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

L.M.,

Petitioner,

v.

THE SUPERIOR COURT OF TUOLUMNE
COUNTY,

Respondent;

TUOLUMNE COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Real Party in Interest.

F072680

(Super. Ct. Nos. JV7590, JV7591)

OPINION

THE COURT*

ORIGINAL PROCEEDING; petition for extraordinary writ review. James A. Boscoe, Judge.

L.M., in pro. per., for Petitioner.

No appearance for Respondent.

Sarah Carrillo, County Counsel, and Cody M. Nesper, Deputy County Counsel, for Real Party in Interest.

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

L.M. (mother) in propria persona seeks extraordinary writ review of the juvenile court's order setting a Welfare and Institutions Code section 366.26 hearing¹ as to her 10-month-old twins, Myra and Xavier. She sets forth a variety of contentions but does not articulate a claim of juvenile court error. Consequently, we dismiss the writ petition as facially inadequate. (Cal. Rules of Court, rules 8.450 & 8.452.)

PROCEDURAL AND FACTUAL SUMMARY

In early March 2015, the Tuolumne County Department of Social Services (department) received a report that mother gave birth to twins at a regional medical center. The hospital staff was concerned about mother's mental health and ability to care for the infants given her extensive history of child welfare intervention.

Mother's child welfare history dates back to 1999, when she physically assaulted her stepdaughter, causing numerous facial injuries, swelling of her head, and bruising and finger marks on her right leg. Mother reportedly rubbed the child's face on urine-soaked carpet after the child urinated on the floor because mother had locked her in her bedroom. Mother told the child's father, "Get the f***** kid out of this house before I beat the f***** s*** out of her." Mother was not offered reunification services because she was not the child's biological mother. In 2000, the department took mother's two children into protective custody because mother provided one of them, a female, alcoholic beverages. The female child also had injuries on her face and back that could not be explained. Mother participated in reunification services but did not reunify with the children. The children were placed in a permanent guardianship with a relative. In July 2004, mother gave birth to a daughter who was taken into protective custody at the birthing center. Mother disclosed that she used methamphetamine during her pregnancy. Mother and the child's father, Christopher, received reunification services but only Christopher reunified with the child. Mother failed to participate in services and

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

relapsed. Christopher also relapsed in 2006 and their daughter was placed in a guardianship with her paternal grandmother. In January 2014, two more of mother's children, a son and daughter, were taken into protective custody because mother was using methamphetamine while caring for them. The son, then three years old, was found walking unattended near a busy road. Mother was denied reunification services.

After learning of Myra and Xavier's birth, a social worker from the department interviewed mother at the hospital and informed her the department would be involved with the twins. The social worker was accompanied by a tribal social worker because mother claimed enrollment in the Tuolumne Band of Me-Wuk Indians. Mother told the social workers she had not used methamphetamine since January 2014, talked at length about her recovery, and said she attended Alcoholics Anonymous meetings. She also planned to participate in counseling. The social worker asked mother about Christopher because of their history of domestic violence and mother's fixation with him. Mother stated he was not the father of the twins and she did not want anything to do with him. She was, however, emotional while talking about him and said she saw him at Walmart in early February 2015 and they had an argument. They had mutual restraining orders.

After mother's meeting with the social worker, hospital staff reported overhearing mother expressing threatening thoughts about the department and its workers. Mother told an obstetrician technician that she felt like "going on a killing spree." Mother told the attending pediatrician, "I just want to hurt them," referring to the department staff.

The social worker took the twins into protective custody at the hospital assisted by law enforcement and placed them in a home approved under the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). The Social Services Advisory Committee of the Tribe advised the department it supported the department's decision to remove the children from mother's care.

In April 2015, following a contested detention hearing, the juvenile court ordered the children detained. The court commended mother for having achieved a year of

sobriety but found prima facie evidence that the children would be at a substantial risk of detriment in mother's care given concerns about her mental health and prior substance abuse. The court also found that the department made reasonable efforts to prevent the children's removal from her care.

