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

M.P.,

Petitioner,

v.

THE SUPERIOR COURT OF MERCED
COUNTY,

Respondent;

MERCED COUNTY HUMAN SERVICES
AGENCY,

Real Party in Interest.

F073828

(Merced Super. Ct. No. JP000948)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Brian L. McCabe, Judge.

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

No appearance for Respondent.

James N. Fincher, County Counsel, and Claire S. Lai, Deputy County Counsel, for Real Party in Interest.

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

M.P. (mother), in propria persona, seeks an extraordinary writ from the juvenile court's order setting a Welfare and Institutions Code section 366.26¹ hearing as to her eight-year-old son V.P. We conclude her petition fails to comport with the procedural requirements of California Rules of Court, rule 8.452² and dismiss the petition.

PROCEDURAL AND FACTUAL SUMMARY

V.P. was taken into protective custody in November 2013 after he went to school with a bruise on his cheek and burns on his left bicep and left inner thigh. He said his father, Anthony, purposefully burned him the day before with a hot spark plug as punishment for roughhousing with another child. According to V.P., his father also yelled "I'm going to kill you." At the time, V.P. and Anthony were living with Anthony's girlfriend and her two children.

Anthony denied intentionally burning V.P. or saying he was going to kill him. He was not aware of the bruise on V.P.'s cheek but thought it could have been the result of roughhousing. Anthony admitted burning V.P. with a spark plug but claimed it was an accident. He was heating a spark plug on the stove to dissipate the fuel inside of it and accidentally bumped into V.P. The spark plug burned V.P.'s arm then dropped to the floor. V.P. fell on the spark plug, resulting in the burns on his leg.

Anthony said he had sole custody of V.P. because mother had bipolar disorder and schizophrenia and self-medicated with illegal drugs. Mother was granted supervised visitation but had not been visiting V.P.

The Merced County Human Services Agency (agency) filed a dependency petition on V.P.'s behalf under section 300, subdivisions (a) (serious physical harm), (b) (failure

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

² All rule references are to the California Rules of Court.

to protect) and (i) (cruelty) and placed him in foster care. The juvenile court ordered V.P. detained.

Dr. Philip Hyden examined V.P. and concluded he suffered second degree burns from a spark plug. Dr. Hyden further concluded that V.P.'s burns had several patterned configurations which were consistent with the history V.P. provided and highly suspicious for inflicted, non-accidental trauma.

In January 2014, the juvenile court sustained the petition and ordered mother and Anthony to participate in reunification services. Mother's services plan required her to complete assessment and treatments for mental health, parenting and substance abuse, randomly drug test and visit V.P. at least once a month under supervision.

The juvenile court provided mother and Anthony over a year of reunification services. However, mother was noncompliant. Anthony, on the other hand, was fully engaged in the reunification process and wanted V.P. returned to his custody.

Meanwhile, V.P. was having academic and behavioral problems and was diagnosed with Attention Deficit Hyperactivity Disorder, Oppositional Disorder and anxiety due to neglect and physical abuse. In September 2014 the juvenile court authorized the administration of psychotropic medication to address V.P.'s hyperactivity, inattention and defiant behaviors. He was restless, defiant, argumentative, aggressive and clingy. He also had irrational fears and was exhibiting animal cruelty and choking behavior. By that time, V.P. had had four failed placements.

In June 2015, the juvenile court terminated mother's reunification services and ordered V.P. returned to Anthony's care under family maintenance. However, V.P.'s stay was short-lived. Three months later, the agency filed a supplemental petition (§ 387) seeking V.P.'s removal after Anthony's girlfriend attempted to abandon V.P. at his mental health appointment. The girlfriend declared in front of V.P. that the family could not handle him and wanted him out of the home. Anthony claimed he could no longer

care for V.P. and wanted him removed from his custody. He said that V.P. strained his relationship with his girlfriend and negatively affected his health. He said he could not handle V.P.'s behavior and did not want him returned to his care and did not want visitation. The agency placed V.P. in foster care.

The agency recommended the juvenile court terminate Anthony's reunification services. The agency also recommended the court order a permanent plan of accelerated foster care placement because it considered V.P. difficult to place and unlikely to be adopted and there were no relatives to consider for placement.

In November 2015, the juvenile court conducted a contested dispositional hearing on the supplemental petition and mother testified. Mother wanted to present evidence to support placing V.P. in her custody or providing her reunification services and visitation. The court would not allow it, explaining the issue was whether to terminate Anthony's reunification services. The court told mother she would have to file a modification petition under section 388. The court terminated Anthony's reunification services, adopted the agency's recommendation to place V.P. in long-term foster care and set a section 366.3 permanency plan review hearing (the review hearing).

In May 2016, the agency filed a section 388 petition asking the juvenile court to set a section 366.26 hearing to change V.P.'s permanent plan from foster care to adoption. The agency had found an adoptive home where V.P. had been living since December 2015. He was doing very well, his academic performance had improved and his behavior was in line with what would be expected for a child his age. He requested to be adopted and change his name. In addition, he and his adoptive family considered him a "forever member" of the family. The agency believed it was in his best interest to be adopted.

In May 2016, the juvenile court granted the agency's section 388 petition, vacated the review hearing and set a section 366.26 hearing. This petition ensued.

DISCUSSION

As a general proposition, a juvenile court's rulings are presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, absent a showing of error, this court will not disturb them. A parent seeking review of the juvenile court's orders from the setting hearing must, as mother did here, file an extraordinary writ petition in this court on form JV-825 to initiate writ proceedings. The purpose of writ proceedings is to allow this court to review the juvenile court's orders to identify any errors before the section 366.26 hearing occurs. Rule 8.452 requires the petitioner to identify the error(s) he or she believes the juvenile court made. It also requires the petitioner to support each error with argument, citation to legal authority, and citation to the appellate record. (Rule 8.452(b).)

Mother has not identified any discernable error on the part of the juvenile court. She appears to assert that her reunification services were terminated because the agency discriminated against her and that the agency "slip[ped]" its section 388 petition under the juvenile court's "nose" without any regard for her parental rights. (Writ pet. at p. 2.) She requests an order from this court directing the juvenile court to return V.P. to her custody.

When the petitioner fails to identify any legal error, as is the case here, there is nothing for this court to review. Under such circumstances, we dismiss the petition as facially inadequate for review and we do so in this case.

Even if mother's petition were not inadequate, we would nevertheless conclude there were no issues for her to raise. The juvenile court set the section 366.26 hearing at a hearing on the agency's section 388 modification petition. By that time, mother's reunification services had been terminated and she had not appealed from the termination of services order. Therefore, the order was final and not subject to review. Further, the only issue before the juvenile court at the hearing on the agency's section 388 petition

was whether V.P.'s circumstances had changed since the court ordered him into foster care such that it was in his best interest to be adopted. Mother's attorney did not object to the agency's recommendation to set a section 366.26 hearing and submitted the matter for the court's decision. As a result, mother's attorney waived mother's right to challenge the court's order setting the section 366.26 hearing.

In light of our conclusion mother failed to assert any error by the juvenile court, we dismiss the petition as facially inadequate for review.

DISPOSITION

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