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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

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

C067462

SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

(Super. Ct. No. JD227026)

Plaintiff and Respondent,

v.

JENNIFER F. et al.,

Defendants and Appellants.

Jennifer F. (mother) and Bobby G. (father) appeal from the juvenile court's order terminating their parental rights as to the minor, J.G. (Welf. & Inst. Code, § 366.26.)¹ Mother contends the court (1) wrongly denied her section 388 petition, and (2) wrongly found the beneficial parental relationship

¹ Undesignated statutory references are to the Welfare and Institutions Code.

exception to adoption inapplicable. Father raises no issues on his own behalf, but joins in mother's second contention. We shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On February 20, 2008, Sacramento County Department of Health and Human Services (the Department) filed a section 300 petition as to the almost two-and-a-half-year-old minor, alleging that mother's live-in boyfriend had severely beaten and threatened to kill mother, sometimes in the minor's presence. An amended petition further alleged: (1) mother also had a history of domestic violence with the alleged biological father, Bobby G., who was in county jail facing multiple felony charges; and (2) mother had a substance abuse problem, in that the minor tested positive for methamphetamine and opiates at birth.

The jurisdiction/disposition report stated that mother's live-in boyfriend had been charged with attempted murder, assault, and kidnapping, although she had recanted her charges against him. She had had other abusive domestic partners.

Mother had a criminal history including prostitution. She tested positive for methamphetamine and opiates when the minor was born.

According to mother, in childhood she was physically and sexually abused by family members. She was also born with a deformed foot, which was operated on 10 times beginning at 11 months of age; the operations removed more and more of her leg and left her in constant pain. The pain and the sexual abuse

together had "a devastating impact on her emotional stability." She became a dependent of the juvenile court at the age of 15.

Mother admitted past use of alcohol and marijuana, but denied current problems with them. Methamphetamine had been her drug of choice since she was 18.

Mother reported diagnoses of depression and bipolar disorder, but claimed her mental health was stable.

Mother's primary care physician reported she had a long history of depression "related to status post lower extremity amputation . . . and Chronic Pain Syndrome related to a poorly fitting prosthesis." He had prescribed multiple pain medications; he was not concerned that she might become dependent on them. Although he considered her psychologically fragile, he believed her to be an excellent parent.

At the jurisdictional and dispositional hearings in June 2008, the juvenile court sustained the amended section 300 petition.² The court placed the minor in foster care and ordered reunification services for mother.

At the six-month review hearing in October 2008, the juvenile court ordered six more months of services for mother.

The 12-month review report recommended terminating mother's services. It alleged that mother was using crack cocaine, living with a boyfriend who also used it, and prostituting

² The juvenile court had already entered a no-contact order as to Bobby G.

herself. Her visitation was once more supervised. She had had administrative dirty drug tests and had become hard to reach.

At the 12-month review hearing in April 2009, the juvenile court terminated mother's services and set a section 366.26 hearing.

The section 366.26 report, filed in August 2009, recommended continued out-of-home placement with the minor's current caregiver and a goal of legal guardianship. The current caregiver was not recommended as a legal guardian because she was not properly managing the minor's problems of Attention Deficit Hyperactivity Disorder (ADHD), speech delays, and extreme aggression toward other children.

Mother reported she was no longer seeing her former live-in boyfriend and had a restraining order against him. She said she was in school four days a week, doing paralegal studies. She continued to have supervised visitation with the minor, to which he looked forward eagerly. The Department thought the minor would benefit from continuing his relationship with her.

On August 13, 2009, the juvenile court found that termination of mother's parental rights would be detrimental to the minor. The court ordered continued placement with the caregiver and a goal of legal guardianship, along with continued visitation for mother.

On August 21, 2009, the Department filed a section 387 petition to remove the minor from his current caregiver. The

juvenile court sustained the petition, ordered the minor removed from his placement and set a section 366.26 hearing.

On March 29, 2010, mother filed a section 388 petition requesting the reinstatement of services. She alleged she had participated in services on her own and had visited the minor as regularly as permitted. She also alleged she would graduate with a degree in paralegal studies in May 2011, continued to attend NA/AA support group meetings, had support from a church fellowship, and regularly attended a "women's recovering group."

