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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

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

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

PATRICIA U. et al.,

Objectors and Appellants.

D061759

(Super. Ct. No. SJ12002B)

APPEAL from orders of the Superior Court of San Diego County, Carol Isackson,
Judge. Affirmed.

Patricia U. and Roy H. appeal orders terminating parental rights to their daughter, Ariana U., under Welfare and Institutions Code section 366.26.¹ Roy claims the court violated his due process rights when it terminated his parental rights without making a sufficient finding that it would be detrimental to Ariana to place her in his care. Patricia asserts the court erred when it found that terminating parental rights would not substantially interfere with Ariana's relationship with a sibling. Each parent joins in the other's brief. (Cal. Rules of Court, rule 8.200(a)(5).) We affirm the findings and orders.

FACTUAL AND PROCEDURAL BACKGROUND

Patricia U. is the mother of Ariana U., who is now four years old. Patricia has three other children, S.U., I.L., and A.M., by different fathers. Patricia has a lengthy history of substance abuse, including methamphetamine abuse.

In May 2008, when Ariana was a month old, the San Diego County Health and Human Services Agency (Agency) detained her and I.L. in protective custody. At the time, S.U. and A.M. were living with their respective fathers. Patricia acknowledged she used methamphetamine during her pregnancy with Ariana. The juvenile court assumed jurisdiction and ordered a family reunification plan for Patricia.

The Agency asked Patricia to identify Ariana's father. In her parentage inquiry and offer of proof, Patricia averred she had a relationship with Ariana's father in August 2007. She did not remember his name or any other information about him. In response to the question "Did you tell him he was the child's father?", Patricia checked "Yes" and

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

wrote "we have only spoken once recently, he didn't disagree to [the] possibility." Later, Patricia said she was "90 percent" sure the unidentified man was Ariana's father.² She had his name and address "written down somewhere" because she used to write to him when he was in prison.

Patricia participated in services and maintained her sobriety. In June 2009, the Agency placed Ariana and I.L. in her care under a plan of family maintenance services. Their brother, S.U., returned to Patricia's home in late December. The social worker said Ariana was a playful and loving two-year-old who enjoyed being the center of attention. Her mother and brothers adored her.

Patricia relapsed in November 2010 and re-enrolled in a treatment program. The Agency did not remove the children at that time. Patricia continued to struggle to maintain her sobriety. In March 2011, Patricia said she and I.L. inadvertently ingested methamphetamine-laced water. Patricia tested positive for methamphetamine. The Agency removed the children from her care and placed Ariana and I.L. with relative caregivers. The court denied Patricia further reunification services and set a section 366.26 hearing.

In approximately July, the relative caregivers said they were no longer willing to provide a permanent home for Ariana and I.L., and asked the Agency to remove Ariana

² Patricia named two other men who might be Ariana's father. Paternity testing excluded one of the men, and the other did not appear in juvenile court proceedings. Patricia's husband, who was initially designated as Ariana's presumed father, obtained a judgment of nonpaternity.

from their home "sooner rather than later." Ariana's behaviors were "needy and demanding" and impacted their ability to attend to their own children.

In August 2011, Patricia told the social worker she remembered that Ariana's father's name was Roy. She did not know his last name or any other information about him. The Agency filed a Declaration of Due Diligence stating it was unable to locate "Roy Doe." The court found all attempts made to identify "Roy Doe" were unsuccessful and further attempts to provide notice to him of Ariana's dependency proceedings were not required.

In October 2011, the Agency placed Ariana in her fifth foster care placement since she was removed from her mother's care in 2008. Ariana transitioned easily into her new home and bonded with the caregivers. She called them "Mama" and "Papa." They were committed to adopting her.

In January 2012, 14-year-old S.U. filed a petition under section 388, subdivision (b), asserting a sibling relationship with Ariana. S.U. alleged it was in Ariana's best interests for the court to consider his perspective in selecting and implementing her permanent plan. He opposed adoption. The court granted S.U.'s petition to participate in the section 366.26 hearing.

On March 9, 2012, Patricia was at a bus stop when a man, later identified as Roy H., approached her and asked "don't I know you?" Patricia told him that he was Ariana's father. Roy contacted the social worker and requested paternity testing. The social worker learned Roy was on parole and was living in a parolee program but did not make any further inquiries into his circumstances.

At a hearing on March 16, Roy testified he did not have any contact with Patricia from August 2007 to March 9, 2012. He never received a telephone call, e-mail or message regarding a child. Roy did not make any effort to contact Patricia again. He did not know she was pregnant. Roy never met Ariana.