In May 2015, following a contested jurisdictional hearing, the juvenile court adjudged the children dependents under section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling) after finding true allegations that mother's mental illness, abuse, and neglect of the children's siblings placed the children at a substantial risk of harm. The court set the dispositional hearing for June 23, 2015.

In its report for the dispositional hearing, the department recommended the juvenile court deny mother reunification services under section 361.5, subdivision (b)(10) because she failed to reunify with three of her children and did not subsequently make a reasonable effort to treat the problem that necessitated their removal. The department also recommended the court deny mother reunification services under section 361.5, subdivision (b)(13) because of her "extensive, abusive, and chronic use of drugs" and resistance to treatment.

The Me-Wuk Tribe supported the department's recommendation. This upset mother and she asked the Tribal Board to reconsider their decision. The tribal social worker met with the board in June 2015 and the board affirmed its decision to support the department's decision. The tribe also recommended the children be placed with maternal relatives out of state. Mother supported the placement if she was unable to reunify with the children.

On June 23, 2015, Judge Donald Segerstrom sat in for Judge Boscoe who presided over the prior hearings. Judge Segerstrom informed the parties that he was disqualified from hearing the case but was there to continue the case for Judge Boscoe. Judge Segerstrom continued the matter and set it for a contested dispositional hearing on July

14, 2015. On July 14, 2015, Judge Segerstrom convened the hearing and continued it to August 4, 2015.

On August 4, 2015, Judge Boscoe convened the contested dispositional hearing. ICWA expert Percy Allen Tejada was called to testify. At the conclusion of voir dire, mother requested a *Marsden*² hearing. As a result of the *Marsden* hearing, the juvenile court appointed a new attorney for mother and continued the contested dispositional hearing (hereafter “contested hearing”) until the next day. The next day, the newly-appointed attorney appeared and accepted mother’s case and the court continued the contested hearing until September 2015.

Meanwhile, Sonora Police responded to a report of a violation of a domestic violence restraining order. Christopher showed the responding officer text messages he received from mother. She was upset because she believed he had blocked her from his Facebook page. In one text she told Christopher he was a “piece of s***” and would regret “f*****” with her. She also seemed to threaten his mother, stating, “Gee your mom is home by herself a lot isn’t she?” She also let him know she would persist, stating emphatically, “I WON’T STOP UNTIL YOU ARE DESTROYED AND LOSE EVERYTHING LIKE YOU HAVE DONE TO ME.” The officer forwarded his report to the district attorney, who filed a complaint alleging mother violated a domestic violence restraining order.

On September 15, 2015, Judge Boscoe convened the contested hearing, which was conducted over four sessions and concluded in November 2015. Percy Tejada testified and opined that the department made active efforts to prevent the children’s removal from mother as required under the ICWA. He testified the tribe believed it was in the children’s best interests to be removed from mother’s custody.

² *People v. Marsden* (1970) 2 Cal.3d 118.

Donna Villanueva, mother's therapist, testified she had been treating mother since 2014. Mother initially presented with anxiety and depression and had already been diagnosed with Post Traumatic Stress Disorder (PTSD) and Obsessive Compulsive Disorder. She opined mother had progressed in therapy. She was aware that mother may have violated her restraining order with Christopher and knew about mother's history of substance abuse.

Social worker Danielle Brouillette testified mother had not changed her pattern of behavior during her involvement with the department even though she had participated in extensive services.

Mother testified she attended Narcotics Anonymous meetings and had a sponsor. She completed the 12-step program and was in the process of completing it a second time. She also completed several parenting classes. She said she completed a psychological evaluation with Dr. Galyn Savage in 2000 or 2001, and participated in counseling through the dependency drug court. She said she relapsed in December 2013, after she allowed Christopher to live with her. She used methamphetamine two days at the end of December 2013 and two days in the beginning of January 2014. Prior to that, she had not used drugs since 2005. After she relapsed, she began therapy with Villanueva to treat her codependency. She denied using drugs after her relapse in January of 2014. Mother also testified she was taking medication for her PTSD. She denied maintaining contact with Christopher and sending him the text messages.

