Filed 12/29/04 K.F. v. Sup. Ct. CA4/2

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

K.F., Petitioner, v. THE SUPERIOR COURT OF THE COUNTY OF SAN BERNARDINO, Respondent; SAN BERNARDINO COUNTY DEPARTMENT OF CHILDREN'S SERVICES, Real Party in Interest.	E036804 (Super.Ct.Nos. J185155, J185156) **OPINION**

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Raymond L. Haight, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Robert F. Alvarenga for Petitioner.

No appearance for Respondent.

Ronald D. Reitz, County Counsel, and Julie J. Surber, Deputy County Counsel, for Real Party in Interest.

Petitioner K.F. (Mother) is the mother of J.K. and M.F. Mother filed this writ petition pursuant to California Rules of Court, rule 39.1B challenging an order setting a Welfare and Institutions Code section 366.26[1] permanency planning hearing as to the children. Mother contends there is insufficient evidence of a substantial risk of detriment to the children's physical or emotional well-being if they were returned to her care. For the reasons provided below, we reject Mother's challenge and deny her petition.

I

FACTUAL AND PROCEDURAL BACKGROUND

On November 6, 2002, the children came to the attention of the San Bernardino County Department of Children's Services (DCS) when a referral was received at the child abuse hotline that the children were victims of caretaker absence. On November 7, 2002, DCS filed section 300 petitions on behalf of J.K., who was then four years old, and M.F., who was then six years old. The petition alleged that Mother had failed to provide the children with food, shelter, and a safe home and that Mother failed to provide them with adequate supervision by leaving them for three days with an unreliable caretaker.

In a detention report dated November 8, 2002, the social worker reported that Mother had left her two children with Mother's boyfriend, Mr. A., who was a quadriplegic and was unable to care for the children. When the police arrived, officers noted there was no food in the home; the home was filthy with dirt, feces, and standing

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[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

black water in the kitchen sink and on the bathroom floor; and there was a permeating smell of urine in the home. Mr. A. stated that Mother had been leaving the children with him during the day for the past six months and that the children had been eating food from the ground and scavenging food from trash cans. Mother was Mr. A.'s primary caregiver, and she was aware he was not able to care for her children. Neighbors reported seeing the children run around the apartment complex unsupervised. Police reported that Mr. A. was unable to get out of bed or take care of himself and that Mother would be charged with felony child endangerment, child abandonment, and acts against a dependent adult. The social worker recommended that the children be detained and placed in foster care and that Mother receive supervised visitation. J.K.'s father, Andrew K., was incarcerated at Chino State Prison, and the whereabouts of Gregory M., the alleged father of M.F., were unknown.

At the November 8, 2002, detention hearing, the juvenile court ordered the children detained; it authorized the social worker to evaluate relatives' homes for possible placement and to move the children by nonappearance packet if the evaluation was satisfactory. Mother was provided weekly supervised visitation.

In a jurisdictional/dispositional report dated December 2, 2002, the social worker recommended that the court find the allegations in the petitions true, declare the children dependents of the court, place them in confidential foster care pending completion of relative assessments, and provide Mother with reunification services. Mother blamed the landlord and her children for the condition of the home, admitting the home was "trashed" and there was no food. She stated that she left the children for 24 hours because her car was "[b]eing misplaced or stolen." She initially claimed the children

were left with Mr. A. but then said a neighbor was watching the children. M.F. said his mother left him with Mr. A. for four days and that he did not know where she went or how to contact her. J.K. stated her mother had left her for a "long time, three or four days."

Mother reported that she was homeless and had an intrusive substance abuse problem that involved the daily use of alcohol and marijuana. She admitted using alcohol while pregnant with both children. M.F., who stated that he had not eaten for days, was underweight and had a speech problem. J.K., who also stated that she had not eaten "for a long time," appeared developmentally delayed, with a verbal skill level below the norm. Although the children clearly loved their mother, Mother had made choices that compromised their safety and well-being.

The social worker prepared a case plan for Mother that required Mother to attend weekly general counseling, a parenting education program, substance abuse counseling, an outpatient substance abuse program, and a 12-step program and to submit to random substance abuse testing. Mother's objectives were to pay attention to her children's well-being, parent her children, demonstrate an ability to provide adequate care for her children, accept responsibility for her actions, show an ability to have custody of her children, obtain resources for a home, arrange appropriate child care, ensure her children attend school, stay free from alcohol dependency and illegal drugs, meet her children's needs, and maintain a suitable residence.

