

NOT TO BE PUBLISHED IN OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FIRST APPELLATE DISTRICT

DIVISION TWO

In re JACK H., a Person Coming Under the
Juvenile Court Law.

ALAMEDA COUNTY SOCIAL
SERVICES AGENCY,

Plaintiff and Respondent,

v.

BELINDA K.,

Defendant and Appellant.

A136396; A138387; A139257;
A139614

(Alameda County
Super. Ct. No. HJ06005823)

I. INTRODUCTION

In December 2006, seven-year-old Jack H. was detained from his mother, Belinda K., pursuant to allegations that he had been sexually and emotionally abused by a parent or guardian. (Welf. & Inst. Code, § 300, subs. (c) & (d).)¹ In January 2008, reunification services to Belinda were terminated and Jack was placed in long-term foster care. Thereafter, the juvenile court conducted periodic status reviews until August 2013, when it placed Jack with his previously non-custodial parent, Jason H., and terminated the dependency.

¹ Unless otherwise stated, all statutory references are to the Welfare and Institutions Code.

Belinda K. appeals the order terminating Jack's dependency on the ground that she was denied her statutory and constitutional right to appointed counsel at the August 2013 hearing. We have consolidated this appeal with three pending appeals that Belinda filed from status review orders made by the juvenile court in July 2012, March 2013 and July 2013. All four appeals rest on the contention that the juvenile court committed reversible error by refusing to appoint counsel to represent Belinda at the pertinent hearings. Under the unique circumstances of this case, we reject Belinda's claim of error and affirm the challenged orders.

II. STATEMENT OF FACTS

A. *The Dependency Petition and Reunification Period*

In December 2006, Jack was detained from Belinda and placed in the temporary custody of the Alameda County Social Services Agency pursuant to a petition alleging jurisdiction on the grounds that Jack had suffered (1) serious emotional damage resulting from the conduct of a parent or guardian, and (2) sexual abuse by a parent or guardian. (§ 300, subds. (c) & (d).)

Evidence supporting the petition showed that Jack was taken into protective custody at his elementary school after he was found in a bathroom initiating sexual contact with another boy. Jack told a school administrator that he had learned about sex when he was in kindergarten and that "it" had also happened at home with his "step-dad." The man Jack referred to as his step-father was Belinda's long-time boyfriend, Archie O. Belinda and Jack had lived in Archie's home since Jack was an infant. Jack told the school administrator that Archie had put his penis in Jack's "butt," that the incident occurred in Archie's bedroom, and that Belinda was there when it happened. During follow-up interviews by the Agency social worker, Jack would not repeat or retract his disclosures, stating that he could not or did not want to "talk about that."

Belinda, who reported that her father and brothers sexually abused her when she was a child, denied the abuse allegation against Archie. She acknowledged, however, that Jack had exhibited sexualized behavior since he was in pre-school and that he was under the treatment of a therapist. Belinda also disclosed that every morning she would

have Jack “snuggle up” with her in bed for about 15 minutes while they both were naked. Belinda admitted that Jack’s therapist, Dr. Higgins, had told her that such behavior was not appropriate. Higgins reported that Jack had limited social skills, was dominant when playing with other children, was inappropriate with women and was preoccupied with sex.

In January 2007, the court exercised jurisdiction over Jack. The Agency reported that Jack is a member of the Umpqua Tribe and the court found that the Indian Child Welfare Act (ICWA) applied. Belinda continued to deny the sexual assault allegations and it appeared that neither she nor Archie grasped Jack’s problems. On the other hand, they clearly loved Jack and appeared willing to do what was required to have him back in their home. At the jurisdiction hearing, Belinda admitted the allegations set forth in the petition and the juvenile court found those allegations were true.

A contested disposition hearing was held in April 2007. Jack had been placed in a therapeutic group home at Elite Family Systems. Ongoing assessments disclosed potentially serious idiosyncratic behaviors. Jack was highly sexualized, aggressive with peers and had threatened to kill himself. Belinda acknowledged that Jack needed therapy but felt he should receive treatment while living with her. The court removed Jack from the physical custody of Belinda and ordered that she receive family reunification services. Archie was to have no contact with Jack.

The six-month review was conducted in June 2007. The Agency had initiated a search for Jack’s biological father, Jason H. Belinda had no contact with Jason but thought he might live in North Carolina. Jack required constant attention and supervision at his group home placement where he expressed suicidal ideations; falsely accused a severely disabled child of forcing him to do “nasty” things; and told a staff member that his mother had taught him how to do “nasty things.” Belinda continued to deny the abuse allegations and felt she was capable of caring for Jack but acknowledged he needed help. After a contested hearing, the court continued the dependency and the provision of services to Belinda.

In October 2007, Jack was moved from Elite Family to a 90-day assessment program at the Seneca Center. The placement change was made to address Jack's escalating sexualized conduct, acting out behavior, and need for additional psychological assessment.

A contested 12-month review was conducted in December 2007 and January 2008. The Seneca Center reported that Jack was struggling to adjust and continued to exhibit troubling behaviors. Belinda, who continued to deny the abuse allegations, reported that she and Archie had purchased a home together. Belinda opined that Jack learned his sexualized behaviors from other children. She wanted to have Jack home, claiming she could keep him safe and supervised because she was a stay-at-home parent.

On January 14, 2008, the juvenile court terminated Belinda's family reunification services. Jack was adoptable, but adoption was not the recommended plan because Jack was in a residential treatment center and because there were "ICWA considerations in this case." Therefore the court ordered that Jack's placement would be long-term foster care in a planned permanent living arrangement at the Seneca Center. At that point in the proceeding, the specific goal was to return Jack to his home.

B. *Post Permanency Review Proceedings*

After the juvenile court selected a permanent plan of long-term foster care, periodic review hearings were conducted pursuant to section 366.3.

In February 2008, the Agency reported that Jack was more settled at Seneca Center but continued to exhibit concerning behaviors, including bed wetting and involuntary defecation and otherwise requiring an exceptionally high level of individual attention and supervision. In a June 2008 report, the Agency described Jack as a "very playful young man" with "many troubling behavioral issues." His problems included eating his fecal matter, yelling, crying, sexualized behavior, taking his clothes off in public, making sexualized gestures and suicidal idealization.

