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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re R.T., a Person Coming Under the  
Juvenile Court Law.

ALAMEDA COUNTY SOCIAL  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

DAVID D.,

Defendant and Appellant.

A146486

(Alameda County  
Super. Ct. No. SJ12019365-01)

In a prior appeal in this juvenile dependency proceeding, this court reversed an order terminating parental rights and remanded the case to the juvenile court for application of the statutory preference for relative placement and consideration of the parents’ proposed relinquishment of their child for adoption by designated relatives. (*In re R.T.* (2015) 232 Cal.App.4th 1284.) Following remand the child’s father, appellant David D., petitioned for immediate reinstatement of visitation. (Welf. & Inst. Code, § 388.)<sup>1</sup> The court denied the petition and father appealed. In a later hearing, the court inquired into the remanded issues of relative placement and adoption and reinstated its earlier order terminating parental rights. The later order is the subject of a separate appeal pending in this court. At this juncture, we consider only father’s challenge to the court’s order denying visitation. We shall affirm the order upon concluding that the juvenile

<sup>1</sup> All further section references are to the Welfare and Institutions Code.

court did not abuse its discretion in finding that reinstatement of visitation, at the time requested, was not in the child's best interest.

### **Statement of Facts**

The underlying facts are set out in our prior opinion. To briefly summarize, the Alameda County Social Services Agency (agency) filed a juvenile dependency petition (§ 300) in July 2012, several days after R.T., a baby boy, was born with drug exposure. (*In re R.T.*, *supra*, 232 Cal.App.4th at p. 1292.) Over father's objection, the agency placed R.T. in the home of Victoria D., the foster parent of R.T.'s older brother and the mother of three of R.T.'s half-siblings. (*Ibid.*) A combined jurisdictional and dispositional hearing was held in August 2012. (*Id.* at p. 1293.) The parents urged the court to place the child with a paternal aunt. (*Ibid.*) The court adopted the agency's recommendation that placement remain with Victoria and set a section 366.26 permanency planning hearing. (*Ibid.*) At the January 2014 hearing, the court terminated parental rights and ordered R.T. placed for adoption. (*Ibid.*) Father's visitation was terminated at that time.

In January 2015, this court reversed the order terminating parental rights and remanded the matter for further proceedings. (*In re R.T.*, *supra*, 232 Cal.App.4th at pp. 1308-1309.) The remittitur was issued in April 2015. In May 2015, the agency reported that it was undertaking the assessments directed by this court. In July 2015, father filed a modification motion seeking reinstatement of visitation. (§ 388.) Father argued that his "[p]arental rights were re-instated" with reversal of the order terminating parental rights and, thus, visitation should be reinstated. The agency and minor's counsel opposed reinstatement of visitation, arguing that the juvenile court had no jurisdiction to rule on a modification motion as the appellate court ordered only a limited remand and, in any event, visitation would be detrimental given the child's unsettled placement. The court denied the motion. The court agreed that the case had been submitted to it on a limited remand but also found that visitation would be contrary to the child's best interests. "The court does not find that at this point in time it's in the child's best interest to reestablish visitation given the fact that it may well be that the child may be

relinquished in the next month or two and it doesn't make a lot of sense . . . to reestablish visitation with the possibility that the child is even going to be relinquished or the child is going to be placed up for adoption in the next several months. [¶] I think it would be detrimental to the child. It would be at the very least confusing to the child to start visitations all over again." Father timely filed notice of appeal.

**Discussion**

Father's request for visitation was properly denied. Without regard to the agency's jurisdictional claim, there was no abuse of discretion in the juvenile court's determination that visitation was contrary to the child's best interest. At the time of father's request, R.T. was three years old and had lived his entire life with his foster parents. R.T. had not seen father for 18 months, or half the child's life. A placement decision was a few months away, and the decision was between adoption by the child's foster parents or relatives. There was no prospect of father assuming custody. The juvenile court reasonably found that visitation was not in the child's best interest given the child's long separation from father and the child's imminent placement for adoption.

**Disposition**

The order is affirmed.

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Pollak, J.

We concur:

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McGuinness, P.J.

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Siggins, J.