Patricia testified that Roy's representations were accurate. She had not known his last name, address or other identifying information about him until last week, and provided all the information she had about Roy to the social worker.

Paternity testing confirmed Roy was Ariana's biological father. He filed a section 388 petition asking the court to allow him to establish a relationship with Ariana and place her with him. Roy alleged he had raised his other children, who were now adults, and was a capable and loving father.

At the section 366.26 hearing on April 10, 2012, Patricia and Roy submitted a voluntary declaration of paternity. The court found that Roy was Ariana's presumed father under Family Code section 7573. The court further found that Roy did not state a prima facie case it would be in Ariana's best interests to be placed with him, and denied a hearing on the merits of the section 388 petition.

The court admitted the Agency's reports in evidence and accepted the stipulated testimony of the social worker and S.U. If called to testify, the social worker would state there were currently 60 approved adoptive homes in San Diego County willing to adopt a child like Ariana. The social worker reported that Ariana was bonded with her caregivers, who adored her and wanted to adopt her. Ariana could not be removed from

their home without experiencing trauma and psychological harm. The social worker characterized Ariana's relationships with her siblings, including S.U., as "weak at best."

The parties stipulated that if called, S.U. would testify he lived with Ariana for 13 months. He helped care for her because his mom was a single mother. When Ariana saw him, she was happy and ran to greet him. She knew he was her brother. S.U. said he and Ariana shared a close relationship. He did not want Ariana to be adopted.

The court found by clear and convincing evidence that placement with Roy would be detrimental to Ariana because she did not have any relationship with him. Roy and Patricia did not meet their obligations to arrange for their child to know her father. In view of Ariana's need for stability and permanency, turning back the clock to introduce her to Roy would be harmful to her. With respect to the sibling relationship exception to termination of parental rights, the court found that a safe, permanent adoptive placement was more important to Ariana's long-term interests than maintaining her relationship with S.U. The court found that Ariana was adoptable and terminated parental rights.

DISCUSSION

I

The Record Supports the Court's Detriment Finding; Roy's Due Process Rights Were Not Violated

A

Contentions on Appeal and Standard of Review

Roy argues the court's detriment finding was based solely on the fact he and Ariana did not have an existing relationship. He contends this is an inadequate basis for

the finding of parental unfitness or detriment the court is required to make before it can extinguish his fundamental interests in his daughter's care, companionship and custody. Roy states when he learned of his paternity, he took immediate action to demonstrate his commitment to Ariana and provide for her emotional, financial and other needs. He claims there is no reliable evidence to show the process of establishing a relationship with Ariana or the newness of living with him would prove harmful to her.

The Agency argues the court erred when it permitted Roy to execute a voluntary declaration of paternity and elevate his status to presumed father. It contends that as a mere biological father, Roy was not entitled to a finding of parental unfitness or detriment and the court did not violate his due process rights when it terminated his parental rights. The Agency posits the court was required to find only that termination of parental rights was in the child's best interests because Roy did not have any relationship with Ariana and she was in the care of prospective adoptive parents.

The question whether due process requires a finding of parental unfitness or detriment to a parent appearing for the first time after reunification services have been terminated, and the court has not previously made any detriment findings as to that parent, is a matter of law, subject to de novo review. (*Ghiardo v. Antonioli* (1994) 8 Cal.4th 791, 800-801.) The facts in this case are not in dispute. When historical facts are undisputed but different inferences may be drawn from the evidence, the appellate court is not free to make its own deductions but must accept the resolution of conflicting inferences by the trier of fact. (*In re Providian Credit Card Cases* (2002) 96 Cal.App.4th 292, 301.)

B

Roy Properly Exercised His Due Process Right To Establish His Paternity

As a preliminary matter, we address the Agency's argument the court erred when it permitted Roy to execute a voluntary declaration of paternity. The Agency contends that a voluntary declaration of paternity served no legitimate purpose in Ariana's case.

The Agency argues that without a valid declaration of paternity, Roy's status was that of a mere biological father. A particularized finding of unfitness or detriment is not required before terminating the parental rights of a biological father who has not demonstrated a commitment to his parental responsibilities. (*In re A.S.* (2009) 180 Cal.App.4th 351, 362; *In re Zacharia D.* (1993) 6 Cal.4th 435, 450 (*Zacharia D.*); see *Francisco G. v. Superior Court* (2001) 91 Cal.App.4th 586, 596 [presumed fathers possess far greater rights than alleged or mere biological fathers].) Instead, the court may terminate the parental rights of a mere biological father on a showing of best interest of the child. (*In re A.S.*, *supra*, at p. 362.)