By June 2008, the Agency became concerned that Belinda was interfering with Jack's progress. During visits, she often talked about Archie and brought mementos of him for Jack. She continued to deny the abuse allegations, telling the Agency social

worker that she believed the children at Jack's former school bullied him and that the incident in the school bathroom was "just normal sexual exploration that kids do." The Agency recommended that Jack's permanent plan remained appropriate but that the specific goal should be placement in a less restrictive setting rather than return home; according to the Agency, neither of Jack's parents demonstrated an ability to care for him and no other relatives were willing to take him. At the conclusion of a June 26, 2008, review hearing, the juvenile court adopted the Agency's recommendations.

In September 2008, Jack was moved to a residential program at Families First, an out-of-county placement that was necessary because of the high level of care Jack required. Jack's Tribe was satisfied with the placement and the services made available to him; in light of Jack's problems, the Tribe did not have an appropriate placement with an Indian caretaker. Unfortunately, Jack was not well-liked by peers at his new placement because of his aggressive and provocative behavior. He continued to wet and soil himself, using the behavior as an excuse to get out of school which he disliked. He told a staff member Belinda was going to move out of Archie's home temporarily so she could get Jack back and then they would all live together again. Belinda did leave Archie's home in October, but continued to have a romantic relationship with him.

Throughout 2009, Jack continued to struggle and display concerning behaviors at Families First. Belinda appeared to acknowledge Jack was sexually abused but continued denying Archie was the abuser. In December 2009, Jack's biological father, Jason H., began to actively participate in the dependency case. Jason told the social worker that he had not seen Jack for nine years and had never inappropriately touched him. He wanted to visit Jack but was financially unable to do so. He also wanted Jack to live with him in North Carolina but understood that the current placement was appropriate.

By May 2010, Jason and Jack were having regular supervised phone calls, which went well. At this stage, Jack was actively engaged in individual therapy. Jack's therapist reported that he still resisted discussing the sexual abuse allegations or his family dynamic, but recent progress led her to believe Jack was "very close" to disclosing who hurt him and to discussing the alleged sexual abuse by Archie. Around this same

time, Jack told a staff member at his placement that he had often seen Belinda and Archie “humping.” Jack said that since they were having sex, he did not see anything wrong with having those experiences too. He also opined that what he had done was wrong because he had sexual experiences with boys but that it would not be wrong if he had done those things with girls.

In late May 2010, Belinda attempted to file an in pro per motion to dismiss the dependency case notwithstanding that she was represented by appointed counsel at the time. In June, she filed the first of four federal court petitions seeking to remove Jack’s dependency case to federal court. In a July 2010 report, Jack’s therapist stated that Belinda’s new legal strategy was negatively affecting Jack’s progress.²

In September 2011, the Agency reported that the relationship between Jason and Jack was positive and developing and an in-person visit was planned. Belinda, who had moved back in with Archie, did not support Jack’s relationship with Jason and tried to undermine it. In January 2012, Families First advised the Agency it would no longer supervise visits between Belinda and Jack because of Belinda’s attitude and treatment of their staff. The Agency recommended temporarily suspending Belinda’s visits because she was undermining Jack’s treatment and interfering with his relationship with Jason. Jack’s ICWA social worker did not object to this recommendation or to the Agency’s efforts to reunify Jack and Jason.

In March 2012, the Agency was seeking a new placement for Jack after his social worker at Families First reported that he had regressed in his treatment and recommended that he be placed in a program that specialized in therapeutic interventions for “abuse reactive and sexually at-risk minors.” The Agency found a potential placement in a group home that gave Jack an interview. However, the program did not accept Jack because it could not provide the level of supervision required for Belinda’s visits and was

² The report stated: “Recently, Jack has exhibited an observable escalation of anxiety, evidenced by avoidance of expected tasks, increased psycho-motor agitation, and perseverative thoughts. On numerous occasions, Jack has attributed this recent behavior and emotional state to the current, pending legal proceedings.”

concerned about Belinda's growing litigiousness. The program coordinator told the Agency social worker that he was sorry but "they are a smaller group home and could not take the risk that Jack's mother would file a lawsuit against them." In May 2012, Jack was moved to a new placement at Victor Treatment Center, where supervised visits with Belinda were continued.

In September 2012, Jack was still adjusting to his new placement and continued struggling with peers and exhibiting troubling behaviors. Around this time, a planned trip for Jack to fly to North Carolina for an unsupervised visit with Jason had to be cancelled at the last minute. After the court approved the visit, Belinda warned Jack not to be excited because his father would throw him away. She also told him, falsely, that his father lived in a portable trailer in a used car lot. Then, on the day Jack was scheduled to leave, he had a panic attack at the airport. He said that flying was only safe for adults, talked about the 9/11 attack and mentioned that his mother was also afraid to fly. Jason, who had traveled to California to pick up Jack, was able to stay in town for a good visit. Jason was at this point actively pursuing reunification but Jack was indecisive because of his strong loyalty to Belinda. He told the social worker he was unable to express positive feelings for his father without making Belinda angry or upset. The Agency reported that father and son had bonded and that Jason was an appropriate and cooperative parent who had Jack's best interest at heart.

In March 2013, Jack struggled with all the same problems and his conduct had become more sexualized. Belinda still wanted to reunify but the Agency remained opposed because of serious safety concerns, Belinda's denial that Jack was sexually abused, and her refusal to cooperate with the Agency. At this stage in the proceeding, Jack's visits and phone calls with Belinda were still supervised but he had unsupervised visits and calls with Jason. Jack told the social worker that his father was a good support person for him and that they had a good time together. The Agency supported Jason's goal of reunification, but Jack remained resistant because he did not want to upset Belinda.

In July 2013, Jack had an unsupervised visit with Belinda due to a miscommunication between the Agency and Jack's therapist at Victor Treatment Center. Two days later, Jack went AWOL and met Belinda and Archie at a park. Two days after that, Jack had a therapy session in which he disclosed that when he was in 5th grade at McKinley Elementary School, a kindergarten teacher pulled down his pants and touched him. The Agency believed Belinda coached Jack to tell this story which was obviously fabricated; Jack was taken into custody at McKinley at age seven and had never returned there.

