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NO. 51755-8-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

In re Dependency of A.K., E.K., J.K., and G.E., Minors

STATE OF WASHINGTON, DSHS,

Respondent,

v.

M.K.,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KITSAP COUNTY

The Honorable Melissa Hemstreet, Judge

REPLY BRIEF OF APPELLANT

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A. ARGUMENT IN REPLY

FAMILY THERAPY AND TEACHING THE CHILDREN'S COPING SKILLS WERE NECESSARY SERVICES CAPABLE OF CORRECTING M.K.'S PARENTAL DEFICIENCIES.

In considering this appeal, M.K. asks the Court to consider what she was asked to do. She was asked to believe unspeakable allegations against one of the most important people in her life. She was asked to take sides between him and her children. And she was asked to do this in a virtual vacuum, without any significant contact with her daughters. Although she has been noted to be a very concrete thinker, who has difficulty with abstractions, see Ex. 25, she was asked to understand and accept these allegations and her children's pain, essentially in the abstract.

Services must be tailored to the individual needs of the parent. In re Termination of S.J., 162 Wn. App. 873, 881, 256 P.3d 470 (2011). Despite her difficulty with abstractions, the family therapy that could have allowed her to work through this with her children, in their presence, so she could see and feel their reactions, was not provided. The training in coping strategies, which is useful to help parents understand what their children have gone through, was also not provided. The parent-coaching did not start until after her oldest daughter, and much of the time her second daughter, had begun refusing to visit.

The State argues the family therapy was no longer recommended at the time of trial, and the recommendation was contingent on the approval of the children's therapists. Brief of Respondent at 22-23. But the Department did not present any evidence that they checked with the children's therapists before opting not to offer family therapy when it was recommended. On the contrary, social worker Lisa Sinnett testified, "Ms. Kilby or the kids weren't in the position to kind of do the difficult work at that time." 2RP 233. When asked about the basis for this decision, the following exchange occurred:

Q. Okay. That was your assessment, correct?

A. That is correct.

Q. That wasn't the assessment of the girls' therapist?

A. I don't know.

2RP 233-34. In its brief, the Department does not dispute that Sinnett made a unilateral decision not to provide family therapy, despite Brown's belief that the family "would benefit from intensive family therapy to improve communication patterns and to heal from past traumas." Ex. 24.

The children's therapist also testified that teaching parents the coping strategies their children need to use is helpful for parents trying to understand what their children have gone through. 2RP 48. When asked whether teaching these coping skills helped parents to "understand what the child is going through," Sharon Booker testified, "Absolutely." 2RP 48. This service

was necessary and capable of remedying the problems in this case because understanding what her children were going through was precisely the challenge M.K. faced.

The Department argues helping M.K. was not the point of teaching the coping skills. Brief of Respondent at 19. But the services requirement is not limited to services that the Department intends will help the parent overcome her deficiencies. It encompasses all necessary services, reasonably available, and capable of correcting the parental deficiencies. RCW 13.34.180 (1)(d); In re Dependency of T.L.G., 126 Wn. App. 181, 200, 108 P.3d 156 (2005). Teaching these coping skills is another concrete skill M.K. could have been learning to help her understand and heal with her children. Instead, that service was provided only to the foster parents, and M.K. was left to try to deal with the situation in the abstract.

The Department was required to provide family therapy and allow M.K. to learn the coping skills her children were being taught. Particularly in light of her specific cognitive needs, these services were essential. Services must be provided when there is "any reasonable possibility of success." In re Parental Rights to B.P., 186 Wn.2d 292, 322, 376 P.3d 350 (2016) reject the Department's futility arguments and reverse the termination order for failure to offer or provide all necessary services under RCW 13.34.180(1)(d). B.P., 186 Wn.2d at 295; S.J., 162 Wn. App. at 883-84.

B. CONCLUSION

For the foregoing reasons, and for the reasons stated in the opening Brief in Support of Motion for Accelerated Review, M.K. asks this Court to reverse the termination order.

DATED this 18th day of October, 2018.

Respectfully submitted,

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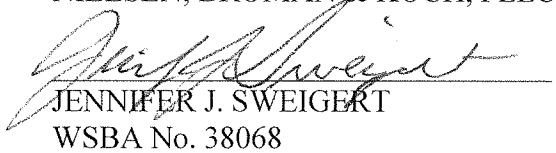

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