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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re Asia B., A Person Coming Under the  
Juvenile Court Law.

CONTRA COSTA COUNTY CHILDREN  
& FAMILY SERVICES BUREAU,

Plaintiff and Respondent,

v.

Robin B.,

Defendant and Appellant.

A139393

(Contra Costa County  
Super. Ct. No. J1201667)

In this appeal, Robin B. (mother) seeks relief from the juvenile court order terminating her parental rights with respect to her daughter Asia B. (born December 2012). Specifically, mother argues that the juvenile court violated her due process and statutory notice rights by failing to provide her with proper notice of the detention, jurisdiction, and disposition hearings in this matter. Finding that the notice given was adequate under the circumstances, we affirm.

**I. BACKGROUND**

Asia B., the minor who is the subject of these proceedings, first came to the attention of the Contra Costa County Children & Family Services Bureau (Bureau) in December 2012, when she tested positive for amphetamines at birth. Asia was delivered via emergency cesarean section at 29 weeks gestation after Robin was admitted to the

hospital with seizures and extremely high blood pressure. The minor weighed only three pounds and seven ounces at birth and was placed in the neonatal intensive care unit. As a result of her prematurity, Asia was expected to spend five or six weeks in the hospital. Robin also tested positive for drugs at Asia's birth, both amphetamines and marijuana. Although she claimed to have received " 'lots' " of prenatal care, Robin could not give any specifics and disclosed that she was not aware that she was pregnant until she was over six months along. Robin's medical condition was also quite serious, requiring her continued hospitalization in the intensive care unit after the minor's birth. As of December 11, 2012, she reported that her eyesight had not returned since her first seizure. Later that evening, Robin became agitated, pulled out her IVs and left the hospital. When a cousin returned her to the emergency room several hours later after another seizure, Robin indicated that she would remain in the hospital this time as she was still completely blind in one eye.

Shortly after Asia's birth, mother acknowledged to the Bureau social worker that she had " 'messed up with the baby' " and that " 'the baby had dope.' " According to mother, she had been drug free for two years, but had relapsed about a year prior to Asia's birth and had used methamphetamine during her pregnancy. At that point, Robin had been involved with the minor's alleged father, Lester W., for approximately five years and reported that neither of them wanted to raise Asia. Rather, they planned to give Asia to a paternal aunt. Tellingly, Robin has five other children, none of whom remain in her custody. Indeed, in discussions with the social worker, mother indicated that the various caretakers of her five older children do not allow her to see them.<sup>1</sup>

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<sup>1</sup> Robin's first child, James S. (born in January 1996), was reportedly adopted by the maternal grandmother, who later passed away. He now resides with a paternal aunt in San Jose. Robin's second child, L.H. (born in January 1999), currently lives in an open family maintenance plan with her father. A dependency petition was filed in April 2002 with respect to L.H. alleging, among other things, that mother was unable to provide adequate care for the minor and was using methamphetamine. Robin's reunification services were terminated with respect to L.H. in May 2003. A dependency action was also instituted involving mother's third child, Erica B. (born in April 2002), due to Robin's drug usage. Mother failed to reunify with Erica, and her parental rights were

On December 13, 2012, a petition was filed under subdivision (b) of section 300 of the Welfare and Institutions Code<sup>2</sup> alleging that Asia was at risk of harm due to Robin's chronic substance abuse. The minor was formally detained at the December 14, 2012, detention hearing. Both the minor and her mother were still in the hospital at that time, where Robin was given notice of the hearing by the social worker. At the detention hearing, although mother was not present, the juvenile court referred her to legal services for counsel. The court also found that notice of the hearing had been given as required by law.