Sometime after the AWOL incident, Victor Treatment Center issued a "7 day notice" to find a new placement because of Jack's increasingly sexualized conduct, his hygiene issues, including on-going persistent problems with encopresis, and his refusal to accept or participate in treatment. Jack was moved to a group home with a lower level of care because that was the only program willing to take him. After three days, that program issued a seven-day notice. Staff reported that Jack was a sweet kid but had too many serious problems they were not equipped to handle. Jack roamed the halls at night frightening other boys with talk of his sexual identity; he soiled himself several times a day, and refused to clean himself or wear diapers.

The Agency found Jack an emergency bed at REFUGE group home. But he regularly left the facility without permission. He went to his mother's house or to the library so he could access Facebook to communicate with Belinda and Archie. He told staff at the home that the "wall" of Archie's Facebook account was devoted to his "fight to save Jack." He also claimed he had made friends in the neighborhood and had a girlfriend. Furthermore, it appeared that Belinda was using her unauthorized contact with Jack to coach him about what to say at dependency hearings; she gave him material about the ICWA and wrote out potential objections that Jack could make in court.

The Agency was searching for a new and more appropriate placement for Jack but reported that "over 60 placements [had] declined to take him due to his unsafe behaviors, his sexualized behaviors and hygiene issues." Out-of-state options were being considered. A placement with Jason was another option. When the Agency filed its July

2013 report, Jack was in the middle of an unsupervised three-week visit with Jason. They had taken a train to North Carolina and Jason reported that the visit was going well and that Jack had not had any encopresis accidents. The ICWA social worker was extremely concerned by Jack's AWOL behavior but very encouraging of Jack's visits with Jason. The Tribe continued to fully support all of the Agency decisions regarding Jack's care.

C. *Jack's Placement with Jason*

On July 22, 2013, the Agency filed a section 388 petition to change Jack's permanent plan to a placement with Jason in North Carolina and to dismiss the dependency. Jack was not safe at REFUGE, he had been rejected by every appropriate group home in California, and the only appropriate placement, other than one with Jason, was a group home in Utah. The Agency believed a placement with Jason was appropriate for several reasons: there was a record of successful unsupervised visits; Jason had demonstrated his ability to set boundaries, anticipate Jack's special needs and rise to the occasion; Jack's behavior significantly improved when he was in Jason's care; and Jason was the non-offending non-custodial parent.

On August 21, 2013, the juvenile court held a hearing on the Agency's section 388 petition. At the time, Jack was on an extended visit with Jason in North Carolina, which was going well. Jack had reported that he wanted to stay and live with his father, and the Agency had still not been able to secure a long-term placement in California. Belinda, who appeared in pro per, agreed with the Agency's recommendations. Ultimately, the juvenile court granted the section 388 petition, changed Jack's placement from a planned permanent living arrangement to a placement with Jason in North Carolina, and dismissed the dependency.

III. DISCUSSION

The four orders at issue in this appeal were entered during the last 13 months of Jack's dependency, i.e., in or after July 2012.³ Prior to that period, the juvenile court appointed six different attorneys to represent Belinda, but permitted each one to withdraw after finding that Belinda had irreparably damaged the attorney-client relationship. Without challenging any of those withdrawal orders, Belinda contends the juvenile court committed reversible error by failing to appoint new counsel to represent her during the remainder of Jack's case.

A. *Background*

1. *Lezly Crowell*

At the December 2006 detention hearing, a private attorney named Lezly Crowell was appointed to represent Belinda. Although a transcript of that hearing is not in the record, pertinent orders reflect that the public defender was appointed to represent Jack and thereafter declared a conflict as to Belinda, and that Crowell's appointment was based on a "Party's Oral Motion." Crowell continued to represent Belinda during most of the reunification phase of the case.

In December 2007, during the first session of the contested 12-month review, Belinda made a motion pursuant to *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*) to have Crowell replaced. She acknowledged Crowell was a good attorney but complained she was not sufficiently familiar with the ICWA which, according to Belinda, was a major issue in the case. The court denied the *Marsden* motion, but permitted Crowell to withdraw and appointed Cheryl Smith as Belinda's new attorney.

³ The multiple orders result from the fact that under section 395, subdivision (a), the dispositional order in a dependency proceeding is an appealable "judgment." Therefore, all subsequent orders are directly appealable and, by the same token, "an unappealed disposition or postdisposition order is final and binding and may not be attacked on an appeal from a later appealable order. [Citations.]" (*In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1149-1150 (*Meranda P.*))

2. Cheryl Smith

Cheryl Smith represented Belinda at the continued 12-month review hearing and subsequent section 366.3 status review hearings until May 2010. On May 25, 2010, two days before a scheduled status review, Smith filed a motion to withdraw on the ground of a legal conflict that arose when Belinda requested that Smith “perform certain tasks” which Smith believed she was “not able to legally perform.” At the May 27 review hearing, the court granted Smith’s motion and appointed Dennis Reid to represent Belinda. The matter was continued to give Reid time to prepare.

3. Dennis Reid

On May 27, 2010, Belinda attempted to file a motion to dismiss Jack’s dependency case for lack of jurisdiction. Although Reid had been appointed to represent Belinda earlier that same day, Belinda’s motion stated she was acting “In Pro Per Until Appointment of New Counsel.” The court clerk told Belinda she did not have standing to file documents and advised her to “go through . . . counsel per Commissioner directive.”

On June 8, 2010, at the continued status review, Reid made a motion to withdraw as Belinda’s counsel “based on an unresolvable conflict that has arisen.” Reid believed that there was not “going to be any effective communication between attorney and client in this matter” The juvenile court acknowledged that Belinda “is not the easiest person to work with,” but denied Reid’s motion and continued the hearing again. Observing that Reid had only been appointed on May 27, the court encouraged him to “really to sit down and try to work with [Belinda] and understand her position.”

