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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(El Dorado)

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

EL DORADO COUNTY DEPARTMENT OF
HUMAN SERVICES,

Plaintiff and Respondent,

v.

T.H.,

Defendant and Appellant.

C070721

(Super. Ct. No.
PDP20110028)

T.H., mother of the minor, appeals from orders terminating parental rights. (Welf. & Inst. Code, §§ 366.26, 395; statutory references that follow are to the Welfare and Institutions Code unless otherwise designated.) Appellant reasserts her challenge to the order denying her services which she first raised in an extraordinary writ that was denied in case No. C068854. (Cal. Rules of Court, rule 8.450.) Appellant also argues the court erred in failing to apply the sibling and beneficial relationship exceptions to avoid

termination of parental rights and in failing to order an updated bonding study. Appellant contends the court erred in denying her petition for modification and that there was a failure to comply with the notice provisions of the Indian Child Welfare Act (ICWA) (25 U.S.C. 1901 et seq.). We affirm the orders of the juvenile court.

FACTS AND PROCEEDINGS

In April 2011, the El Dorado County Department of Human Services (the Department) filed a petition to detain 20-month-old Devin T. due to the parents' substance abuse and failure to protect him. The minor was placed with a paternal aunt and his eight-year-old half sibling was placed with the maternal grandmother.

The reports provided an extensive review of appellant's substance abuse and child welfare history. Appellant had been the subject of 22 referrals and 16 investigations with four substantiated referrals.

The half sibling's father told the social worker he saw appellant using drugs prior to the half sibling's birth in 2003 and found bags of white drugs under the mattress. In 2005, petitioner successfully completed a voluntary family maintenance plan to address her substance abuse. During this period, petitioner was ordered by the family law court to complete a 26-week substance abuse treatment program. In 2008 there were continued reports of neglect and substance abuse without intervention. In August 2010, appellant disclosed she was drinking to the point of passing out.

In January 2011, appellant tested positive for methamphetamine, admitted ongoing use of methamphetamine and again agreed to a voluntary family maintenance plan for the minor and his half sibling. In March 2011, the minor was placed with his father, under the family maintenance program, following appellant's hospitalization for ingesting pills and her subsequent arrest for possession of a controlled substance for sale. Appellant admitted methamphetamine use during this time period and felt her drug use was increasingly out of control around the end of February 2011. Within a month of

appellant's hospitalization, a petition was filed removing the minor from his father's custody as a result of domestic violence and father leaving the minor in appellant's care knowing appellant admitted continued drug use.

In May 2011, the court sustained the petition and set a disposition hearing. At the pretrial hearing appellant requested a bonding study to address the best interest exception to bypassing reunification services. The court ordered Dr. Roeder to perform the study.

Appellant was in an inpatient drug treatment program and admitted she had an addiction to methamphetamine. The Department recommended denial of services because appellant was a chronic drug user who had resisted prior court-ordered treatment within three years of filing the petition. The Department assessed that services were not in the best interests of the minor due to appellant's failure to benefit from prior services, the numerous child welfare referrals and appellant's high risk for relapse which placed the minor's stability at risk.

At the disposition hearing in July 2011, Dr. Roeder testified appellant had a strong and positive attachment to both boys but continued removal was not detrimental as long as they had contact with her. However, if contact were broken, it would be detrimental to their development. He further testified that stability was important to a child's physical and mental development. Dr. Roeder was unable to give an opinion on whether services would be in the minor's best interests.

The social worker testified that appellant's visits were appropriate and that the minor did show some separation anxiety at the end of visits. The social worker stated that the family law court ordered appellant to drug test in November 2003 and to participate in drug treatment in 2005. The social worker further testified that appellant had a positive test for methamphetamine in January 2011 and a second positive test for methamphetamine in May 2011. The social worker testified appellant had completed her inpatient program and was engaged in outpatient treatment.

