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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

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

B267867

(Los Angeles County
Super. Ct. No. CK35150)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent.

v.

DENISE J.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Emma Castro, Commissioner. Affirmed.

Patti L. Dikes, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Tracey F. Dodds, Deputy County Counsel for Plaintiff and Respondent.

Denise J. (mother) appeals from an order terminating her parental rights pursuant to Welfare & Institutions Code section 366.26.¹ Mother's sole argument on appeal is that the juvenile court abused its discretion in denying her an evidentiary hearing on a petition pursuant to section 388 filed shortly before the termination of her parental rights. We affirm the judgment.

COMBINED FACTUAL AND PROCEDURAL BACKGROUND

Family background

Mother's child J. J. was born in December 2004. Mother has four older children, all of whom have been dependents of the juvenile court: Thomas, Edward, Chantel, and M.

Mother's child welfare history with the Department of Children and Family Services (DCFS) dates back to 1994 with an allegation of severe neglect of M. Between August 1994 and July 1995, mother received family reunification services for M., Edward, and Chantel. Thomas was removed from mother in 1998, and was eventually adopted by a relative. In September and October 2000, DCFS received referrals alleging neglect and abuse of M. Those allegations were substantiated. In November 2000, DCFS received referrals alleging neglect of M. and Chantel.

By 2003, all of mother's children lived with relatives who had legal guardianship of them. In 2006 and 2007, mother again received reunification services for Chantel. However, reunification was ultimately terminated.

In December 2004, DCFS received its first referral regarding J. J. was exposed to drugs at birth and was taken into protective custody. DCFS received referrals in September 2007, February 2008, and February 2012 regarding J. The allegations of caretaker absence/incapacity by mother in February 2008 were substantiated. The allegations of emotional abuse and general neglect in February 2012 were inconclusive.

¹ All further statutory references are to the Welfare & Institutions Code unless otherwise noted.

Investigation and petition in the present matter

On March 30, 2012, DCFS received a new referral regarding J. Law enforcement received a call from a mandated reporter alleging that the child made contact via telephone. The child stated that she was unhappy in the home. The child reported that mother drinks alcohol and is under the influence in the home. When law enforcement visited the home, mother's adult daughter M. was present. M. stated that mother drinks and uses cocaine. M. additionally reported that J. is often left unattended and hungry. M. claimed mother was hiding because she knew child services authorities were looking for her.

A DCFS social worker went to the home on April 5, 2012. An unidentified woman stated that mother was out of town for a funeral and J. was with her godmother. The social worker went to the home of Ms. J, J.'s former foster mother. Ms. J explained that J. had been placed in her care twice before, when J. was an infant and again when she was three and a half years old. Ms. J said that mother has a substance abuse problem and uses cocaine and alcohol. Ms. J also said that J. has told her that mother locks J. in the bedroom when mother has a friend visiting.

Ms. J explained that the previous Friday she missed a call from J. who left a message on her voice mail. J. was crying when she said her mother was drunk and asked Ms. J to pick her up. Ms. J played the voice message for the social worker. The social worker observed the child to be crying and stating "TT my mom is drunk hard . . . remember when you said I could call you whenever my mom is drinking? . . . when you get this message, please come pick me up ok?" Then the child yells, "I'm using the bathroom!" Ms. J stated she arrived at the child's home after the police and they allowed mother to release J. to Ms. J. The police informed Ms. J that they found a crack pipe in the home. Mother denied that the pipe was hers, saying it belonged to her adult daughter.

The social worker interviewed J. on April 5, 2012, when she was seven years old and in the first grade. J. stated that she lived at home with mother, mother's friends "Diamond" and "Duke," her two sisters, her uncle, and her two nieces. As J. talked she drew a picture of what appeared to be a crack pipe and a lighter. J. stated "it's black and

her smokes it and her sucks it. Her has a needle to push it inside and her use the lighter and does it for her friends.” J. saw her mother do it through a hole in the door. J. claimed to be scared to go home because her mother drinks a lot. In addition her sister “smokes crystal.” J. called “TT,” her former foster mother, because mother was “drunk real hard.” J. explained that she took her mother’s phone, went into the bathroom, found Ms. J’s number and left her a message asking her to come pick her up.

