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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

MARTHA C.,

Petitioner,

v.

THE SUPERIOR COURT OF VENTURA
COUNTY,

Respondent;

VENTURA COUNTY HUMAN
SERVICES AGENCY,

Real Party in Interest.

2d Civil No. B237015
(Super. Ct. No. J066509)
(Ventura County)

Martha C. (Mother) seeks extraordinary writ review of a juvenile court order terminating family reunification services and setting the matter for a permanent plan hearing. (Welf. & Inst. Code, § 366.26;¹ Cal. Rules of Court, rule 8.452.)² We summarily deny the petition because petitioner has failed to comply with the requirements of rule 8.452.

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

² All references to rules are to the California Rules of Court unless otherwise stated.

FACTS AND PROCEDURAL HISTORY

In February 2007, the Ventura County Human Services Agency (HSA) filed a section 300 petition regarding Jaylen C. who was two years old at the time. He was removed from his Mother's care when Mother had arrived at a hospital with the child wearing only a blanket and acting incoherently. The petition alleged, among other things, that the child had suffered serious physical harm inflicted nonaccidentally by his parent. (§ 300, subd. (a).) Mother was unable to provide regular care for the child due to substance abuse (§ 300, subd. (b)), and Mother's incarceration had left the child with no provision for support. (§ 300, subd. (g).)

In March 2007, the juvenile court took jurisdiction and ordered family maintenance services for Mother. Mother entered a residential drug treatment program as required by the court and HSA. In February 2008, the dependency proceeding was dismissed by the court upon recommendation by HSA. Although Mother did not complete her drug treatment program, she had not relapsed into drug use and had generally complied with her case plan.

On April 27, 2010, HSA filed a second section 300 petition regarding Jaylen, and removed the child from Mother's custody. The petition alleged willful neglect and failure to provide food, clothing, shelter or other care due to Mother's renewed drug use, drug arrests, and instability. (§ 300, subds. (b), (g).) At the time the petition was filed, Mother was incarcerated for being under the influence of methamphetamine. Mother had also been arrested in January 2010 for use and possession of drugs but that arrest had not been reported to HSA. Mother submitted to jurisdiction on May 20, 2010. The juvenile court ordered reunification services. Mother entered an outpatient drug program but failed to participate and was discharged from the program. She continued to use methamphetamine, missed or refused drug tests several times, and was under the influence of drugs during her one and only visit with Jaylen.

HSA filed a section 388 petition to terminate reunification services after six months. On November 23, 2010, the juvenile court granted HSA's petition and terminated reunification services for Mother stating that Mother had failed to comply

with or even participate in her case plan. But, Mother entered a residential drug treatment program and continued to participate in reunification services for a sibling of Jaylen. As a result, reunification services regarding Jaylen were reinstated.

After reinstatement of services, Mother was discharged from her drug program, resumed a relationship with a known drug user, was arrested two times in July 2010, and was arrested again in September 2011. She also missed several drug tests and admitting taking methamphetamine before one of her arrests. At a contested 18-month review hearing on October 26, 2011, the juvenile court terminated reunification services again, and set the matter for a section 366.26 permanent plan hearing. Mother was incarcerated at the time of the hearing, and was on a Homeland Security hold for purposes of deportation.

Mother filed a petition for extraordinary writ on November 28, 2011.

DISCUSSION

Rule 8.452(b)(1) provides that a petition for extraordinary writ relief must be accompanied by a memorandum providing "a summary of the significant facts, limited to matters in the record." The memorandum must also "state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority." (Rule 8.452(b)(2).) It must, "at a minimum, adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the court in resolving the contested issues." (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.)

Here, the printed form petition for extraordinary writ stated that the writ pertained to the order setting a hearing under section 366.26, and filled in the reasons why the October 26, 2011, order was erroneous as follows: "I'm in custody and will be release[d] by Dec. 12, 2011. I [would] like my son Jaylen . . . be place[d] with [R.B.]. But I still want my parental rights." There were no other factual statements, no supporting documents, and no arguments or citation to legal authority.

Rule 8.452(h)(1) provides: "Absent exceptional circumstances, the reviewing court must decide the petition on the merits by written opinion." Mother's

failure to comply with rule 8.452 in any respect constitutes "exceptional circumstances" excusing the court from reviewing and determining the petition on the merits. (*Glen C. v. Superior Court, supra*, 78 Cal.App.4th at p. 584; *Anthony D. v. Superior Court* (1998) 63 Cal.App.4th 149, 157-158; *Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501, 1512.)

We further note that the record is devoid of any basis to grant the writ or disturb the order of the juvenile court setting the case for a section 366.26 hearing. In fact, the only substantive statement by Mother in the petition asks that Jaylen be placed with R.B. The record shows that, at the time of the October 26, 2011, order the permanent plan under consideration by HSA was placement of Jaylen with Ms. B., as Mother requests. Although the goal of HSA appears to be adoption by Ms. B., that issue can be addressed by Mother at the section 366.26 hearing.

The petition for extraordinary writ is summarily denied.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P.J.

YEGAN, J.

Tari L. Cody, Judge
Superior Court County of Ventura

Martha C., in pro. per., for Petitioner.

No appearance for Respondent.

Leroy Smith, County Counsel, Patricia McCourt, Assistant County
Counsel, for Real Party in Interest.