The court denied services for appellant pursuant to section 361.5, subdivision (b)(13). The court did not find that services would be in the best interests of the minor pursuant to section 361.5, subdivision (c).

The assessment for the section 366.26 hearing stated the two-year-old minor remained in the care of the paternal aunt who was also the prospective adoptive parent. The minor was bonded to the paternal aunt and thriving emotionally, physically and psychologically in her care. The minor had some respiratory illnesses due to smoke in his parent's home and needed major dental work. He was developmentally on target and was in preschool. He no longer had night terrors and was not in therapy but did have anxious behaviors after visits with his half sibling and the maternal grandmother. The minor had twice weekly supervised visits with appellant and the half sibling. The visits were going well and appellant was appropriate and effective in interacting with the minor. The minor was assessed as highly adoptable. He was young, able to attach to his current caretaker and showed healthy boundaries with strangers. He was transitioning from visits with appellant more easily but showed anxious behaviors after visits with the maternal grandmother and his half sibling. The paternal aunt felt it was important to continue contact between the siblings and was open to contact with the parents provided they remained clean and sober. The Department recommended adoption as the permanent plan to provide the maximum permanence and stability for the minor.

At the section 366.26 hearing on January 19, 2012, appellant requested a contested hearing and an updated bonding study, noting that the prior study was to address a different issue. Minor's counsel argued that appellant had many months to request a bonding study but did not do so and the current request was merely for delay. The Department agreed the request was untimely. The court set a contested hearing but declined to delay the proceedings for a bonding study.

Appellant filed a petition for modification in January 2012 alleging as changed circumstances, the existence of a conflict in the minors' counsel's representation of both

minors because it was not in the half sibling's interest to implement the permanent plan of adoption for the minor. The minors were each placed with relatives who would not be able to ensure a continuing relationship and the half sibling's caregiver said that it would be detrimental for the half sibling to lose contact with the minor. The petition sought an order for separate counsel for the minors because the minors had "potentially conflicting interests." The petition alleged the change would be in the half sibling's best interest because he felt like his voice was not being heard. The half sibling's caregiver information form was attached to the petition. At the hearing, minor's counsel said there was no conflict in representing both minors, pointed out that the minors would not be placed together in any case because they had been on different tracks since the disposition hearing and argued that the petition was brought for purposes of delay. The court stated it was "hard pressed" to find an actual conflict and denied the petition.

At the selection and implementation hearing in February 2012, the social worker testified that, although the minor missed his mother initially, he had settled and was happy in his current placement. The social worker saw no reason why adoption would not occur. The minor was able to attach to the paternal aunt and was developing normally in her care.

Appellant testified she and the half sibling visited the minor regularly and described a typical visit in which the minor wanted time with her but also wanted attention from the half sibling. Appellant testified that sometimes the minor was upset at the end of visits and sometimes he was not. She further testified about services she had participated in since the disposition hearing to improve her skills and stability. She said her drug tests for January 2012 were negative but admitted she was charged in December 2011 with possession of paraphernalia after a search warrant was executed at her residence. Appellant also testified she was charged with being under the influence in December 2011 but that was due to prescription medication for dental work.

The maternal grandmother, who was the half sibling's caregiver, supervised their weekly visits. She testified the minor was very excited to see his half sibling and that the half sibling looked forward to the minor's visits.

The paternal aunt testified that the minor saw his half sibling at visits with appellant and in separate weekly visits and that she would allow sibling visits in the future. She also testified that the minor had no behavioral problems after visits with appellant.

At appellant's request, the court admitted Dr. Roeder's testimony from the disposition hearing as an exhibit. The court found by clear and convincing evidence that the minor was likely to be adopted in a reasonable time and that appellant had not met her burden to establish either the sibling or the beneficial relationship exception to adoption. The court terminated parental rights and selected a permanent plan of adoption.

DISCUSSION

I

Issues Raised in Prior Petition

Appellant first contends that she may reassert the issues raised in her prior petition for extraordinary writ which was summarily denied in case No. C068854.

