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CERTIFIED FOR PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re P.C. et al., Persons Coming Under the Juvenile Court Law.	
SAN BERNARDINO COUNTY CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. M.C., Defendant and Appellant.	E087969 (Super.Ct.Nos. J299101, J304037) OPINION

APPEAL from the Superior Court of San Bernardino County. Cara D. Hutson, Judge. Affirmed.

Heather Tesdahl, under appointment by the Court of Appeal, for Defendant and Appellant.

Laura Feingold, County Counsel and Helena C. Rho, Deputy County Counsel for Plaintiff and Respondent.

*Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of part II of the Discussion.

Michelle C. (Mother) appeals from the juvenile court's denial of her petition under section 388 of the Welfare and Institutions Code and the court's termination of her parental rights to her sons, P.C. and Z.C. (Unlabeled statutory references are to the Welfare and Institutions Code.) Mother was represented by counsel but filed the section 388 petition pro se. She argues that the court abused its discretion by denying her section 388 petition without an evidentiary hearing. We disagree and affirm.

We publish a portion of this opinion to emphasize that the juvenile court need not accept pro se filings from represented parties, unless the pro se filing concerns representation or is a notice of appeal. Mother's section 388 petition sought reunification services and liberalized visitation, but it did not concern her representation by counsel. The court therefore did not need to accept the filing or consider the petition on its merits.

BACKGROUND

I. *Referrals and detention concerning P.C.*

San Bernardino County Children and Family Services (CFS) received four referrals from August to November 2023 concerning the family. Mother's four-month-old son, M.C., had several special medical needs.[1] M.C. required an oxygen tank, and Mother allegedly failed to appear at the hospital for training on the oxygen tank. The baby also showed signs of retinopathy, and Mother failed to appear for a number of appointments with the retina specialists. The referrals further alleged that Mother and

[1] M.C. is not a subject of this appeal, and his father is not a party to this appeal. The fathers of P.C. and Z.C. also are not parties to the appeal.

M.C.'s father engaged in domestic violence and substance abuse. Mother reportedly smoked marijuana and consumed psilocybin and alcohol on a daily basis. She allegedly put M.C. in the refrigerator when she was "high," and she nearly suffocated the baby when she was "really drunk" and rolled onto him.

Mother told the social worker that she used marijuana, but she denied having a substance abuse problem. She also denied that there was domestic violence in her relationship with M.C.'s father, although he had recently been arrested for "body slamm[ing]" her. Mother claimed that the incident was a misunderstanding. M.C. and Mother's older son, two-year-old P.C., were with relatives when the incident occurred.

CFS filed a petition under subdivision (b) of section 300, alleging that P.C. was at substantial risk of physical harm because Mother engaged in domestic violence with M.C.'s father, had a history of substance abuse, and neglected M.C.'s medical needs. In November 2023, the court detained P.C. and M.C. from Mother. P.C.'s father was unknown at the time.

II. *Jurisdiction and disposition concerning P.C.*

When the social worker interviewed Mother for the jurisdiction/disposition report, Mother was upset that the children had been detained from her, and she blamed the maternal uncle for "call[ing] in false allegations." She again denied that there was domestic violence in her relationship. She admitted, however, that she and M.C.'s father "'argue a lot with profanity.'" M.C.'s father had recently pled guilty to a domestic violence offense (Pen. Code, § 273.5, subd. (a)), and Mother had a 10-year criminal protective order against him.

Mother said that she was no longer smoking marijuana, but she tested positive for it. When she appeared for her next drug test, she was banned from the testing site for cursing at staff and other patients. She failed to appear for numerous drug tests after that. Mother reported that she missed M.C.'s medical appointments because of transportation issues. She could not recall the name of P.C.'s father because they were together for only one night.

At the jurisdiction and disposition hearing in May 2024, the court found true all of the allegations of the petition, declared P.C. a dependent of the court, removed him from Mother's custody, and ordered reunification services for her. Mother's case plan included counseling, parenting education, a domestic violence program, substance abuse treatment, drug testing, and a 12-step program. The court ordered weekly two-hour visits.