At the jurisdictional/dispositional hearing on December 2, 2002, Mother signed a waiver of rights and submitted on the petitions. The juvenile court found the children came within section 300, subdivisions (b) and (g); declared them to be dependents of the

court; and placed them in foster care. The court approved the reunification plan as prepared by the social worker and ordered Mother to participate.[2] The court provided Mother weekly supervised visitation and authorized the social worker to liberalize visitation if Mother made progress in her plan.

On March 14, 2003, after DCS approved the home, the children were moved to the home of the paternal grandmother of J.K.

In a status review report dated June 2, 2003, the social worker opined that Mother had made no progress on her case plan but recommended an additional six months of services in the hope that it would assist Mother. The social worker reported that on December 11, 2002, she had read and explained the case plan to Mother and that Mother had agreed with it and signed it. The social worker had also spent two or more sessions with Mother making sure she understood what was expected and gave appropriate referrals to Mother to facilitate her case plan. Mother was referred to Inland Behavioral and Health Services, Inc. (IBHS). Mother stated that she had enrolled in IBHS; however, on March 12, 2003, the social worker received a fax from IBHS stating Mother had been terminated from the program because of Mother's failure to comply with the program regulations and for her poor attendance. The social worker contacted Mother to discuss her poor attendance, and Mother replied the classes were too "boring and depressing." The social worker attempted to contact Mother with other referrals for counseling and

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[2] The court found Andrew K., who was incarcerated for drug and weapons violations in state prison with a release date of March 2004, to be the presumed father of J.K. and provided him with reunification services. Gregory M., whose whereabouts were unknown, was found to be the alleged father of M.F. and denied reunification services.

parenting classes, but Mother did not return the telephone calls. The social worker asked Mother to drug test on several occasions; however, she only complied with two random tests, which were negative. Mother was provided with gas scrip and bus passes.

On March 17, 2003, Mother called the social worker to request a visit with the children. After the social worker advised Mother to contact the paternal grandmother to arrange a visit, as the children had been moved to that home, the social worker asked Mother for her current address. Mother stated that her address was not permanent and that she was going to move soon. On April 2, 2003, Mother called the social worker to ask about her case, and the social worker requested that Mother drug test. Mother failed to appear for the drug test. On May 20, 2003, Mother called the social worker and reported that she was in jail.

The paternal grandmother, who had facilitated visits and telephone calls so that Mother could keep a bond with her children, reported that Mother would call the children, but not on a consistent basis. In addition, at times, Mother had made promises to see her children, but she failed to follow through with her promises. In March and April 2003, Mother called the children six times but visited them only once. The children had been doing well at the paternal grandmother's home and appeared to be attached to the paternal grandmother, who had expressed an interest in adopting both children.

The social worker believed that Mother appeared to be more concerned about obtaining monetary items (i.e., bus passes, etc.) than she did about scheduling visits or bonding with the children and that Mother failed to comprehend the seriousness of refusing to comply with DCS. The social worker also opined that Mother had failed to demonstrate good insight and consideration for the impact of her actions on the children

and that Mother had not appeared motivated to complete her case plan. Nonetheless, the social worker had recommended an additional six months of reunification services for Mother.

At the six-month review hearing on June 4, 2003, the court found that the parents had failed to participate regularly and complete their court-ordered treatment plan and had made poor progress toward alleviating or mitigating the causes necessitating placement of the children out of the home. The court then continued to maintain the children with the paternal grandmother and provided Mother and Andrew K. six additional months of services.

In a status review report dated December 4, 2003, the social worker opined that Mother had made only minimal progress on her service plan. Mother had not taken responsibility for her actions and kept blaming DCS for the removal of her children.

Mother had made few telephone contacts with the social worker, and during the reporting period, Mother had face-to-face contact with the social worker on two occasions. On July 22, 2003, Mother came to the DCS office and was given referrals for drug and alcohol programs, parenting classes, individual counseling, and housing assistance. Mother was also provided with gas scrip and a drug test patch. Mother, however, did not return for the removal of the drug patch. The social worker asked Mother to drug test on three different occasions, but Mother refused. During a face-to-face contact with Mother, the social worker explained to Mother that drug tests were to be random and not at Mother's discretion and again explained the case plan to Mother. On August 8, 2003, the social worker was informed by Carita Counseling of Catholic Charities that Mother had failed to attend her scheduled appointment on July 29, 2003.

