

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re E.L., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

A.L.,

Defendant and Appellant.

E079335

(Super. Ct. No. INJ017856)

OPINION

APPEAL from the Superior Court of Riverside County. Susanne S. Cho, Judge.

Affirmed.

Johanna R. Shargel, under appointment by the Court of Appeal, for Defendant and Appellant.

Minh C. Tran, County Counsel, Teresa K.B. Beecham and Prabhath Shettigar, Deputy County Counsels, for Plaintiff and Respondent.

I.

INTRODUCTION

A.L. (Father) appeals from the juvenile court's order denying him reunification services in order to be reunified with his nine-year-old daughter E.L.<sup>1</sup> Father contends that there is insufficient evidence to support the juvenile court's order denying him services pursuant to Welfare and Institutions Code<sup>2</sup> section 361.5, subdivisions (b)(10) and (b)(11). We disagree and affirm the order.

II.

FACTUAL AND PROCEDURAL BACKGROUND

*A. Prior History Involving E.L.'s Siblings*

Mother and Father have a history of abusing controlled substances, including but not limited to methamphetamine. They also have a history with the Riverside County Department of Social Services (DPSS) and a case history with the Riverside County Juvenile Dependency Court for sustained allegations of general neglect and physical abuse. The parents initially came to the attention of DPSS in January 2003, then again in August 2005, March 2006, January 2011, April 2015, February 2019, October 2019, February 2020, August 2021, and December 2021.<sup>3</sup>

---

<sup>1</sup> E.S. (Mother) is not a party to this appeal.

<sup>2</sup> All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

<sup>3</sup> Father has 11 children.

On January 9, 2003, DPSS received a referral with allegations of physical abuse by Father and general neglect by the children's mother. It was reported that Father, who was the mother's boyfriend, had slapped the mother and hit her children. It was also reported that Father intimidated the children, abused methamphetamines, and supplied the mother with methamphetamines. It was further reported that the mother was eight months pregnant with Father's baby. The children were taken into protective custody. On January 21, 2003, DPSS received another referral with allegations of emotional and physical abuse by Father. The allegations were substantiated. Father's baby O. tested positive for methamphetamine and was taken into protective custody. In February 2003, Father was granted reunification services but his services were terminated about a year later. In July 2004, following a contested hearing, the juvenile court terminated Father's parental rights as to child O.

In August 2005, a section 300 petition was filed as to child, G.G., due to allegations against Mother and Father. In September 2005, Father was again granted reunification services. Less than a year later, in March 2006, the juvenile court terminated Father's services, and in September 2006, the parental rights of both Mother and Father as to child G.G.

About five years later, in January 2011, a petition was filed as to E.L.'s sibling, A.L., and half-siblings, J.S. and Ja.S. In May 2011, following a contested hearing, the juvenile court denied reunification services to the parents pursuant to section 361.5. And in November 2011, the court terminated Mother and Father's paternal rights as to their

child A.L. In March 2012, the court terminated Mother's parental rights as to E.L.'s half-siblings.

*B. Current History as to E.L.*

E.L. was born in December 2012. She first came to the attention of DPSS in April 2015, after Mother and Father had a domestic argument while Mother was driving with E.L. in the car and lost control of the vehicle and crashed into a haystack. Four more referrals were received by DPSS as to E.L. (Feb. 2019, Oct. 2019, Feb. 2020, and Aug. 2021) alleging general neglect and physical abuse of E.L. These referrals were closed as unfounded.

On December 30, 2021, E.L. again came to the attention of DPSS after a referral was received alleging general neglect of E.L. by Mother. It was reported that Mother's mobile home residence had become "the drug center of the mobile home park" and that known drug addicts frequented the home while children were present. It was also reported that there was arguing in the home throughout the night and that law enforcement had been called to the residence for drugs and fighting.

The social worker made more than 11 attempts to interview Mother at her home and at E.L.'s school but was unsuccessful. School staff informed the social worker that E.L. "rarely" attended school and provided the worker with E.L.'s attendance records, which showed E.L. had attended only 22 out of 104 academic school days for the current year. School staff explained that they had difficulty contacting the parents to inquire about E.L.'s excessive absences and also noted that E.L. suffered from a medical

condition (Alopecia) which caused her to lose her hair. The social worker requested a welfare check be conducted by the police department on two occasions. However, officers were unsuccessful as no one answered the home door. At the time, Father was not a member of the household and his whereabouts were unknown. In August 2021, Father had relapsed and overdosed on drugs, causing him to have a heart attack, while E.L. was in his care.

On February 24, 2022, a section 300 petition was filed on behalf of E.L. pursuant to section 300, subdivisions (b)(1) (failure to protect) and (g) (no provision for support). The petition was amended on March 28, 2022, deleting the no provision for support allegation as to Father and the allegation relating to Father not being a member of the household, and adding several allegations concerning Mother.