III. *Six-month review period concerning P.C.*

Mother completed almost none of her case plan services during the six-month review period. She completed 10 out of 12 domestic violence classes but nothing else, and she was terminated from the domestic violence program for not attending and for failing to communicate any barriers to attendance. She told the social worker that she was pregnant and that she was unable to complete her case plan because of pregnancy complications. She also said that she was unable to drug test because she did not have transportation. Mother had two-hour weekly visits with P.C. but consistently arrived late. She yelled at CFS staff members when they cancelled visits after the 15-minute grace

period expired. In August 2024, she was arrested for assault with a deadly weapon. (Pen. Code, § 245 subd. (a)(1).) The People filed a complaint charging her with assault with a deadly weapon, assault by means of force likely to produce great bodily injury, and misdemeanor battery on an intimate partner. (Pen. Code, §§ 243, subd. (e)(1), 245, subd. (a)(1), (a)(4).)

P.C. was placed in a foster home with M.C. P.C. was anxious and had difficulty sleeping, but he otherwise appeared to be happy and was bonding well with the caregivers. The child seemed to enjoy his visits with Mother and did not exhibit any negative behaviors after the visits.

The court terminated Mother's reunification services in January 2025 at the six-month review hearing. Mother was in custody and did not appear at the hearing. The court did not set a section 366.26 hearing, finding that such a hearing was not in P.C.'s best interest, because he was not a proper subject for adoption and a potential legal guardian had not been identified. The court ordered that Mother have two-hour visits twice per month.

IV. *Z.C.'s birth, initiation of his dependency proceedings, and the supplemental petitions*

Mother was released from custody at some point in January 2025. She gave birth to Z.C. in February 2025, shortly after P.C.'s six-month review hearing. Two weeks later, CFS received a referral alleging that Z.C. had been born. When the social worker contacted Mother to discuss the new referral, Mother reported that Z.C. was with a relative, but she did not respond to the social worker's request for contact information for

that relative. Mother also failed to appear for an in-person meeting with social worker the next day.

Around the same time, P.C. was placed in the home of the maternal aunt and her partner. The maternal aunt reported that Z.C. did not share a father with M.C., but she did not know the name of Z.C.'s father. The maternal aunt had not seen or heard from Mother recently.

The social worker attempted to reach Mother after she failed to appear for their meeting, and Mother responded one week later. Mother reported that she went to Nevada for a wedding and gave birth to Z.C. there. She said that she was living with a friend temporarily, but she did not provide the address or contact information for the friend. She stated that she was willing to cooperate with CFS but would surrender Z.C. only to a family member, and she released the infant to a maternal relative the next day.

Mother was still subject to on-demand drug testing and continued to fail to appear for the tests. She had only a first name and no contact information for Z.C.'s father. She last saw Z.C.'s father when she was three months pregnant.

CFS filed a petition under subdivision (b) of section 300, alleging that Z.C. was at substantial risk of physical harm because Mother had a history of domestic violence, substance abuse, and violating the terms of her probation (including by recently traveling out of state). The petition also alleged that Z.C. was at substantial risk of abuse or neglect under subdivision (j) of section 300 because Mother had abused or neglected his half siblings.

In April 2025, the court detained Z.C. from Mother. He was placed in the maternal aunt's home with P.C. In preparation for Z.C.'s jurisdiction and disposition hearing, CFS reported that Mother had been very difficult to contact and had refused to provide information regarding her residence. She said only that she had recently been evicted and was "sleeping at friends' houses." Mother had also been disrespectful with CFS staff members. For instance, she yelled at them and demanded that they permit her to bring someone to visitation. She continued to fail to appear for most drug tests, although she appeared for one and tested negative. She denied using any substances. She said that she last used marijuana one year ago and last consumed alcohol three years ago.