The Department's new section 366.26 report, filed April 19, 2010, recommended a 180-day continuance for further assessment as to services and home finding.

The report stated that mother had supervised visits with the minor once every two weeks for two hours, during which she had to continually redirect his behavior. The foster mother said the minor did not request visits or talk about mother. Although the minor (now in preschool) had improved in his speech, he remained impulsive, aggressive, and angry. The foster mother had not committed to adopting him. He was not generally adoptable due to his "extreme" special needs and troubled behavior, which needed "highly sophisticated parenting." While mother loved him, her history showed inadequate parenting skills; therefore, the Department did not recommend reinstating her services.

On April 29, 2010, the juvenile court denied mother's section 388 petition.

On June 15, 2010, the juvenile court authorized the administration of psychotropic medication to the minor.

On August 25, 2010, mother requested a bonding assessment, and the court subsequently ordered it done.

On October 4, 2010, mother filed a new section 388 petition, making the same request as before.³ She now alleged: (1) she and the minor were very closely bonded, as the Department had acknowledged; (2) she had worked hard to establish a life of sobriety and to address all the flaws in her lifestyle to become a better parent; (3) she had completed parenting classes and counseling and had become a "parent leader" at the Meadowview Family Resource Center; (4) her visits were temporarily increased to once a week, and the social worker, after observing a visit, had been very impressed; (5) although the visits had been reduced to once a month, they remained appropriate and loving, with no concerns noted.⁴

³ She later amended the petition to request, in the alternative, the minor's immediate return to her custody.

⁴ As documentation, mother attached: (1) a letter dated September 14, 2010, from the social worker who supervised visitation, opining that the minor should be reunited with mother and noting that the Department social worker had promised to look into whether mother could obtain more services; (2) supervised visitation reports from April through July 2010; (3) a letter dated August 12, 2010, from the Meadowview Family Resource Center coordinator, stating that mother had become a "parent leader" and "co-facilitator" of parenting classes; and (4) a counseling report from WEAVE, certifying mother's completion of a domestic violence support group, noting "a tremendous transformation" in her, and stating the hope that she could get another chance to prove herself a competent mother.

An addendum report filed October 15, 2010, recommended terminating parental rights and choosing a permanent plan of adoption. Mother continued to visit the minor regularly, the visits continued to go very well, and the minor's foster parent had decided against adoption. But the Department had located a new foster parent who wanted to adopt the minor, and he had been moved into her home on September 10, 2010.

The potential adoptive parent had adopted and successfully raised three children with greater special needs than the minor's, while preserving lifelong relationships with the children's biological families. She had shown great skill and ability in dealing with the minor. His behavior in kindergarten was improving, with the help of increased medication and the foster mother's regular presence at school. He already related to her as a parent, spoke about being part of her family and growing up in her home, and called himself her son. The benefits of permanence for him there far outweighed any bond he might have with mother.

The court-ordered bonding assessment, performed by Jeffrey Miller, Ph.D., was filed February 16, 2011.

Dr. Miller reported that mother said she was drug-free, living alone in a two-bedroom home, and working for the Child Abuse Prevention Council. The minor called her "mom" and called the foster mother his "new mom." He told mother he was happy in his current placement. His behavior had improved since he was placed on medication. He used to cry when visits ended, but now

he could separate from mother without significant problems; mother thought this was because he now understood he would be seeing her again. She had never received negative feedback about visitation.

The foster mother reported that the minor was doing well in his new placement. He looked forward to visits and phone contacts with mother and appeared to enjoy his time with her, but had no difficulty separating from her after visits. He did not talk about mother, ask to see her, or dream about her between visits. He was receiving therapy, focused on helping him adjust to his current placement.

Dr. Miller observed one visit between mother and the minor for 30 minutes. They appeared to be bonded and the visit went well, but during a brief separation the minor seemed unconcerned, and he separated from her at the end without difficulty.

