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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

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

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

MICHELLE R.,

Defendant and Appellant.

D062639

(Super. Ct. No. EJ003123)

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

Michelle R. appeals a juvenile court order granting de facto parent status to the caregivers of her dependent daughters, Joey H. and Kylie H. (together the minors). Michelle contends there was no evidence that the minors were psychologically bonded to the caregivers or that the caregivers had unique information about the minors. She

further asserts granting de facto parent status to the caregivers presents an obstacle to her efforts to reunify with the minors. We affirm the order.

### FACTUAL AND PROCEDURAL BACKGROUND

In 2009, two-year-old Joey and seven-month-old Kylie became dependents of the juvenile court under Welfare and Institutions Code<sup>1</sup> section 300, subdivision (b) and were removed from parental custody based on findings they were at substantial risk of harm as a result of their parents' neglect, substance abuse and criminal histories. The minors were placed in foster care with Bob and J.C. (together the caregivers).

Michelle successfully participated in reunification services, and the court terminated jurisdiction in April 2011. However, less than a year later, the San Diego County Health and Human Services Agency (Agency) again removed the minors from their home when Michelle was arrested on drug-related charges and admitted having relapsed into drug and alcohol use. Agency filed petitions in the juvenile court under section 300, subdivision (b) and detained the minors with the caregivers. The social worker noted the minors appeared comfortable and bonded with them.

At a jurisdiction and disposition hearing, the court sustained the allegations of the petitions, declared the minors dependents, removed them from parental custody and placed them with the caregivers as non-relative extended family members. The court ordered reunification services for Michelle, suspended her rights to make educational decisions for the minors, and temporarily gave those rights to the caregivers.

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

In August 2012, the caregivers filed an application for de facto parent status. The application stated: the caregivers cared for the minors seven days a week, 24 hours a day, except when the minors visited the parents a few hours each week; J. played with the minors, took them to the park, the zoo and Sea World, and took them for swimming lessons; and the caregivers planned, coordinated and attended the minors' medical and educational appointments, including speech therapy, occupational therapy, behavior therapy and psychological counseling. After a hearing, the court granted the application and designated the caregivers as the minors' de facto parents.

## DISCUSSION

### A

The concept of a de facto parent was judicially created to recognize limited rights in dependency cases for a person who has been found by the juvenile court to have assumed on a day-to-day basis the role of a parent, fulfilling the child's physical and psychological needs for affection and care for a substantial period of time. (*In re B.G.* (1974) 11 Cal.3d 679, 692-693; *In re Kieshia E.* (1993) 6 Cal.4th 68, 70-71; Cal. Rules of Court, rule 5.502(10).) In determining whether a person is a de facto parent, the court considers factors such as whether the child is psychologically bonded to the adult; whether the adult has assumed the role of a parent on a day-to-day basis for a substantial period of time and possesses information about the child that is unique from other participants in the proceedings; whether the adult has regularly attended juvenile court hearings; and whether a future proceeding may result in an order permanently foreclosing any further contact with the adult. (*In re Patricia L.* (1992) 9 Cal.App.4th 61, 66-67;

*In re Ashley P.* (1998) 62 Cal.App.4th 23, 27.) The court does not consider whether granting de facto parent status would be detrimental to the child or in the child's best interests, but whether the adult has assumed the role of parent and possesses information that would be in the child's best interests for the court to receive. (*In re Leticia S.* (2001) 92 Cal.App.4th 378, 383, fn. 5.)

The doctrine of de facto parenthood should be "liberally applied to ensure that all legitimate views, evidence, and interests are considered in dispositional proceedings involving a dependent minor." (*In re Kieshia E., supra*, 6 Cal.4th at p. 76.) A de facto parent is entitled to be present at hearings with counsel and to introduce relevant evidence that may aid in the trial court's decision-making process with respect to the child's best interests. (*In re Joshua S.* (1988) 205 Cal.App.3d 119, 125.) De facto parents may "appear as parties to assert and protect their own interest[s] in the companionship, care, custody and management of the child." (*In re B.G., supra*, 11 Cal.3d at p. 693.) A de facto parent's connection with the proceedings is that person's separate interest and relationship with the child, which may have developed over time through the daily care, affection and concern for the child. (*In re Vanessa Z.* (1994) 23 Cal.App.4th 258, 261.) However, "[d]e facto parents are not part of any adversarial aspect of a dependency case." (*In re B.F.* (2010) 190 Cal.App.4th 811, 817.)