As of March 11, 2022, the social worker was still unable to meet with Mother or Father in-person. And E.L. continued to be truant from school.

Mother, however, appeared at the March 11, 2022 detention hearing. Father did not. The juvenile court formally detained E.L. from parental custody, issued a protective removal custody warrant for E.L., and provided the parents with services pending a further hearing. E.L. was taken into protective custody on March 14, 2022.<sup>4</sup>

---

<sup>4</sup> Mother and Father had taken E.L. to the maternal grandmother's home in Arizona so that DPSS could not speak to her and to avoid cooperating with the investigation. The maternal grandmother was unaware of DPSS's involvement or the protective custody warrant.

In its jurisdictional/dispositional report, DPSS recommended that the allegations in the amended petition be sustained and that the parents be denied services pursuant to section 361.5, subdivisions (b)(10) and (b)(11). DPSS noted that the juvenile court had terminated Father's services and ordered his parental rights terminated as to his other children in three separate dependency cases in 2003, 2004, and 2012. DPSS also pointed out that Father had never participated in his services to mitigate the concerns that brought his children to the court's attention. Father and Mother blamed DPSS for the family's situation and believed DPSS had lied to remove E.L.

The social worker interviewed E.L. and the parents in March 2022. E.L. and Father disclosed that E.L. suffered from Alopecia and that she was often absent from school due to being bullied and lack of self-esteem. E.L. added that she lived with Father and visited Mother, that she suspected Mother and her boyfriend used drugs, and that she had witnessed domestic violence between Mother and her boyfriend, often coming between them to stop their fights. Mother confirmed E.L.'s medical diagnosis and noted that E.L. had been living with Father for the past four years.

Mother and Father began abusing methamphetamine since they were 17 years old. Father confirmed that he had served several sentences in prison for domestic violence with the last time being in 2015. He claimed that he was rehabilitated as he was employed, had stable housing, took care of E.L., and was sober from drugs. While the social worker was interviewing the parents following their visit with E.L., E.L. ran into the room, emotional and refusing to leave Father and blamed the parents for the situation.

Father responded by informing E.L. that DPSS had contacted law enforcement to force her to leave.

E.L. reported that Father was a hard worker, that he was nice to her and others, and that he tried to help other people. E.L. stated that “she loves to spend time with [Father].” A bond was observed between E.L. and her father, as she hugged and cuddled with him. Father was willing to participate in services and to learn effective ways to discipline and to communicate with E.L. He wanted E.L. returned home to his care.

E.L. was developmentally doing well but required mental health services and was referred to therapy. E.L. was observed to be defiant, could not easily be redirected, and refused to follow directions. She talked back to her parents, social workers, and caregiver and used profanity. She also made statements such as “I hate you” and “you don’t love me” to her parents. She also threw a Kleenex box at the social service assistant and refused to listen to the assistant. E.L. was also destructive to her bedroom in her placement and had scribbled all over the walls of her bedroom and wrote, “I hate you.” Additionally, on March 22, 2022, E.L. had locked herself in the bedroom with her caregiver’s cellphone and refused to give it back to her for several hours, as she called her family members. E.L. disclosed having anxiety and feeling scared around people, believing people will make fun of her because of her hair loss. The maternal grandmother, who was the adoptive mother of E.L.’s three older siblings, desired to adopt E.L. if the parents could not reunify with E.L.

On March 15, 2022, the parents were referred to individual counseling, parenting education, substance abuse services, and drug testing. By March 23, 2022, Father had not completed his drug test. Father admitted that it was easy to use drugs to cope with his emotions. DPSS thus had concerns that Father minimized his drug addiction and believed he will continue to use drugs while caring for E.L. DPSS was more worried that Father refused to take E.L. to school and was unable to be a parent to support E.L. so that she attended school. Father admitted that he lacked support and the ability to meet E.L.'s needs because he was busy working. DPSS opined that it was easier for Father to keep E.L. home from school, instead of helping her cope with her hair loss condition and seeking services at school.

On April 22, 2022, E.L. participated in a psychological evaluation with Dr. Garrett. Her doctor concluded that E.L. "presented with multiple problems, including 'post-traumatic stress disorder from sexual molestation and possibly emotional deprivation and domestic violence and other problems in the home. Severe generalized anxiety and possible psychotic thinking.'" E.L. was not diagnosed with a severe mental health disorder such as schizophrenia, but showed elements of "extremely nervous, anxious, distrusting, and unhappy child with many negative thoughts, and if it persists, she could become more psychiatrically impaired." It was recommended that E.L. participate in extensive ongoing psychotherapy due to multiple emotional problems, educational support, and assistance in improving activities of daily living such as hygiene.