At the jurisdictional hearing on December 20, 2012, neither parent was present or represented by counsel. Although the Bureau confirmed that both parents had been notified of the detention hearing, it appeared that they were not noticed for the jurisdictional hearing. Thus, the matter was continued to January 3, 2013, so that proper noticing could be completed. On January 3, the parents still had not received notice and, as a consequence, the matter was continued a second time to January 15, 2013. The parents again failed to appear on January 15 and were not represented by counsel. However, the attorney for the Bureau informed the court that his office had notified mother of the January 15 hearing date by certified mail (for which she signed). In

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terminated with respect to the minor in October 2003. Erica currently lives with an out-of-state cousin under a permanent plan of legal guardianship. Quincy B., mother's fourth child (born in February 2009), tested positive for methamphetamine at birth. After a dependency petition was filed, mother waived her right to reunification services. Her parental rights with respect to Quincy were terminated in August 2009, and he was adopted by a maternal aunt. Finally, mother's fifth child, M.E.H. (born in approximately December 2010), was adopted by the paternal grandmother without Bureau involvement. According to mother, she was not using methamphetamine during that pregnancy and, as a result, the minor was born with a negative toxicology screen. Lester W., the alleged father in these proceedings, is also the father of Quincy and M.E. His parental rights with respect to Quincy were terminated, and he relinquished his rights to M.E. at the time of her birth. Lester has never requested presumed father status with respect to Asia in the juvenile court, has not challenged the termination of his parental rights, and is not a party to these proceedings.

<sup>2</sup> All statutory references are to the Welfare and Institutions Code unless otherwise indicated. All rule references are to the California Rules of Court.

addition, both parents were given telephone notice on January 14 of the hearing the next day, and both indicated that they did not intend to be present. Finally, the record includes a file-stamped notice of hearing and related proof of service indicating that on January 4, 2013, mother was noticed by first class mail regarding the January 15 jurisdictional hearing and its potential consequences. Under these circumstances, the juvenile court proceeded with jurisdiction, finding the allegations in the petition true and concluding that the minor was a person described by subdivision (b) of section 300. The court also found that notice of the hearing had been given as required by law. The matter was continued to February 14, 2013, for disposition.

At the dispositional hearing on February 14, the Bureau recommended that Asia be declared a juvenile court dependent and that Robin be denied reunification services pursuant to subdivision (b) (10), (11), (13), and (14) of section 361.5.<sup>3</sup> Once again, neither parent was present or represented by counsel. However, when queried by the trial judge, counsel for the Bureau indicated that both parents had been notified regarding the hearing by telephone and mail.<sup>4</sup> Based on this representation, the juvenile court went forward, adopting the recommendations of the Bureau, declaring the minor to be a dependent of the court, bypassing reunification efforts for Robin, and setting the matter for a permanency planning hearing pursuant to section 366.26 so that a permanent out-of-home placement could be developed for Asia. In addition, the court ordered the Bureau

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<sup>3</sup> Subdivision (b) of section 361.5 allows the juvenile court to bypass reunification services for parents in certain statutorily enumerated situations . (See *Melissa R. v. Superior Court* (2012) 207 Cal.App.4th 816, 821.) In the present case, the Bureau alleged that bypass of reunification services for mother was appropriate on four separate grounds: prior termination of reunification services for a sibling or half sibling of the minor (subdivision (b)(10)); prior termination of parental rights with respect to a sibling or half sibling of the minor (subdivision (b)(11)); history of chronic drug usage and resistance to treatment (subdivision (b)(13)); and parental waiver of services (subdivision (b)(14)). At the February 14 dispositional hearing, the Bureau elected to drop the (b)(14) allegation and proceeded under the other three bypass provisions.

<sup>4</sup> According to the dispositional report, this noticing took place on February 5, 2013. The report further lists mother's mailing address as the same address set forth on the petition in this matter.

to investigate a concurrent home for the minor, as the paternal aunt who had initially requested placement was not returning her paperwork in a timely manner.

Thereafter, Robin B. and Lester W. were both served by first class mail with notice pursuant to rule 5.590 of their need to seek an extraordinary writ to preserve any right to appellate review of the February 14, 2013, order setting the permanency planning hearing for Asia. In addition, both parents were personally served with notice of the actual permanency planning hearing set for June 6, 2013. At the June 6 hearing, Robin and Lester appeared in court for the first time and requested counsel. Mother confirmed her address as the same address that had been used throughout these proceedings and which was stated on the petition. The court granted the parents' requests for counsel, found that appropriate notice had been given, and continued the matter to June 13, 2013, for acceptance of counsel and to July 9, 2013, for permanency planning. In addition, the court heard argument regarding visitation difficulties with a maternal aunt who was being considered for possible placement. Thereafter, the court granted the current foster parents' request for de facto parent status and ordered no visitation between the minor and her parents or relatives pending the next hearing.