The decision to grant or deny de facto parent status depends on an assessment of the particular individual and the facts of the case. (*In re Patricia L., supra*, 9 Cal.App.4th at pp. 66-67.) The person applying for de facto parent status has the burden of showing he or she qualifies to be a child's de facto parent. (*In re Jacob E.* (2004) 121 Cal.App.4th

909, 919.) The juvenile court applies the preponderance of the evidence standard in making its factual findings and we review those findings for abuse of discretion. (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 602; *In re Leticia S.*, *supra*, 92 Cal.App.4th at p. 381; *In re Michael R.* (1998) 67 Cal.App.4th 150, 156.)

## B

Agency asserts Michelle lacks standing to challenge the order granting de facto parent status to the caretakers because she is not aggrieved by that order. (*In re Vanessa Z.*, *supra*, 23 Cal.App.4th at p. 261; *In re Daniel D.* (1994) 24 Cal.App.4th 1823, 1836; *In re Crystal J.* (2001) 92 Cal.App.4th 186, 189.) We agree. Michelle's interest in the dependency proceedings is to reunify with the minors and those interests are not affected by an order granting the caregivers de facto parent status. Michelle is not precluded from presenting evidence relating to the minors' best interests or their relationship with her. (*In re Vanessa Z.*, *supra*, 23 Cal.App.4th at p. 261; *In re Crystal J.*, *supra*, 92 Cal.App.4th at p. 190.) Thus, Michelle's interests were not prejudiced when the court conferred de facto parent status on the caregivers. (*In re Daniel D.*, *supra*, 24 Cal.App.4th at p. 1835.)

## C

Even if Michelle has standing to challenge the order granting de facto parent status to the caregivers, the court's order was proper. The evidence shows the minors are psychologically bonded to the caregivers. The minors enjoyed interacting with the caregivers, and appeared bonded and comfortable with them. Joey referred to Bob as "dada Bob." When Joey had difficulty sleeping at night, she would wake up to see if J.

was there. During a 60-day trial visit with Michelle, the minors were "especially excited" to see the caregivers when they picked them up from school.

At the time of the hearing on the de facto application, the minors had lived with the caregivers for about 16 months: between September 2009 and July 2010 during the first dependency, and then from March to August 2012 during the second dependency. Throughout that substantial period of time, the caregivers assumed the role of parents on a day-to-day basis, including planning, coordinating and attending the minors' medical and educational appointments; caring for the minors when they were ill or needed medical attention; playing with them and taking them to swim lessons; and expressing their love and concern for them. The caregivers had unique information about the minors that could be useful to the juvenile court. They knew about Joey's sleep difficulties, aggression and acting out, and about Kylie's food allergies. Because J. held the minors' educational rights, she was uniquely aware of issues regarding their schooling. Through their daily care, affection and concern for the minors, the caregivers were intimately familiar with their needs and personalities. Further, the caregivers attended court hearings in both the first and second dependency cases.

Michelle asserts because she is likely to reunify with the minors, conferring de facto parent status on the caregivers will make reunification more challenging for her and will make litigation more adversarial. However, nothing in the record supports Michelle's assertion the caregivers are opposed to her reunifying with the minors. Moreover, as we previously noted, "[d]e facto parents are not part of any adversarial aspect of a dependency case." (*In re B.F.*, *supra*, 190 Cal.App.4th at p. 817.) The quality

of the caregivers' relationship with the minors has no bearing on Michelle's reunification efforts. Given the caregivers' role as parents and the information they have about the minors, it is in the minors' best interests for the court to receive evidence that will aid in the decision-making process. (*In re Leticia S., supra*, 92 Cal.App.4th at p. 383, fn. 5.) Thus, the court properly granted the caregivers de facto parent status.

#### DISPOSITION

The order is affirmed.

O'ROURKE, J.

WE CONCUR:

NARES, Acting P.J.

McDONALD, J.