The following day the social worker was able to interview mother who denied using drugs or drinking to excess. Mother admitted to a past cocaine addiction, but denied currently using drugs. Mother also denied a history of mental illness and that she was not taking any medications. Mother admitted that J. was hospitalized as an infant because she was born with drugs in her system.

Mother explained that her adult daughters M. and Chantel hate her because she was an addict when they were children, and they are jealous of the life she is giving J. Mother added that Chantel had been diagnosed with bipolar disorder and schizophrenia but does not take her medication. Mother admitted that J. had witnessed incidents of domestic violence between mother and her two adult daughters and mother being arrested following an altercation with her adult daughters. Mother was sentenced to three years probation.

DCFS detained J. and filed a section 300 petition on her behalf. The petition, dated April 11, 2012, alleged three counts pursuant to section 300, subdivision (b) (failure to protect). The allegations in count b-1 were that mother has a 14-year history of illicit drug abuse and is a current abuser of cocaine and alcohol which rendered her incapable of taking care of J. The allegations in count b-2 were that mother has placed the child in a detrimental situation by locking her in a bedroom for an extended period of time. Count b-3 alleged that mother has mental and emotional problems rendering her unable to provide J. with regular care and supervision, placing her at risk of harm.

Detention and amended petition

Mother appeared and was appointed counsel at an arraignment and detention hearing on April 11, 2012. The juvenile court found there was a prima facie case for

detaining J., and that there existed a substantial danger to the physical or emotional health of the child unless she was removed from mother.

On May 11, 2012, DCFS filed a first amended petition which added allegations that mother was diagnosed with depression and bipolar disorder, but had failed to take her prescribed psychotropic medication as directed. The amended petition also added an allegation under subdivision j, explaining that mother's four older children, Thomas, Chantel, Edward, and M. all received permanent placement services due to mother's substance abuse. DCFS advised the court that it may seek an order that no reunification services be provided.

Jurisdiction/disposition report and hearing

DCFS filed a jurisdiction/disposition report dated May 15, 2012. J. reported that her mother drinks a lot. J. did not know what mother drank. J. further explained that mother "has a glass it looks like a stick. . . [Mother uses] a lighter and her suck and her throw it out her mouth. I called her [Ms. J] when my mom was drinking . . . and doing that [referring to a picture she drew of a crack pipe and a lighter]. I saw her doing it because I peeked under the door. She acts really, really funny when she does that (referring to the crack pipe picture). I don't like it. It scares me. My mom told me that M. . . . does crystal . . . and Chantel smokes weed." J. also reported that when mother's friends came over, mother locked J. in her room. J. expressed fear at returning home to mother, and stated a preference for remaining in the home of Ms. J.

Mother denied drug use. She stated that she attends California Drug Treatment Program. Mother denied locking J. in her bedroom. As to the allegations of mental illness, mother admitted that she had been diagnosed as depressed and bipolar in 2007. She stopped taking the medication about three weeks before J. was detained. Mother stated she was comfortable with J. staying with Ms. J for now, but wants her back.

DCFS recommended that mother not be provided with reunification services pursuant to section 361.5, subdivision (b)(10). DCFS argued that mother has attempted rehabilitation on prior occasions and failed each time. Altogether, mother had been drug

addicted for approximately 18 years. This was the third time J. had been removed from mother, and J. was entitled to a stable home. Ms. J was willing to adopt her.

In the jurisdiction/disposition hearing on August 2, 2012, the juvenile court sustained counts b-1 and b-3 of the amended petition. Count b-2 and count j-1 were dismissed. The court granted mother reunification services. She was ordered to participate in a full drug and alcohol rehabilitation program with random testing. She was also ordered to participate in a 12-step program and obtain a sponsor. She was ordered to attend individual counseling and comply with her medications. Mother was granted monitored visitation with J.

Six-month review

DCFS provided a six-month review report dated March 11, 2013. J. continued to reside with Ms. J. Mother claimed to be attending all of her sessions at Exodus Recovery Wellness Center and the California Drug Treatment Program.

J. was doing well in her placement. She was now expressing a desire to live with her mother, although she also indicated that she likes staying with Ms. J. The social worker had an opportunity to observe mother and J. together. Mother was participating in visits in the home of Ms. J. She helped J. with her homework, played games, and watched television with her. The social worker observed that the two seemed to have a good time together and J. appeared to be happy around mother. Mother had visited regularly until the last week of September 2012. She missed her visits during the month of October due to health issues, among other things. Since then she had missed numerous visits, many of which were due to illness.