On June 11, 2010, Belinda filed several notices in juvenile court stating that Jack’s dependency case had been removed to federal court. Belinda had initiated the removal by filing a federal court petition alleging that the juvenile court had violated the ICWA. Belinda’s notices stated she was acting “In Pro Per Until Appointment of Competent Counsel,” and that she was a “self-represented litigant.” They also reflected that she had named several respondents in her federal action, including Agency social workers, the

Governor of California, the Chief Justice of the State Supreme Court and Jack's father, Jason H.⁴

The continued status review hearing in Jack's dependency case was held on July 12, 2010. Dennis Reid represented Belinda at that hearing. The court interpreted a transcript of a hearing that had been conducted in Belinda's federal action as allowing it to make findings necessary to maintain the status quo in Jack's dependency case. Accordingly, the court made those findings and set the next review for December 2010. On July 20, Belinda filed a "Petition for Rehearing Before the Presiding Judge of the Juvenile Court . . . of the Orders of July 12, 2010 . . . and/or in the Alternative to Dismiss the Petition . . . and/or Petition to Invalidate . . . this Entire Action." In that petition, Belinda identified herself as "In Pro Per until appointment of new counsel."

On October 12, 2010, Dennis Reid filed another request to withdraw as Belinda's attorney. The juvenile court granted that request on October 25. At the October 25 hearing, Patrick O'Rourke was appointed to represent Belinda.

4. *Patrick O'Rourke*

On December 16, 2010, the first status review since O'Rourke's appointment, Belinda attempted to file "a number of motions," but the court determined that her *Marsden* motion was the only pleading it would be appropriate for her to file without the concurrence of her counsel. After conducting a chambers conference with Belinda and O'Rourke, the court reported that it had made a "proposal" for Belinda to redirect her efforts away from filing multiple motions in state and federal court and to focus her energies on "becoming a significant and important part of the treatment team in this case." O'Rourke was willing to assist Belinda with making that kind of a change. Therefore, the proceeding was continued to give Belinda "some time to think this over and . . . possibly meet with Mr. O'Rourke to try to flush out what this means for her."

⁴ Although the substance of Belinda's federal actions are not relevant to this appeal, we note that the four removal petitions Belinda filed during the course of the dependency all resulted in orders remanding Jack's case to the juvenile court.

At a continued review hearing, on December 30, 2010, Belinda renewed her *Marsden* motion, which the juvenile court denied. However, the court allowed O'Rourke to withdraw from the case because, since the last hearing, Belinda had filed a new state court action, naming O'Rourke and several other defendants.⁵ The court found that Belinda "created a conflict here for Mr. O'Rourke that would render it impossible for him to proceed."

5. *Alicia Park*

At the December 30, 2010, hearing, the court attempted to appoint Mary Oaklund as Belinda's counsel. However, Oaklund stated that she had "a conflict already directly with this." Belinda made a *Faretta*⁶ motion to represent herself, which the court denied because it "would cause an incredible delay in these proceedings and would completely distract from the actual subject of this case." Cheryl Smith, one of Belinda's former attorneys who was present in the courtroom, advised the court that all of the attorneys in the department had a conflict with Belinda and that "[w]e would have to find someone from Department 503." The court continued the matter to January 6 for appointment of new counsel.

At the January 6 hearing, Belinda requested that Jack's court-appointed counsel recuse herself from the case on the ground that she had been named in Belinda's "civil rights lawsuit." Jack's attorney responded that she wanted to wait and see how the collateral proceeding developed. The court agreed to wait since the status review would be continued again in order to continue the search for a lawyer for Belinda. Cheryl Smith appeared in her capacity as the director of the panel of attorneys available for appointed representation and reported that the entire panel had declared a conflict. Smith had personally contacted each panel member and "each and every one, individually, declared a conflict." Smith explained that the panel members were individual contractors who could not be forced to take a case in which they declared a conflict. Smith also suggested

⁵ During this same time period, Belinda also filed a petition for habeas corpus in this court which was denied on December 27, 2010.

⁶ *Faretta v. California* (1975) 422 U.S. 806.

that Belinda could hire her own attorney to which Belinda responded: “What am I supposed to hire with, my looks?” Belinda told the court “I don’t want to hire an attorney,” and stated “I am trying to represent myself to the best of my ability.” The court denied Belinda’s request to represent herself, and continued the matter again.

On February 17, 2011, the court appointed Alicia Park to represent Belinda. Park was a private attorney who had represented Belinda in one of her federal cases. The matter was continued again to give Park the opportunity to prepare. However, on March 10, 2011, before the review hearing could be held, Park filed a motion to withdraw, citing an “irreparably broken attorney-client relationship.” Park’s motion was granted on March 24, 2011.

6. *Belinda’s First Attempt at Self-Representation*

At an April 7, 2011, hearing, the court asked Belinda if she had found an attorney. Belinda reported that she left messages for several attorneys but nobody called her back and that she did not contact the county bar association because it was named in her lawsuit. Then Belinda renewed her request to represent herself. This time, the court granted that request and continued the matter to May 5, 2011.

At the beginning of the May 5 hearing, Belinda interrupted the proceedings to object that the juvenile court did not have jurisdiction because she had filed another petition removing Jack’s case to federal court. This objection was preserved for the record and the court attempted to proceed but Belinda interrupted again, objecting that she had been deprived of her “federal right to appointed counsel under 25 USC 1912(b),” and that the juvenile court had “approved orders in violation of 25 USC 1912(c).” Agency counsel responded that Belinda had elected to represent herself.

The juvenile court reminded Belinda that she had asked to represent herself because she felt she was “more competent” than any of the attorneys the court had appointed to represent her. The court also recalled that, after several attorneys had been appointed for Belinda, she personally selected Ms. Park. However, shortly after that appointment, the attorney-client relationship was irreparably broken again. Trying to make sense of the very “unusual situation,” the court made this observation: “There must

be something going on. I don't know exactly what that is, but apparently you can't get along with the attorneys that the Court has appointed for you. Apparently you realized that the last time that you were here and said that you wanted to represent yourself." Belinda responded that her prior request to represent herself was sarcastic because, as she saw it, "I could not do any worse than any of the appointments of attorneys that you appointed." The court observed that it was not familiar with Belinda or her apparent sarcasm but recalled that she appeared both sincere and happy when the court granted her request to represent herself. After further discussion, the court proceeded with the status review over Belinda's objection that the court lacked jurisdiction to proceed. The next review was set for September 2011.

On September 29, 2011, Belinda asked for counsel, stating that she could not "do this on [her] own." Belinda argued that she did not waive her right to counsel, and, if she did, she wanted to revoke her waiver. The juvenile court disputed Belinda's recollection and questioned the veracity of her claim that she wanted to be represented by a lawyer, stating: "the Court has afforded you the opportunity on numerous occasions to have a lawyer and you have rejected that each and every time. And as a matter of fact the lawyers that the Court has appointed for you, you have taken it upon yourself to sue them." The court also characterized Belinda's actions as "a stalling tactic," which Belinda denied.