We are not persuaded by the Agency's argument. An alleged father has the due process right to notice and "an opportunity to appear and assert a position and attempt to change his paternity status." (*In re O.S.* (2002) 102 Cal.App.4th 1402, 1408.) Here, Roy appeared and submitted to a paternity test. When the test results established his paternity, he and Patricia then executed a voluntary declaration of paternity.³ A valid declaration

³ Roy's biological relationship to Ariana was confirmed prior to the execution of the voluntary paternity declaration. There is nothing in the record to indicate the voluntary paternity declaration was pretext.

of paternity may be made at any time after the child's birth. (*In re D.R.* (2011) 193 Cal.App.4th 1494, 1507-1508; Fam. Code, § 7571, subd. (d).) The Agency cites no pertinent authority to support its argument that a juvenile court may prevent parents from filing a *voluntary* declaration of paternity.⁴

A completed voluntary declaration of paternity that has been filed with the Department of Child Support Services establishes the paternity of a child and has the same force and effect as a judgment for paternity issued by a court of competent jurisdiction. (Fam. Code, § 7573; *In re Liam L.* (2000) 84 Cal.App.4th 739, 747.) In dependency proceedings, if a biological father does not attain presumed father status before the termination of any reunification period, as here, he is not entitled to custody of the child or an opportunity to reunify unless he shows that placement or a further period of reunification services is in the child's best interests under section 388. (*Zacharia D.*, *supra*, 6 Cal.4th at pp. 454-455 [elevating a biological father's interest in custody above the child's interest in stability and permanency defeats the Legislature's careful balance of interests reflected in the time frame of the dependency laws].)

We now discuss whether principles of due process require the court to make a finding of unfitness or detriment before it seeks to terminate the parental rights of a father

⁴ The only case cited by the Agency in support of its position, *In re Eric E.* (2006) 137 Cal.App.4th 252, is inapposite. That case involved the competing paternity claims of the mother's husband and the child's biological father, who had been granted reunification services but did not seek presumed father status until those services had been terminated. (*Id.* at pp. 256-257.)

who has attained presumed father status but is not entitled to custody or reunification services.

C

Due Process

" 'It is axiomatic that due process guarantees apply to dependency proceedings.' "
(*In re Dakota H.* (2005) 132 Cal.App.4th 212, 222 (*Dakota H.*), quoting *Ingrid E. v. Superior Court* (1999) 75 Cal.App.4th 751, 756.) Due process is not a static concept. To determine whether the process is constitutionally adequate, the court evaluates the private interests at stake, the state's interest and the risk the procedures used will lead to an erroneous decision. (*Dakota H.* at p. 222, citing *Lassiter v. Department of Social Services* (1981) 452 U.S. 18, 24, 27 (*Lassiter*); see *Mathews v. Eldridge* (1976) 424 U.S. 319, 335.)

A parent possesses a fundamental liberty interest in the care, custody and companionship of his or her child. (*Stanley v. Illinois* (1972) 405 U.S. 645, 651.) Similarly, a child has a fundamental interest in belonging to his or her natural family, and a compelling interest in living free from abuse and neglect in a safe, stable and permanent home with an fully committed caregiver. The welfare of a child is a compelling state interest that a state not only has a right, but the duty, to protect. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 306-307 (*Marilyn H.*); *Dakota H.*, *supra*, 132 Cal.App.4th at p. 223.)

The United States Supreme Court observes that "persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures. (*Santosky v. Kramer* (1982) 455 U.S. 745, 753-754 (*Santosky*)). As a general principle, the state must prove parental unfitness by clear and convincing evidence to prevent the erroneous termination of the parent/child relationship and meet minimum due process requirements. (*Id.* at pp. 747-748, 760.)

Under the California dependency scheme, by the time the case reaches a section 366.26 hearing, a current finding of parental unfitness or detriment is not statutorily required to terminate parental rights. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 249-250 (*Cynthia D.*)). The court need only make two findings to terminate parental rights: "(1) that there is clear and convincing evidence that the minor will be adopted; and (2) that there has been a previous determination that reunification services shall be terminated." (*Ibid.*) The California Supreme Court has held that this scheme comports with due process because the "precise and demanding substantive and procedural requirements the petitioning agency must have satisfied before it can propose termination are carefully calculated to constrain judicial discretion, diminish the risk of erroneous findings of parental inadequacy and detriment to the child, and otherwise protect the legitimate interests of the parents." (*Id.* at p. 256.)