In addition, Mother still did not have stable housing and refused to provide the social worker with an address or telephone number. Mother had provided three different message telephone numbers but failed to respond to messages left by the social worker.

The paternal grandmother, who had continued to facilitate visits and telephone calls between the children and Mother, reported that Mother had called the children and spoke to them superficially, but not on a regular basis. Mother had continued to make promises to see the children, but she had failed to follow through, even though the children had indicated that they loved their mother and often requested visits with her.

The social worker noted that Mother had made no effort to keep the visits frequent and consistent, had not appeared motivated to complete her case plan, had continued to neglect her obligations, had not taken advantage of the services offered to her, and had failed to keep DCS informed about her whereabouts. The social worker therefore recommended that services be terminated and a section 366.26 hearing be set to establish a permanent plan of adoption for the children.

At the 12-month review hearing on December 4, 2003, Father Andrew K. requested a contested hearing. The matter was continued, and the court ordered Mother to drug test that day by 5:00 p.m.

On January 7, 2004, the court held the contested 12-month review hearing.[3] The court found that custody of the children by Mother continued to be detrimental to the children but that there was a probability the children could be returned to her custody

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[3] The minute orders refer to the hearing as a contested six-month review hearing. However, at the hearing, the court acknowledged that the hearing was actually a 12-month review hearing pursuant to section 266.21, subdivision (f).

within the next six months. The court ordered Mother to participate in her previously ordered reunification plan and to drug test that day and provided her with weekly visitation supervised by paternal grandmother. The court terminated services as to father, Andrew K.

In a status review report dated April 22, 2004, the social worker recommended returning the children to Mother on a 60-day trial, while DCS continued to provide services to Mother and the children. The social worker updated Mother's case plan, which required Mother, in relevant part, to provide a safe home for the children, adequately care for the children, be willing to arrange appropriate child care and supervision for the children when Mother was away from the home, stay free from drugs and alcohol dependency, submit to random drug testing, and participate in aftercare substance abuse services and general counseling.

The social worker reported that on January 16, 2004, Mother had initiated drug treatment through IBHS and had attended treatment services four times a week.[4] She had also attended her 12-Step meetings and had obtained a sponsor to assist her with drug recovery. Mother stated that she had been clean from drugs for 90 days. Mother's drug treatment case manager informed the social worker that Mother had submitted to random drug testing twice a month, and all the tests had been negative. However, on January 7,

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[4] A letter from IBHS dated April 8, 2004, indicated that Mother had enrolled in their program on January 16, 2004, and had three excused absences and one unexcused absence. The letter also noted that Mother had three random negative drug screens; had completed Steps 1 through 4 of the 12-Steps of Narcotics Anonymous; had obtained a sponsor and was attending three meetings a week; and had admitted to drinking champagne, but later claimed it was sparkling cider.

2004, Mother submitted to a drug patch by DCS, which was positive for marijuana. On January 13, 2004, Mother admitted to occasionally drinking wine coolers; on March 30, 2004, she admitted she had consumed champagne the weekend of March 22, at her sister's baby shower, but later stated it was sparkling cider.

Mother was on formal probation until 2007; she reported monthly to her probation officer and was required to attend 12-Step meetings, parenting classes, and counseling. Mother had obtained her own apartment which she paid for through general relief funding through San Bernardino County. After Mother's general relief funding was terminated, Mother reported that she paid her rent through money she earned from babysitting her sister's children. Mother also indicated that she had secured employment and was to begin employment that month at Red Lobster. A home visit found the apartment clean, with adequate supplies and food. In March 2004, Mother had been referred to Caritas Counseling. However, she missed her March 12, 2004, appointment and had not rescheduled her appointment. Mother had initiated parenting education classes at the YMCA and had attended parenting classes in her drug treatment program.

For the past two months, Mother had been visiting her children regularly and the visits went well. Mother had even stayed for dinner and assisted with homework and baths at times. There had been no reports of problems during or after the visitation, and the children had indicated that they enjoyed the visits and contacts with their mother.

The 18-month review hearing was initially held on April 22, 2004. The hearing was continued for two months to allow for the children to be transitioned back to Mother. After the court ordered Mother to drug test that day, the court allowed Mother to have

unsupervised visits for 30 days; if that went well, the social worker was authorized to allow unsupervised overnight and weekend visits.

