderance of the evidence that he is at substantial *risk* of suffering such harm. We reject mother's contention that the testimony of a professional is necessary for a court to reasonably infer that taking a 23-month-old special needs child from the only home he has known and placing him with a total stranger creates a substantial risk to the child's emotional well-being.

Beyond the emotional needs of J.A., there is evidence that his physical safety would be at risk if he were placed with mother. He was taken from mother for two reasons. Mother and father engaged in substantial domestic violence and there were serious issues of child endangerment. The parties blame each other for the lack of information regarding the substance of the programs in which mother participated. Nonetheless, we do know that mother had six domestic violence sessions, took six parenting classes, and participated in individual counseling during 10 days in October 2008 (although we do not know how many sessions she attended or what was discussed).

***10** We turn to the domestic violence issues. At first, mother denied the abuse had taken place. Later, she admitted it occurred, but attempted to minimize its extent. Finally, she conceded that the violence was severe, as father blackened her eye with a punch and threatened to throw her out of the apartment window. This incident, and others, took place in front of the children. Moreover, despite mother's claims to the contrary, the older children complained that mother struck them, and on one occasion, left marks on J.C.'s hands. Mother denigrates DCFS's position that it was necessary for her to participate in 52 domestic violence sessions as being the product of a "cookie-cutter" mentality. However, the fact of the matter is that there were substantial domestic violence issues. While we agree with mother that there is nothing magical about the number 52, we cannot say the court was unreasonable in determining that six sessions were not enough to ensure that J.A. was safe from physical harm if returned to mother.

Although mother takes sharp issue with DCFS's claim, there is evidence in the record that she continued to have contact with father. In December 2007, mother told the CSW that she had spoken with father two months prior and he asked her about the status of the case. In the July 2008 status review report, the CSW wrote that mother said she had not had contact with father for several weeks, suggesting they had continued to communicate since December 2007. Father called the CSW before he was deported and told her that he planned to reunify with mother and get married. Mother argues there is no evidence that she intends to reunify with father and asserts his statement to that effect is "self-deluded." Perhaps so. The point is that mother and father continue to have contact and there is little doubt that domestic violence is often spawned because one party wishes to continue a relationship and the other does not. The parents' continued communication simply adds more uncertainty to the mix, which places greater emphasis on the domestic violence counseling mother received.

Going to the child endangerment issues, mother claims she was a victim of poverty, who was forced to leave her children unattended in order to work. This is in contrast to her statement to the police that she had arranged for a babysitter. In addition, although she claimed to have left her children alone on the one occasion which led to their detention, her oldest son J.C. told DCFS that she left the children unattended on approximately six occasions. In fact, mother began leaving J.A. alone with his half-siblings when he was two weeks old. As with the allegations of domestic violence, mother denied the misconduct and attempted to minimize its severity. One cannot seriously dispute that mother demonstrated a serious lack of parenting skills.

Suffice it to say, there were substantial questions concerning whether mother's participation in the classes and counseling adequately addressed the case issues. When we add the clear and compelling risk that J.A.'s emotional well-being would suffer if returned to mother's custody, substantial evidence supports the juvenile court's finding of detriment.

DISPOSITION

***11** Mother's petition for an extraordinary writ is denied.

We concur: WILLHITE, Acting P.J., and MANELLA, J.

All Citations

Not Reported in Cal.Rptr.3d, 2009 WL 2859068

Footnotes

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

2 J.A.'s father is not a party to this appeal.

3 On April 16, 2007, father was deported to El Salvador.

4 K.C. was placed in her father's home while the court considered terminating jurisdiction. Jurisdiction over K.C. was terminated on August 2, 2007.

5 The court terminated jurisdiction over J.C. and M.C. on January 9, 2008.

6 The CSW provided mother with the necessary documents to apply for a visa in Guatemala with the United States Embassy. On June 10, 2008, the CSW received a denial letter from the embassy. The denial was based on mother's criminal conviction and her prior unlawful presence in the United States.