Dr. Miller later observed the minor with his foster mother. His behavior was very similar on this occasion. He called the foster mother "mom." She used their play to parent him by teaching him about fairness and following rules. They appeared to have "a close and positive, mother-son type of relationship."

Dr. Miller interviewed the minor after each observation. The minor said he called both mother and the foster mother "mom." He had a satisfactory relationship with the foster mother, and no complaints about being placed with her. His favorite person in the foster home was his foster brother. When

asked where he would prefer to live, he said "[a]t my real mom's home." If he could no longer contact her, he would feel "sad, because I'd miss her." But when asked to draw a picture of his family, he drew his foster brother and foster mother; he could not draw a picture that included mother.

In Dr. Miller's opinion, the minor had "a fairly equal attachment to, and bond with, his mother and [the foster mother]." Both reported that he was "fairly adaptable." Mother thought if he no longer had contacts with her, he would act out more and suffer emotional detriment "at least on a short term basis." The foster mother thought he would not suffer emotional detriment if she adopted him.

Dr. Miller concluded that reunification with mother would be in the minor's best interests and he would suffer emotional detriment if not reunited with her.

At the consolidated section 388/section 366.26 hearing in February 2011, mother, the foster mother, Dr. Miller, and the adoptions social worker testified.

Dr. Miller opined that adoption would cause detriment to the minor in the short term (i.e., six months or less), but could not say whether it would do so in the long term. Even in the short term, however, adoption would not cause "significant emotional detriment" if the minor still had contact with mother. Dr. Miller had not considered whether it would be detrimental to the minor to remove him from his foster mother and foster siblings.

Mother testified as follows: She had supervised visits with the minor twice a month for an hour at a time and spoke to him once a week on the telephone; she had not had unsupervised visits since August 2009. During visits they would talk and play. She sometimes had to "set boundaries with him" because the minor could be hyperactive. He always greeted her eagerly, hugging and kissing her; when visits ended, he would hug her and tell her he loved her, but did not get as upset as he used to because he knew he would see her again.

Mother rented a two-bedroom duplex on a year-to-year lease. There was a room for the minor.

Mother had been employed by the Child Abuse Prevention Council since August or September 2010 as a "parent leader," counseling other parents in situations like hers; she had also taught two parenting classes. She would complete her work for a paralegal certificate at the end of the month.

Mother had learned a great deal from her parenting classes that she could apply during visitation. She had learned techniques of discipline; she had also learned how the domestic violence in her life had helped to cause the minor's developmental delays, anger, and aggression. When he acted out, she would sometimes ask him if he remembered how her boyfriend had hurt her.

In the first year of the proceedings, she had not benefited from her domestic violence class because she was in denial and thought she was being punished; now she realized that her choice

to stay with her abuser could have caused the minor's death. Her program with WEAVE had opened her eyes to the cycle of domestic violence, including her own past role in picking abusive partners. She now recognized the warning signs of a potential abuser.

Mother's stepfather physically abused her for most of her life, then sexually abused her from the ages of nine to 12. After her father took custody of her, he physically abused her when she was 15. She then went into a foster home until she turned 18.

Mother's relationship with Bobby G., over a period of months in late 2004 until mid-2005, was physically and emotionally abusive, and ended before the minor was born. She had had a previous abusive relationship in high school.

Mother's relationship with her previous live-in boyfriend began in 2003. (He was incarcerated when she met Bobby G.) It resumed in 2006. After another period of incarceration, he moved in with her in December 2007. His physical abuse lasted from then until February 2008, when the minor was removed. She recanted her charges against him because she thought if people believed he had not been abusive, she would get the minor back. She would not let him see the minor again.

Mother had had no relationships since then and did not intend to have one in the near future. She wanted to focus on getting her life in order.

Mother's abusive relationships and her history of prostitution stemmed from low self-esteem. Now, however, she felt proud of herself and what she had accomplished. Her support system included her former foster sisters and foster mother, her teachers, her coworkers, and her pastor's wife, who counseled her individually.