In an addendum report dated June 22, 2004, the social work recommended that the children remain with the paternal grandmother and return them to Mother by approval packet. The social worker needed additional time to work with Mother on the issues of visitation, finding adequate childcare, enrolling in therapy, and live scanning the friend that lived in her apartment. After Mother had been doing well with visits, the social worker authorized Mother unsupervised visits three days a week with three hour increments. However, Mother stated three days a week was difficult for her. Due to Mother's inconsistent visits, Mother and the paternal grandmother then planned, without the social worker's knowledge, for the children to visit Mother one day a week for nine hours at Mother's home. These visits went well, and the children did not act out after they returned from the visits.

The social worker's assessment of Mother's two-bedroom apartment revealed that the apartment was clean and that it cost $250 a month for rent. The apartment could be appropriate for overnight visits, if there was an extra room in the home and no unapproved guests. Mother had a friend living in the apartment who was going to baby sit the children and who assisted Mother in paying for the rent. When the social worker had requested to speak with the friend, the friend refused. The social worker then had asked Mother to have her friend live scanned as soon as possible.

A progress letter from IBHS dated June 10, 2004, indicated that Mother had followed the program's requirements and had no positive drug tests. Since January 2004,

Mother had regularly attended the sessions, with nine excused absences and two unexcused absences out of 78 meetings.

On June 22, 2004, the court held a further 18-month review hearing. After Mother requested a contested hearing, the hearing was continued to August 10, 2004.

A progress letter from IBHS dated July 20, 2004, stated that Mother had done well in the program. Mother had completed "Steps 1 through 9 of the 12-Steps, life story, triggers, 7-day project, relapse prevention package and an exit plan." Mother had also completed a parenting class and received a certificate; on July 15, 2004, Mother had been promoted from the primary group, having completed all groups and related assignments, and was scheduled to complete intake for continuing care on July 21, 2004.

A pretrial settlement conference was held on July 30, 2004. The court ordered Mother to have bonding and attachment therapy and stay engaged in her programs. The court authorized the social worker to liberalize Mother's visitation to include overnight, weekend, and extended visits, if appropriate. The court then vacated the contested 18-month review hearing and set a further 18-month review hearing for September 8, 2004. That hearing was continued to October 18, 2004, after Mother requested a contested hearing.

In an addendum report dated October 18, 2004, the social worker recommended terminating reunification services and setting a section 366.26 hearing to establish a permanent plan of guardianship for the children. Mother failed to start the aftercare program at IBHS when she completed the perinatal program in July 2004, even though she was encouraged by the social worker to complete those services; instead, she waited until October 12, 2004, to begin that program and had already missed one session. In

addition, Mother did not return to have her tuberculosis test results read in July 2004, and she failed to appear at two other appointments. Mother did not complete the tuberculosis test until September 25, 2004.

Furthermore, Mother had continued to be dishonest with the social worker and continued to hide the fact that there was an unapproved adult living at her residence. When the social worker made an unannounced visit to Mother's apartment on October 13, 2004, the social worker found baby clothes inside a dresser and asked Mother who lived at her apartment. Mother stated, "[J]ust me." On October 14, 2004, the social worker called Mother's apartment and Mother's friend Yolanda answered. When the social worker asked to speak with Mother, Yolanda related that Mother was out looking for a job and that she was Mother's roommate. Yolanda also stated that she had moved into the apartment in August 2004 to help Mother out with the rent. The roommate had not been live scanned.

Moreover, Mother had left her children with an unauthorized person. On October 12, 2004, the paternal grandmother reported that she had concerns about Mother's recent behaviors and that the children had told her that Mother had left them with a babysitter. M.F. reported that his mother had "left them with Yolanda."

Mother, who had attended four therapy sessions, had also been dishonest with her family therapist. When the social worker informed the therapist about Mother's dishonesty, the therapist agreed that leaving the children with an unauthorized person would place them at risk and agreed with the social worker's recommendation that the children should remain with the paternal grandmother.

The social worker opined that although Mother had been making gradual progress in her service plan, she continued to place the children at risk by allowing an unauthorized caretaker to provide care for the children and that the time for Mother to complete her service plan had expired. The social worker also had concerns about the unauthorized person living in Mother's apartment, her employment status, and her attendance at the IBHS aftercare program. The social worker believed that Mother had not grasped the importance of completing her service plan and following DCS directives.