An interim hearing was held on June 21, 2013, to address the visitation issue. Counsel for the Bureau reported that the maternal aunt was no longer being considered for placement, but requested that visitation be allowed with other relatives as needed for assessment purposes. The Bureau did not support parental visitation. Robin's counsel requested visits, arguing that Robin had not been allowed to visit the minor in the hospital, that she received no notice of any hearings, and that she did not know who to contact to ask for visitation. Robin was reportedly concerned that she had never seen Asia and claimed that the caregivers of her other children all allowed her to have contact. Asia's counsel asked that parental visitation be denied. She disputed mother's contention that she had contact with her other children and argued that, given mother's prior involvement with the Bureau, she was well aware of how to contact the agency. The court denied all requested visitation as contrary to the best interests of the minor.

The permanency planning hearing was finally held on July 9, 2013. At that hearing, the court sustained relevancy objections when Robin's counsel attempted to cross-examine the social worker regarding the notice given to Robin for prior hearings. Specifically, the court agreed with counsel for the Bureau that mother's failure to raise these notice issues by writ after the permanency planning hearing was scheduled foreclosed their consideration at the permanency planning stage. Thereafter, finding Asia adoptable, the juvenile court terminated the parental rights of both Robin B. and Lester W. A timely notice of appeal from mother brought the matter before this Court.

## II. DISCUSSION

Robin's sole contention on appeal is that her statutory and due process rights to notice were violated because she received defective notice of the detention, jurisdiction, and disposition hearings in this case. Until parental rights have been terminated, the dependency statutes require that both parents be given notice at each step in the proceedings. (§ 302, subd. (b); see also *David B. v. Superior Court* (1994) 21 Cal.App.4th 1010, 1019 (*David B.*)) Indeed, at each dependency hearing, the juvenile court is required to "determine whether notice has been given as required by law and must make an appropriate finding noted in the minutes." (Rule 5.534(l).) In addition to these statutory notice requirements, due process demands that a parent be afforded adequate notice and an opportunity to be heard before being deprived of the companionship, care, custody, and management of his or her child. (*In re B.G.* (1974) 11 Cal.3d 679, 688-689 (*B.G.*)) Since adequate notice provides "vitaly important procedural protections that are essential to ensure the fairness of dependency proceedings," a defect in notice "is a most serious issue, potentially jeopardizing the integrity of the entire judicial process." (*In re Wilford J.* (2005) 131 Cal.App.4th 742, 747, 754 (*Wilford J.*)) Against this backdrop, we consider first the statutory notice requirements at issue in these proceedings.

### A. *Statutory Notice Issues*

When a minor is detained, as Asia was in this case, section 290.1 requires the social worker to "immediately" file a dependency petition with the clerk of the juvenile

court (Clerk), who then sets the matter for a detention hearing. This detention hearing must be held “before the expiration of the next judicial day” after the petition is filed. (§ 315.) The social worker is required to give notice to the parents as soon as possible after the filing of the petition. (§ 290.1, subs. (a) & (c).) This notice—which generally may be served orally or in writing—must indicate the date, time, and place for the detention hearing. It must also include the name of the child, and a copy of the petition. (*Id.*, subs. (d) & (e).) If the person being served cannot read, notice must be given orally. (*Id.*, subd. (e).) In addition, upon the filing of the petition, the Clerk is required to serve a similar notice on the parents. (§ 290.2.) If a minor is detained, the Clerk must give this notice “at least five days before the hearing, unless the hearing is set to be heard in less than five days in which case notice shall be given at least 24 hours prior to the hearing.” (*Id.*, subd. (c)(1).) Rule 5.524(e) reiterates the noticing requirements for both the social worker and the Clerk. Rule 5.524(h) further provides that, if oral notice is given by the social worker pursuant to section 290.1, that social worker must file a declaration “stating that oral notice was given and to whom.”