“Subsequent appellate review of findings subsumed in an order setting a section 366.26 hearing is dependent upon an antecedent petition for writ review of those findings having been ‘summarily denied’ ” (*Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501, 1513; see also § 366.26, subd. (I).) Appellant did file a petition arguing the court erred in denying her services pursuant to section 361.5, subdivision (b)(13) because the evidence did not show she “has a history of extensive, abusive, and chronic use of drugs” and further did not show she “failed or refused to comply with a program of drug or alcohol treatment described in the case plan . . . on at least two prior occasions” (§ 361.5, subd. (b)(13).) Appellant also argued that, even if the bypass

conditions were established, the court should have found that reunification was in the minor's best interests and ordered services. (§ 361.5, subd. (c).) The petition was summarily denied September 15, 2011. When "the denial is summary, the petitioner retains his or her appellate remedy (§ 366.26, subd. (l)(1)(C)) but is limited to the same issue on the same record (§ 366.26, subd. (l)(1)(B)) and thus is destined on appeal to receive the same result." (*Joyce G.*, at p. 1514.)

A. *Section 361.5, subdivision (b)(13)*

To support an order bypassing services pursuant to section 361.5, subdivision (b)(13), the evidence must establish two elements. The first is a history of drug use. On appeal, appellant renews her argument that the evidence did not show she had a history of extensive, abusive and chronic use of drugs as required by section 361.5, subdivision (b)(13). That section provides in relevant part: "(b) Reunification services need not be provided to a parent . . . described in this subdivision when the court finds, by clear and convincing evidence . . . : [¶] (13) That the parent . . . of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for the problem during a three year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by section 358.1 on at least two prior occasions, even though the programs identified were available and accessible." (361.5, subd. (b)(13).)

When the sufficiency of the evidence to support a finding or order is challenged on appeal, even where the standard of proof in the trial court is clear and convincing, the reviewing court must determine if there is any substantial evidence--that is, evidence which is reasonable, credible and of solid value--to support the conclusion of the trier of fact. (*In re Angelia P.* (1981) 28 Cal.3d 908, 924; *In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214.) The reviewing court may not reweigh the evidence and must resolve all

conflicts in favor of the prevailing party. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319; *Jason L.*, at p. 1214; *In re Steve W.* (1990) 217 Cal.App.3d 10, 16; .)

The evidence showed that the half sibling's father observed appellant's drugs and drug use in 2002. Appellant was ordered to drug test in 2003 and entered a voluntary treatment plan for substance abuse in 2005. Appellant also was subject to a court-ordered drug treatment plan during that time. While there are reports of possible substance abuse in 2008 and alcohol abuse in 2010, appellant claims she was clean and sober from 2006 until her positive drug test in January 2011. At that time appellant admitted monthly use prior to the test and then had nearly continuous drug use over the next three months up to her hospitalization for overdose and her arrest for possession for sale of a controlled substance.

Appellant asserts that the statutory condition of extensive, abusive and chronic use of drugs cannot be shown because there was a five-year period when she was clean and sober. The statute does not require any particular set of facts to establish the first element of the bypass provision. A showing of continuous use or a lengthy period of use may suffice, but the court is required to assess whatever facts have been adduced to determine whether the condition for bypass of services exist.

There is no solid evidence of appellant's drug use from 2006 to 2011. However, even assuming appellant was not abusing drugs or alcohol during that period, the remaining evidence constitutes substantial evidence of extensive, abusive and chronic use of drugs. Appellant was using drugs in 2002 and 2005. After a successful treatment program and five years clean and sober, appellant engaged in polysubstance abuse of pills which led to an overdose and admitted ongoing and increasing methamphetamine use. She was arrested for possession for sale of a controlled substance. The juvenile court did not err in finding that the first prong of the section 361.5, subdivision (b)(13) bypass circumstance was satisfied.