Exasperated, the court continued: "Yet, the problem is that you get an attorney, you fire that attorney, it holds up the process, it doesn't do your son any good by the way you carry yourself. And this process gets—it gets delayed and delayed and more delayed because of your behavior and your actions." Belinda's only response was to reiterate her request for appointed counsel because "I cannot do this on my own." Ultimately, the court continued the matter until November 10 in order to "attempt to facilitate [Belinda's] request" for another lawyer, but it expressed doubt about whether the court would be able to find another lawyer to represent her, stating that "[i]t's not because the Court is not trying it's because of you."

At the November 10 hearing, Belinda advised the court that she had not found an attorney because everybody she spoke with “wants money, and I have no money.” Yet, when the juvenile court asked for details, Belinda was unable to “name names.” Belinda also told the court that her attorneys in her federal action did not want to be involved in this case. The court continued the matter again, stating that it “was still pursuing this matter of getting [Belinda] an attorney.”

At a December 8, 2011, hearing, Belinda indicated she had found an attorney willing to take her case, a Michigan lawyer named Lorandos who also practiced in California. After being informed that Lorandos charges \$450 an hour, plus \$4,500 for per diem, and requires a \$15,000 retainer that needs to be replenished in \$10,000 increments, the juvenile court stated: “I’m not sure that it’s going to work out with this particular individual.” The court then advised Belinda that her fourth appointed attorney, Patrick O’Rourke, was willing to represent her again, if she “release[d] him from the lawsuit that [she] filed.” Belinda acknowledged that Patrick O’Rourke “does know the law,” but complained that when she “tried to get him to do different things . . . he either told me he couldn’t, he didn’t know how, that I was being difficult.” Belinda chose not to be represented again by Patrick O’Rourke. The matter was continued once again.

7. *Kathleen McGraw*

On January 17, 2012, Kathleen McGraw was appointed to represent Belinda. The court told Belinda that this was the last appointment it would make for her, that there were limits to what the court would do “in terms of appointing a representative for a parent,” and if this relationship did not “work out,” Belinda would have to find her own lawyer. The matter was continued to allow McGraw to “get up to speed in this matter.”

On February 2, 2012, Belinda was represented by Kathleen McGraw and the court finally conducted the status review that was supposed to have occurred in September 2011. Through her attorney, Belinda objected to an Agency recommendation to suspend her visits with Jack and to authorize an out of state visit with Jason. Speaking out of turn, Belinda also attempted to object to “everything else.” McGraw clarified that Belinda wished to preserve her ongoing objection to the removal of her son and also reserved the

right to challenge factual allegations in the Agency reports. A contested hearing was set to coincide with another status review on March 20, 2012.

At the beginning of the March 20 hearing, Kathleen McGraw moved to withdraw. The Agency argued the case was stayed because, since the last hearing, Belinda had filed another notice removing Jack's case to federal court. Nevertheless, the court entertained the motion and conducted a modified *Marsden* hearing. McGraw explained she thought she had a good rapport with Belinda but she could not represent her because (1) she had not been involved in the decision to file another removal petition in federal court, and she did not feel qualified to handle the federal action; and (2) she received a summons in the mail naming her as a party in one of Belinda's state court lawsuits. Belinda responded that she had not intended to name McGraw in her lawsuit but that she did fully intend to proceed with the federal removal action even though that decision would prevent McGraw from representing her. Belinda also stated on the record that she understood that if the court granted McGraw's request to withdraw, it would not appoint another attorney to represent Belinda in the dependency case.

The court granted McGraw's motion to withdraw on the ground that the attorney-client relationship was irreparably harmed by Belinda's actions. The court reiterated that it had appointed at least six attorneys to represent Belinda and it believed it had "gone beyond what is required to have an attorney represent [Belinda]." It had "personally" contacted "the attorneys that are in charge of the appointed attorneys for both Santa Clara County and Contra Costa County," and it had also called Belinda's federal court attorneys. But nobody was willing to represent her in this dependency case. The matter was continued for Belinda to find her own attorney. However, at the continued hearing on May 4, 2012, the juvenile court ruled that Kathleen McGraw would remain as Belinda's counsel because the court may not have had jurisdiction to allow her to withdraw due to the removal of the case to federal court. The matter was continued again.

On June 12, 2012, the federal court filed an order denying Belinda's most recent removal petition and remanding Jack's dependency case to the juvenile court. In that

order, the court also denied Belinda's application for In Forma Pauperis Status on the ground that the removal petition was frivolous and meritless. The order stated, among other things, that Belinda had filed four federal actions relating to Jack's dependency case, that she was seeking to relitigate issues that had already been decided against her, and that Belinda's "prolific filings are becoming an abusive litigation tactic to keep the dependency court from administering its duties to the minor."

8. *Belinda's Self Representation and The Appealed Orders*

On July 10, 2012, the juvenile court permitted McGraw to withdraw from the case, finding that the attorney-client relationship was "irreparably breached," and McGraw could not continue due to Belinda's "own actions." The court also recounted all of the counsel it had appointed for Belinda and reiterated that it would "not appoint another attorney for [her] at this time." The court then made findings and orders that the Agency had recommended in its March 2012 report. It resolved the contested visitation matter by giving the Agency discretion to increase supervised visits for Belinda, but not to decrease them. On August 27, Belinda filed a notice of appeal from the July 10, 2012, order. The stated basis for this first appeal was: "Appointment of Counsel ICWA 25 U.S.C. 1912(b) and WIC 224.2(G)(v)."

In September 2012, Belinda filed a section 388 petition to vacate the detention and jurisdiction orders and return Jack to her custody. She claimed Jack had not made any allegations of sexual abuse for over five years and that "[y]ou can't fix something that isn't broke." Belinda also claimed that all of her court appointed attorneys had violated their ethical and contractual obligations to her and had aided and abetted the "extrinsic fraudulent actions" of the Agency. The juvenile court denied Belinda's section 388 petition on the grounds that she had failed to establish a change of circumstance or that the requested modifications were in Jack's best interest. For the next several months Belinda represented herself at status review hearings without raising an objection to the absence of appointed counsel.