According to a January 25, 2013 letter from the California Drug Treatment Program, mother was motivated in her treatment and had 11 negative drug tests. However, she missed several sessions due to health issues. When the social worker called the program, she was informed that although mother was enrolled, she had not attended since March 1, 2013. Mother had not called to report the reason she was not attending.

DCFS recommended that mother continue to receive reunification services. On March 26, 2013, the juvenile court ordered an additional six months of reunification services for mother. DCFS was ordered to assess mother's home for overnight visitation.

Twelve-month review

A 12-month review report was submitted on September 23, 2014. J. continued to reside with Ms. J, where she was thriving. Mother had visited J. every week. Unmonitored visits included overnight visits and weekend visits. Mother missed some visits due to medical issues and unexpected events but consistently tried to make herself available to her daughter for visits. A social worker who observed the visits reported that mother and J. appeared to enjoy their time together. On September 9, 2013, J. reported to the social worker that she was ready to go home to her mother.

Mother was doing well in treatment. She was attending a drug treatment program at California Drug Treatment Program and was making tremendous progress. Her attendance had greatly improved. Mother also continued to attend Exodus Recovery Wellness Center where she received individual counseling, group therapy and medication management. Mother's therapy had been inconsistent due to a problem in the relationship between mother and her therapist, but mother would be getting a new therapist to work with. The director of the program felt that mother needed more time in therapy to address her underlying mental health issues. Mother had made progress with her medication compliance and was compliant at that time.

On September 23, 2013, the juvenile court continued reunification services for mother until the 18-month review.

Eighteen-month review

On December 9, 2013, DCFS submitted an 18-month review report. J. remained placed with Ms. J but was spending much time with mother. Mother had a positive relationship with Ms. J and was grateful for the care that Ms. J provided to her daughter. Mother had been attending school meetings and volunteering at J.'s school. Mother had missed some visits with J. but the majority of the time the visitation schedule was followed. Mother and child were happy and excited to spend time together.

DCFS recommended that J. be returned home to mother. Both mother and J. expressed a desire for J. to be returned to mother. Mother had been proactive in addressing her mental health needs and drug abuse. Mother had been participating in individual counseling, consistently attending her drug and alcohol program, and was compliant with her medication. Mother had a 12-step sponsor and attended 12-step meetings regularly. The issues and concerns that had brought the family to the attention of DCFS had alleviated.

The juvenile court adopted the recommendation of DCFS and returned J. to mother.

Section 387 petition and detention

Four months later, J. was detained from mother. On April 9, 2014, DCFS filed a supplemental dependency petition pursuant to section 387.

On April 3, 2014, DCFS received a referral alleging that J. was afraid to enter her home when returned from daycare. J. reported that she was afraid to enter mother's home because mother was smoking crack. The social worker was not able to make contact with mother that evening. On April 4, 2014, mother telephoned a social worker at DCFS and left a voice mail. She was crying. She explained that she had been late to pick up J. at daycare and did not know where she was. The social worker made contact with the daycare, and a daycare worker disclosed that the child had been taken to the home of an aunt.

When the social worker was able to make contact with J, J. explained that when her mother did not pick her up she told the director that she wanted to go to her aunt's house. The child stated, "I didn't want to go home because she (mom) was doing the drug again and I felt scared there. I knew when I was going home she was going to do bad." When asked what bad things mother does, J. explained that mother will have one or two men over to drink. J. expressed a preference to stay with her aunt. The aunt was happy to have J. stay with her.

Mother denied using drugs. She admitted to having forgotten to take her medication from time to time, and admitted to being under stress.

At the arraignment and detention hearing, the juvenile court ordered J. detained from mother.

Jurisdiction/disposition

On May 14, 2014, DCFS submitted a jurisdiction/disposition report, in which DCFS recommended that mother not be provided with reunification services pursuant to section 361.5, subdivision (b)(10), which provides that if a parent fails to reunify, and has not made a reasonable effort to solve the problem that led to dependency, that parent need not be provided with reunification services.

Ms. J said that there had been previous problems with mother failing to pick up J. on time. In addition, J. had disclosed to Ms. J in March 2014 that mother was “doing things.” J. had also expressed fear of going home during this time.