In the present case, the record reflects that notice of the detention hearing was given to mother in person on December 11, 2012, while she remained in the hospital. It is unlikely that this notice contained a copy of the petition, as the petition was not completed and filed until two days later on December 13. Notice was presumably oral, especially since the record indicates that mother’s eyesight, which had been impacted by her seizures, had not returned as of December 11. However, the record does not include a declaration from the social worker regarding the provision of oral notice as required by rule 5.524(h). Further, there is no indication in the record that notice of any kind was ever given by the Clerk as mandated by section 290.2 and rule 5.524(e).

After the initial or detention hearing on a dependency petition, section 291 requires the Clerk to provide an additional notice. Specifically, the Clerk is required to provide a notice to the parents which includes: (1) the name and address of the person notified; (2) the nature of the hearing; (3) each section and subdivision under which the proceeding was initiated; (4) the date, time, and place of the next hearing; (5) the name of

the child; and (6) a copy of the petition. (§ 291, subd. (d).) Additionally, the notice must advise the parents as follows: (1) that if they fail to appear the court may proceed without them; (2) that they are entitled to have an attorney present at the hearing; (3) that they should promptly notify the Clerk if they are indigent and cannot afford an attorney; (4) that if an attorney is appointed for them, they may be liable for all or a portion of the costs to the extent of their ability to pay; and (5) that they may be liable for the costs of any out-of-home placement. (*Id.*, subd. (d)(6).) If the minor is detained, this additional notice must be given “at least five days before the hearing, unless the hearing is set less than five days and then at least 24 hours prior to the hearing.” (*Id.*, subd. (c)(1).) Further, in a detention situation, if the person to be noticed was not present at the initial hearing, he or she must be noticed either by personal service or by certified mail, return receipt requested. (*Id.*, subd. (e)(1).)<sup>5</sup>

Here, the jurisdictional hearing was continued several times—on both December 20, 2012, and January 3, 2013—because the juvenile court judge had no evidence that appropriate noticing had occurred. At the January 3 hearing, counsel for the Bureau agreed to take on the task of appropriately notifying the parents so that the matter could proceed. Thereafter, a proof of service was filed with the court on January 7, 2013, indicating that both parents were notified by first class mail of the continued jurisdictional hearing to be held on January 15, 2013. This notice was timely and was substantially compliant with the content requirements found in section 291.<sup>6</sup>

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<sup>5</sup> Mother also argues that section 290.2 requires the juvenile court to order that notice and a copy of the petition be personally served on any parent that fails to appear at the detention hearing. However, this requirement is contained in the subdivision relating to notice for cases in which the minor is not detained. (See § 290.2, subd. (c)(2).) Thus, its relevance to these proceedings is, at best, unclear.

<sup>6</sup> The name and address of the person notified (mother) were included on the proof of service, but not in the text of the notice, itself. (§ 291, subd. (d)(1).) Section 300 was referenced, but not the particular subdivision under which these proceedings were commenced. (§ 291, subd. (d)(3).) There is no indication that the notice included a copy of the petition. (*Id.*, subd. (d)(7).) And, the parents were not advised regarding their

However, it was not personally served or sent by certified mail as required for parents of a detained child who were not present at the initial hearing. (*Id.*, subd. (e)(1).) At the January 15 continued jurisdictional hearing, counsel for the Bureau represented to the court that mother had been sent a letter by certified mail, for which she signed, but there is no proof of the contents of this letter or its service in the record.<sup>7</sup> In addition, counsel for the Bureau informed the court that both parents had been given notice of the hearing by telephone the previous day, and that “neither expressed an intention to come to court.” On this basis, the juvenile court proceeded, finding the allegations in the petition true, and continued the matter for disposition.