At a March 12, 2013, review hearing, Belinda objected that the Agency's report contained hearsay, misrepresentations and insufficient evidence to support its

recommendations. This objection was overruled and the report was admitted. Belinda also objected to Jack's current medications but that matter was continued to the next hearing. At Belinda's request, the court granted the Agency discretion to increase Belinda's visitation after discussing the matter with Jack's service providers, and it also agreed to revisit the issue at the next hearing. In April 2013, Belinda filed a notice of appeal from the March 12, 2013, review order. Although that notice is confusing, it appears that the ground for appeal was that Belinda was not represented by appointed counsel at the hearing.

The next review hearing was held on July 17, 2013. Belinda appeared in pro per accompanied by Archie, who advised the court that he was appearing as amicus curiae for Belinda. The court told Archie that he was not a party or a lawyer and that he needed to leave the counsel table and sit in the audience. After Archie made several failed attempts to submit a document to the court, he and Belinda elected to leave the hearing. Later that day, Belinda filed a notice of appeal from the status review order. Belinda's notice stated that she is appealing the "[f]ailure to appoint an attorney."

As reflected in our factual summary, a hearing on the Agency's section 388 petition to place Jack with Jason and dismiss the dependency was held on August 21, 2013. Jack and Jason were in North Carolina and appeared by "POLYCOM." Belinda appeared in pro per, accompanied by Archie and several family members. Agency counsel was prepared to present testimony. However, after Belinda stated that she agreed with the Agency's motion, the court found that testimony was unnecessary. It made several findings including that the Agency complied with the case plan, took all reasonable efforts to finalize a permanent plan and provided reasonable services. The court then granted the Agency's application to change Jack's placement from the planned permanent living arrangement to a placement with Jason in North Carolina, and dismissed the dependency.

At the conclusion of the August 21 hearing, the court spoke directly to Jack on the record, complimenting his intelligence, insight and progress and wishing him well in North Carolina. Jack responded: "Your honor? You don't know how happy that makes

me to hear this is over.” On August 27, 2013, Belinda filed a notice of appeal from the order changing Jack’s placement and dismissing the dependency case. According to that notice, Belinda is appealing from the juvenile court’s refusal to appoint counsel for her.⁷

B. *Analysis*

Belinda contends the appealed orders must be reversed because the juvenile court violated her statutory and constitutional right to be represented by appointed counsel at every hearing in Jack’s case. Although Belinda contends her right was unqualified, her factual analysis focuses on the July 10, 2012, review hearing where the juvenile court indicated it would not appoint another attorney for her, and on the August 21, 2013, hearing where the court granted the section 388 petition and terminated the dependency.

1. *A Parent’s Statutory Right To Appointed Counsel*

In dependency proceedings, a parent’s statutory right to appointed counsel derives from section 317, which states in part:

“(a)(1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section. . . .

“(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel for the parent or guardian, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

“

“(d) Counsel shall represent the parent . . . at the detention hearing and at all subsequent proceedings before the juvenile court. Counsel shall continue to represent the

⁷ This notice also states that Belinda is appealing from an order denying her request to take judicial notice of her “healthcare guardian.” However, it does not appear that Belinda made a request for judicial notice at the August 2013 review. Furthermore, Belinda does not pursue this claim in her appellate briefs.

parent . . . unless relieved by the court upon the substitution of other counsel or for cause. The representation shall include representing the parent . . . in termination proceedings and in those proceedings relating to the institution or setting aside of a legal guardianship. . . .”

Courts construing section 317 have rejected interpretations which isolate these subdivisions from each other and attempt to apply each to a different circumstance or stage of dependency proceedings. (*In re Ebony W.* (1996) 47 Cal.App.4th 1643, 1647 (*Ebony W.*) [structure and language of subdivisions (a) and (b) require they be construed together]; *Janet O. v. Superior Court* (1996) 42 Cal.App.4th 1058, 1064-1066 (*Janet O.*) [subdivisions (a) and (d) must be construed together].) Instead, pertinent authority requires that these subdivisions be construed together in order to further the purpose of section 317, which is to provide counsel “only to those parents who desire representation and are financially unable to afford counsel.” (*Janet O., supra*, 42 Cal.App.4th at pp. 1064-1065.)

When construed together, subdivisions (a) and (b) of section 317 “require some manifestation by the indigent parent that he or she wants representation before the court is obliged to appoint counsel.” (*Ebony W., supra*, 47 Cal.App.4th at p. 1647.) Thus, the juvenile court has no duty to appoint an attorney for an indigent parent who has not made any request for counsel. (*Id.* at p. 1645.) Furthermore, when subdivisions (a) and (d) are construed together, they establish that a parent’s right to appointed representation continues only so long as he or she manifests a “desire” for that representation. (*Janet O., supra*, 42 Cal.App.4th at pp. 1065-1066.) Thus, upon proper notice, the juvenile court may relieve an attorney previously appointed to represent a parent if it determines that parent no longer has a current desire for legal representation. (*Ibid.*)

In light of these settled rules, we conclude that the juvenile court did not err by failing to appoint a substitute attorney for Belinda after it permitted Kathleen McGraw to withdraw at the July 10, 2012, hearing. Belinda’s conduct during the 26-month period prior to that hearing clearly showed that Belinda no longer had a current genuine desire for appointed legal representation at that stage in Jack’s dependency case. Instead, she

misused the statutory right to appointed counsel in order to abuse the legal process, delay the proceedings and, most troubling, prevent the juvenile court from discharging its obligation to protect Jack by making decisions that were in his best interest.

Furthermore, it appears that this pattern—demanding appointed counsel and then forcing him or her to withdraw—was only one component of a broader abuse of the legal process in both the federal and state courts, which was designed to delay the dependency proceedings after it became clear to Belinda and everyone involved that Jack would not be returned to her care.

In our opinion, it is no coincidence that Belinda started on this destructive path in May 2010, when she first attempted to act in pro per by trying to file a motion to dismiss the dependency case for lack of jurisdiction. As our factual summary reflects, that month was a turning point in Jack’s case. Although he continued to struggle, Jack’s therapist had reported he was “very close” to disclosing the identity of his abuser. Furthermore, Jack began opening up to service providers about his prior inappropriate exposure to Belinda’s sexual relationship with Archie. Finally, Jason began to actively pursue reunification and a placement with him had become a real possibility.

