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

In re K.O. et al., Persons Coming Under the
Juvenile Court Law.

KINGS COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

LORRAINE O.,

Defendant and Appellant.

F070182

(Super. Ct. No. 13JD0017)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kings County. Jennifer Lee
Giuliani, Judge.

Beth A. Melvin, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

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*Before Cornell, Acting P.J., Gomes, J. and Peña, J.

Mother Lorraine O. appeals from a judgment entered pursuant to Welfare and Institutions Code¹ section 366.26 selecting tribal customary adoption as the permanent plan for three of her children: K.O., A.O., and S.O. After reviewing the entire record, mother's court appointed appellate counsel informed this court she could find no arguable issues to raise on mother's behalf. Counsel requested, and this court granted, leave for mother to personally file a letter setting forth a good cause showing that an arguable issue of reversible error did exist. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844.)

Mother submitted a letter challenging the reasonableness of the reunification services provided and espousing her love for her children and her desire to have them return home. Her letter does not otherwise address the proceeding finding her children were adoptable and selecting the tribal customary adoptive order, nor does her letter set forth any good cause showing that any arguable issue of reversible error arising from the hearing exists. (*In re Phoenix H., supra*, 47 Cal.4th at p. 844.) Therefore, we dismiss the appeal.

PROCEDURAL AND FACTUAL HISTORY

In March of 2013, after mother gave birth to a child² who tested positive for methamphetamine, the Kings County Human Services Agency (Agency) filed a petition pursuant to section 300, subdivision (b), alleging that mother's substance abuse rendered her unable to provide for K.O., A.O., and S.O., who ranged in age from four years old to one year. Additionally, the petition alleged the children's father was unable to care for them due to his history of substance abuse and incarceration. (§ 300, subds. (b), (g).) Notice was provided to the court indicating the children were of Indian heritage pursuant to the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.).

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

²That child, R.O., is not a subject of this appeal.

According to the detention report prepared by the Agency, mother reported she did not receive any prenatal care prior to delivering R.O. as she was unaware she was pregnant until she went into labor. She admitted to using methamphetamine a few days before giving birth to her child. Mother began using drugs in 2010 but claimed she used drugs only occasionally. At the detention hearing, the juvenile court removed the children from mother's home and placed them with the Agency. Visitation between mother and her children was ordered and the Agency was to provide appropriate reunification services. The court further found ICWA applied to the proceedings. According to the Agency's report prepared for the jurisdictional hearing, mother admitted to using methamphetamine for the previous five to six months, but claimed her use was "sporadic." The children's father was currently incarcerated due to a domestic violence incident toward mother. The Agency placed the children at issue here³ with their maternal aunt and uncle. In May of 2013, the juvenile court found the allegations in the petition⁴ true and continued the matter for a dispositional hearing.

Prior to the dispositional hearing, the Agency submitted a report which included a declaration from the designated ICWA expert. Mother enrolled in and completed a 30-day residential treatment program. The expert recommended mother obtain further treatment for substance abuse and receive education on domestic violence and caring for a child with special needs. An addendum report noted mother had tested positive for drug use after she finished her residential treatment program. Mother also missed one of her parenting classes. At the dispositional hearing, the court adjudged the children dependents of the court, ordered the children remain in out-of-home placement, ordered visitation and reunification services to mother and set the matter for a six-month review hearing. The court also adopted the Agency's case plan that required mother to complete

³R.O. was placed with a nonrelative caretaker.

⁴The petition had been amended to allege an additional allegation as to the father, which is not relevant to this appeal.

a mental health assessment and counseling, complete a domestic violence course, complete a parenting class, attend a minimum of two Alcoholics Anonymous (AA) or Narcotics Anonymous meetings per week, submit to random drug testing, and complete a substance abuse treatment program.

Prior to the six-month review hearing, the Agency filed several reports regarding mother's progress. According to the reports, mother had stopped attending her therapy sessions after four visits. She claimed she could no longer afford the \$25 copay for the visits. As a result of missing four sessions, the therapist recommended discharging her from therapy. Mother was attending her domestic violence classes, but had several more months before she could complete the course. Mother completed her parenting courses and received a certificate of completion. Although mother claimed to be attending AA twice a week, her attendance card showed only sporadic attendance. While she attended frequently between March and April of 2013, she only attended one meeting each month in June and July, and four meetings each month in August and September. Mother provided four positive drug tests since March of 2013, and missed one drug test. Particularly concerning, mother's most recent positive test, from November of 2013, showed her drug levels were higher than her previous tests and also indicated marijuana usage. Mother did attend and complete a 16-week substance abuse program. Regarding visitation, mother attended all but one of her scheduled visits with her children, although she was late to every visit. She engaged with her children, however, she appeared stressed and overwhelmed at times. She appeared to be bonded with K.O., A.O., and S.O.

The Agency noted mother had made minimal progress in her services and opined the children's return to mother's care would put them at substantial risk of mistreatment. It recommended the court terminate reunification services and set the matter for a hearing pursuant to section 366.26 to determine a permanent plan for the children. Additionally, the Agency provided a declaration from the ICWA expert, who also noted mother had

failed to comply with her case plan. The expert recommended ICWA relative placement to prevent the breakup of the siblings and their “Native Family.”