Mother still suffered from chronic pain, including leg pain from her foot amputation surgeries and arthritis in her knees and fingers. She began using prescription pain medications at age 15, including Vicodin, Norco, OxyContin, and Methadone, but weaned herself off all of them over the last year. She now used only prescription-strength Naproxen and a nonnarcotic pain medication for arthritis.

Mother used methamphetamine first at 19, got clean for quite a while, resumed in 2003 or 2004, quit again in 2005, then resumed again in February 2007 after a friend died. She finally quit for the last time in January 2009.

Mother had a glass of wine with her family on Christmas Day 2010, not seeing it as a lapse because alcohol had not been her main problem. But after speaking to her sponsor, she realized that using any substance was a problem because she is an addict. She considered Christmas 2010 to be her "clean date" now, meaning she had not lapsed since then.

Mother went through substance abuse classes during her reunification period. For the last eight months she had been in a weekly recovery program at her church. She also had a sponsor

through NA. She recognized her personal red flags for substance abuse and knew what to do when she spotted them.

She had had a good relationship with the foster mother in the beginning, but things were tenser now because the foster mother was upset that mother wanted the minor back. Mother thought he was well taken care of in the foster mother's home, but was overmedicated; she thought she could take care of him better. She could support him financially and emotionally. He told her he wanted to live with her. She had set up counseling programs and other programs to help him, and had worked to make a smooth transition from the foster mother's home to hers. She would maintain his contact with the foster family.

The foster mother testified as follows: She had two biological children (a 15- and an 18-year-old son) and three adopted children; two of them were now adults and did not live with her, but regularly saw her and the minor. The 15-year-old son and a 15-year-old adopted daughter lived with her. Two of her adopted children had or probably had ADHD, and one also had special needs. The foster mother encouraged her foster children to maintain ties to their biological families. If she adopted the minor, she would do the same with him.

The foster mother had been employed for five years by the Office of Education, working with "moderate to severe" special needs children up to the age of five.

The minor displayed ADHD behavior, needing constant refocusing. At first he was aggressive toward others, but responded to discipline.

The foster mother worked with the minor's school on his problematic behaviors. He now went for only half a day and was in the smallest available classes.

When the minor came to live with her, the foster mother gave him a choice of calling her by her first name or "mom." He chose "mom."

When she went out with the minor, he sometimes asked if mother would be there, but only if they were near a place where he had visited her.

The minor's 15-year-old foster sister related well to him. He loved his 15-year-old foster brother, going to his high school basketball practices and seeing him as a role model.

The minor told both foster siblings he loved them. He also told the foster mother that "all the time." He had talked about his future with the foster family. He had never said he wanted to go back and live with mother. The foster mother "very much" wanted to adopt him.

Adoptions social worker Lisa Wittorff testified that mother's visitation was reduced from two hours to one because the minor got restless. Mother requested more time, but Wittorff replied that mother was already receiving more visitation than usual in cases where adoption was the plan.

Afterward, in the interest of moving forward with adoption, Wittorff decreased the visits until the juvenile court ordered them restored to twice per month. She believed that increasing visitation was not in the minor's best interest, given the plan to adopt.

Because the minor had spent almost half his life in foster care and mother had had many chances to reunify, Wittorff decided as of July 2010 that the minor could not wait further for stability. Wittorff knew mother had made progress since then, but parts of mother's testimony concerned her. Nothing since July 2010 had changed her assessment of the minor's best interest.

In Wittorff's judgment, the foster mother (with whom Wittorff had worked on prior adoptions) was very skilled at dealing with the minor's special needs. She was very involved with his school and knew how to get him the help he needed there. Her household was good for him because it had a high level of activity.

After hearing argument under both section 388 and section 366.26, the juvenile court ruled:

Although there were troubling points in mother's testimony, she had proved a change of circumstances by a preponderance of the evidence.⁵ Having handled the case from the beginning, the

⁵ The court was troubled by mother's lapse with alcohol. The court was also concerned that mother's chronic pain could cause her to return to dependence on pain medication.

court felt mother had turned her life around. However, granting her section 388 petition would not be in the minor's best interest.