Typically, claims regarding the denial of parental counsel in dependency cases have been rejected because of parental inaction, i.e. a failure to request counsel or a failure to maintain communication with appointed counsel. (*Ebony W.*, *supra*, 47 Cal.App.4th at pp. 1645-1647; *Janet O.*, *supra*, 42 Cal.App.4th at pp. 1065-1066; see also *Meranda P.*, *supra*, 56 Cal.App.4th at pp. 1157-1158 [waiver doctrine applies to “representational claims” in dependency cases]; *In re Jamie R.* (2001) 90 Cal.App.4th 766, 771-772 [parent waived right to presence of counsel at in camera hearing].) This case presents a unique factual scenario in that Belinda certainly cannot be accused of inaction. Nevertheless, the authority referenced above supports our conclusion that the juvenile court did not err by failing to appoint another attorney for Belinda because the record demonstrates that, at least by the time of the July 10, 2012, hearing, Belinda did not genuinely desire appointed counsel. Indeed, the evidence strongly indicates that Belinda exploited the rights afforded by section 317 and otherwise abused the legal

process in order to create a situation in which no counsel could be appointed to represent her.

On appeal Belinda contends that the “blame” for the multiple withdrawals by appointed counsel cannot “fairly [be] assigned to Belinda alone.” We disagree. As reflected in our background summary, the juvenile court repeatedly found that Belinda was directly responsible for irreparably damaging her attorney-client relationships with her court-appointed attorneys, and Belinda did not appeal any of those orders.⁸

Alternatively, Belinda contends that even if she was “solely responsible for the withdrawal of her prior attorneys, she had an ongoing right to appointed counsel” throughout the dependency case. To support this claim, Belinda relies on *In re Tanya H.* (1993) 17 Cal.App.4th 825, 831-832 (*Tanya H.*) In that case, the juvenile court relieved the Father’s court appointed attorney after his children were placed in long-term foster care. Over Father’s objection the court removed counsel pursuant to a “ ‘policy memorandum’ ” which directed the court to relieve attorneys appointed to represent indigent parents following the first review of a permanent placement plan “ ‘unless good cause to the contrary is individually shown by any attorney seeking to remain appointed on the case.’ ” (*Id.* at p. 827.) Father appealed the order, and the Court of Appeal reversed.

The *Tanya H.* court found that the policy memorandum that the juvenile court followed violated section 317 by imposing a burden on the parent to establish a continuing need for counsel. (17 Cal.App.4th at pp. 831-832.) The court reasoned that the right to counsel conferred by subdivision (d) is “unqualified” and imposes no requirement that the parent establish a continuing need for counsel. Furthermore, the government’s financial problems that were addressed by the policy memorandum could

⁸ Belinda has appealed from the review order entered after the July 2012 review hearing where her sixth court appointed attorney, Ms. McGraw, was allowed to withdraw. However, Belinda does not challenge the order granting McGraw’s withdrawal motion. Nor would such a challenge succeed in light of the evidence that Belinda filed a federal removal petition without consulting McGraw and then named McGraw as a defendant in one of her collateral cases.

not properly affect a decision to appoint counsel under section 317 because these problems did not constitute “cause” for removing an appointed attorney pursuant to subdivision (d). (*Id.* at p. 832.)

Belinda contends that *Tanya H.* compels the conclusion that she had an “unqualified” right to appointed counsel at every stage in Jack’s dependency. We disagree for several reasons. First, *Tanya H.* addressed a different legal issue. The question in that case was whether the juvenile court erred by relieving appointed counsel under section 317, subdivision (d), whereas in the present case, Belinda contends the juvenile court erred by refusing to appoint a new attorney for her. Thus, subdivision (a) and (b) of section 317 are directly implicated here.

Second, there was no dispute in *Tanya H.* that Father continued to *desire* legal representation; he was present at the review hearing, maintained an interest in the dependency proceeding, objected to the order relieving his counsel, and appealed that order. Under those circumstances, the court properly found that Father had no obligation to demonstrate a continuing need for counsel. However, the facts of this case are materially different; Belinda’s court appointed attorneys were not relieved because she failed to establish a continuing need for counsel. Nor was she denied a seventh court-appointed attorney for that reason. Rather, those events happened solely because Belinda engaged in a course of conduct which was inconsistent with a current genuine desire for appointed counsel.

Third, Belinda is correct that the *Tanya H.* court characterized the section 317, subdivision (d) right to continued representation by appointed counsel as “unqualified.” (17 Cal.App.4th at p. 832.) However, we decline to adopt that dicta because it ignores the statutory language in section 317, subdivisions (a) and (b), requiring that the parent “desire” counsel in order to trigger the court’s obligation to appoint counsel. Thus, we join other courts confining *Tanya H.* “to its facts.” (*Janet O.*, *supra*, 42 Cal.App.4th at p. 1065; see also *In re Jesse C.* (1999) 71 Cal.App.4th 1481, 1489-1491.)

The *Janet O.* court rejected the contention that the right to continued legal representation under section 317, subdivision (d) is unqualified. (42 Cal.App.4th at p.

1065.) The court reasoned that, when the evidence strongly suggests a parent has lost interest not only in the dependency proceedings but in her children as well, “the juvenile court not only is permitted to, but should, revisit the issue of whether a parent continues to desire representation.” (*Ibid.*) By a parity of reasoning, when the evidence shows that the parent has abused the legal process by exploiting the rights conferred by section 317, the juvenile court is not only permitted to, but should, revisit the issue of whether that parent continues to “desire” appointed counsel. Here, the evidence clearly shows that Belinda did not have a current genuine desire for appointed counsel after July 2012.

2. *The ICWA*

Because the ICWA applied to Jack’s dependency, another provision of section 317 is relevant to our analysis. Section 317, subdivision (a)(2) states: “When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of Section 1912(b) of Title 25 of the United States Code and Section 23.13 of Title 25 of the Code of Federal Regulations shall apply.”

Section 1912(b) of title 25 of the United States Code states: “In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding.”