When a parent does not appear in his or her child's dependency proceedings until reunification services have been terminated, the protections afforded to a parent by the structure of the California dependency scheme are largely absent. In California, the statutory rights of a father who does not attain presumed father status until late in the proceedings are significantly diminished. (*Zacharia D.*, *supra*, 6 Cal.4th at p. 455.) Under these circumstances, the parent retains a critical need for the procedural protections that diminish the risk of erroneous termination of parental rights. (*Santosky*, *supra*, 455 U.S. at pp. 747-748, 760.)

Minimum procedural due process requirements are a matter of federal law. Those requirements " 'are not diminished by the fact that the State may have specified its own procedures that it may deem adequate for determining the preconditions to adverse official action.' " (*Santosky*, *supra*, 455 U.S. at p. 755, quoting *Vitek v. Jones* (1980) 445 U.S. 480, 491.) The facts and circumstances that may have impeded a parent's appearance in a dependency case until late in the proceedings are too varied to deem unnecessary any procedural protections that lessen the risk of erroneous termination of parental rights. (See, e.g., *In re Z.K.* (2011) 201 Cal.App.4th 51, 55 [mother of kidnapped child did not locate the child until a section 366.26 hearing had been set].) If the case has proceeded to a section 366.26 hearing and the court has not made any prior findings of detriment as to a parent (the child's mother or presumed father) who has recently appeared in the case for the first time, the state must show by clear and

convincing evidence that placement with that parent would be detrimental to the child. (*Santosky, supra*, 455 U.S. at pp. 747-748, 760; § 366.21, subds. (e) & (f).)

The detriment standard is "at best a nebulous standard that depends on the context of the inquiry." (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1490.) A parent's fundamental interest in the care, custody and companionship of his or her child is at its strongest at the onset of the case. Thus, at a dispositional hearing, a child may not be removed from parental custody unless the court finds by clear and convincing evidence there is a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child and there are no reasonable means to protect the child's physical health without removal. (§ 361, subd. (c)(1); see also § 361, subd. (c)(2)-(6).) A finding that reunification services will not be provided under section 361.5, subdivision (b) or (e), also establishes detriment. (§ 366.26, subd. (c)(1).)

At review hearings, the parent's interest in the care, custody and companionship of his or her child remains strong. The court is required to return the child to the physical custody of his or her parent unless the court finds by a preponderance of the evidence that return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. (§§ 366.21, subds. (e) & (f), 366.22, subd. (a).) At a review hearing, "the risk of detriment must be *substantial*, such that returning a child to parental custody represents some danger to the child's physical or emotional well-being." (*In re C.C., supra*, 172 Cal.App.4th at p. 1490; *Rita L. v. Superior Court* (2005) 128 Cal.App.4th 495, 505; *David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 789

(*David B.*) [detriment standard at a review hearing "must be construed as a fairly high one" in view of the constitutional interests at stake].)

Once reunification services have been terminated, the state's interest requires the court to focus its efforts on the child's placement and well-being, rather than on the parent's interest in regaining custody. (*Marilyn H., supra*, 5 Cal.4th at p. 307.) When a parent appears in his or her child's dependency proceedings for the first time after attempts to reunify the child with the other parent have been unsuccessful, that parent's untimely appearance does not alter the statutory context of the section 366.26 hearing, which is focused on the child's interest in permanency and stability. (*Marilyn H., supra*, 5 Cal.4th at p. 309; see *In re A.S.* (2009) 180 Cal.App.4th 351, 361 [court may terminate the parental rights of a previously noncustodial parent without having made a dispositional finding that he or she is an unfit parent].)

While the standard for a "first-time" detriment finding for a parent at this juncture "must be construed as a fairly high one" (*David B., supra*, 123 Cal.App.4th at p. 789), it must also take into consideration the heightened interests of the child and the state in the child's secure and permanent placement (*Lassiter, supra*, 452 U.S. at pp. 24-25 [applying the due process clause to any particular situation is an uncertain enterprise which considers any relevant precedents and then assesses the interests at stake]). Thus, in determining whether return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child, the court properly focuses on factors that may not be as critical to the child's interests at a review hearing as they are at a section 366.26 hearing. These factors may include, among others, the length of time

the child has been a dependent of the court; whether the child has a past or current relationship with the parent; the parent's actions after learning of the child's birth, including whether the parent had any opportunity to establish a relationship with the child and did not do so; the reason the parent did not come forward earlier in the proceedings;⁵ the parent's current circumstances⁶ and ability to provide a safe, stable and permanent home to the child without the need for an uncertain reunification period; whether the child is currently placed in a prospective adoptive placement or whether a prospective adoptive placement has yet to be identified for the child; the strength of the child's bond to any prospective adoptive parent; and if age-appropriate, the child's wishes.

