II.

THE JUVENILE COURT'S REASONABLE SERVICES FINDING IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

Section 366.21, subdivision (f), also provides that

> The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian.

Whenever a child is removed from parental custody, the juvenile court is required to ensure that reasonable reunification services are provided to the family unless and until a determi-nation is made pursuant to section 361.5 subdivision (b) that the case falls within one of the statutory exceptions to the require-ment that services be provided. (§361.5 subd. (a), (c); *In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.) When reunification services are ordered, the reunification plan "must be specifically tailored to fit the circumstances of each family [citation], and must be designed to eliminate those conditions which led to the juvenile court's jurisdictional finding." (*In re Dino E.* (1992) 6 Cal.App.4th 1768, 1777) While "[r]eunification services need not be perfect. (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969), . . . they should be tailored to the specific needs of the particular fam-ily. (*Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 810.)" (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 972.) "Each reunifica-tion plan must be appropriate to the particular individual and based on the unique facts of that individual. (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1458.)" (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

At the six month review hearing in this case, it was apparent from Mr. Winner's report that Alice had serious problems in comprehending the materials being presented in the services programs mandated by her service plan. (CT 192-193.) Consequently, the court ordered a psychological evaluation to determine the level of Alice's ability to function. (CT 226.) Alice cooperated in the psychological evaluation and in December 2004, less than two months into the second six-month reunification period, the agency received Dr. Freud's report. That report indicated that the reason Alice was having so much difficulty comprehending the content of the anger management and parenting classes was that she had an IQ of 65. As a result, she had a poor fund of general knowledge, did not "abstract" very well, had poor calculation skills, was limited her ability to remem-ber and learn new material, and struggled with practical and so-cial judgment. Dr. Freud informed Mr. Nada that Alice's reasoning, knowledge, and judgment were impaired by this disability and recommended that her reunification plan should take these problems into account. (CT 285.) The agency's

response to this information was to do nothing. There were many things that the agency could have and should have done to tailor Alice's reunification plan to meet her individual needs. Instead, it did nothing

First, Mr. Nada could have made a new referral to the regional center as soon as he got the report. He did not do so. If he truly believed that the regional center was the only agency that could provide services to someone with Alice's condition, then a prompt referral and a new assessment was immediately called for. The clock was running on Alice's reunification period. Instead of making a prompt referral, Mr. Nada did nothing. Second, upon learning of Alice's condition, Mr. Nada could have referred Alice to the Basic Life Skills Classes recommended by the CASA in her six month review report. (CT 220.) Instead, he did nothing.

Third, Mr. Nada could have referred Alice to the Disability Services Department at the junior college that had been recommended by the regional center the first time it assessed Alice in August 2004. (CT 233.) The regional center had concluded that Alice had a learning disability (CT 231) which should have been a clue that Alice was unlikely to be able to successfully learn in a program that involved homework packets that she was required to complete and turn in, as was the case with the both the parenting program and the anger management program. (CT 191, 193.) Mr. Nada did not make any changes in Alice's reunification plan at the six-month review hearing in response to this recommendation so that she had some chance of being able to learn the material. Nevertheless, when he received Dr. Freud's report that indicated that Alice had trouble remembering and learning new material because of her disability, he certainly should have considered a referral to the Disability Services Department at the junior college as a way to address this problem. Instead, he did nothing.

Fourth, if Mr. Nada thought that it was so important for Alice to get separate housing, even though he knew she could not get a job because of her poor skills, he could have referred her to a vocational training program for the disabled where she could learn some job skills as was recommended by the CASA in her six-month review report. (CT 220.) Instead, he did nothing.

Fifth, Mr. Nada could have referred Alice to an in-home support program that could come into the grandmother's home where the children were being cared for during the day and demonstrate parenting skills as was recommended by the parent-ing class counselor in a February 8, 2005 letter to Mr. Nada. (CT 279-280.) Instead, he did nothing.

Sixth, having received the information on February 8, 2005 that Alice had not really benefited from the parenting class, Mr. Nada could have referred Alice to the Parent Resource Center for further assistance and with an explanation of her special needs as recommended by the children's counsel and the initial social

worker at the disposition hearing. (RT 11.)

Seventh, Mr. Nada could have provided a copy of Dr. Freud's report to Alice's attorney as soon as he got it and asked him for suggestions as to how to deal with regional center and what else should be done to address Alice's disability. Instead, he did nothing.

In April, after being prompted by county counsel, who was prompted by Alice's counsel, Mr. Nada finally submitted Dr. Freud's report to the regional center. When the regional center again responded, on April 16, 2005, that Alice was not eligible for its services but asked for more information, Mr. Nada did nothing. (RT 30.) He did not attempt to obtain the requested records. He did not contact counsel and ask that counsel obtain the requested records. Instead, he did nothing. Again, if the regional center was indeed the only agency that could provide services to someone with Alice's disability, it would seem that a prompt response to the regional center's request was called for. At that point, Alice had completed both of the required classes and was receiving no court-ordered services of any kind. If Mr. Nada believed that Alice's completion of those classes was insufficient to justify returning her children to her custody, it was incumbent upon him to locate and provide additional services that would enable Alice to learn the things he felt she needed to learn in order to get her children back. Instead, he did nothing.

