

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

LEILA P.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN  
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Real Party in Interest.

D062169

(San Diego County  
Super. Ct. No. SJ11336B)

PROCEEDINGS for extraordinary relief after reference to a Welfare and Institutions Code section 366.26 hearing. Blaine K. Bowman, Judge. Petition denied; request for stay denied.

Leila P. seeks writ review of a juvenile court order terminating reunification services as to her minor daughter, Aryanna B., and setting a Welfare and Institutions Code section 366.26<sup>1</sup> hearing. Leila contends the court erred by finding: (1) there was no substantial probability that Aryanna would be returned to her custody by the 18-month date; and (2) the San Diego County Health and Human Services Agency (Agency) provided her with reasonable reunification services. We deny the petition and Leila's request for a stay of the hearing.

#### FACTUAL AND PROCEDURAL BACKGROUND

In May 2011, one-year-old Aryanna became a dependent of the juvenile court under section 300, subdivision (b) and was removed from parental custody based on findings her parents, Leila and Kristopher B. (together, the parents), exposed her to ongoing domestic violence. On one occasion, Kristopher became angry and aggressive during an argument with Leila. As Leila tried to leave in her car with Aryanna, Kristopher used a brick to break the rear windshield, causing broken glass to surround Aryanna. At the time, the parents had a no contact order. The court placed Aryanna in out-of-home care and ordered the parents to participate in reunification services. Leila's case plan included substance abuse treatment, a domestic violence victims program, a parenting class and individual counseling.

Leila had a history of using methamphetamine, cocaine and marijuana. She had previously completed inpatient substance abuse treatment and aftercare, but relapsed

---

<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

during her pregnancy with Aryanna's older sister, Marlee.<sup>2</sup> Leila had a felony conviction,<sup>3</sup> violated the conditions of her parole and had criminal charges pending, including receiving stolen property, possessing marijuana and other drugs and first degree burglary. She was Kristopher's accomplice during the burglary and had Aryanna in the car when the crime occurred. Leila had been physically violent in the past with the maternal grandmother.

During the next six months, Leila completed a drug treatment program (CRASH), transitioned into a sober living facility (Serenity House), drug tested with negative results and attended domestic violence treatment. She was having unsupervised visits with Aryanna. At the six-month review hearing, the court continued services for Leila and ordered Agency to provide her with overnight weekend visits with Aryanna. Leila's case plan was revised to reflect she would participate in individual counseling once it was recommended by the group facilitator or drug counselor.

Just before Leila was to begin a 60-day trial visit with Aryanna, she was with Kristopher when he was arrested. Leila claimed he had stalked her at Serenity House and she did not know what to do. She agreed to move to another location and develop a safety plan. By early March, she was using drugs again. Leila was arrested for

---

<sup>2</sup> Marlee, who is not a subject of this appeal, was a dependent of the court from 2004 to 2006. Leila reunified with her, but again lost custody when she relapsed after participating in services. Marlee was eventually placed in a guardianship with relatives.

<sup>3</sup> Leila's criminal history included vehicle theft, driving under the influence, possessing and transporting drugs and violating the conditions of her probation when she was on jail property to visit Kristopher and threatened to kill an officer.

possessing drugs, drug paraphernalia and stolen property. Police found a syringe containing methamphetamine in her bra, a condom containing methamphetamine in her underwear, a small amount of marijuana and two pipes. Consequently, the court ordered Leila's visits with Aryanna to again be supervised.

In its report for the 12-month hearing, Agency recommended the court terminate Leila's reunification services and set a section 366.26 selection and implementation hearing. Leila had not successfully completed all aspects of her case plan and just recently entered another residential drug treatment facility (Tender Loving Mercy) after her release from jail. She had a history of drug use, treatment and relapse. Leila previously lost custody of another child due to her drug use and poor lifestyle choices. Aryanna had been in foster care for more than a year, and Leila had made no significant progress in overcoming issues of domestic violence and drug use. In the social worker's opinion, six more months of services would not serve Aryanna's best interests because Leila would not be able to reunify with her by then.

According to an addendum report, Kristopher had been released from custody and contacted Leila by telephone in violation of the restraining order. Leila filed a report with the police and changed her telephone number. As of May 2012, Leila had not quite completed the first phase of a four-phase drug treatment program. She had not resumed participating in domestic violence treatment.