D

There Is Substantial Evidence To Support the Detriment Finding

Roy contends the court's detriment finding was based only on the fact he and Ariana did not have any relationship. He argues that absent any other evidence related to

⁵ In assessing the reasons the parent did not come forward earlier in the proceedings, the court should consider whether the other parent impeded that parent from assuming his or her parental rights and responsibilities. (See, e.g., *Adoption of Kelsey S.* (1992) 1 Cal.4th 816, 848 (*Kelsey S.*) [in a private adoption proceeding, absent a showing of a father's unfitness, his child is ill-served by allowing its mother to prevent the child from having a relationship with its only other biological parent].)

⁶ When a parent appears for the first time after reunification services have been terminated, the social services agency should conduct at least a minimal investigation of that parent's circumstances, and report any criminal, substance abuse or prior child welfare history to the court. (§§ 366.21, subs. (e) & (f); § 16504.5, subd. (a)(1); see § 365; see, e.g., § 366.26, subd. (c)(1) [a felony conviction indicating parental unfitness constitutes a sufficient basis for termination of parental rights].)

his fitness as a parent, Ariana's lack of a relationship with him is not sufficient to support a finding of detriment.

We are not persuaded by Roy's argument. The record shows the court viewed the lack of any parent/child relationship in the context of the length of Ariana's dependency proceedings and the number of placements she had during that time. The court expressed concerns about the effect of the number of placements on Ariana's ability to trust others and develop self-confidence and a sense of identity. In addition, when the sufficiency of the evidence is raised on appeal, the reviewing court looks to the entire record for substantial evidence to support the juvenile court's findings. (*In re N.S.* (2002) 97 Cal.App.4th 167, 172.) The record supports a finding that placement with Roy, or delaying permanency to allow him an opportunity to reunify with her, would be detrimental to Ariana's physical and emotional well-being.

At the time of the section 366.26 hearing, Ariana was almost four years old. She had been in the juvenile court system since she was a month old. After five foster care placements and a failed placement with her mother, Ariana was living with caregivers who were committed to adopting her. She called them "Mama" and "Papa." She was happy and thriving in their home. The experienced social worker said it would be "devastating" to Ariana if she were removed from their home. The social worker emphasized that Ariana had a great need for permanency and could not be removed from her current placement without trauma and psychological harm.

The paucity of information in the record about Roy does not assist him here. It is largely negative. Roy was a parolee and was living in a parolee program. The court

could reasonably infer he had a felony conviction, remained in need of rehabilitation and was not able to offer a stable, permanent home to Ariana. In addition, the court could draw the reasonable inference that delaying permanency to allow Roy to complete his rehabilitation program and attempt to stabilize his circumstances was contrary to Ariana's need for security. Ariana did not know Roy. On this record, Ariana's needs for permanency and security after almost *four years* as a dependent of the juvenile court, Roy's unstable circumstances as a parolee in a rehabilitative program, the fact Ariana and Roy had no relationship, and Ariana's happiness in her prospective adoptive home constitute substantial evidence to support the finding that placement with Roy would be detrimental to Ariana's physical and emotional well-being. (§§ 366.21, subds. (e) & (f), 366.22, subd. (a).)

In addition, were we to examine this record de novo for any constitutional violation, we would conclude that error, if any, was harmless beyond a reasonable doubt.⁷ (*M.T. v. Superior Court* (2009) 178 Cal.App.4th 1170, 1182.) The record shows that Patricia filed a parentage inquiry form on May 28, 2008. Notwithstanding her later

⁷ We also note the Agency made multiple attempts throughout Ariana's dependency case to identify her father. When Patricia remembered Roy's first name, the Agency informed the court it could not conduct a parent search with the information it had. The court found that further attempts at notice were not required. When Roy was identified a week before the scheduled section 366.26 hearing, the Agency provided personal service to him and facilitated paternity testing. The Agency did not bear any responsibility for Roy's late appearance in the case. (See, generally, *In re O.S.*, *supra*, 102 Cal.App.4th at p. 1408.)