After a contested hearing, the juvenile court found the return of the children to mother would create a substantial risk of detriment to their well-being; the Agency had provided reasonable services to mother and mother had made minimal progress in alleviating the causes necessitating the children’s removal. The juvenile court ordered the children to remain dependents of the court, terminated reunification services to mother, and set the matter for a permanency planning review pursuant to section 366.26. Mother was advised of her right to seek an extraordinary writ to review the proceedings, however, mother has never sought such relief.

Prior to the permanency planning hearing, the Agency filed a report explaining the children were placed with their maternal aunt and uncle since their removal from mother’s custody in March of 2013. The placement was appropriate and the children had established a significant relationship with their caretakers. The caretakers demonstrated an interest in adopting the children, and the Agency found it very likely the children would be adopted if mother’s parental rights were terminated. The children’s tribe recommended a tribal customary adoption on behalf of the children with their current caretakers. The Agency was in support of this plan provided it could not be altered or changed by the birth parents. The Agency also provided a declaration from the ICWA expert stating the tribe was in agreement with a tribal customary adoption for the children with their maternal aunt and uncle.

In May of 2014, the juvenile court held a permanency planning hearing. At that hearing the children’s tribe recommended a tribal customary adoption, and the Agency requested a continuance for that purpose. The matter was continued to September of 2014 for a further permanency planning hearing.

Prior to the September hearing, the children’s tribe performed a tribal customary adoption. Mother was present at the permanency planning hearing held on September 10,

2014. The court read and considered the Agency's report as well as a declaration from the ICWA expert, and the tribal customary adoption order. The expert opined, beyond a reasonable doubt, that the continued custody of the children by the parents would result in serious emotional or physical danger to the children.

At the hearing, mother acknowledged receipt of the documents and submitted on the recommendation of the social worker explaining mother's continued care of the minors would likely result in serious emotional or physical damage to the children, requesting a permanent plan of adoption, and terminating her parental rights. At the hearing, the court (1) found the continued custody of mother's three children—K.O., A.O., and S.O.—in her care would likely result in serious emotional or physical damage to the children; (2) found the children were likely to be adopted; (3) accorded the tribal customary adoption full faith and credit; (4) modified mother's parental rights in accordance with the tribal customary adoption order; and (5) ordered the Agency to place the children in accordance with the tribal order.

DISCUSSION

In her letter brief to this court, mother challenges the reasonableness of her reunification services, the denial of additional reunification services, the court's failure to inquire into whether she practiced her "parental rights," and otherwise espouses her love for her children, the desire of her children to return to her home, and her good character by volunteering at her children's school prior to the dependency proceedings.

As an appealed-from order or judgment is presumed correct (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564), an appellant is required to raise claims of reversible error and provide argument and authority for those claims. Failure to do so will result in the dismissal of the appeal. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) As we will explain, mother has failed to raise any issues amounting to reversible error.

To the extent mother challenges the reasonableness of the reunification services provided by the Agency or the juvenile court's termination of the services at the

contested six-month review, those claims are not cognizable in this appeal. The juvenile court determined the Agency provided reasonable services to mother and further found she had made minimal progress in her services and therefore terminated those services at the contested six-month review hearing held on January 22, 2014, and set the matter for a permanency planning review. Orders made by the court at a hearing where the court sets the matter for a permanency planning hearing are reviewable on appeal only if the appellant first sought a timely extraordinary writ challenging the issue sought to be raised on appeal. (§ 366.26, subd. (l); *In re Anthony B.* (1999) 72 Cal.App.4th 1017, 1022-1023.) Although mother was informed of the requirement to seek an extraordinary writ to review the issues, she failed to do so. As such, her contentions are forfeited.

To the extent mother argues the court failed to inquire into the exercise of her parental right, we note any issue regarding the failure to consider such evidence is likewise forfeited. By “submitting on the recommendation without introducing any evidence or offering any argument, the parent waived her right to contest the juvenile court’s disposition since it coincided with the social worker’s recommendation. He who consents to an act is not wronged by it.” (*In re Richard K.* (1994) 25 Cal.App.4th 580, 590.)

Finally, mother’s statements that she loves her children and they want to return to her custody are not issues arising from the hearing from which she appeals.

“A challenge to the most recent order entered in a dependency matter may not challenge prior orders for which the statutory time for filing an appeal has passed. (*In re Elizabeth M.* (1991) 232 Cal.App.3d 553, 563 [abrogated on other grounds in *In re Tabitha W.* (2006) 143 Cal.App.4th 811, 817].)” (*Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 811.)

At a permanency planning hearing, the court’s proper focus is on the children to determine whether it is likely they will be adopted and, if so, order termination of parental rights. Once reunification services are ordered terminated, the focus shifts to the children’s needs for permanency and stability. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) If, as in this case, the children are likely to be adopted, adoption is the norm.

Indeed, the court must order adoption unless one of the specified circumstances provides a compelling reason for finding that termination of parental rights would be detrimental to the children. (*In re Celine R.* (2003) 31 Cal.4th 45, 53.) Prior to the hearing, the children's tribe performed a tribal customary adoption, thus it is beyond dispute the children were likely to be adopted. Additionally, mother made no showing that a tribal customary adoption would be detrimental to the children either because of her relationship with the children or their sibling relationship. Thus, the issue is forfeited.

Because mother cannot show any arguable issues of reversible error exist, we dismiss the appeal. (*In re Phoenix H., supra*, 47 Cal.4th at p. 844.)

DISPOSITION

The appeal is dismissed.