Mother’s attendance at Exodus was erratic and inconsistent between January and April 2014. Mother’s individual counseling was terminated because of her inconsistent attendance. Mother had last acquired her medication in January 2014. Mother also failed to drug test for DCFS on February 21, March 5, and March 6, 2014.

DCFS provided a last-minute information for the court prior to the adjudication hearing on July 30, 2014. A social worker had contacted mother’s new treatment program, Bernie’s Little Women Center (Bernie’s Center), on July 29, 2014. Mother had not attended the program during the months of June and July. The director of the Exodus program also reported that mother’s participation was minimal. Mother did not have any medication appointments in May or June 2014. Mother had one visit with J. on June 4, 2014, but cancelled scheduled visits on June 3, 5, 10, 12, 17, and 19, 2014. Mother also missed visits on July 1 and July 3, 2014. The hearing scheduled for July 30, 2014, was continued due to illness of counsel.

A last-minute information for the court was provided on September 17, 2014. Mother’s visits with J. were inconsistent. Mother attended Exodus Recovery four times in the last two months. Mother had not attended individual therapy. Mother’s last doctor’s visit for medication was July 15, 2014. Mother admitted she had to re-enroll in

Bernie's Center due to nonattendance. Mother could not provide a date for her re-enrollment.

On September 18, 2014, the juvenile court found the allegations in the section 387 petition to be true. The juvenile court declined to provide further reunification services, and set the matter for hearing pursuant to section 366.26.

Section 366.26 hearing

At the time of the section 366.26 hearing on January 15, 2015, J. remained placed with Ms. J. Ms. J wanted to adopt J. Mother's visits were sporadic. DCFS requested adoption as the permanent plan and the matter was continued for a home study. The hearing was continued to May 15, 2015.

Mother's section 388 petition

Mother filed a section 388 petition on May 4, 2015. Mother alleged that she had completed individual therapy, parenting classes, and drug and alcohol education and relapse prevention at Bernie's Center from April 2014 through December 2014. She claimed that she and J. were close, and visited almost every weekend. Mother claimed that J. would benefit from being raised by a mother who loves her and could provide a stable, loving environment. Attached to mother's petition was a letter from the director at Bernie's Center dated December 31, 2014, indicating mother had completed the programs. Mother arrived in the program in April 2014, remained in good standing in all program norms, and maintained her scheduled appointments over the duration of her treatment, which was completed effective December 31, 2014. Also attached was proof that mother had attended more than 60 Alcoholics Anonymous or Narcotics Anonymous meetings from January 7, 2015 through April 28, 2015. Mother requested that J. be returned to her care or, in the alternative, that family reunification services be reinstated.

On June 10, 2015, the juvenile court denied mother's section 388 petition because mother failed to state new evidence or a change of circumstances. The court noted that mother's visits continued to be monitored and sporadic. The child had been out of mother's custody since May 14, 2012, and had been in multiple placements.

In an interim review report dated August 5, 2015, DCFS responded to mother's section 388 petition.² DCFS could not verify that mother had completed the various programs listed in the letter. The letter did not provide the names of the parenting class and drug and alcohol education facilitators. It did not provide specific dates or certificates for mother's completion of the programs. When the social worker investigated, she was given conflicting information which suggested that mother was not in good standing in her programs.

DCFS summarized J.'s history with the juvenile dependency system. J. had been detained from mother four times. The first was in 2004 when J. tested positive for cocaine at birth. She was placed with Ms. J until June 2005, when she was returned to mother. She was detained from mother in February 2008, and returned to mother in May 2008. She was again detained from mother in May 2012, and returned to mother 18 months later, in December 2013. She was re-detained in April 2014. Each time she was detained, she resided with Ms J.

A conversation with J. revealed that mother did not visit as consistently as she suggested. DCFS recommended that the section 388 petition filed by mother be denied.

In a last minute information for the court provided on August 5, 2015, DCFS reported that the home study for Ms. J had been approved. Ms. J remained committed to adopting J., and J. had previously informed the social worker that she looked forward to being adopted by Ms. J.

Continued section 366.26 hearing

The contested section 366.26 hearing was held on September 8 and 9, 2015. J. testified, in chambers, that she wanted to live with Ms. J. She enjoyed visits with mother and her maternal aunt and wanted those visits to continue.