Because Belinda’s appeals were spread over time and were not immediately consolidated, the parties had several rounds of briefing to refine, expand and sometimes materially alter their theories regarding the impact of section 317, subdivision (a)(2). In her Appellant’s Opening Brief in her most recent appeal, Belinda’s primary contention is that subdivision (a)(2) and the federal statute it references trump the other provisions of section 317 and are the sole statutory basis for her right to appointed counsel at the relevant proceedings. The Agency, in turn, offers novel interpretations of subdivision (a)(2) and the ICWA which would essentially preclude Belinda from relying on them as a basis for demanding counsel at the specific types of proceedings which resulted in the appealed orders. In her final Reply Brief, Belinda challenges the Agency’s theories but

also resurrects her initial theory that she had an independent statutory right to appointed counsel under section 317, subdivision (b).

Our discussion above makes it unnecessary to consider these various arguments. As we have already explained, the provisions of section 317 must be construed together. (*Ebony W.*, *supra*, 47 Cal.App.4th at p. 1647; *Janet O.*, *supra*, 42 Cal.App.4th at pp.1065-1066.) Furthermore, section 317, subdivision (a)(2), expressly incorporates the requirement that a parent must “desire[]” counsel in order to trigger the court’s obligation to appoint counsel. Here, as discussed above, Belinda did not have a genuine desire for appointed counsel when the challenged orders were made. Thus Belinda’s reliance on subdivision (a)(2) does not alter our conclusion that the juvenile court was not required to appoint another attorney to represent Belinda on or after July 2012.

3. *Proof of Indigency*

A primary theory advanced by the Agency is that these appeals should be summarily denied for lack of evidence that Belinda is indigent. This theory rests on two factual arguments: first, that Belinda failed to establish she was indigent when the dependency case was filed; and second, that Belinda failed to establish that she was still indigent in July 2012, when the court stated it would not appoint another attorney for her.

Both prongs of this argument rest on the legal premise that a parent’s statutory right to appointed counsel in a dependency proceeding is not triggered unless and until that parent makes some showing that he or she is indigent. The Agency concedes there is no case law requiring a parent to make a showing of indigency in a dependency proceeding. Nevertheless, it contends that such a requirement exists in criminal cases and it asks this court to extend this alleged requirement to dependency cases as well.

We decline this invitation for several reasons. First, the Agency waived this claim by failing to raise it in the juvenile court. (See *In re Dakota S.* (2000) 85 Cal.App.4th 494, 502.) Although the Agency’s appellate counsel has culled the record for evidence that Belinda had access to Archie’s money, that exercise does not excuse the failure to raise this issue below. Second, in light of our conclusions above, we need not reach this issue to resolve these appeals. (See *Shaw v County of Santa Cruz* (2008) 170 Cal.App.4th

229, 259.) Third, the Agency’s legal theory is undeveloped and not supported by the only case it cites. (See *People v. Worthy* (1980) 109 Cal.App.3d 514, 519 (*Worthy*).)⁹

Nevertheless, we offer these observations about the pertinent statutory language. The subdivisions of section 317 discussed above do not contain any language imposing an obligation on the parent to prove he or she is indigent. Instead, those provisions leave it to the juvenile court to assess whether it “appears” that the parent desires counsel but “is presently financially unable to afford and cannot for that reason employ counsel.” (§ 317, subds. (a)(1), (a)(2) & (b).) Assuming for purposes of these appeals that Belinda was financially unable to afford counsel at the relevant proceedings, the evidence in this record compels the conclusion that Belinda’s financial situation was not the “reason” she could not employ counsel.

4. Due Process

Finally, Belinda contends that she had a constitutional right to be represented by appointed counsel at post-permanent plan review hearings and at the hearing on the Agency’s section 388 motion to change Jack’s placement.

“Although a parent’s right to counsel in dependency proceedings derives from statute (§ 317), a parent has a constitutional right to counsel at some stages of those proceedings. [Citation.] We determine whether a parent has that right on a case-by-case basis and consider the factual circumstances and procedural setting of the case at the time the error is said to have occurred. [Citations.] [¶] To determine whether federal constitutional rights are implicated, we examine: (1) the private interests at stake; (2) the government’s interest; and (3) the risk that the procedures used will lead to an erroneous decision. [Citation.]” (*In re O.S.* (2002) 102 Cal.App.4th 1402, 1407.)

Applying this test, courts have found that an indigent parent “may in some cases have a due process right to counsel where the termination of parental rights may result.”

⁹ The Agency cites *Worthy, supra*, 109 Cal.App.3d at page 519, for the proposition that courts impose “an indigency showing requirement” on criminal defendants. However, that case addresses a criminal defendant’s constitutional right to the assistance of an expert, not to appointed counsel. (*Ibid.*)

(*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1659; see also *In re O.S.*, *supra*, 102 Cal.App.4th at p. 1407.) However, as Belinda concedes, there is no authority recognizing a due process right to counsel outside that specific context. Nevertheless, she contends she had a due process right to appointed counsel at the section 366.3 review hearings because at that stage in the process there was still a possibility that the court could terminate her parental rights. Furthermore, Belinda contends that her due process rights were clearly implicated at the hearing on the section 388 petition, because it led to “Jack being placed across the country and left Belinda with radically restricted visitation rights.”

Belinda’s due process analysis is self-serving and incomplete. First, and most fundamentally, she ignores the factual circumstances and procedural posture of this case at the time the alleged errors occurred. As discussed above, those facts and circumstances compel the conclusion that Belinda did not have a current desire for appointed counsel but instead used section 317 as another avenue for abusing the judicial process in order to delay the orderly administration of the dependency case. Second, Belinda ignores the government’s strong interest in promptly securing a safe permanent home for Jack. (See e.g. *In re Josiah Z.* (2005) 36 Cal.4th 664, 674; *In re Jesusa V.* (2004) 32 Cal.4th 588, 625.) Finally, we agree with Belinda that very important issues can be decided at a section 366.3 status review and/or a hearing on a section 388 petition. However, Belinda does not explain how the procedures used at the relevant hearings *in this case* created any risk of an erroneous decision. Indeed, the undisputed evidence establishes that everyone involved in this case, including Belinda, agreed with the Agency’s recommendation to place Jack with Jason and dismiss the dependency and that is exactly what happened.

IV. DISPOSITION

The challenged juvenile court orders are all affirmed.

Kline, P.J.

We concur:

Richman, J.

Stewart, J.