The second element of the bypass provision can be satisfied in either of two ways, i.e., by resisting prior court ordered treatment within three years of filing the petition or by failing to comply with at least two treatment programs ordered as a part of the case plan. We agree with appellant that the evidence did not show she had failed or refused to comply with a treatment program ordered as a part of a case plan because appellant had never been ordered to participate in such a treatment program. Her prior services had been voluntary with the exception of the court-ordered drug treatment program in the family law court.

Appellant's petition for extraordinary writ did not address the resistance to treatment element for establishing the bypass provision and she cannot now assert that the evidence did not establish it. (*Joyce G. v. Superior Court, supra*, 38 Cal.App.4th at p. 1514.) However, even assuming that the issue was raised in the petition, appellant's argument fails. The evidence showed she participated in a 26-week drug treatment program ordered by the family law court and that she resisted that treatment in the months prior to filing the petition by resuming methamphetamine use. Contrary to appellant's argument, only the resistance to treatment, not the court-ordered treatment itself, must occur within the three-year period prior to filing the petition. (*Laura B. v. Superior Court* (1998) 68 Cal.App.4th 776, 780.)

B. Section 361.5, subdivision (c)

Appellant argues that, even if section 361.5, subdivision (b)(13) was established, the court should have ordered services pursuant to section 361.5, subdivision (c) because she had completed inpatient treatment and the minor had a positive bond with her.

That subdivision provides, in part: "The court shall not order reunification for a parent . . . described in paragraph . . . (13) . . . of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child." A juvenile court has broad discretion when determining whether further reunification

services would be in the best interests of the child. (*In re Angelique C.* (2003) 113 Cal.App.4th 509, 523.) An appellate court will reverse that determination only if the juvenile court abuses its discretion. (*Id.* at pp. 523-524.) It is the parent's burden to "affirmatively show that reunification would be in the best interest" of the child. (*In re Ethan N.* (2004) 122 Cal.App.4th 55, 66.)

In exercising its discretion, the court assessed all the evidence before it, including appellant's long drug abuse and child welfare history, appellant's recent and serious relapse after years of sobriety and the likelihood of her success in treatment given the severity of her relapse. The court also considered Dr. Roeder's testimony regarding the bond between appellant and the minor, the lack of detriment in continued removal, the importance of stability for a child, the difficulty in overcoming an addiction of long standing and that he was unable to say whether services were in the minor's best interest. In reviewing the record, we cannot conclude the juvenile court abused its discretion in determining that providing appellant services was not in the minor's best interests.

II

Termination Detrimental to the Minor

Appellant asserts that she established that termination of parental rights would be detrimental to the minor both because the minor would benefit from continued contact with her and because there would be a substantial interference with the minor's relationship with his half sibling.

At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must choose one of the several " 'possible alternative permanent plans for a minor child. . . . *The permanent plan preferred by the Legislature is adoption.*' If the court finds the child is adoptable, it *must* terminate parental rights absent circumstances under which it would be detrimental to the child." (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368, citations omitted.) There are only limited circumstances which permit the court to find a "compelling reason for determining that termination [of parental rights]

would be detrimental to the child.” (§ 366.26, subd. (c)(1)(B).) The party claiming the exception has the burden of establishing the existence of any circumstances which constitute an exception to termination of parental rights. (*In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1252; *In re Cristella C.* (1992) 6 Cal.App.4th 1363, 1373; Cal. Rules of Court, rule 5.725(e)(3); Evid. Code, § 500.)

A. Benefit Exception

Termination of parental rights may be detrimental to the minor when: “The 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).) However, the benefit to the child must 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. 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. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent’s rights are not terminated.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) Even frequent and loving contact is not sufficient to establish this benefit absent a significant positive emotional attachment between parent and child. (*In re Teneka W.* (1995) 37 Cal.App.4th 721, 728-729; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419; *In re Brian R.* (1991) 2 Cal.App.4th 904, 924.)