Again, neither parent was present on the day set for disposition, February 14, 2013. Robin contends that she was entitled to be re-noticed for this continued hearing in accordance with section 291. It is far from clear, however, that section 291 requires such re-noticing. At the hearing, counsel for the Bureau did indicate that the parents had received notice of the hearing by both telephone and mail. At that point, the juvenile court adjudged Asia a dependent child of the court and determined that no reunification services would be offered to mother pursuant to subdivisions (10), (11), and (13) of section 361.5. The matter was continued to June 6, 2013, for a permanency planning hearing pursuant to section 366.26. Subsequently (as she concedes), mother was properly served with notice of her need to seek an extraordinary writ to preserve any right to appellate review of the February 14, 2013, dispositional order. In addition, mother was personally served with notice of the permanency planning hearing in accordance with section 294.

***B. Forfeiture of Statutory Violations***

As our above discussion makes clear, a number of defects in the mandated statutory notice did occur with respect to the early hearings in this matter. However,

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potential liability for costs associated with an appointed attorney or with the out-of-home care of their child. (*Id.*, subd. (d)(6)(D) & (E).)

<sup>7</sup> If counsel was referring to the notice sent on January 4, there is no indication in the record that this notice was sent by anything other than first class mail.

respondent argues emphatically that we should not reach mother's claims of defective notice because she failed to file an extraordinary writ prior to the permanency planning hearing in this case as required by subdivision (1) of section 366.26. As respondent correctly asserts, all orders issued at a hearing setting a permanency planning hearing pursuant to section 366.26 are, generally speaking, not appealable, but must instead be reviewed by extraordinary writ. (§ 366.26, subd. (1)(2) ; *In re Tabitha W.* (2006) 143 Cal.App.4th 811, 816-817; *In re Anthony B.* (1999) 72 Cal.App.4th 1017, 1021-1022, 1024 ["[w]e are satisfied the Legislature, by its enactment of section 366.26, subdivision (1), sought to outlaw review by appeal of all decisions made in conjunction with a setting order".]) The policy considerations underlying this rule are clear: Allowing issues encompassed by a setting order to remain unresolved until after the court's adoption of a permanent plan for a dependent minor would compromise foundational tenets of the dependency system, including the state's "urgent" interest in child welfare, its concerns with expedition and finality, and the dependent minor's "compelling right" to a stable and permanent home. (*In re X.Z.* (2013) 221 Cal.App.4th 1243, 1249; *In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1152 (*Meranda P.*) ["[o]f the many private and public concerns which collide in a dependency proceeding, time is among the most important"]; *David B., supra*, 21 Cal.App.4th at pp. 1018-1019.)

Challenges to the jurisdictional or dispositional phases of dependency proceedings are normally appealable from the dispositional order in the case. (*In re Jennifer V.* (1988) 197 Cal.App.3d 1206, 1209.) However, where, as here, reunification services are denied in a dispositional hearing at which a permanency planning hearing is set, claims involving the underlying jurisdictional findings and dispositional orders must also be raised through a petition for extraordinary writ. (*Anthony D. v. Superior Court* (1998) 63 Cal.App.4th 149, 153-156.) As the Fifth District opined in *In re Rebekah R.* (1994) 27 Cal.App.4th 1638: "When the juvenile court rejects reunification, it must conduct a permanency planning hearing promptly after entry of the disposition order. [Citation.] The expeditious review of such a disposition order is no less important when the claim of error pertains not to the denial of reunification but rather to the underlying jurisdictional

finding *or some other matter which goes to the validity of the order.*” (*Id.* at pp. 1647-1648, italics added.)