The court gave little weight to Dr. Miller's opinion because it did not properly consider the relationship between the minor and his foster family. Dr. Miller appeared to think reunification with mother would serve the minor's best interest only because she was his biological parent and was doing well, which is not the legal standard.

In light of the minor's need for permanence and stability, the court had to consider that mother was still at risk of relapsing. The court also had to consider the detriment to the minor if removed from his present family. Though he had told Dr. Miller he wanted to live with mother, he imagined his future with his foster family and could not even draw a picture of his family that included mother.

On the other hand, Dr. Miller saw only short-term detriment to the minor from severing ties with mother, and that opinion seemed to be based only on mother's opinion. The court found the foster mother's contrary opinion credible.

Under the test of *In re Kimberly F.* (1997) 56 Cal.App.4th 519, mother had clearly ameliorated the issues that led to the dependency, but the minor's bonds to the foster mother and foster siblings were now stronger than his bonds to mother.

Given how long the case had lasted already, how well the minor was doing in his current home, the risk that mother might relapse again, the detriment to the minor from removing him from his foster home, and his need for stability and permanence, his best interests would be served by denying mother's section 388 petition.

As to section 366.26, the minor was adoptable by clear and convincing evidence and was in a prospective adoptive home which was already approved for adoption. The only exception to adoption raised by mother, the beneficial parental relationship exception, did not apply because the detriment to the minor from severing the relationship did not outweigh the benefit to him from adoption.

At the time of the section 366.26 hearing, the minor was almost five-and-a-half years old and had been out of mother's custody for half his life. He looked to his foster mother to meet his needs. Although there had been frequent and loving contact with mother, this was not sufficient to show a significant, positive emotional attachment such that the minor would be greatly harmed by terminating parental rights.

Therefore, the court terminated mother's and father's parental rights and set the matter for adoption.

DISCUSSION

I. Section 388 Petition

Mother contends the juvenile court abused its discretion by denying her section 388 petition. We disagree.

A petition to modify a juvenile court order under section 388 must allege facts showing new evidence or changed circumstances, and that changing the order will serve the minor's best interests. (*In re Daijah T.* (2000) 83 Cal.App.4th 666, 672.) The petitioner has the burden of proof on both points by a preponderance of the evidence. (Cal. Rules of Court, rule 5.570(h)(1)(D).) In assessing the petition, the court may consider the entire history of the case. (*In re Justice P.* (2004) 123 Cal.App.4th 181, 189.)

To decide whether mother met her burden, the juvenile court had to consider such factors as the seriousness of the problem that led to the dependency and the reason for the problem's continuation; the degree to which the problem may be and has been removed or ameliorated; and the strength of the relative bonds between the dependent child and the child's parents and caretakers. However, this list is not exhaustive. (*In re B.D.* (2008) 159 Cal.App.4th 1218, 1229; *In re Kimberly F., supra*, 56 Cal.App.4th at p. 532.)

When a parent brings a section 388 petition after the termination of reunification services, the best interests of the child are of paramount importance. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) Therefore, the juvenile court looks not to

the parent's interest in reunification but to the child's need for permanence and stability. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.)

Where a section 388 petition has been denied after an evidentiary hearing, we review for abuse of discretion. (*In re S.R.* (2009) 173 Cal.App.4th 864, 866.) We reverse only if the ruling exceeded the scope of the court's discretion, or if under all the evidence (including reasonable inferences from the evidence), viewed most favorably to the ruling, no reasonable judge could have made that ruling. (*Great West Contractors, Inc. v. Irvine Unified School Dist.* (2010) 187 Cal.App.4th 1425, 1459; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351 (*Jasmine D.*)). Where the evidence conflicts, we reverse only if the evidence compels a finding for the appellant as a matter of law. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1527-1529.)

The juvenile court rested its ruling on the second prong of section 388: the child's best interest.⁶ We see no abuse of discretion in this ruling.

