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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

In re Z.H. et al., Persons Coming Under
the Juvenile Court Law.

SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

S.H. et al.,

Defendants and Appellants.

C069157

(Super. Ct. Nos.
JD228059 & JD228060)

S.H. (father) and Catherine M. (mother) appeal from the juvenile court's orders terminating their parental rights and ordering adoption as the permanent plan for minors Z.H. and S.H. (Welf. & Inst. Code, § 366.26.)¹ Each parent argues that the court erred by finding the beneficial

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

parental relationship exception to adoption inapplicable. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On August 15, 2008, Sacramento County Department of Health and Human Services (the Department) filed section 300 petitions as to two minor girls: Z.H., who was 11 months old, and S.H., who was four years old. The petitions alleged that the minors, who lived with mother, were at risk of sexual abuse because mother's live-in boyfriend was a sex offender and because mother minimized his conviction and maintained his "sex offender status pose[d] no risk to [the minors]." Mother told the social worker that her boyfriend's sexual offense "just" had to do with a rape he had committed when he was 19 years old.

On September 26, 2008, the Department filed amended section 300 petitions which included allegations that mother and father had a history of domestic violence. Father had four domestic violence convictions -- three convictions for inflicting corporal injury on a spouse or cohabitant and a recent conviction for two counts of violating a court order aimed at preventing domestic violence. The parents were in the process of dissolving the marriage and had an ongoing family law custody battle.²

² Father and mother were married on or about the date on which S.H. was born.

The jurisdiction/disposition report filed September 11, 2008 recommended foster care for the minors and reunification services for the parents.

An addendum report filed October 22, 2008 stated that mother claimed to have moved in with the paternal grandmother in Yuba County, but it had also been reported that the parents were living together with a friend at father's last known address in Sacramento.

At the jurisdiction/disposition hearing held on October 30, 2008, the juvenile court dismissed the allegation as to mother's boyfriend but sustained the other allegation of the amended section 300 petitions. The court ordered out-of-home placement for the minors and reunification services for the parents.

The permanency report filed March 27, 2009 recommended that the minors be placed with father under dependent supervision and that both parents receive further services. Father, now living with the paternal grandmother in Yuba County, had completed his services and had progressed to weekly unsupervised visitation with the minors. He expected to move in with a family friend if he reunified with the minors. Mother had relocated to Sacramento, had begun but not completed services, and might still be in contact with her former live-in boyfriend. Her visitation was still supervised, and she had missed some visits. S.H. had been referred to Parent-Child Interactive Therapy (PCIT) because

of escalating behaviors such as tantrums, physical aggression and not following directions from the previous caretaker.

On April 10, 2009, the minors were placed with father under dependency supervision pending a contested hearing, and that placement order was maintained after the permanency hearing on May 1, 2009.

The permanency review report filed October 15, 2009 recommended placing the minors in both parents' custody under dependent supervision. According to that report, Z.H. was doing well in father's custody. However, there were several reports that father disciplined S.H. by spanking or "whooping" her. It was also reported that father grabbed S.H. by the hair. Father was presented with a corrective action plan in which, among other things, he was told to not use corporal punishment in the future. Father was compliant with services and therapy, but had not completed the 52-week batterer's program required as a condition of parole.

Mother had completed counseling and domestic violence services, but it was unknown whether she had also completed parenting classes. She had had overnight visitation with the minors in father's home. After becoming pregnant by "a classmate" with whom she said she was no longer in contact, she delivered a premature and medically fragile male infant in June 2009. She was living with a friend and receiving financial aid for herself and the infant.

At the permanency review hearing on November 6, 2009, the juvenile court made the recommended findings and orders, finding

that both parents were making excellent progress and ordering that the minors be placed with both parents under dependent supervision.

On March 2, 2010, the Department filed section 388 petitions, seeking the removal of the minors from father's care and their placement with mother. According to the petition, father had committed a new act of domestic violence against mother, routinely cursed at mother in front of the minors, and was still using corporal punishment on the minors. S.H. complained that father had pulled her hair and a social worker observed evidence of this on her scalp. Since placement of the minors in the father's care, father had violated three corrective action plans. Father and S.H. were discharged from PCIT for poor attendance and because father did not allow the PCIT therapist to enter the home for services.

On March 19, 2010, the juvenile court ordered that father not reside or remain in the home until further order of the court.

On April 15, 2010, the juvenile court ordered the minors placed with mother under dependent supervision. The parents were ordered to live separately. Father was referred for PCIT, and both parents were referred for coparenting education and counseling.