On October 18, 2004, the court held the contested 18-month review hearing in which the social worker, Mother, and the maternal grandmother testified. The social worker testified that she had been working on the case since December 2002 and that Mother had not completed the aftercare program at IBHS or individual counseling as stated in her reunification plan, even though the social worker had repeatedly informed Mother about the importance of completing those services. The social worker had contacted IBHS on the day of the hearing and was informed that Mother was going to be dropped from the program, but could be reinstated. The social worker stated that individual counseling was important for bonding and attachment issues because the social worker had noticed that when she saw Mother with her children, the children and Mother were not really speaking with each other and that the children were attached to the paternal grandmother and appeared to interact only with the paternal grandmother. Mother had also been untruthful about the person living at her residence. Mother had twice denied that Yolanda lived with her in the apartment and then admitted on October 18, 2004, the day of the hearing, that someone had been living in the apartment. The social worker opined that even if the person in the apartment were live scanned and

appropriate, the children would still be at risk because Mother had been warned in the past about people living in her apartment, and she was not honest with DCS. The social worker acknowledged that the children had told her on more than one occasion that they wanted to live with their mother and that there had been no problems with the overnight visits with the children.

Mother admitted that Yolanda had been living in the apartment for two or three weeks. She explained that she needed a roommate to help her pay the rent because she had reduced hours at work. She denied Yolanda provided child care for the children. She admitted that she started the aftercare program at IBHS just recently and claimed that she did not enroll in aftercare at IBHS immediately because she needed eight dollars to pay for the tuberculosis test. Mother also testified that she had been clean and sober since January 7, 2004.

The maternal grandmother testified that she had seen Mother interact with the children like a mother and that Mother had made a change in her life. Mother had become more responsible, more mature, and concerned about her children.

Following arguments by counsel, the court found by clear and convincing evidence that Mother had failed to complete her court-ordered treatment plan and that Mother had not established a safe and stable home to which the children could be returned. The court also found that return of the children to the custody of Mother would create a substantial risk of detriment to the safety, protection, and emotional well-being of the children and that DCS had made reasonable efforts to make it possible for the children to safely return to Mother's home. The court thereafter terminated reunification services to Mother, set the matter for a section 366.26 selection and implementation

hearing, and found that it was not in the children's best interest to consider the termination of parental rights; rather, DCS would initiate guardianship proceedings for the paternal grandmother. The court authorized unsupervised visitation between Mother and the children once a week for two to three hours, at a neutral location, on condition that Mother did not permit contact with third parties not previously approved by DCS. Mother was also ordered to submit to random drug testing at DCS's request, and DCS was authorized to change Mother's visits supervised if she tested positive for drugs. On that same day, Mother filed a notice of intent to file writ petition pursuant to California Rules of Court, rule 39.1B.

II

DISCUSSION

Mother contends the juvenile court erred by not returning the children to her custody and directing DCS to provide family maintenance services. Specifically, she argues there was insufficient evidence of a substantial risk of detriment to the children's physical or emotional well-being if they were returned to her care.

At the permanency review hearing (the 18-month review hearing), the court must order the return of the children to their parents unless the court finds, by a preponderance of the evidence, that returning the children to parental custody would create a substantial risk of detriment to the safety, protection, or emotional or physical well-being of the children. DCS bears the burden of establishing detriment. (§ 366.22, subd. (a).) "The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental." (§ 366.22, subd. (a).) In determining detriment, the court must

consider whether the parent participated regularly, made progress, and cooperated or availed herself of the services provided in the court-ordered treatment plan. (*Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, 1748.) Technical compliance with the requirements of the treatment plan, however, does not result automatically in achieving the goals and objectives for which the plan was designed. Other unresolved issues may prevent the child's return. (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 704-706, and cases cited therein; see also *In re Dustin R.* (1997) 54 Cal.App.4th 1131, 1141-1142.)