At the contested 12-month hearing in June 2012, social worker Joseph West testified Leila had not completed parenting classes as required by her case plan, and she had completed only half of a 52-week domestic violence treatment program. Leila had a

lengthy history of drug use, rehabilitation and relapse. She needed to remain drug free for a sufficient amount of time before engaging in individual therapy, and this would occur when recommended by a drug counselor or group facilitator.

West was not confident that Leila could make a substantial change in the next three or four months. Leila left her drug treatment program one week before her latest arrest for possessing drugs. The significant amount of drugs she had concealed indicated this was not a typical relapse. West was also concerned about domestic violence issues because Leila was unable to stay away from Kristopher, as evidenced by her being with him at the time of his arrest. Further, given her lengthy substance abuse history, Leila needed a substantial period of sobriety before visits with Aryanna could be unsupervised.

Leila testified she had been in counseling for two months at the Tender Loving Mercy facility, and she did not receive referrals from West before starting this counseling. Leila contacted a couple of therapists referred by West, but the waiting list was long and there were no therapists available in her area. She had attended 26 sessions of domestic violence treatment, was able to identify "red flags" and had a safety plan. She also understood the cycle of violence and the effects it had on Aryanna. Leila said she had had no incidents of domestic violence with Kristopher since the case began, but admitted having contact with him in May.

Leila further testified she participated in a parenting program through CRASH and Serenity House, but had not completed it. She was currently in drug treatment at Tender Loving Mercy, had a sponsor and had not used drugs for three months. Leila said she

began using drugs 10 years ago, and her drugs of choice were methamphetamine and marijuana.

After considering the evidence and arguments of counsel, the court found Agency had provided Leila with reasonable services. The court further found although Leila had regularly visited Aryanna, she had not made significant progress in resolving the problems that led to Aryanna's removal from parental custody, and there was no substantial probability of her return by the 18-month date.<sup>4</sup> The court terminated reunification services and set a section 366.26 selection and implementation hearing.

Leila filed a petition for review of the court's orders and requested a stay of the section 366.26 hearing. (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452.) This court issued an order to show cause, Agency responded and the parties waived oral argument.

## DISCUSSION

### I

Leila challenges the sufficiency of the evidence to support the court's finding there was no substantial probability of Aryanna's return to her custody by the 18-month date. Leila asserts she consistently visited and contacted Aryanna, made significant progress in resolving the problems that led to Aryanna's removal, and had the ability to complete the objectives of her treatment plan and provide for Aryanna's safety, protection and well-being.

---

<sup>4</sup> The 18-month date was September 24, 2012.

A

Under section 366.21, subdivision (g)(1), the court may continue a case to the 18-month date only if there is a substantial probability the child will be returned to the parent's physical custody and safely maintained in the home by that time. In considering whether to extend the case to the 18-month date, the court must find: (1) the parent has consistently and regularly contacted and visited the child; (2) the parent has made significant progress in resolving problems that led to the child's removal from parental custody; and (3) the parent has shown "the capacity and ability both to complete the objectives of his or her treatment plan and to provide for the child's safety, protection, physical and emotional well-being, and special needs." (§ 366.21, subd. (g)(1)(C), (A) & (B).)

Where, as here, the court is required to make factual findings, we review its decision for substantial evidence. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 689-690; *In re B.D.* (2008) 159 Cal.App.4th 1218, 1232.) We do not consider the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if there is substantial evidence supporting a contrary finding. (*In re Baby Boy L.* (1994) 24 Cal.App.4th 596, 610; *Amanda H. v. Superior Court* (2008) 166 Cal.App.4th 1340, 1346.) On appeal, the parent has the burden of showing there is no evidence of a sufficiently substantial nature to support the court's finding or order. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.)

## B

The evidence supported a finding Leila regularly visited and contacted Aryanna. However, Leila did not show she made significant progress in resolving the problems—substance abuse and domestic violence—that led to Aryanna's removal from her custody. Leila discontinued her substance abuse program three months before the scheduled 12-month hearing. She then relapsed on methamphetamine and marijuana. When Leila was arrested, she had a significant amount of drugs in her possession, including a syringe loaded with methamphetamine in her bra and a condom filled with methamphetamine in her underwear. This was not a "brief" or typical relapse, but instead showed some sophistication in her attempt to hide her drug use in the event she was arrested. Moreover, Leila had a 10-year history of substance abuse, treatment and relapse, and could not maintain her sobriety despite having lost custody of Marlee, and having been given the opportunity to regain custody of Aryanna.