An in-home review report filed June 3, 2010 recommended placing the minors with both parents under dependent supervision. According to the report, the parents claimed they

had been brought closer together by the death of mother's infant son in April 2010.³ However, they had not yet participated in coparenting, and there had been a new referral alleging domestic violence between them. While the minors were living with mother, father had visitation at least once a week.

Z.H., now three and a half years old, was also developing normally, but was on a waiting list for PCIT to deal with her defiant and aggressive behaviors.

S.H., now almost six years old, wanted to remain placed with both parents. Her development was normal, though she engaged in tantrums and backtalk when she did not get her way. She constantly needed redirection to not hit her younger sister and to follow directions. She and mother were participating in PCIT.

At an in-home review hearing on June 18, 2010, the juvenile court ordered the minors placed with both parents under dependent supervision.

On July 23, 2010, the Department filed section 387 petitions seeking the removal of the minors from both parents' custody. The petitions alleged that on or about June 22, 2010, only four days after the last review hearing, the parents had again engaged in domestic violence in front of the minors and father had injured mother.

³ The cause of death was an epileptic seizure with respiratory arrest. There was no indication of child abuse or neglect.

According to the detention report filed July 28, 2010, the sheriff's report stated that father forced his way into the apartment, dragged mother into the bathroom while he hit her with an open hand, and kicked her and spit in her face. When mother tried to call law enforcement, father took her cellular phone. The sheriff's report was later attached to the jurisdiction/disposition report filed on September 10, 2010. According to the sheriff's report, mother told the deputy that father kicked in the front door and then kicked in the bedroom door where mother and the minors were sleeping. It was in this room where the assault began. A deputy observed that the security chain on the front door was separated from the wall and there was a fresh split in the door. The bedroom door was completely off its hinges and there was a hole in this door. S.H. told a deputy she observed father spit on mother, slam the door on mother's fingers, and slap mother. While father lay on top of mother on the hallway floor, mother told S.H. to go get a knife, but S.H. did not get the knife because "knives are too dangerous." Contrary to mother's rendition and what S.H. told the deputy, father claimed that mother punched, choked, and kicked him, and that she appeared to be under the influence of a drug. Father claimed mother was "lying through her teeth" and made these false accusations against him to take the children from him. A deputy observed that mother had swelling to her cheek, but observed no injuries to father.

On June 23, 2010, the day after the incident, a social worker spoke to mother about the incident. Mother stated that

during the assault, father accused her of being with other men. Mother added that later in the morning, she took both minors with her to find the family car, which father had taken. After she found it, another domestic violence incident occurred in front of the minors, during which father pulled her out of the car and a fight over the keys ensued. S.H. told the social worker what had occurred when they went to look for the car. She said, "Daddy tried to drag mommy out of the car." S.H. explained that she and her sister were standing on the sidewalk when this occurred. Father told the social worker that mother simply started "flipping out," throwing things around the apartment. He accused mother of coaching the children to lie about the incident.

On July 21, 2010, father pled no contest to felony corporal injury on a spouse or cohabitant. This was father's fifth domestic violence-related conviction since 2006.

The jurisdiction/disposition report filed September 10, 2010 recommended terminating parents' reunification services and setting the matter for a section 366.26 hearing because parents had failed to reunify with the minors after over two years of services and father had disobeyed a criminal protective order forbidding contact with mother. The report indicated that mother met with a social worker August 9, 2010, at which time she described the June 22, 2010 domestic violence incident in the same manner as she had previously described it to the deputies, although she denied telling S.H. to get a knife, claiming that father told S.H. to say that. Father denied the

domestic violence, claiming that mother assaulted him and "set him up so she could get the children." He also accused mother of telling S.H. to lie to the police. S.H. told the social worker that not only did mother tell her to get a knife, but also that when S.H. did not get the knife as directed, "Mommy went into the kitchen and was trying to smash daddy with the knife."

At the contested jurisdiction/disposition hearing on October 26, 2010, both parents testified. On direct examination, father admitted that an act of domestic violence had occurred on June 22, 2010, but he denied that the incident posed a danger to the minors, claiming that they were in their room during the incident.