As of May 2022, Father still had not completed a drug test. In addition, he continued to be inappropriate during his supervised visits with E.L. On April 5, 2022, Father arrived with his girlfriend to visit E.L. and requested his girlfriend be present in the visit. Father also had to be redirected during the visit as he began to speak about the case and told E.L. that she would be placed with a family friend. Father then told E.L. that it was best he leave the visit because if he said anything “bad,” then the visits would be suspended. Outside E.L.’s presence, Father yelled at the social worker, blamed DPSS for his situation, and claimed E.L. was being mistreated by her caregiver and that DPSS had lied in its reports.

DPSS confirmed, through medical records, that the parents had taken E.L. to a doctor for hair loss. DPSS was concerned the doctor had noted that the condition was a result of physical or emotional stressors. DPSS acknowledged that E.L. had previously disclosed sexual abuse in October 2019 and that she was diagnosed with acute telogen effluvium (loss of hair) prior to her disclosure in February 2019.

The contested jurisdictional/dispositional hearing was held on May 10, 2022. The juvenile court found true the allegations in the amended petition and declared E.L. a dependent of the court. The court removed E.L. from the parents’ physical custody and denied them reunification services pursuant to section 361.5, subdivisions (b)(10) and (b)(11). The court also found that reunification services were not in E.L.’s best interest. This appeal followed.

### III.

#### DISCUSSION

Father contends the juvenile court erred in denying him services pursuant to section 361.5, subdivisions (b)(10) and (b)(11) because services were in E.L.'s best interest. We disagree.

When a child is removed from the custody of his or her parents, the juvenile court must order reunification services to the parents unless one of several statutory exceptions, commonly called "bypass" provisions, applies. (§ 361.5, subds. (a), (b).) Section 361.5, subdivision (b)(10) and (b)(11) provide exceptions to the provision of services where a parent has failed to reunify with another child (subd. (b)(10)) or where the parental rights to another child were terminated (subd. (b)(11)) if the court finds that the 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." There are thus two findings that must be made for the exceptions to apply: A parent has failed to reunify or had parental rights terminated as to another child and the parent has not made a reasonable effort to treat the problems that led to the other child's removal.

"Section 361.5, subdivision (b) "reflects the Legislature's desire to provide services to parents only where those services will facilitate the return of children to parental custody." [Citations.]' [Citation.] In section 361.5, subdivision (b), 'the Legislature "recognize[d] that it may be fruitless to provide reunification services under certain circumstances" . . . . When the court determines a bypass provision applies, the

general rule favoring reunification is replaced with a legislative presumption that reunification services would be “an unwise use of governmental resources.”

[Citation.]’ [Citation.]” (*In re B.H.* (2016) 243 Cal.App.4th 729, 736.)

When an exception applies under subdivision (b)(10) or (b)(11), the court shall not order reunification services unless it finds, “by clear and convincing evidence, that reunification is in the best interest of the child.” (§ 361.5, subd. (c)(2).) In other words, ““the general rule favoring reunification is replaced by a legislative assumption that offering services would be an unwise use of governmental resources,”” and it is the parent’s burden to change that assumption of proving that reunification would be in the child’s best interest. (*In re William B.* (2008) 163 Cal.App.4th 1220, 1227 (*William B.*))

In determining whether reunification would be in the child’s best interest, the juvenile court should consider the parent’s current efforts, fitness and history; the gravity of the problem that led to the dependency; the strength of the bonds between the parent and child and between the child and his or her caretakers; and the child’s need for stability and continuity, which is of paramount concern. (*In re S.B.* (2013) 222 Cal.App.4th 612, 622-623; *William B.*, *supra*, 163 Cal.App.4th at p. 1228; *In re Ethan N.* (2004) 122 Cal.App.4th 55, 66-68.)

We review a finding that a bypass provision applies for substantial evidence. (*Jennifer S. v. Superior Court* (2017) 15 Cal.App.5th 1113, 1121.) However, we apply the abuse of discretion standard to a finding under section 361.5, subdivision (c) that reunification is nonetheless in the child’s best interest. (*Id.* at pp. 1125-1126; *William B., supra*, 163 Cal.App.4th at p. 1229.) “A juvenile court has broad discretion when determining whether . . . reunification services would be in the best interests of the child under section 361.5, subdivision (c). [Citation.]” (*William B., supra*, at p. 1229.)

Here, Father does not dispute the applicability of the section 361.5, subdivisions (b)(10) and (b)(11) bypass provisions. Rather, he argues that the juvenile court erred in finding that reunification services were not in E.L.’s best interest because he was a fit and determined parent, there was no evidence of recent drug use, he was trying to shield E.L. from bullying at school, and E.L. was closely bonded to him. Father thus believes it is in E.L.’s best interest for him to get services as he will continue to have contact with the child.

