

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

KARRIE H.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Real Party in Interest.

B286885

(Los Angeles County
Super. Ct. No. CK95387)

ORIGINAL PROCEEDINGS in mandate from an order of
the Superior Court of Los Angeles County, Lisa R. Jaskol, Judge.
Petition denied.

L. Denise Thompson, under appointment by the Court of
Appeal, for Petitioner.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, Stephanie Jo Reagan, Principal
Deputy County Counsel for Real Party in Interest, Los Angeles
County Department of Children and Family Services.

In this writ proceeding, mother Karrie H. challenges the juvenile court's order terminating reunification services as to her daughter, A.C., and setting a permanency planning hearing pursuant to Welfare and Institutions Code¹ section 366.26. We find no error and deny the petition.

FACTUAL AND PROCEDURAL SUMMARY

In September 2016, the Department of Children and Family Services (DCFS) filed a section 300 petition alleging that mother failed to protect three-year-old A.C. and five-year-old T.H.² based on an incident in which A.C.'s father walked through the home with an open switchblade while the children were present. It also was alleged that mother failed to protect the children from the father's substance abuse. The children were detained and mother was granted unmonitored visits with A.C. three times a week in a neutral setting. In December, DCFS amended the petition to add an allegation that mother had an

¹ All undesignated statutory references are to this code.

² Mother does not challenge the court's orders as to T.H., and father is not a party to this proceeding. We restrict our factual presentation accordingly.

extensive substance abuse history which rendered her unable to care for the children.

The report for the March 2017 jurisdictional hearing showed that between October 2016 and February 2017, mother had two negative drug tests, failed to show for six tests, and on one occasion provided a specimen too diluted to test. Mother had six visits with A.C. between October 2 and November 6, one in December, and one on March 4; she missed 18 other scheduled visits. On March 1, mother informed the social worker that she had relapsed with her drug use, and the social worker drove mother to an inpatient program a few days later.

On March 14, 2017, mother waived her right to trial on the petition and pled no contest to the petition. The court declared A.C. a dependent child and ordered family reunification, including monitored visits two to three times a week, random drug tests, and individual counseling.

As of September 12, 2017, DCFS reported that mother had successfully completed her inpatient drug treatment program and was currently in a sober living home. She was out of compliance with her case plan because “she has failed to maintain any consistent visitation with either of her children and she has failed to be forthcoming with her treatment counselor about her DCFS compliance.” The report described arrangements made to bring A.C. closer to mother for weekly visits, and adjustments in time in response to mother’s requests. Despite these efforts, mother completed only one visit with A.C., on March 4, 2017.

The court continued the review hearing to November 16, and directed DCFS to “work with the parents re: written visitation schedule” and “a halfway meeting point for visits.” The

last minute information for the hearing detailed DCFS efforts to move visits closer to mother and mother's failure to show up for scheduled visits.

At the section 366.21 hearing, mother asked that reunification services be continued. After hearing argument, the court concluded there was very little chance it would be able to return the child to mother within the statutory time frame: '[A]lthough mother has made progress with her case plan, she completed her drug program, she's been living in a sober living home, she completed, I believe, parenting and individual counseling, but the complete lack of in-person visits since, I believe, March and the falsehoods that [DCFS] pointed out and also what I can only see as sort of a disregard for the child's well-being in allowing the child to think that mother was going to visit and then simply not showing up without advance warning, I think all of those things really demonstrate that mother is not able to reunify with the child and will not be able to reunify with the child within the legal time frame that we are dealing with.'

The court terminated reunification services and set the matter for a section 366.26 permanency planning hearing. Mother filed this writ petition seeking review of that order. (Cal. Rules of Court, rule 8.452.)

DISCUSSION

When a child is removed from a parent's custody, "the juvenile court ordinarily must order child welfare services for the minor and the parent for the purpose of facilitating reunification of the family." (*Tonya M. v. Superior Court* (2007) 42 Cal.4th 836, 843.) When, as in this case, a child is less than three years old when removed from the parent's care, "court-ordered services

shall be provided for a period of six months from the dispositional hearing . . . but no longer than 12 months from the date the child entered foster care,” unless the child is returned to the home of the parent or guardian. (§ 361.5, subd. (a)(1)(B).)

“Notwithstanding” that limitation, reunification services may be extended up to 18 months if the court finds at a review hearing pursuant to section 366.21 “that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian.” (§ 361.5, subd. (a)(3)(A).) In making this determination, “[t]he court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child.” (*Ibid.*)

At the review hearing pursuant to section 366.21, subdivision (e)(1), the court must order a dependent child returned to parental custody unless it finds, by a preponderance of the evidence, that return of the child would create a substantial risk of detriment to the child. The court must specify the factual basis for that determination. (§ 366.21, subd. (e)(2).)

The record before the court showed mother had completed an inpatient substance abuse treatment program and was residing in a sober living home. Mother’s attendance at her after-care substance abuse group was reportedly sporadic, and she failed to drug test for the program on several dates; she also was inconsistent in her random drug testing, but there were no affirmatively positive drug test results. She advised the social worker that when she completes her current outpatient program, she wants to sign up for another outpatient program “because she

doesn't feel confident enough to maintain her sobriety if she lives alone."

More problematic was mother's failure to maintain contact with A.C. Despite DCFS efforts to move the visitation location nearer to mother and a written visitation schedule, mother had not visited with A.C. at all between the jurisdictional hearing on March 14, 2017 and the November 16, 2017 review hearing.³ On most of the occasions, mother failed to show up for a scheduled visit, and failed to call to cancel. Mother made a total of six calls to the child during that time.

Also troubling were the instances on May 26, June 2, and August 16, when mother received day passes from her inpatient treatment program to visit with A.C., was away from the facility for more than 12 hours, and failed to show up for the visit. Mother described the visits to her treatment counselor, yet they had not actually taken place.

Another consequence of mother's failure to visit with A.C. was that the social worker was unable to determine whether mother could apply what she had learned during her parenting education classes.

As we have discussed, the court concluded that although mother has made progress, her complete lack of in-person visits since March, her falsehoods about visitation, and her leading the child to think she was going to visit and then failing to show up demonstrate that mother is not able to reunify with the child and will not be able to do so within the statutory time.

The court did not err in terminating reunification services and setting the matter for a permanency planning hearing.

³ Mother was provided with bus passes to assist her with visitation.

DISPOSITION

The petition is denied.

EPSTEIN, P. J.

We concur:

WILLHITE, J.

COLLINS, J.