On cross-examination, father testified that he was "[n]ot aware of" slamming mother's fingers in a door. When asked whether he had lain on top of mother, father replied, "Well, I held her against the wall, so, yes." When father was asked on cross-examination to describe just what had occurred, he stated, ". . . I don't really remember the day too clearly, but I remember . . . I was getting some things to take back from the apartment that we had together to take to my mother's house. But my wife, she was out with her friend, . . . some girl. And I got jealous. When she came back in, I was -- I got jealous, and I asked her where was she at, and she didn't want to talk. And when she did decide to talk like five minutes later . . . , I grabbed her by the arms and I asked her, . . . we need to talk. I grabbed her purse, and I grabbed her phone

I got jealous. I grabbed her. My daughters were in the room. They were asleep. They didn't hear us fight. They wasn't even around us. We wasn't even throwing no punches or nothing like that. . . . She said leave. I told her, no. I mean, I'm not leaving. It was late. . . . I'm going to sleep, right. And, you know, . . . it was jealousy. It was grieving because earlier in the day, . . . my wife . . . was crying and breaking down about our son that had just passed earlier that day. . . .⁴

[¶] I mean, that day it was like I got jealous, and I grabbed her and pushed her around . . . , I didn't want [her] hanging around this girl and this dude and whatever they're doing. She just needed a break. I didn't understand that. And I didn't listen when she asked me to leave. And she picked up the phone, and she said I'm going to call the police and make you leave if you don't want to leave. I didn't leave. I just stayed there and tried to talk to her"

Mother testified that during the June 22 incident, father slammed her fingers in a door, lay on top of her, choked her, held her down, and kicked and punched her. She sustained a swollen cheek and a loose tooth from being punched in the face. After father left with her phone, car keys, and house keys, she was able to call the police using an emergency phone she had. She admitted that the incident affected the minors, stating, "They didn't need to see their mother hit and pushed and

⁴ The record is clear that mother's infant son died in April 2010.

st[ol]mped on." Mother continued to deny that she had asked S.H. to get a knife.

The juvenile court noted that there had been multiple referrals going back to November 2006, most of which involved domestic violence between father and mother. The court also noted father's multiple domestic violence convictions. The court sustained the allegations of the section 387 petitions, terminated the parents' services, and set a section 366.26 hearing. In doing so, the court found that the parents' constant domestic violence had emotionally damaged the minors. Mother's story about the latest incident was more credible than father's, but if she "d[id]n't have enough sense . . . over a two-year period to permanently end the relationship," she was just as responsible for the minors' harm as father. The parents had clearly not benefited from services.

An addendum report filed December 15, 2010 recommended placing the minors with S.M. S.M. is a nonrelated extended family member who lives near the paternal grandmother in Yuba County, has known the minors all their lives, had lived with the parents at one time, and has a six-year-old son fathered by the paternal uncle. On December 28, 2010, the juvenile court ordered this placement.

The section 366.26 report filed February 4, 2011 recommended the termination of parental rights and adoption. The minors were generally adoptable, S.M. wanted to adopt them, and they were happy in her care. A home study referral had been made. The parents' supervised weekly visitation with the minors

went well. However, in light of the recommendation to adopt, visitation was reduced to once a month.

At the contested section 366.26 hearing on August 26, 2011, the parents and S.M. testified.

Father testified that he believed the minors wanted to be with him and mother. Every time he saw them, they ran toward him and jumped on him. They said they loved him and missed him and wanted to come home. They cried when the visits ended. They called him "Dad" or "Daddy," although S.H. sometimes also called him by his first name. They told him, "I want to go home with you Dad."

Father's visits for the four months prior to the hearing had been once a month for an hour; before that, he had visited twice a week. The most recent visits were supervised by S.M. He had had an unsupervised visit "six months or a year ago," which went very well.

When asked what he would like the court to do "today," father responded, ". . . I will ask the Court to please give me a chance to be a better father to my children. And I know I had that chance before, and I will ask the Court can I prove myself that I can be a better father and that I can do the proper steps and that I will never put me [sic] daughters in no dangerous situations ever again. And that's what I would like." If the minors were not returned to him or mother, he supported their placement with S.M. under legal guardianship with continued visitation for himself.

Mother testified that she visited the minors once a month, in the company of father and S.M. The minors always ran up to her, said "hi" and "Mommy" "really loudly," hugged her and kissed her. During visits, they would play games with her. They were always extremely happy during the visits. When the last visit ended, Z.H. cried and S.H. looked very depressed.

When asked what she would like to see happen, mother responded, "I would like to see my visitation schedule be a little bit more time. Each time I see them, you know, it's not enough time. I just feel that I need more time with my children and work it out from there to further be placed back into the custody of me." She objected to S.M. becoming legal guardian, and she would "still appeal" if the court made that order. Mother ended her testimony by saying, "I've been in treatment for mental, emotional and physical abuse. And I'm in a program that covers not only me but my husband as well and marriage counseling and grieving. And we are taking the exact steps that we need to take at this moment for our misbehavior in the past. And we are correcting for the future. And I really apologize for all of this inconvenience to my kids and to everyone here."

