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

SABRINA A.,

Petitioner,

v.

THE SUPERIOR COURT OF TULARE
COUNTY,

Respondent;

TULARE COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Real Party in Interest.

F067487

(Super. Ct. Nos. JJV067003A &
JJV067003B)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Hugo J. Loza, Commissioner.

David F. Candelaria for Petitioner.

No appearance for Respondent.

Kathleen Bales-Lange, County Counsel, and Carol E. Holding, Deputy County Counsel, for Real Party in Interest.

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* Before Kane, Acting P.J., Detjen, J., and Franson, J.

Sabrina A. (mother) in propria persona seeks an extraordinary writ (Cal. Rules of Court, rule 8.452) from a juvenile court order denying her reunification services and setting a Welfare and Institutions Code section 366.26 hearing as to her eight-month-old daughter, N.L.¹ Mother challenges the court's denial order, which was based on mother's chronic drug abuse (§ 361.5, subd. (b)(13)). On review, we conclude there was substantial evidence to support the court's decision. Accordingly, we will deny the petition.

PROCEDURAL AND FACTUAL HISTORY

Mother has a history of substance abuse dating back more than a decade. Her drug of choice is methamphetamine. In early May 2013, while on probation, mother submitted a false urine sample and soon thereafter a sample that was positive for methamphetamine. Her probation officer consequently went to visit mother at her residence.

There the probation officer found mother was "cooking" methamphetamine in the presence of six-month-old N.L. and her five-year-old half brother. Also, the children slept and played in a bedroom that had hypodermic needles within their reach. One of the needles contained methamphetamine.

As a result, mother was arrested on child endangerment and drug-related charges. Meanwhile, the children were detained and real party in interest Tulare County Health and Human Services Agency (agency) initiated the underlying juvenile dependency proceedings based on these events.

The agency urged the juvenile court to exercise its dependency jurisdiction over the children, remove them from parental custody, and deny mother reunification services. In particular, the agency alleged services for mother were unwarranted under section 361.5, subdivision (b)(13) because she had a history of extensive, abusive, and chronic

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

drug use and had resisted prior court-ordered treatment for this problem during a three-year period prior to the filing of the dependency petition in this matter.

Mother admittedly used drugs for more than a decade and was currently on probation. She told an agency social worker that she was never offered treatment services and instead served “jail time.”

However, according to the agency’s investigation, mother pled no contest in 2007 to a felony drug charge and the court placed her on formal probation. As part of that probation, mother was court-ordered into substance abuse counseling. Since then she continued to reoffend due to her drug use. She eventually completed an outpatient program in 2012 but began using again.

At a combined jurisdictional/dispositional hearing in June 2013, counsel for mother, the children, and the agency submitted the matter on the agency’s report, which detailed the above summarized evidence. Mother, who remained incarcerated, also submitted to the juvenile court’s dependency jurisdiction.

Mother expressly understood the agency’s recommendation to deny her reunification services and the possible consequence that her parental rights could be terminated. Her sole dispute was over an agency recommendation that she receive only once-a-month visitation with the children. Mother’s counsel requested more frequent visits once mother was released from custody, “because it’s her intent to do some services on her own and file a [section] 388 [petition] before the next hearing date.” The court agreed that at least twice monthly visits were appropriate. It then followed up by asking mother’s counsel, “[a]nything else[?]” to which counsel replied, “No.”

Having otherwise adopted the agency’s recommendations to remove the children from parental custody and deny mother services under section 361.5, subdivision (b)(13), the court set a section 366.26 hearing to select and implement a permanent plan for N.L.²

² The court did not set a similar hearing for N.L.’s five-year-old half brother on account of the child’s father.

DISCUSSION

The purpose of writ proceedings such as this is to facilitate review of a juvenile court's order setting a section 366.26 hearing to select and implement a permanent plan for a dependent child. (Cal. Rules of Court, rule 8.450(a).) A court's decision is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is up to a petitioner to raise specific issues and substantively address them. (§ 366.26, subd. (I).)

For the first time, mother complains the juvenile court could not deny her reunification services under section 361.5, subdivision (b)(13). She contends she has never been court-ordered into drug treatment. Indeed, she attaches to her petition her declaration that she has only one prior drug conviction, from 2011, and based on that conviction, she was ineligible for any drug rehabilitation programs. In so arguing, mother ignores the law and the record, as summarized above.

First, this court reviews a parent's extraordinary writ petition based on the record, which was before the juvenile court when it issued its denial order. (See § 366.26, subd. (I)(1)(B) [petitioner's challenge must be supported by adequate record].) Mother's declaration was not before the juvenile court and therefore may not be considered.

Second, it appears mother acquiesced to the agency's recommendation that the court deny mother services pursuant to section 361.5, subdivision (b)(13). (*In re Richard K.* (1994) 25 Cal.App.4th 580, 590 [parent who submits on agency recommendation without introducing evidence or offering argument, forfeits contest of juvenile court decision that coincides with agency recommendation].)

In any event, there was evidence before the juvenile court that a court ordered mother into substance abuse counseling as part of a 2007 probation grant. Although mother contests this, our assessment of the sufficiency of the evidence begins and ends with a determination as to whether there is any substantial evidence, contradicted or not, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the outcome and all legitimate inferences indulged in to uphold the decision, if

possible. We may not reweigh or express an independent judgment on the evidence. (*In re Laura F.* (1983) 33 Cal.3d 826, 833.)

Given mother's continued drug abuse in the intervening years, the juvenile court could find that mother resisted the prior court-ordered treatment during at least the three years immediately prior to the May 2013 filing of the dependency petition. Accordingly, the juvenile court properly denied mother reunification services under section 361.5, subdivision (b)(13).

DISPOSITION

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