In reviewing a juvenile court's ruling under section 366.22, we consider the entire record, resolving all conflicts in favor of upholding the ruling, to determine whether it contains substantial evidence, i.e., evidence that is reasonable, credible, and of solid value, to support the court's finding. (*In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75; *Constance K. v. Superior Court*, *supra*, 61 Cal.App.4th at p. 705; *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625; *In re John V.* (1992) 5 Cal.App.4th 1201, 1212.) "All conflicts must be resolved in favor of the respondent and the reviewing court must indulge in all reasonable inferences to support the findings of the juvenile court." (*In re Albert B.* (1989) 215 Cal.App.3d 361, 375.) Issues of fact and credibility are questions for the lower court. (*Constance K*, at p. 705.) If supported by substantial evidence, the court's ruling will not be disturbed on appeal absent a clear showing that the court exercised its wide discretion in an arbitrary, capricious, or patently absurd manner. (*Ibid.*; *In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.)

In the present matter, substantial evidence supports the court's finding that Mother failed to make substantive progress and complete her court-ordered treatment plan.

Although mother was successful in complying with her case plan after January 2004 up until about July 2004 in certain areas, including maintaining a relationship with her children and obtaining a home, Mother made little progress in other areas. Mother was required to enroll in, participate in, and complete the aftercare substance abuse program at IBHS in July 2004. However, at the time of the 18-month review hearing, which had been continued six months to allow Mother time to complete her service plan, Mother had only attended one aftercare session and was going to be dropped from the program. Mother's reunification plan also required Mother to attend weekly general counseling. Despite the social worker repeatedly going over the case plan with Mother and telling her she needed to enter counseling, she did not begin counseling until September 2004 and only attended four sessions. Additionally, when she attended the sessions, she was dishonest with her therapist concerning her roommate and lack of attendance in the aftercare program.

Mother's reunification plan further required her to arrange appropriate childcare and demonstrate an ability to provide adequate care for her children. Mother failed to meet these goals. The paternal grandmother reported that the children stated Mother had left them with a babysitter during the unsupervised visits. During an unannounced visit by the social worker on October 13, 2004, Mother lied about other people living in her apartment, even when confronted with baby clothes found in the apartment by the social worker. Mother claimed that she needed a roommate to assist in the payment of rent because she had reduced hours at work. DCS never stated that Mother could not obtain a roommate, only that anyone living in the apartment was required to pass a background check. In fact, in June 2004, the social worker, after learning that a roommate had been

living at Mother's apartment, had asked Mother to have her friend live scanned as soon as possible. Mother's failure to comply with this requirement was evidence that she was still unwilling to take proper steps to ensure her children's safety and follow the directives of DCS.

Failure to comply with a reunification services plan supports a detriment finding. (*Dawnel D. v. Superior Court* (1999) 74 Cal.App.4th 393, 398; *Robert L. v. Superior Court*, *supra*, 45 Cal.App.4th at p. 625). It does not, however, logically follow that compliance with a reunification services plan precludes a detriment finding. (*Constance K. v. Superior Court*, *supra*, 61 Cal.App.4th at p. 704.) "[T]he court must also consider progress the parent has made towards eliminating the conditions leading to the children's placement out of home." (*In re Dustin R.*, *supra*, 54 Cal.App.4th 1131, 1141-1142.) This dependency case was initiated because Mother had left her children with a quadriplegic man who was unable to care for them, and despite receiving almost two years of services, Mother continued to leave the children with unauthorized caregivers.

Mother also argues that the record is devoid of any qualified or expert evidence that the children would suffer serious physical or emotional damage if returned to Mother's care. Mother is wrong.

Substantial evidence supports the court's finding of detriment because the record shows that Mother had failed to demonstrate her ability to provide the children with a safe and stable home. (See *In re John V.*, *supra*, 5 Cal.App.4th at pp. 1212-1213.) Mother complains that the court's order essentially required perfect parenting as a prerequisite for the children's return. The record shows, however, that the requirement is not for perfect parenting, but for a reasonable ability to provide a safe and stable home

environment and supervise the children without placing them at risk of danger. Although Mother obviously has come a long way from being homeless, she has not established a safe and stable environment for her children. She has also failed to participate in the aftercare portion of her drug treatment plan, which the court and social worker opined was important to prevent a relapse, and to regularly attend therapy. After approximately 24 months of services, Mother still had not completed her case plan. It is no wonder, then, that the court decided that the children could not be returned to Mother permanently.

We conclude that the court did not abuse its discretion in finding that the return of the children into parental custody would create a substantial risk of detriment. The court thus properly terminated reunification services and scheduled the section 366.26 hearing.

III

DISPOSITION

The petition for extraordinary writ is DENIED.

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RICHLI
Acting P.J.

We concur:

WARD
J.

KING
J.