testimony,⁸ at the beginning of the case, Patricia stated under penalty of perjury that she recently talked to the man who she believed to be Ariana's father, later identified as Roy, and told him he was the child's father. Patricia stated "he didn't disagree to [the] possibility." The record supports the conclusion that Roy had notice of Ariana's birth and did not come forward to demonstrate a full commitment to his parental responsibilities. (*Kelsey S.*, *supra*, 1 Cal.4th at p. 848.) Thus, a finding of parental unfitness or detriment was not required before terminating parental rights, and the court's findings were sufficient as a matter of law. (*Ibid.*; see also § 366.26, subd. (c)(1) [finding the parent has failed to visit or contact the child for six months constitutes a sufficient basis for termination of parental rights].)

II

There Is Substantial Evidence To Support the Court's Finding the Sibling Relationship Exception Did Not Apply

Patricia contends termination of parental rights would be detrimental to Ariana because it would substantially interfere with Ariana's relationship with her brother, S.U. (§ 366.26, subd. (c)(1)(B)(v).)

The sibling relationship exception applies when the parent shows, by a preponderance of the evidence, termination of parental rights would substantially interfere with a child's sibling relationship, taking into consideration the nature and extent of the relationship. (§ 366.26, subd. (c)(1)(B)(v).) To determine the nature and extent of

⁸ The court accepted Roy's and Patricia's testimony that he had no prior notice of her pregnancy and Ariana's birth. Under our substantial evidence review, we are bound by the court's findings.

the sibling relationship, the court must consider factors 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); *In re Celine R.* (2003) 31 Cal.4th 45, 54 (*Celine R.*); *In re Valerie A.* (2007) 152 Cal.App.4th 987, 1007 (*Valerie A.*); *In re L.Y.L.* (2002) 101 Cal.App.4th 942, 951-952.)

We determine whether there is substantial evidence to support the court's ruling by reviewing the evidence most favorably to the prevailing party and indulging in all legitimate and reasonable inferences to uphold the court's ruling. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.) If there is substantial evidence supporting the court's ruling, the reviewing court must affirm the court's rejection of the exceptions to termination of parental rights under section 366.26, subdivision (c). (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576; *In re S.B.* (2008) 164 Cal.App.4th 289, 298.)

Here, the record supports the finding that the emotional and physical security conferred by adoption is more important to Ariana's long-term emotional interests than continuing her relationship with S.U. (§ 366.26, subd. (c)(1)(B)(v); cf. *In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) Ariana is now four years old. She and S.U. lived together from late December 2009 to mid-March 2011, approximately 15 months. Ariana was 20 months old when she first started living with S.U. She was not yet three years old when they were separated. S.U., who is almost 11 years older than Ariana, was

entering his teen years during this period. S.U.'s stipulated testimony indicates he felt a sense of responsibility to Ariana and tried to help his mother care for her. The record shows S.U. loves Ariana very much and is a devoted brother to her.

However, the sibling relationship exception is evaluated from the point of view of the child who is being considered for adoption. (*Celine R.*, *supra*, 31 Cal.4th at pp. 54-55.) The record does not show Ariana had an existing close and strong bond with S.U. or shared significant common experiences with him. (§ 366.26, subd. (c)(1)(B)(v).) Because of the difference in their ages, the court could reasonably infer the experiences Ariana shared with S.U. were not as meaningful to her, as a toddler, as they were to S.U. (*Valerie A.*, *supra*, 152 Cal.App.4th at p. 1013.) After Ariana was removed from Patricia's custody a second time, she and S.U. visited "occasionally." Ariana did not talk about him. The social worker said Ariana's sibling bond with S.U. was "weak at best" and did not outweigh the benefits of adoption.

This court has previously stated the application of the sibling relationship exception will be rare, particularly when the proceedings concern a young child whose needs for a competent, caring and stable parent are paramount. (*Valerie A.*, *supra*, 152 Cal.App.4th at p. 1014; *In re L.Y.L.*, *supra*, 101 Cal.App.4th at p. 950.) The evidence supports the finding that ongoing contact with S.U. was not in Ariana's best interest, including her long-term emotional interest, as compared to the benefit of legal permanence through adoption. (§ 366.26, subd. (c)(1)(B)(v).)

DISPOSITION

The findings and orders are affirmed.

HALLER, J.

WE CONCUR:

HUFFMAN, Acting P. J.

O'ROURKE, J.