One exception to this general rule—that issues encompassed by an order setting a permanency planning hearing must be challenged by extraordinary writ—is contained in the language of the statute, itself. Specifically, pursuant to subdivision (1) of section 366.26, an order setting a permanency planning hearing is “not appealable at any time” unless: (1) a timely petition for extraordinary writ was filed which appropriately addressed the specific challenge at issue; and (2) that petition was summarily denied or otherwise not decided on the merits. (§ 366.26, subd. (1)(1).) Another exception has been recognized where the trial court fails to give the parent proper notice of his or her right to file an extraordinary writ. (*In re Cathina W.* (1998) 68 Cal.App.4th 716, 722-724 (*Cathina W.*)). In the present case, however, mother cannot avail herself of either exception as she never filed a writ after the February 14, 2013, dispositional hearing which set the permanency planning hearing for Asia. Moreover, the record clearly shows that mother received appropriate notice of the need to file such a writ as required both by subdivision (1)(3)(A) of section 366.26 and by rule 5.590.<sup>8</sup>

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<sup>8</sup> The notice received by mother in this case was issued on the same day as the dispositional hearing, February 14, 2013. It was sent by first class mail to mother’s last known address and contained a copy of the dispositional order as well as copies of the required judicial council forms. It also included the mandated deadline for filing a notice of intent to file a writ petition. Thus, it was entirely proper. (Rules 5.590(b) & 8.450(e)(4)(B).) Although Robin acknowledges that the record does include evidence that she was served with notice of her writ rights, she nevertheless argues that her failure to file a writ should be excused because she was without counsel and without information regarding the hearings taking place. We are not persuaded. Mother, in fact, was served with a copy of the dispositional order for Asia and was also given information regarding the potential consequences of a permanency planning hearing and her need to file a writ to preserve her rights. The obligation to do so was hers, even in the absence of counsel. (*Cathina W.*, *supra*, 68 Cal.App.4th at pp. 723-724 [burden is on the parent (not the attorney) in a juvenile dependency case to pursue his or her appeal rights]; see also rule 8.450(c) [“petitioner’s trial counsel, or, in the absence of trial counsel, the party, is responsible for filing any notice of intent and writ petition”]; rule 8.450(e)(3) [“notice must be authorized by the party intending to file the petition”].)

Thus, we agree with respondent that mother has forfeited her right to challenge any technical deficiencies in the statutory notice she received at the earlier hearings in this matter.<sup>9</sup> This does not, however, end our inquiry. Rather, we must also consider whether the notice received by Robin in this case was so deficient that it amounted to a denial of due process.

### **C. *Due Process Notice Issues***

As stated above, “parents are entitled to due process notice of juvenile proceedings affecting their interest in custody of their children.” (*In re Melinda J.* (1996) 234 Cal.App.3d 1413, 1418.) Specifically, in such cases, “due process requires ‘notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’ ” (*Ibid.*) As the Second District elaborated in *Wilford J.*: “Reinforcing the statutory notice requirements, a parent whose child may be found subject to the dependency jurisdiction of the court enjoys a due process right to be informed of the nature of the hearing, as well as the allegations upon which the deprivation of custody is predicated, in order that he or she may make an informed decision whether to appear and contest the allegations.” (*Wilford J.*, *supra*, 131 Cal.App.4th at p. 751.)

Importantly for mother, a defect in notice that violates due process is not subject to forfeiture as were the statutory notice violations previously discussed. In this regard, a review of *In re Janee J.* (1999) 74 Cal.App.4th 198 (*Janee J.*), is instructive. In that case, our colleagues in Division Two considered a mother’s attempt to raise issues from

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<sup>9</sup> We note, in addition, that the findings and orders made at a detention hearing are generally rendered moot by the later jurisdictional and dispositional determinations. (See *In re David H.* (2008) 165 Cal.App.4th 1626, 1634 [after mother concedes that her challenge to detention order is moot, court declines to address it as an important issue of public interest that is capable of repetition yet evading review]; *Wilford J.*, *supra*, 131 Cal.App.4th at p. 755, fn. 10 [notice challenge to detention hearing both forfeited and moot]; *In re Raymond G.* (1991) 230 Cal.App.3d 964, 967 [agreeing to address “technically moot” detention issue]; Seiser & Kumli, *Cal. Juvenile Courts Practice and Procedure* (2013) § 2.190[1], p. 2-584.) Thus, to the extent that R.B.’s claim of defective notice encompasses noticing for the detention hearing in this matter, we find it not only forfeited, but also moot.