Mr. Nada's failure to inform counsel of the April letter denying eligibility but asking for additional information had another adverse effect on Alice. Because counsel did not know of the new denial, counsel was not in a position to advise Alice concerning her right to appeal the regional center's decision. (RT 32.) Alice was required to exercise her appeal rights within 30 days of the decision. (§4710.5.) Had Mr. Nada informed Alice's counsel of the April 2005 letter from the regional center, counsel could have filed an appeal on Alice's behalf and the matter might have been resolved in mediation, an informal meeting, or other administrative proceedings before the twelve-month review hearing. However, instead of contacting counsel, Mr. Nada did nothing.

It is important to note that Mr. Nada was not prevented from taking further steps to tailor the reunification plan to Alice's needs by the fact that the case was between the six and the twelve-month reviews when he received the psychological evaluation. Section 16501.1 sets forth the social worker's obligations insofar as case plans are concerned. Subdivision (d) of that statute provides that case plans must be updated at least every six months in conjunction with each status review hearing held pursuant to section 366.21, but it also requires that the case plan must be updated as the needs of the child and family dictate. Subdivision (d)(12) provides that the case plan must be included in the court report and considered at each review

hearing, but specifically provides that modifications to the case plan made during the period between review hearings need not be approved by the court if the social worker's supervisor determines that the modifications further the goals of the plan. Thus, Mr. Nada was required by section 16501.1, subdivision (d) to update the case plan when he learned to Alice's disability from Dr. Freud in December and he was not required to get court permission to modify the plan so long as he had supervisory approval to do so. Instead, he did nothing.

It appears that the agency and perhaps the court were proceeding on the assumption that all the agency had to do for a parent who is mentally impaired is to make a referral to the regional center and if the regional center decides not to do anything, they have done their duty to provide reasonable services. To the extent that the agency may be relying on *In re Victoria M.* (1989) 207 Cal.App.3d 1317, a case in which this court found that the same agency had failed to provide reasonable services to a developmentally disabled mother because it did not refer her to the regional center, that reliance is misplaced. While this court did find that the failure to refer that mother to the regional center was a failure to provide reasonable services, it also found that, even though many other services were offered to the mother, those services were inadequate because no accommo-dation was made for the mother's special needs even though everyone was aware that the mother had mental limitations. (*Id.* at p. 1329.) "In light of [the mother's] limitations, the services offered were insufficient." (*Id.* at p. 1330.)

In this case, the county counsel argued that the regional center was the only way the agency could provide services to a parent with mental limitations was to refer to them to the regional center. (RT 25-25.) The juvenile court concluded that because the regional center continued to insist that Alice did not qualify for its services, there were no other services available to address Alice's limited capabilities and that reasonable services were therefore provided to her. (RT 36-37.) As we have seen, this finding is not supported by the record. The record shows that several other professionals recommended other services to Mr. Nada that could have assisted someone with Alice's disabilities, including the Disability Services Center at the junior college, the Leaps and Bounds in-home support program, vocational training programs for the disabled, the Parent Resource Center, and Life Skills Classes. But instead of investigating the availability of these services or making referrals to them, Mr. Nada did nothing.

While a referral to the regional center is certainly appro-priate in cases where the parent appears to have limited mental capacity, the refusal of the regional center to provide services does not relieve the agency of its obligation to make accommoda-tions for that parent's limitations when designing and implement-

ing the reunification plan. Such accommodations could have and should have been made for Alice's disability in the programs that were part of her reunification plan. Instead of tailoring the par-enting class and anger management classes for someone who cannot read and write very well (as the parenting skills counselor did in *Victoria M., supra*, 207 Cal.App.3d at p. 1329), Alice was given written homework and then criticized when she could not complete the assignments correctly. (CT 193.)

In *David B. v. Superior Court, supra*, the court faulted the agency for doing something very similar when it claimed that it had provided the father with reasonable services in finding housing by providing him with a list of housing resources without taking into account that he could not read the list because he was illiterate. (123 Cal.App.4th at p. 791.) Because no other services that were tailored to Alice's disabilities were offered or provided, there is simply no evidence to support the court's finding that reasonable services were provided in this case.

Before the juvenile court may find that reasonable services have been provided, the

> the record should show that the supervising agency iden-tified 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 par-ents in areas where compliance proved difficult (such as helping to provide transportation and offering more inten-sive rehabilitation services where others have failed).

(*David B. v. Superior Court, supra*, 123 Cal.App.4th at pp 793-794 [quoting *In re Riva M.* (1991) 235 Cal.App.3d 403, 414].) The agency made no effort to offer services that were designed to remedy the problems caused by Alice's disability. It made absolutely no effort to assist Alice in those areas where compliance proved difficult because of her disabilities. It gave her standard reunification services designed for people of average intelligence and made no attempts to find other services or redesign the services already offered when it became clear six months into the case that Alice lacked the intellectual ability to benefit from those services. That being the case, the court's finding that the agency provided reasonable services designed to overcome the problems that caused Alice to continue to be deprived of the custody of her children is not supported by substantial evidence and must be reversed.