Mother testified that she visited J. on the weekends and talked to her every night on the phone. Mother had one weekend visit with J. in August and two weekend visits with her in July. Mother had not gone to J.'s medical or dental appointments, but she

² At this time, mother's section 388 petition had already been summarily denied by the juvenile court.

would go if she knew about them. Mother was unemployed and on SSI disability for depression. She had five children; all of them adults except J. and her 15-year-old son Thomas, who had been adopted by his grandmother. Mother viewed J.'s testimony on a video monitor. She believed that J. was torn. J. wanted to be in a safe environment, but mother felt that J. loved her and wanted to continue their relationship. Mother stated that she would not be opposed to legal guardianship.

The juvenile court found by clear and convincing evidence that J. was adoptable and there was no exception to adoption. The court specifically found that it would be detrimental to the child to be returned to the custody of her parents. There was insufficient evidence that mother maintained regular visitation and contact with her daughter to such a degree that J. would benefit from continuing the parental relationship. The court terminated parental rights and freed J. for adoption.

Mother filed her appeal from the order terminating parental rights on September 11, 2015.

DISCUSSION

Mother raises a single issue on appeal: that the juvenile court abused its discretion in denying her a full and fair evidentiary hearing on her section 388 petition. Mother argues that her petition provided the prima facie showing required for the court to be obligated to hear evidence on the petition.

I. Relevant law and standard of review

Section 388 permits a parent to petition the juvenile court to modify or set aside a prior dependency order on the grounds of changed circumstance or new evidence. (§ 388, subd. (a)(1).) The party bringing the section 388 petition has the burden of showing that the proposed change of order is in the best interest of the child. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) The petition must be liberally construed in favor of its sufficiency. (Cal. Rules of Court, rule 5.570(a).) If the petition fails to make a prima facie showing that (1) there is a change of circumstance or new evidence; or (2) that the requested change would promote the best interests of the child, the juvenile court may summarily deny it. (*In re Justice P.* (2004) 123 Cal.App.4th 181, 188-189 (*Justice*

P.).) A hearing “is only to be held if it appears that the best interests of the child may be promoted by the proposed change of order, which necessarily contemplates that a court need not order a hearing if this element is absent from the showing made by the petition. [Citation.]” (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 807, fn. omitted.)

The juvenile court’s decision to deny a section 388 petition without a hearing is reviewed for abuse of discretion. (*In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1505 (*Brittany K.*)) Under this standard, the appellate court will not disturb a decision ““unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].”” [Citation.]” (*In re Mary G.* (2007) 151 Cal.App.4th 184, 205.)

In reviewing the juvenile court’s determination, we bear in mind that ““a primary consideration in determining the child’s best interests is the goal of assuring stability and continuity. [Citation.] “When custody continues over a significant period, the child’s need for continuity and stability assumes an increasingly important role.””” (*Brittany K., supra*, 127 Cal.App.4th at p. 1505.) ““After the termination of reunification services, the parents’ interest in the care, custody and companionship of the child are no longer paramount.”” (*Ibid.*) At this stage, ““the focus shifts to the needs of the child for permanency and stability.””” (*Ibid.*) In particular, “[a] petition which alleges merely changing circumstances and would mean delaying the selection of a permanent home for a child to see if a parent, who has repeatedly failed to reunify with the child, might be able to reunify at some future point, does not promote stability for the child or the child’s best interests. [Citation.]” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 47 (*Casey D.*))

II. The juvenile court did not abuse its discretion in summarily denying mother’s section 388 petition

Mother did not set forth a prima facie case of changed circumstances. Nor did she present a prima facie case that the proposed change of order would be in J.’s best interest.

A. Changed circumstances

Mother’s allegations of changed circumstances were based on her alleged completion of various programs, including individual therapy, parenting classes, and drug

and alcohol education and relapse prevention. Mother supported these allegations with a letter from Bernie's Center dated December 31, 2014. The letter attested to mother's completion of the programs and mother's good standing with the program from April 2014 through December 2014. However, mother's section 388 petition was filed on May 4, 2015. Mother provided no evidence of her continued participation in programs during January through April 2015. In addition, mother presented no evidence as to her progress with her mental health treatment and her medication compliance, which were also significant issues leading to J.'s removal.