It is undisputed that appellant maintained regular visitation and that she and the minor had a positive bond. However, to establish the exception the bond must outweigh the benefit of a stable permanent placement. The evidence showed that the minor was thriving in the paternal aunt’s home and no longer had night terrors. The minor did not have anxious reactions following the supervised visits with appellant. To the extent that

Dr. Roeder's prior bonding study was applicable, the study said only that as of July 2011, it would be detrimental if the minor's contact with appellant were severed. However, the minor was transitioning between appellant and his caretaker more easily as time went on and needed permanence and stability. Appellant did not establish that the minor would be greatly harmed if the parent-child relationship was severed or that the relationship outweighed the benefit to the minor of a permanent, secure and stable home.

B. Sibling Exception

A second circumstance under which termination of parental rights would be detrimental is when "[t]here would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption." (§ 366.26, subd. (c)(1)(B)(v).) The court must consider the interests of the adoptive child, not the siblings in determining whether termination would be detrimental to the adoptive child. (*In re Celine R.* (2003) 31 Cal.4th 45, 49-50; *In re Daniel H.* (2002) 99 Cal.App.4th 804, 812.)

"To show a substantial interference with a sibling relationship the parent must show the existence of a significant sibling relationship, the severance of which would be detrimental to the child. Many siblings have a relationship with each other, but would not suffer detriment if that relationship ended. If the relationship is not sufficiently significant to cause detriment on termination, there is no substantial interference with that relationship." (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 952, fn. omitted.)

The minor and his half sibling had lived together since the minor was born and to the extent possible, shared experiences although there was a significant disparity in ages.

However, since removal the minor and his half sibling were placed in separate homes and were unlikely to be reunified in a single home due to their separate placements and plans. Moreover, there is nothing in the record which shows that there was anything other than a normal sibling relationship between the two boys. There is no basis to suspect that the minor felt such a bond with his half sibling that he should be denied the permanence and stability of adoption. The court properly concluded the sibling relationship was not so significant that termination would cause detriment to the minor.

III

Updated Bonding Study

Appellant argues the court erred in denying her request for an updated bonding study.

A bonding study, whether inter-sibling or parent-child, is not required prior to termination of parental rights. (*In re Richard C.* (1998) 68 Cal.App.4th 1191, 1195; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1339.) Bonding studies after termination of services often require delays in permanency planning. (*Richard C.*, at p. 1197.) While the court does have discretion to order a bonding study late in the process, denial of a belated request is consistent with the dependency statutes and due process. (*Ibid.*)

There was a good deal of evidence in the reports about the nature of the bonds between the minor and appellant and the minor and his half sibling. The previous bonding study was still relatively fresh, although the focus was somewhat different. Appellant's request was late in the process. Because the court set a contested hearing, the parties had the opportunity to explore any changes in the relationships which could affect the termination decision. The court did not abuse its discretion in choosing not to delay the proceedings to secure a marginally useful bonding study.

IV

Conflict Counsel

Appellant argues the juvenile court erred in denying her petition for modification which sought appointment of conflict counsel for the minors.

A parent may bring a petition for modification of any order of the juvenile court pursuant to section 388 based on new evidence or a showing of changed circumstances.

Section 388 provides, in part: “Any parent . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court . . . for a hearing to change, modify, or set aside any order of the court previously made or to terminate the jurisdiction of the court. . . . [¶] . . . If it appears that the best interests of the child may be promoted by the proposed change of order, . . . recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held”

“The parent requesting the change of order has the burden of establishing that the change is justified. [Citation.] The standard of proof is preponderance of the evidence. [Citation.]” (*In re Michael B.* (1992) 8 Cal.App.4th 1698, 1703.) Determination of a petition to modify is committed to the sound discretion of the juvenile court and, absent a showing of a clear abuse of discretion, the decision of the juvenile court must be upheld. (*In re Stephanie M., supra*, 7 Cal.4th at pp. 318-319; *In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.) The best interests of the child are of paramount consideration when the petition is brought after termination of reunification services. (*Stephanie M.*, at p. 317.)