⁶ As to "changed circumstances," mother asserts that when the court stated concerns about her Christmas glass of wine and her possible reversion to addictive pain medications, it "employed an unjust standard and raised the burden of proof to an impossible level." But since the court found mother *did* show changed circumstances, it obviously did not raise the burden of proof to "an impossible level." Therefore, we need not decide whether the court's concerns revealed "an unjust standard" for changed circumstances. So far as the court considered these points in the context of the child's best interest, we discuss them *post*.

As the court found with respect to "changed circumstances," mother had removed or ameliorated the grave problems (substance abuse and domestic violence) that caused the minor's removal. However, this alone did not mean it was in the minor's best interest to reinstate mother's services or place the minor in her custody, and other factors the court could properly consider showed otherwise.

Detained at age two years five months, the minor had been out of mother's custody for half his life. After a string of unsatisfactory placements, he had found a foster parent who not only wanted to adopt him but had the skills and experience to meet his special needs. He had bonded with his foster family and imagined his future with them. Given his attachment to his foster mother and foster siblings, it was reasonable to conclude that his bonds to the foster family were now stronger than his bonds to mother, whom he saw for only two hours a month and from whom he parted without difficulty when visits ended.⁷

Furthermore, though mother has taken great strides toward a healthy and stable future, her efforts are still a work in progress. She is in the early stages of establishing herself as

⁷ Mother asserts: "[T]here was no evidence here that [the minor] would suffer detriment if removed from his foster home." But the juvenile court could reasonably infer that the minor would suffer detriment if removed from the foster family to which he had bonded and with whom he envisioned his future, and on appeal we must view all the evidence, including the reasonable inferences from the evidence, most favorably to the court's order.

a self-sufficient adult. Since she has avoided relationships with men, it is not yet proven that she can avoid falling into the wrong kind of relationship yet again. And, although a relapse into substance abuse may be unlikely, the court could not realistically find it impossible or extremely improbable. Mother has been off methamphetamine and prescription pain medications for a relatively short time compared to the time she had been on them. Her chronic pain remains and may well worsen. Whether her current nonnarcotic regimen can alleviate her pain in the long term is unknown. Thus, even assuming that mother's Christmas glass of wine was only a one-time slip, her ultimate success at recovery is far from certain. The uncertainty of mother's future outlook in all these respects is adverse to the minor's need for permanence and stability, which controls at this stage of the case. (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317; *In re Marilyn H.*, *supra*, 5 Cal.4th at p. 309.)

Mother relies on *Michael D.* (1996) 51 Cal.App.4th 1074 (*Michael D.*), in which the appellate court affirmed the juvenile court's order granting a mother's petition to modify prior orders by returning her five-year-old son to her custody and terminating a legal guardianship. (*Id.* at p. 1078.) That case is procedurally and factually distinguishable.

First, because the lower court in *Michael D.* granted the mother's petition, the ruling returning the minor to her custody was reviewed deferentially for abuse of discretion.

(*Michael D.*, *supra*, 51 Cal.App.4th at p. 1087.) Here, we must give the same deference to the order denying mother's petition.

Second, in *Michael D.*, although the minor's legal guardian (the paternal grandmother) sought to adopt him, it appears from the opinion that, unlike in the present case, the mother's reunification services had not been terminated when she petitioned to modify the existing orders. (*Michael D.*, *supra*, 51 Cal.App.4th at p. 1079.)

Third, the minor there testified that he wanted to live with his mother and only to visit his grandmother. (*Michael D.*, *supra*, 51 Cal.App.4th at p. 1080.) Here, though the minor said he wanted to live with both mother and his foster mother, the strongest evidence indicated that he envisioned his future in the foster home, not in mother's home.

Fourth, it appears from the opinion in *Michael D.* that the minor did not have special needs and his legal guardian was no more skilled at meeting his needs than his mother. (See *Michael D.*, *supra*, 51 Cal.App.4th at pp. 1078-1081.) Here, the minor has special needs, and the foster mother, unlike mother, has professional training and experience in dealing with such needs.

Fifth, and finally, no party in *Michael D.* disputed that it was in the minor's best interest to live with the mother, and the lower court found by clear and convincing evidence that it

was so.⁸ (*Michael D.*, *supra*, 51 Cal.App.4th at p. 1080.) Here, there was no agreement or finding that it was in the minor's best interest to live with mother.