Even if mother had provided evidence of her successful participation in programs through the date that her petition was filed, it would be insufficient to establish a prima facie case of changed circumstances in this case. J. had been detained from mother four times during her short lifetime. Mother was able to show her successful participation in treatment programs during these previous detentions, however each time she failed to maintain her sobriety. The juvenile court would have been justified even if it had determined that mother's successful participation in drug treatment and parenting programs was insufficient to show a change of circumstances. During mother's long history with DCFS, she had shown that her completion of treatment programs was not a predictor of long-term reunification with J.

Mother cites *In re Jeremy W.* (1992) 3 Cal.App.4th 1407 for the proposition that mother did not have to show that she would have prevailed at a hearing on the petition -- she only had to allege a change of circumstance or new evidence to show that the requested modifications may promote J.'s best interests. *Jeremy W.* is distinguishable. In *Jeremy W.*, the mother had fully complied with almost all the court ordered requirements. The social worker admitted that the mother had worked diligently on her reunification plan. Construing the section 388 petition liberally, the court determined that the mother's evidence established a strong prima facie showing of a favorable change in the single negative factor which caused the referee to terminate mother's reunification services. (*Id.* at pp. 1415-1416.)

The evidence in this case is significantly different. Mother has repeatedly shown her resistance to drug treatment and her inability to remain sober and mentally stable. Her letter showing progress was dated over four months prior to the date her petition was filed. Mother's visits with the child remained monitored and sporadic. Even construing the petition liberally, as we must, mother did not make out a prima facie case of changed circumstances.³

B. Best interests of the child

Mother alleged that she and J. had a "tight-knit" relationship. She claimed that she visited J. as often as the maternal aunt could accommodate her, and they talked on the phone three to four times per week. Mother alleged that she and J. had "re-cultivated a closeness" that would only grow if they were able to live together. Mother felt that J. would benefit from being raised by her mother who loves her and can provide a stable, loving environment.

Because mother failed to make out a prima facie case of changed circumstances, we need not address the issue of J.'s best interests. (*Justice P.*, *supra*, 123 Cal.App.4th at pp. 188-189.) However, we note that under the circumstances of this case, mother also failed to make out a prima facie case that the requested change would promote the best interests of the child. In her petition, mother sought the return of J. to her custody or, alternatively, the provision of reunification services. Neither of these requests would have served J.'s best interests. As DCFS noted, J. had been removed from mother four times during her childhood. Each time, she stayed with Ms. J. In addition, mother has four older children, all of whom were removed from mother. Mother has repeatedly

³ Mother argues that because DCFS contests the validity and credibility of the statements in the supporting documentation attached to mother's 388 petition, there is a material factual dispute which must be resolved in an evidentiary hearing. While it is true that DCFS informed the court that it could not verify mother's claims of having completed certain programs, this was not the basis of the juvenile court's decision on the section 388 petition. The court assumed those allegations were true, but determined that the petition did not state new evidence or a change of circumstances. Under the circumstances of this case, the court's decision did not constitute an abuse of discretion.

proved herself unable to maintain stability and remain drug free, even after her older children were removed from her care.

At this stage, the focus of the proceedings has shifted, and J.'s interest in stability and continuity are paramount. (*Brittany K., supra*, 127 Cal.App.4th at p. 1505.) Ms. J has provided that stability and continuity for J. To grant mother's request for a change of order would mean delaying the selection of a permanent home for J. to see if mother might be able to reunify at some future point. This would not promote stability for J. or J.'s best interests. (*Casey D., supra*, 70 Cal.App.4th at p. 47.)

Mother cites *In re Daijah T.* (2000) 83 Cal.App.4th 666, 675, where the court noted a "disturbing trend" towards the erroneous denial of evidentiary hearings in dependency cases. In *Daijah T.*, the juvenile court erroneously denied a hearing on the mother's section 388 petition on the ground that the mother had not shown that the minors' circumstances had changed. (*Id.* at p. 674.) The mother had sufficiently alleged changed circumstances and further alleged some evidence that the best interests of the children would be served by being with their siblings, who were in her care. (*Id.* at p. 675.) Under those circumstances, the juvenile court's denial of a hearing on the mother's section 388 petition was an abuse of discretion.

The matter before us is different. As explained above, mother has not sufficiently alleged changed circumstances. Nor has she set forth sufficient evidence that a change of order would serve J.'s best interests. At this stage, after four removals from mother and mother's repeated failures to reunify, J.'s interest in stability is paramount.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, P. J.
BOREN

_____, J.
HOFFSTADT