multiple past hearings in an appeal from the termination of her parental rights. Denying her many requests for relief, they concluded that principles of forfeiture (dubbed waiver by the *Janee J.* court) should be enforced against a parent “unless due process forbids it.” (*Id.* at pp. 208-214; see also *Meranda P.*, *supra*, 56 Cal.App.4th at pp. 1151-1155 [declining to “carve out an exception” to the waiver rule despite issues involving important statutory and constitutional rights where the record revealed no violation of due process].) After referencing the many safeguards for parents built into the dependency system, the *Janee J.* court determined that “in the usual case, application of the waiver rule will not offend due process.” (*Janee J.*, *supra*, 74 Cal.App.4th at p. 208.) The court went on to conclude that, to avoid the waiver rule, any alleged defects “must go beyond mere errors that might have been held reversible had they been properly and timely reviewed.” (*Id.* at p. 209.) Instead, for a violation of due process to be found, “there must be some defect that fundamentally undermined the statutory scheme so that the parent would have been kept from availing himself or herself of the protections afforded by the scheme as a whole.” (*Id.* at p. 208.)

Based on these principles, we review the record in this case to determine whether the notice defects identified by Robin “fundamentally undermined” the statutory scheme such that she was unable to avail herself of its protections. Our consideration of this constitutional issue is *de novo*. (*In re J.H.* (2007) 158 Cal.App.4th 174, 183 (*J.H.*)). And our conclusion is that no such violation of due process occurred.

We note first that, although mother’s trial counsel claimed that mother was not notified of any of the hearings prior to the permanency planning hearing, the record supports the opposite conclusion. In fact, Robin received actual notice of each of the detention, jurisdiction, and disposition hearings. Specifically, with respect to the detention hearing, Robin was given notice in person by the social worker when she met with mother in the hospital on December 11, 2012. Robin was notified regarding the jurisdictional hearing by telephone on the day before the January 15, 2013, hearing and neither she nor Lester W. “expressed an intention to come to court.” Finally, mother was also given telephone notice of the February 14, 2013, dispositional hearing. (Compare

*J.H., supra*, 158 Cal.App.4th at p. 185 [errors in noticing harmless where father knew of dependency proceedings and “expressed no interest or willingness to reunify”].)

In addition, when mother first met with the social worker in this case, she stated that she knew that the social worker was there because she “ ‘messed up with the baby’ ” and “ ‘the baby had dope.’ ” Robin’s understanding of the dependency system is not surprising given that her parental rights to two of her other five children were terminated after reunification services were either waived or terminated. Mother’s reunification services with respect to a third child were also terminated, with the minor remaining in the care of her father. Moreover, mother received written notice by first class mail of the jurisdictional hearing in this matter. (See Evid. Code, § 641 [“letter correctly addressed and properly mailed is presumed to have been received”].) That notice described her hearing rights and indicated that “the final result in the case could be the termination of parental rights.” Finally, Robin’s own sister, as well as the paternal aunt and grandmother, were visiting with the minor under the auspices of the Bureau in contemplation of a possible permanent placement. Thus, it seems clear that mother was aware of the reasons why she lost custody of Asia and understood the possible consequences of the pending dependency action. Yet she failed to appear or even request visitation with her child until almost six months after the minor’s birth.

Under such circumstances—where mother had actual notice of each of the hearings at issue and an understanding regarding the possible consequences of those hearings—we conclude that she was afforded due process. While the noticing in this case was certainly not a model of statutory compliance, the identified defects were not so fundamental that they kept Robin from availing herself of the protections afforded by the system as a whole. (See *Janee J., supra*, 74 Cal.App.4th at p. 208.) Rather, well aware of the pending action and its potential consequences for her infant daughter, mother chose for herself “ ‘ “whether to appear or default, acquiesce or contest.” ’ ” (*In re O.S.* (2002) 102 Cal.App.4th 1402, 1408.) There was no error requiring reversal of the juvenile court’s order terminating parental rights.

**III. DISPOSITION**

The judgment is affirmed.

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REARDON, J.

We concur:

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RUVOLO, P.J.

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RIVERA, J.