In June 2025, the court found true the allegations of Z.C.'s petition, declared him a dependent of the court, removed him from Mother's custody, and bypassed reunification services for Mother under subdivision (b)(10) of section 361.5. The court also set a hearing under section 366.26 with respect to Z.C.

Two days after Z.C.'s jurisdiction and disposition hearing, he and P.C. were moved from the maternal aunt's home to a foster home. The maternal aunt's partner had been arrested for driving under the influence, and he was the only licensed driver in the home. On the basis of the arrest, CFS filed supplemental petitions under section 387 seeking to remove the children from the maternal aunt's home.

In September 2025, the court found true the allegations of the supplemental petitions and removed P.C. and Z.C from the maternal aunt's home. The court also set a section 366.26 hearing with respect to P.C.

V. *Mother's section 388 petition and the section 366.26 hearing*

In preparation for the section 366.26 hearing, CFS reported that the foster parents wanted to adopt P.C. and Z.C. The social worker initially did not support adoption; she believed that the foster parents' busy work schedules prevented them from sufficiently addressing the children's needs. But CFS later changed its recommendation and supported adoption by the foster parents. The foster parents had demonstrated their willingness to take time off work or rearrange their schedules to accommodate the children's needs.

P.C. had been referred to speech therapy, psychiatry, and the Inland Regional Center. The foster parents had also requested a referral for autism testing. P.C. struggled with expressing his needs and wants because of his speech delays. The foster mother reported that the child was not getting along well with other children in day care. He was hitting, pushing, and biting other children and teachers. He was reportedly "very hyperactive." He also had difficulty sharing and did not respond to age-appropriate social cues, and he enjoyed solitary play as opposed to group play. The child also picked at his skin and had trouble self-soothing.

The foster parents nevertheless reported that P.C. did well with a routine, and they had him "on a good routine." They had observed "a lot of positive change" in P.C., and they were advocating for more services for him. The social worker observed that he was attached to the foster parents and looked to them for affection and comfort. P.C. called the foster parents "'daddy'" and "'mama.'" Z.C. was less than one year old, but he also

appeared to be developing a secure bond with the foster parents. He watched their movements closely and always appeared to be content during the social worker's home visits. The foster parents loved both children and were committed to giving them "'a better life.'"

Mother's twice monthly visits with Z.C. were "appropriate." She generally arrived on time, and she changed his diapers and clothes, fed him formula and baby food, and was able to put him to sleep. Both P.C. and Z.C. were "emotionally stable" when visits ended. P.C. reportedly did not mention Mother unless he was asked about a toy that she had given him.

Mother filed a section 388 petition eight days before the section 366.26 hearing. She was represented by counsel, but she filed the petition pro se. Mother asked the court to order reunification services and liberalize visitation with respect to both children. The petition stated that Mother had completed a domestic violence program, parenting education, general counseling, substance abuse treatment, a 12-step program, and drug testing. She asserted that she had been testing clean. Mother submitted certificates of completion for 12 hours of domestic violence classes and the parenting education course. She also submitted a counseling progress report stating that she had attended eight therapy sessions and had achieved her treatment plan goals. The petition argued that the requested orders were in the children's best interests because Mother had learned to be a better parent, and her children "deserve[d] to enjoy growing up" with her around them.

The contested section 366.26 hearing took place in February 2026. At the beginning of that hearing, the court stated that it had reviewed Mother's section 388 petition, and the court denied the petition without an evidentiary hearing. The court concluded that there was no prima facie showing of a change in circumstances or that the requested order would promote the children's best interests.[2]

After the court denied the petition, Mother's counsel urged the court to apply the beneficial parental relationship exception to the termination of parental rights. The court rejected the argument, concluding that Mother had carried her burden as to the first element of the exception (regular visitation and contact) but not the second and third elements (a substantial, positive emotional attachment to the parent and detriment from termination of the relationship). (See *In re Caden C.* (2021) 11 Cal.5th 614, 636.) The court found that P.C. and Z.C. were likely to be adopted and terminated parental rights to both children.