S.M. testified that the minors had a good relationship with the parents. The minors were excited about seeing the parents before and during visits. Between visits, the minors would say that they missed their parents and wanted to see them. After visits, S.H. wrote in her journal about them, though mostly about mother. Both minors told S.M. "[a]ll the time" that they missed the parents and asked about them, but this occurred

mostly during the first week after a visit. After that, they would stop talking about their parents so much.

The minors did not show signs of emotional disturbance in the periods between parental visits. They were not in therapy.

S.M. believed the parents' visits benefited the minors and should continue even after adoption. However, she did not want the minors returned to the parents.

S.M. understood the legal difference between guardianship and adoption, and preferred adoption for the minors: ". . . I don't want them to go through the same thing that they already went through. They already been [sic] in the system for almost two years or more. And they had an opportunity with their parents, and they went back to the system. So if I can stop that, then I want to adopt them."

The juvenile court found that since the minors were adoptable, guardianship was not the preferred option. The court also found that the parents had not shown that the beneficial parental relationship exception to adoption applied; although they had a loving relationship with the minors, its benefit to the minors did not outweigh the benefit of adoption at this stage of the case. S.M.'s testimony was compelling in this respect because she clearly understood that adoption would provide permanency and stability for the minors, while guardianship would not.

For all these reasons, the juvenile court terminated the parents' rights and ordered adoption as the permanent plan, with

the minors to be placed with S.M. under supervision by the Department.

DISCUSSION

Each parent contends that the juvenile court erred in not applying the beneficial parental relationship exception to adoption: father contends he had such a relationship with the minors, and mother contends she did, as well. The court did not err.

A. Standard of Review

Father suggests that we review the juvenile court's decision under the substantial evidence test. Under this test, we uphold a juvenile court's ruling declining to find such an exception if substantial evidence supports the finding. (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1527 (*I.W.*); *In re Zachary G.* (1999) 77 Cal.App.4th 799, 809.)⁵ In employing this test, ""we

⁵ Mother notes a split of authority, but does not propose a standard of review. We are fully aware of the split of authority concerning the standard of review in this context. (See *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315 (*Bailey J.*) [hybrid combination of substantial evidence and abuse of discretion standards]; *I.W.*, *supra*, 180 Cal.App.4th at p. 1528 [modified substantial evidence test -- "where the issue on appeal turns on a failure of proof at trial, the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law"]; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576 (*Autumn H.*) [substantial evidence test -- "On review of the sufficiency of the evidence, we presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order"]); *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351 (*Jasmine D.*) [abuse

are bound by the established rules of appellate review that all factual matters will be viewed most favorably to the prevailing party [citations] and in support of the judgment 'In brief, the appellate court ordinarily *looks only at the evidence supporting the successful party, and disregards the contrary showing.*' [Citation.] All conflicts, therefore, must be resolved in favor of the respondent.'" (I.W., supra, 180 Cal.App.4th at p. 1527, original italics.) Thus, on appeal, the parent has the burden of showing there is no evidence of a sufficiently substantial nature to support the finding or order. (In re Dakota H. (2005) 132 Cal.App.4th 212, 228.)

B. Parental Relationship Exception

If reunification efforts have failed, as they have here, and the minor is adoptable, the court must select adoption unless under section 366.26, subdivision (c)(1)(B), "[t]he court finds 'a compelling reason for determining that termination would be detrimental to the child'" under at least one of six exceptions. Under this provision, "the court must order adoption and its necessary consequence, termination of parental rights, unless one of the specified circumstances provides a compelling reason for finding that termination of parental rights would be detrimental to the child. The specified statutory circumstances--actually, *exceptions* to the general rule that the court must choose adoption where possible--'must

of discretion test].) Our conclusion in this case would be the same under any of these standards.

be considered in view of the legislative preference for adoption when reunification efforts have failed.'" (*In re Celine R.* (2003) 31 Cal.4th 45, 53, original italics.) "'Adoption is the Legislature's first choice because it gives the child the best chance at [a full] emotional commitment from a responsible caretaker.'" (*Ibid.*, quoting *Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1348.)

Section 366.26, subdivision (c)(1)(B)(i) provides an exception when the parent has "maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." In the juvenile court, the parent has the burden of establishing that a statutory exception to adoption applies (*Bailey J.*, *supra*, 189 Cal.App.4th at p. 1314; *In re Megan S.* (2002) 104 Cal.App.4th 247, 252; Cal. Rules of Court, rule 5.725(d)(4)) by a preponderance of the evidence (*In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449). The Department need not establish that the minor would *not* benefit from continued parental contact. (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466 (*Angel B.*)).