We find that the juvenile court did not abuse its discretion in finding that providing reunification services to Father would not be in E.L.’s best interest. Father did not participate in pre-dispositional services, despite DPSS’s referrals. Moreover, while he claimed no recent drug use and was willing to take a hair follicle drug test for the court, he failed to take the drug test on two occasions so that the court and DPSS could determine his current drug use. Father stated that he was willing to do anything to reunify with E.L., but when given two opportunities to undergo a hair follicle drug test,

he failed to do so and made excuses why he did not do it. In addition, Father had admitted that he had used methamphetamine in August 2021, had overdosed, and had a heart attack. He stated that it was easy for him to use methamphetamine to cope with his emotions. Father also showed lack of insight into the factors contributing to his failure to protect E.L. from abuse. In December 2021, he allowed E.L. to stay with Mother for several months, without inquiring into her current circumstances to ensure that Mother was not abusing drugs and exposing E.L. to domestic violence, drug users coming into her home, or other dangerous situations. DPSS became involved in this case due to the drug abuse and criminal activity occurring in E.L.'s presence, not solely due to the child's school absences.

Furthermore, Father has a lengthy child welfare history in three prior dependency cases of neglecting his other children in similar ways. Father had been offered services in the past to resolve the issues that led to his children's removal from his care. Nonetheless, despite being offered services, Father had failed to benefit or take advantage of the services offered to him. In making its findings, the juvenile court found that it would not be appropriate to offer Father reunification services based on his multiple past dependencies, his current circumstances, and the way the child "has been in the last few years" when the child has primarily been in his care. For years, Father had neglected E.L.'s care and supervision. He did not follow up on E.L.'s medical issues, failed to support her mental issues, and failed to ensure she was in a safe environment, attending school. He did not set appropriate boundaries for E.L., causing her to be defiant, use

inappropriate language, and refusal to follow directions. She spoke back to her parents, social workers, and her caregiver. Father had also been defiant to DPSS in E.L.'s presence, and it appeared E.L. copied Father's defiant behavior. Moreover, E.L.'s medical records indicated that her hair loss may be caused by physical or emotional stressors. Being surrounded by physical and emotional stressors such as domestic violence, drug abuse, criminal activity is not healthy for any child, especially a nine-year-old who also suffered due to her hair loss. The record indicates that E.L.'s negative surroundings had contributed to her psychological distress and mental issues. E.L.'s psychologist, Dr. Garrett, noted that if E.L. continued to be exposed to physical and emotional stressors, she will be psychiatrically impaired. Indeed, following E.L.'s removal from her parents' custody, E.L. noted that she loves school. E.L. began attending school on March 23, 2022, and while she was resistant at first, she went to school and later reported that her first day was good and everyone was nice to her. E.L. had since regularly attended school. Further, following DPSS's involvement, E.L. has two appropriate wigs, and had greatly improved her self-esteem. Father could have resolved E.L.'s anxiety and self-esteem issues by taking her to obtain a wig. Instead, E.L. had been suffering from extremely low self-esteem, anxiety, depression, fear of public, and fear of attending school, for the past four years.

While there is no question that E.L. had a bond with Father and that E.L. desired to return to Father's care, these factors are not dispositive. (See *In re S.B.*, *supra*, 222 Cal.App.4th at p. 623 ["the determination that reunification would be in the minor's best interests is not simply a matter of whether a parent engages in parenting classes and counseling, or whether the child wants to live with him"].) There is still clear and convincing evidence in the record to support the juvenile court's finding that it was not in E.L.'s best interests for Father to receive services. E.L. required continuity, stability and structure, which were paramount concerns for the court, to which Father had been unable to provide. In fact, Father admitted that he lacked support and the ability to meet E.L.'s needs because he was busy working. Father's history of failing to adequately address his issues in the prior dependencies involving his older children, his current neglect of E.L., and his continued lack of follow through in the present proceedings are among the factors indicating that reunification services are unlikely to be successful. E.L. has suffered a lot of trauma in her short life and requires a caregiver who provides appropriate supervision, medical care and educational support.

It was the burden of Father to establish that reunification would serve E.L.'s best interest. (*In re S.B.*, *supra*, 222 Cal.App.4th at p. 623.) Based upon the record before us, the juvenile court did not abuse its discretion in concluding that providing reunification services to Father would not be in the child's best interest. (*William B.*, *supra*, 163 Cal.App.4th at p. 1229.)

IV.  
DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON  
J.

We concur:

McKINSTER  
Acting P. J.

SLOUGH  
J.