The juvenile court did not abuse its discretion by denying mother's petition.

II. Beneficial Parental Relationship Exception

Mother, joined by father, contends the juvenile court erred by finding that the beneficial parental relationship exception to adoption did not apply.⁹ The court did not err.

At the selection and implementation hearing, the juvenile court must choose one of four alternative permanent plans for the minor; the permanent plan preferred by the Legislature is adoption. If the minor is adoptable, the court must terminate parental rights absent a showing of detriment to the minor. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368.)

⁸ The agency argued only that the hearing should have been transferred to another county and that a legal guardianship could not be terminated absent a showing of detriment inflicted on the minor by the guardian. (*Michael D.*, *supra*, 51 Cal.App.4th at p. 1080.)

⁹ The Department asserts that father lacks standing to join in any contention raised by mother and asks us to dismiss his appeal. Father clarifies in his reply brief that he claims standing only as to mother's second contention. He is correct that he has standing to challenge the court's ruling terminating mother's parental rights. (See *In re DeJohn B.* (2000) 84 Cal.App.4th 100, 110; *In re Caitlin B.* (2000) 78 Cal.App.4th 1190, 1193.)

The parent has the burden of establishing by a preponderance of the evidence that a statutory exception to adoption applies. (*In re Valerie A.* (2007) 152 Cal.App.4th 987, 998; *In re Zachary G.* (1999) 77 Cal.App.4th 799, 809.) When the juvenile court rejects an exception to adoption, we review the court's finding deferentially. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315 [whether standard of review deemed substantial evidence or abuse of discretion, broad deference to lower court required]; *Jasmine D., supra*, 78 Cal.App.4th at p. 1351 [abuse of discretion]; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576 [substantial evidence].)

To establish that the beneficial parental relationship exception to adoption applies, the parent must show that termination of parental rights would be detrimental to the minor because "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).)

"[T]he parent must show more than frequent and loving contact, an emotional bond with the child, or pleasant visits—the parent must show that he or she occupies a parental role in the life of the child." (*In re I.W., supra*, 180 Cal.App.4th at p. 1527.) It is not enough simply to show "some benefit to the child from a continued relationship with the parent, or some detriment from termination of parental rights." (*Jasmine D., supra*, 78 Cal.App.4th at p. 1349.) Even if there is a significant, positive emotional attachment between parent and

child, it does not bar adoption if the child looks to a prospective adoptive parent to meet his or her needs. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 231; *In re Zachary G.*, *supra*, 77 Cal.App.4th at p. 811.)

"Because a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child's needs, it is only in an extraordinary case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement." (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) Despite mother's frequent and loving contact, visitation, and bond with the minor, this is not such a case.

The minor had been out of mother's custody for nearly three years, which is a long time in the life of a young child. Though mother believed and Dr. Miller opined that her relationship with the minor was parental, the foster mother had been acting for a substantial time as the minor's primary parent, while mother saw him only twice a month in supervised visits. The foster mother had training and experience in dealing with the minor's special needs, and was effectively doing so at home and at school. (See *In re Angel B.* (2002) 97 Cal.App.4th 454, 467 [child's age, portion of life spent in biological parent's custody, and particular needs must be considered in assessing whether a relationship is important and beneficial to the child].) The minor now looked to the foster mother to meet his needs. (*In re Dakota H.*, *supra*,

132 Cal.App.4th at p. 231; *In re Zachary G.*, *supra*,
77 Cal.App.4th at p. 811.) Finally, even Dr. Miller—the only
witness aside from mother who asserted detriment from
terminating mother’s parental rights—opined only that there
would be some short-term “emotional detriment” to the minor,
and even this would not be “significant” if he were allowed to
maintain contact with mother, as the foster mother intended.

Substantial evidence supported the order terminating
parental rights.

DISPOSITION

The order terminating parental rights is affirmed.

_____ BUTZ _____, J.

We concur:

_____ NICHOLSON _____, Acting P. J.

_____ HOCH _____, J.