DISCUSSION

Mother argues that the juvenile court erred by denying her section 388 petition without an evidentiary hearing, so we should reverse the order terminating parental rights. We disagree.

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[2] The minute order for the section 366.26 hearing erroneously states that Mother's counsel filed the section 388 petition on February 6, 2026. As already explained, Mother filed her petition pro se. Moreover, she filed it on February 2, not February 6. The record does not contain any other section 388 petitions.

I. *Mother's pro se filing*

Before we reach the merits of Mother's argument, a procedural aspect of the case warrants discussion: Mother filed her section 388 petition pro se but was represented by counsel. Ordinarily, "'a litigant represented by counsel has access to the court through counsel and thus has no right also to submit pro per filings.'" (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844-845.) The rule applies in both criminal and civil proceedings. (E.g., *People v. Clark* (1992) 3 Cal.4th 41, 173 (*Clark*) ["Motions and briefs of parties represented by counsel must be filed by such counsel"]; *Epley v. Califro* (1958) 49 Cal.2d 849, 854 ["The attorney of record has the exclusive right to appear in court for his client and neither the party himself nor another attorney should be recognized by the court in the conduct or disposition of the case"]; *Lovret v. Seyfarth* (1972) 22 Cal.App.3d 841, 857-858 ["The normal rule is that *pro se* documents may not be filed when a party is represented by counsel"].)

There is an exception to the rule for "pro se motions regarding representation," such as requests for new appointed counsel under *People v. Marsden* (1970) 2 Cal.3d 118. (*Clark*, *supra*, 3 Cal.4th at p. 173.) In addition, a represented party may file a notice of appeal pro se. (Cal. Rules of Court, rules 8.100(a)(1), 8.304(a)(3), 8.405(a)(2) [authorizing the appellant's attorney or the appellant to sign the notice of appeal]; *City of Downey v. Johnson* (1968) 263 Cal.App.2d 775, 781 ["In permitting either the appellant or his attorney to sign the notice, the rule constitutes a liberalization and a distinct departure from the general rule that a party represented by counsel may not file papers in

propria persona in the litigation"]; *Lovret v. Seyfarth*, *supra*, 22 Cal.App.3d at pp. 857-858 & fn. 16.) But when a represented party submits a pro se filing that does not fall within the exceptions, the court may return the document unfiled or strike the filed document. (*Clark*, at p. 173; *People v. Harrison* (2001) 92 Cal.App.4th 780, 788.) Our Supreme Court has endorsed that approach because reviewing and ruling on pro se documents that are not properly before the court '"fruitlessly'" adds to the burdens on the court. (*Clark*, at p. 173.)

We recognize that superior courts may be reluctant to put their clerks in the position of deciding whether a document may be filed. In that regard, we note that the Supreme Court's policy is that pro se motions and briefs by represented parties are not to be accepted for filing, with the sole exception of "motions regarding representation," which "must be clearly labeled as such." (*Clark*, *supra*, 3 Cal.4th at p. 173.)

If a pro se document from a represented party is erroneously accepted for filing, the judge may order it stricken. (*Clark*, *supra*, 3 Cal.4th at p. 173.) And if alternatively a clerk receives but does not file such a document and then delivers the unfiled document to the judge, the judge need not do anything more than deliver the document—without ruling on it or even reading it—to the party's attorney.[3]

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[3] Reading such a document may be problematic because, if the document was not served on all parties, it may constitute an improper ex parte communication with the court.

II. *Denial of the section 388 petition*

"Section 388 permits the parent of a dependent child to petition the juvenile court for a hearing to modify an earlier order on the basis of changed circumstances or new evidence. (§ 388, subd. (a)(1).) The petitioning party bears the burden of showing that there is new evidence or changed circumstances and that the proposed modification would be in the best interests of the child." (*In re N.F.* (2021) 68 Cal.App.5th 112, 120.)