The Supreme Court in *In re Celine R., supra*, 31 Cal.4th 45, held “that the court may appoint a single attorney to represent all of the siblings unless, at the time of appointment, an actual conflict of interest exists among them or it appears from

circumstances specific to the case that it is reasonably likely an actual conflict will arise. After the initial appointment, the court must relieve counsel from the joint representation when, but only when, an actual conflict of interest arises.” (*Id.* at p. 50.) Further, “error in not appointing separate counsel for a child or relieving conflicted counsel” requires reversal only if it is reasonably probable the outcome would have been different but for the error. (*Id.* at p. 60.)

Minor’s counsel has a duty to represent the minor’s interests notwithstanding the minor’s preferences, thus conflicting preferences do not necessarily give rise to a disqualifying conflict. (*In re Zamer G.* (2007) 153 Cal.App.4th 1253, 1270-1271.) The fact that siblings have different permanent plans does not necessarily demonstrate an actual conflict. (*In re T.C.* (2010) 191 Cal.App.4th 1387, 1391.) Because the sibling relationship exception did not apply and the minors were not living in the same home, advocating for the minor’s adoption had no adverse consequences to the half sibling’s interest which was in reunification with his father. No actual conflict existed. The juvenile court did not abuse its discretion in denying the petition for modification.

V

The Indian Child Welfare Act

Appellant contends reversal is required to comply with the notice requirements of the ICWA, specifically, she argues that the notices which were sent were defective because they did not include the available information about the maternal great-great-grandmother.

At the outset of the proceedings, the maternal grandmother informed the Department that the minor may have Indian heritage in the Cherokee tribes. The maternal grandmother provided the names of the maternal great-grandmother and the maternal great-great-grandmother. Notice of the proceedings was sent to the three Cherokee tribes but did not include the name or any information about the maternal great-great-grandmother. The court found the ICWA did not apply.

The ICWA protects the interests of Indian children and promotes the stability and security of Indian tribes by establishing minimum standards for, and permitting tribal participation in, dependency actions. (25 U.S.C. §§ 1901, 1902, 1903(1), 1911(c), 1912.) If, after the petition is filed, the court “knows or has reason to know that an Indian child is involved,” notice of the pending proceeding and the right to intervene must be sent to the tribe. (25 U.S.C. § 1912(a); § 224.2; Cal. Rules of Court, rule 5.481(b).)

State statutes, federal regulations and the federal guidelines on Indian child custody proceedings all specify the contents of the notice to be sent to the tribe in order to inform the tribe of the proceedings and assist the tribe in determining if the child is a member or eligible for membership. (§ 224.2; 25 C.F.R. § 23.11(a), (d), (e); 44 Fed.Reg. 67588 (Nov. 26, 1979).) If known, the agency should provide name and date of birth of the child; the tribe in which membership is claimed; the names, birthdates, and places of birth and death, current addresses and tribal enrollment numbers of the parents, grandparents and great-grandparents as this information will assist the tribe in making its determination of whether the child is eligible for membership and whether to intervene. (§ 224.2; 25 C.F.R. § 23.11(a), (d), (e); 44 Fed.Reg. 67588 (Nov. 26, 1979); *In re D.T.* (2003) 113 Cal.App.4th 1449, 1454-1455.)

While the better course of action is to provide all known information on the minor’s ancestry to the tribes when providing notice of the proceeding, the statutes and regulations do not require that the Department provide information on great-great-grandparents. There was no error in failing to provide the information. Absent any indication from the tribes that such information was needed, failure to include the information was harmless.

DISPOSITION

The orders of the juvenile court are affirmed.

_____ HULL _____, J.

We concur:

_____ BLEASE _____, Acting P. J.

_____ MAURO _____, J.