To prove that the beneficial parental relationship exception applies, "the 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. [Citation.]" (*I.W.*, *supra*, 180 Cal.App.4th at p. 1527.) Moreover, 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.) There must be a significant, positive emotional attachment between parent and child. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.) The parent must prove that the parental relationship “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297, quoting *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575; accord, *Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1345.) “In other words, the court balances the strength and quality of the natural parent[-]child relationship in a tenuous placement against the security and the sense of belonging a new family would confer.” (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 953, quoting *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) “When the benefits from a stable and permanent home provided by adoption outweigh the benefits from a continued parent/child relationship, the court should order adoption.” (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350, quoting *Zachary D.*, *supra*, 77 Cal.App.4th at p. 811; see also *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

Factors courts consider in determining the applicability of the parental relationship exception include: (1) the age of the child, (2) the portion of the child’s life spent in the parent’s custody, (3) the positive or negative effect of interaction between the parent and the child, and (4) the child’s particular needs. (*Angel B.*, *supra*, 97 Cal.App.4th at p. 467; *Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.)

"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.)

Here, it is undisputed that the parents maintained regular and frequent visitation and contact with the minors, and the parents and the minors had a strong emotional attachment. However, as the juvenile court found, the minors' interest in permanence and stability had to control at this stage of the proceedings, and the court found that that interest would best be served by adoption.

The minors had been out of the parents' custody for a significant part of their lives. When the dependency began, Z.H. was not yet one year old and S.H. was four years old; at the time of the section 366.26 hearing, they were nearly four and seven years old, respectively. Since the dependency began, they had bounced back and forth between foster care and one or the other parent. Each time they were placed with one or both parents, the parents' chronic domestic violence flared up again and frighteningly disrupted the minors' lives. Even after over two years of services, the parents had not managed to curb their hostility toward each other for the minors' sake.

On the other hand, S.M., the prospective adoptive parent, had known the minors all their lives. She had had them in her care for eight months by the time of the section 366.26 hearing.

She had provided them a safe haven in which they were thriving. S.H. tells S.M. that she wants to be with S.M. until she is "big." A social worker observed numerous drawings by S.H. in the home which read, "I Love You [S.M]." Up until their placement with S.M., the minors had exhibited aggressive and defiant behaviors that required counseling through PCIT, but by the time of the permanency hearing, they were no longer in counseling. The minors' behavior was not surprising given their exposure to the domestic violence in the home. Nevertheless, S.M. understood the minors' attachment to the parents and intended to allow continued visitation even if not legally required to do so, as long as visitation did not harm the minors. S.M.'s testimony showed that she deeply understood the damage the minors had suffered from the lack of permanence and stability in their lives and their paramount need for such permanence and stability.

Citing *Angel B.*, both the Department and mother suggest an alternative showing that could have been made to support application of the parental relationship exception. In *Angel B.*, the court set forth two separate theories, stating that "the parent has the burden of showing *either* that (1) continuation of the parent-child relationship will promote the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents [citation] or (2) termination of the parental relationship would be detrimental to the child. [Citation.]" (*Angel B.*, *supra*, 97 Cal.App.4th at p. 466, italics added.)

But even assuming a parent could prevail without showing the benefits balance in favor of application of the parent relationship, the court in *Angel B.* emphasized that "the parent must show that severing the natural parent-child relationship would deprive the child of a *substantial*, positive emotional attachment such that the child would be *greatly* harmed.

[Citations.] A biological parent who has failed to reunify with an adoptable child may not derail an adoption merely by showing the child would derive *some* benefit from continuing a relationship maintained during periods of visitation with the parent." (*Angel B.*, *supra*, at p. 466, original italics.) The parents here may have shown *some* benefit, but they have not shown that the minors would be *greatly* harmed by terminating the parental relationship.

So far as the parents assert that legal guardianship would have sufficed to provide the minors with permanence and stability while allowing the parents to retain their rights, they ignore the Legislature's clearly stated preference for adoption when children are adoptable. (See, e.g., *Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) Guardianship is not equivalent to the security of a permanent home. (*Dakota H.*, *supra*, 132 Cal.App.4th at p. 231.) "[G]uardianship is 'not irrevocable and thus falls short of the secure and permanent placement intended by the Legislature.'" [Citation.] (*Ibid.*)

Substantial evidence clearly supported the juvenile court's finding that the beneficial parental relationship exception to adoption did not apply as to either parent.

DISPOSITION

The orders terminating parental rights are affirmed.

_____ MURRAY _____, J.

We concur:

_____ HULL _____, Acting P. J.

_____ ROBIE _____, J.