At the conclusion of the hearing, the juvenile court ordered the children removed from mother's custody, denied her reunification services as recommended by the department, and set the section 366.26 hearing.

This petition ensued.

DISCUSSION

Mother contends her civil rights were violated, she was not "represented properly," and she did not receive active efforts from the tribe. More specifically, she

claims the allegations in the prior dependency cases were unfounded and that the department did not make active efforts during the 2014 sibling case to prevent the children's removal. She states that Judge Segerstrom previously refused to disqualify himself and refused to appoint her counsel when her attorney retired. She believes Judge Boscoe was prejudiced by Judge Segerstrom's actions and asserts that Judge Boscoe was also a family law judge in a case in which she was apparently a party. She further claims she was not permitted to examine the hospital staff who overheard her threaten the department and to speak to Percy Tejada. She asserts that Danielle Brouillette committed perjury and that her attorney was ineffective for not requesting a new psychological evaluation.

Mother asks this court to issue a writ directing the juvenile court to order reunification services. She points out that she achieved two years of sobriety, is working on a bachelor's degree, maintains stable housing, has made consistent progress in therapy, and is not involved in any unhealthy relationships. We conclude that her petition is inadequate for our review as we now explain.

California Rules of Court, rules 8.450-8.452 set forth guidelines pertaining to extraordinary writ petitions. The purpose of these writ petitions is to allow the appellate court to achieve a substantive and meritorious review of the juvenile court's orders and findings issued at the setting hearing in advance of the section 366.26 hearing. (§ 366.26, subd. (l)(4).)

California Rules of Court, rule 8.452 sets forth the content requirements for an extraordinary writ petition. It requires the petitioner to set forth legal arguments with citation to the appellate record. (Rule 8.452(b).) In keeping with the dictate of Rule 8.452(a)(1), we liberally construe writ petitions in favor of their adequacy, recognizing that a parent representing himself or herself is not trained in the law. Nevertheless, the petitioner must at least articulate a claim of error and support it by citations to the record. Failure to do so renders the petition inadequate in its content and we will not

independently review the record for possible error. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

Here, mother merely claims that her civil rights were violated, she was not properly represented and that active efforts were not made to prevent removal. However, she does not develop her arguments by explaining how her rights were violated and how her attorney failed to properly represent her and what “active efforts” should have been made. Nor does she provide page references in the record to identify the evidence that would support such claims.

Further, any of the issues mother tries to raise from the prior dependency proceedings (i.e. allegations in sibling cases, Judge Segerstrom’s conduct, and whether active efforts were made) are not subject to appellate review because all findings and orders arising from the prior cases are now final. Additionally, we have reviewed the appellate record and find no record of perjury on the part of Ms. Brouillette or lack of objectivity by Judge Boscoe. To the extent mother may be attempting to claim her attorney was ineffective for not challenging the statements of the hospital staff and Mr. Tejada and for not requesting a psychological evaluation, she has not shown that the juvenile court would have provided her reunification services had her attorney done as she suggests. In other words, she fails to show she was prejudiced by her attorney’s representation of her case.

In sum, mother has set forth a variety of claims, some of which are not reviewable because they involve final orders and findings and others are not supported by the record. The remaining claims either do not point to legal error or mother did not develop them by legal argument or citation to the record. Finally, the orders that gave rise to the setting of a section 366.26 hearing were the juvenile court’s orders denying mother reunification services under section 361.5, subdivision (b)(10) and (13). Mother, however, did not challenge those orders.

We conclude the writ petition is inadequate for our review and dismiss it.

DISPOSITION

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