The petitioner is entitled to an evidentiary hearing if they make a prima facie showing of both changed circumstances and best interests. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 205.) But the court may summarily deny a section 388 petition without an evidentiary hearing if the petitioner fails to make a prima facie showing of either factor. (*In re Justice P.* (2004) 123 Cal.App.4th 181, 188-189; Cal. Rules of Court, rule 5.570(d)(1).) We review for abuse of discretion the summary denial of a section 388 petition. (*In re R.F.* (2023) 94 Cal.App.5th 718, 728.)

"'Not every change in circumstance can justify modification of a prior order.' [Citation.] The change in circumstances supporting a section 388 petition must be material. [Citations.] In the context of a substance abuse problem that has repeatedly resisted treatment in the past, a showing of materially changed circumstances requires more than a relatively brief period of sobriety or participation in yet another program." (*In re N.F.*, *supra*, 68 Cal.App.5th at pp. 120-121.)

"As to the best interests element, after the court has bypassed or terminated reunification services and set the matter for a section 366.26 hearing, the focus of the

case shifts from the parents' interest in the care, custody, and companionship of the child to the needs of the child for permanency and stability. [Citations.] A court entertaining a section 388 petition at this stage in the proceedings 'must recognize this shift of focus in determining the ultimate question before it, that is, the best interest of the child.'" (*In re N.F.*, *supra*, 68 Cal.App.5th at p. 121.)

The court did not abuse its discretion by denying Mother's section 388 petition without an evidentiary hearing. Even if she made a prima facie showing of a material change in circumstances, she failed to make a prima facie showing that more reunification services and more visitation would promote the children's best interests.

Five-year-old P.C. had been out of Mother's care for over two years when Mother filed the section 388 petition. Eleven-month-old Z.C. had been out of Mother's care since he was one month old. As a result, the record does not contain evidence showing that either child had a significant emotional attachment to Mother. They did not have trouble separating from her at the ends of visits or express any need or desire for more visitation time, and P.C. never mentioned Mother unless asked about a toy she had given him. The children had been placed with their foster parents for nearly eight months, and both children were bonding with their caregivers. P.C. in particular referred to the foster parents as "'mama'" and "'daddy.'" He had several developmental issues but had been making progress on the routine that the foster parents had established for him. The foster parents loved both children and wanted to adopt them. On this record, the juvenile court reasonably determined that the children's best interests were not served by derailing their permanent and stable placement in a safe and loving home.

Mother relies on *In re Kimberly F.* (1997) 56 Cal.App.4th 519 to argue that more reunification services and visitation would promote the children's best interests. *Kimberly F.* identified a nonexhaustive list of factors for evaluating a child's best interests under section 388, including "(1) the seriousness of the problem which led to the dependency, and the reason for any continuation of that problem; (2) the strength of relative bonds between the dependent children to *both* parent and caretakers; and (3) the degree to which the problem may be easily removed or ameliorated, and the degree to which it actually has been." (*Id.* at p. 532.) But in a later case, the same court that decided *Kimberly F.* declined to apply those factors and expressed skepticism about the soundness of *Kimberly F.*'s approach. (*In re J.C.* (2014) 226 Cal.App.4th 503, 526-527.) The court reasoned that the *Kimberly F.* factors failed to account for our Supreme Court's holding that the focus shifts to the dependent child's need for permanency and stability after the termination of reunification services, and a court considering a section 388 petition "'must recognize this shift of focus in determining … the best interests of the child.'" (*In re J.C.*, at p. 527, quoting *In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) Mother's argument is unpersuasive because she similarly fails to account for that shift in focus.

For all these reasons, the court did not abuse its discretion by denying Mother's section 388 petition without an evidentiary hearing. Even if she made a prima facie showing of materially changed circumstances, she did not make a prima facie showing that the children's best interests would be served by ordering more reunification services and more visitation.

DISPOSITION

The order denying Mother's section 388 petition and the order terminating parental rights are affirmed.

CERTIFIED FOR PARTIAL PUBLICATION

MENETREZ
J.

We concur:

CODRINGTON
Acting P. J.

FIELDS
J.