Further, even after Leila participated in domestic violence treatment, she continued to have contact with Kristopher. Four months before the 12-month hearing, she was with Kristopher when he was arrested, even though she claimed to be in constant fear of him. She did not understand that Kristopher's conduct in stalking her at Serenity House was a form of domestic violence. Although Leila filed a police report and changed her telephone number when Kristopher recently called her and made threats, this

was not sufficient to constitute "significant progress" in addressing issues of domestic violence.<sup>5</sup>

### C

The evidence also supported a finding Leila did not show she had the ability to complete the objectives of her treatment plan and provide for Aryanna's safety, protection and well-being by the 18-month date. Because Aryanna was under the age of three when removed from parental custody, Leila knew she had six months to reunify with her. (§ 361.5, subd. (a)(1)(B).) After receiving more than 12 months of services, Leila still had not completed her case plan, and had not fully implemented what she learned. At the time of the 12-month hearing, Leila had not quite completed the first phase of a four-phase substance abuse program, which required six months of aftercare. She had not made enough progress with drug treatment to have unsupervised visits with Aryanna. Given the amount of time needed for substance abuse treatment and Leila's limited progress so far, it was not likely she could complete this crucial aspect of her treatment plan by the 18-month date.

Further, Leila's case plan required her to complete a domestic violence victims program. At the time of the 12-month hearing, Leila had completed only 26 of 52 sessions. It was not likely she could complete domestic violence treatment by the 18-month date or substantially change her life in order to provide for Aryanna's safety, protection and well-being. Substantial evidence supports the court's finding there was no

---

<sup>5</sup> As the juvenile court noted, a reasonable inference could be drawn that Leila's contact with Kristopher at the time of his arrest was not an isolated incident.

substantial probability Aryanna could be returned to Leila's custody and safely maintained in the home by the 18-month date. (§ 366.21, subd. (g); see *A.H. v. Superior Court* (2010) 182 Cal.App.4th 1050, 1060 [Legislature has set a very high hurdle for continuing cases beyond 12 months]; *Tonya M. v. Superior Court* (2007) 42 Cal.4th 836, 845 [continuing services to 18-month date is "disfavored"].)

## II

Leila contends Agency did not provide her with reasonable services, and thus, the court should have continued the case to the 18-month date. She asserts her case plan required individual therapy, and she did not receive a referral for this service until more than one year into the case.

### A

The juvenile court may continue a dependency case to the 18-month date if reasonable services have not been provided to the parent. (§ 366.21, subd. (g)(1).) We review a finding of reasonable services for substantial evidence. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361-1362; *Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) The standard is not that the *best* possible services were provided, but that *reasonable* services were provided under the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

### B

Here, the services provided to Leila, based on her specific needs, included substance abuse treatment, a domestic violence victims program, a parenting class and individual counseling. Leila participated in all these services, but nevertheless complains

referrals for counseling came too late. The record, however, shows Leila's case plan was revised to reflect she would participate in individual counseling once it was recommended by the substance abuse group facilitator or drug counselor. When social worker West received the case in December 2011, the plan was for Leila to complete drug treatment and then begin counseling. He explained it was vitally important, given Leila's extensive drug history, that she achieve significant sobriety and stabilization before beginning counseling, so that she could meaningfully participate in and benefit from this service. In January 2012, Leila began to destabilize by having contact with Kristopher and was with him at the time of his arrest. In the next two months, she relapsed on methamphetamine and marijuana and was arrested for possessing drugs and drug paraphernalia and receiving stolen property. She did not resume drug treatment until she was released from criminal custody in April 2012. Thus, under the circumstances, referrals to individual counseling were timely made. Substantial evidence supports the court's finding Leila was provided with reasonable reunification services.

#### DISPOSITION

The petition is denied. The request for stay is denied.

IRION, J.

WE CONCUR:

NARES, Acting P. J.

AARON, J.