

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

MELODY S.,

Petitioner,

v.

THE SUPERIOR COURT OF KINGS
COUNTY,

Respondent;

KINGS COUNTY HUMAN SERVICES
AGENCY,

Real Party in Interest.

F066493

(Super. Ct. No. 00J0335)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Jennifer Giuliani, Judge.

Melody S., in pro. per., for Petitioner.

No appearance for Respondent.

Colleen Carlson, County Counsel, and Bryan Walters, Deputy County Counsel, for Real Party in Interest.

-ooOoo-

* Before Levy, Acting P.J., Cornell, J., and Kane, J.

The juvenile court denied petitioner Melody S. reunification services under Welfare and Institutions Code, section 361.5, subdivision (b)(10) and (11)¹ at a contested dispositional hearing in January 2013 as to her then two-year-old daughter, P.J. and eight-month-old son, J.S. The juvenile court also set a section 366.26 hearing.

Melody challenged the juvenile court's denial of services and setting orders in propria persona by filing an extraordinary writ petition. (Cal. Rules of Court, rule 8.452.) She contends the juvenile court erred in denying her reunification services based on her incarcerated status. We deny the petition.

PROCEDURAL AND FACTUAL SUMMARY

Melody is the mother of six children, including P.J. and J.S., the subjects of this writ petition. None of the children are in her care and three of the children have been adopted. Melody has a lengthy adult criminal record dating back to 1996, mainly involving theft crimes. She also has a history of mental illness, substance abuse and domestic violence.

These dependency proceedings were initiated in July 2012 after Melody beat her then 16-year-old daughter T.P. with a spiked belt, leaving bruises and welts on T.P.'s behind, lower back, left shoulder and left forearm. Melody was arrested and charged with child cruelty and the children, T.P., P.J. and J.S., were taken into protective custody by the Kings County Human Services Agency (agency).

The juvenile court adjudged the children dependents of the court and set the matter for disposition. In its dispositional report, the agency recommended that the juvenile court deny Melody reunification services under section 361.5, subdivision (b)(10) and (11)² because she failed to reunify with a half sibling and her parental rights were

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

² Section 361.5, subdivision (b)(10) and (11) provides in relevant part:

terminated and she failed to remedy the problem that required the child's removal. The agency also recommended that the juvenile court deny reunification services to the fathers of the children.

In January 2013, the juvenile court conducted a contested dispositional hearing. Melody appeared in custody. Social worker Patricia Shubert testified that the main reason the agency was not recommending reunification services was because Melody's potential prison sentence could exceed 10 years, well beyond the reunification period allowed by statute. Shubert conceded, however, that Melody had not yet been convicted or sentenced. In addition, the agency recommended denying Melody reunification services because three of her children were removed from her custody because of her drug use. The last adoption was finalized in 2009, and in 2010, Melody tested positive for marijuana and methamphetamine. Shubert did not have any evidence that Melody was using drugs at the time of the hearing.

At the conclusion of the hearing, the juvenile court denied Melody reunification services and set a section 366.26 hearing. In so doing, the juvenile court stated that its decision to deny Melody reunification services was not based on her incarceration. Instead, the juvenile court denied her reunification services because her reunification services and parental rights in the sibling cases were terminated and she failed to make

“(b) Reunification services need not be provided to a parent ... when the court finds, by clear and convincing evidence ... [¶] ... [¶] (10) [t]hat the court ordered termination of reunification services for any siblings or half siblings of the child because the parent ... failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent ... and ... this parent ... has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent (11) [t]hat the parental rights of a parent over any sibling ... of the child had been permanently severed, ... and [the] parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling ... of that child from the parent.”

reasonable efforts to treat the problem that led to their removal. The juvenile court also denied reunification services to the fathers. This petition ensued.

DISCUSSION

Melody contends the juvenile court erred in denying her reunification services because she was incarcerated.³ Her contention is not supported by the record.

Section 361.5, subdivision (e)(1) pertains to the provision of reunification services to an incarcerated parent. It provides that the juvenile court will provide reasonable services unless the court finds by clear and convincing evidence that it would be detrimental to the child. In determining detriment, the juvenile court considers various factors, including the length of the prison sentence. (§ 361.5, subd. (e)(1).)

In this case, the juvenile court expressly stated that it was *not* considering Melody's incarceration in denying her reunification services. Instead, the juvenile court denied her reunification services under section 361.5, subdivision (b)(10) and (11) because she failed to reunify with three of her other children and she failed to remedy the problem that led to their removal. Since Melody does not claim the juvenile court erred in denying her reunification services on that basis, the juvenile court's denial order remains unchallenged and we cannot grant relief.

We find no error and deny the petition.

DISPOSITION

The petition for extraordinary writ is denied. This opinion is final forthwith as to this court.

³ Melody attached various documents concerning cases from Los Angeles County concerning T.P. and dated prior to these proceedings. She also attached a certificate indicating that she completed a parenting program and was on a waiting list for another and a handwritten letter ostensibly written by T.P. stating that she lied about Melody giving her "woopens" because she wanted to be removed. None of these are relevant to the issue she raises in her petition.