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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re C.H., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

C.M.,

Defendant and Appellant.

E055590

(Super.Ct.No. RIJ113170)

**OPINION**

APPEAL from the Superior Court of Riverside County. Matthew C. Perantoni,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and  
Appellant C.M.

Pamela J. Walls, County Counsel, and Anna M. Deckert, Deputy County Counsel,  
for Plaintiff and Respondent.

C.M. (Mother) appeals after the termination of her parental rights to C.H. at a Welfare and Institutions Code section 366.26<sup>1</sup> hearing. Mother claims on appeal as follows: (1) the juvenile court abused its discretion by denying Mother's section 388 petition because she established a material change of circumstances and proved the modification would be in C.H.'s best interests; and (2) the juvenile court erred by failing to apply the parental benefit exception of section 366.26, subdivision (c)(1)(B)(i).

## I

### PROCEDURAL AND FACTUAL BACKGROUND

This dependency proceeding involved C.H. and her sister J.E. On January 12, 2012, in an unpublished opinion (*In re J.E.* (Jan. 12, 2012, E053718) [nonpub. opn.] (*In re J.E.*)) we affirmed the juvenile court's orders denying Mother's section 388 petition and terminating her parental rights after a section 366.26 hearing to J.E. C.H.'s proceeding was ongoing because her father, R.H., was granted additional reunification services. On May 21, 2012, we ordered that the record in E053718 be considered with the current appeal.

#### A. *Detention*

On June 17, 2010, a section 300 petition was filed for six-year-old J.E, daughter of Mother, and four-year-old C.H., a child of Mother and R.H.,<sup>2</sup> by the Riverside County

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

<sup>2</sup> R.H. has not filed an appeal in this case.

Department of Public Social Services (the Department). J.E. and C.H. remained in the custody of Mother. R.H. (who Mother said was C.H.'s biological father) could not be located.

On June 8, 2010, a report was received by the Department that Mother and R.H. had engaged in domestic violence in front of C.H. R.H. had pulled Mother to the ground, pulled her hair, and kicked her in the knee. When police arrived, the home was found to be dirty, and C.H. was dirty and unkempt. According to the detention report, Mother "appear[ed] to be a 'tweaker,'" but she denied she took drugs.

A social worker from the Department made an unannounced visit to the home on June 14, 2010. J.E. and C.H. were in the driveway. They both appeared unkempt and dirty. C.H. reported she had seen R.H. pull Mother's hair. Mother admitted that R.H. had pulled her hair but assured the social worker that he had moved out of the house. Mother admitted using marijuana three weeks prior to the social worker's visit. Mother refused a saliva drug test even after the social worker accused her of being under the influence of a controlled substance. While the social worker was speaking with Mother, both J.E. and C.H. continually asked if they were going to be taken from Mother. When the social worker gave notice to Mother that she would have to attend a detention hearing, J.E. urinated in her pants. It was determined that since there was no immediate threat to the girls' safety, an out-of-custody petition would be filed.

This was not the first time J.E. and C.H. had been detained. On October 9 and 18, 2006, when J.E. was three years old, she was found wandering around the apartment

complex where she and Mother lived wearing only a shirt, unsupervised. J.E. was detained on the second occasion. Mother contacted the Department regarding the removal of J.E. She told the Department that she also was the mother of C.H. with R.H. and that she had two older children who were being adopted through the Department. C.H. was also detained. That dependency was terminated on February 27, 2008, due to Mother's compliance with her case plan.

Prior to 2006, numerous referrals for Mother had been received regarding her drug use and lack of supervision of her children. Mother had received services before from the Department and other social service agencies and had benefitted from them at the time but then relapsed.

The section 300 petition for C.H. against Mother and R.H. alleged a failure to protect and provide (§ 300, subds. (b), (g)) due to R.H. and Mother being engaged in domestic violence in the presence of C.H.; Mother's and R.H.'s history of substance abuse; Mother's and R.H.'s history of contact with the Department; and R.H.'s failure to provide for C.H., since his whereabouts were unknown. C.H. and J.E. were still in Mother's care, and the Department recommended that family maintenance services be provided to Mother and visitation be ordered for R.H.

On June 18, 2010, at the detention hearing, the juvenile court inquired of Mother whether she had been using methamphetamine prior to the social worker visiting her home. Mother acknowledged that she had recently been using methamphetamine and

knew she would test positive. The juvenile court found a prima facie case and ordered the children detained for their safety. It changed custody to the Department.

B. *Jurisdiction/Disposition*

In a jurisdictional/dispositional report filed on July 14, 2010, the Department recommended that reunification services be granted to Mother and R.H. According to the report, new information had been obtained that J.E. might have been molested. There had been no contact between R.H. and the Department. J.E. and C.H. were placed together in a foster home.

Mother advised the Department that she had an older son who lived with his paternal grandmother. She had an older daughter who had been adopted through a private, closed adoption. Mother had lost two other daughters in a family law court proceeding; they now lived with their paternal grandmother in Oklahoma.

The report also detailed the previous detention cases regarding J.E. and C.H. In a report to the Department in 2009, it was reported that Mother had left J.E. with a man who had touched her while showing her pornographic movies. The referral was closed when Mother denied the allegations and J.E. and C.H. did not disclose any abuse. Other referrals were initiated because C.H. had broken her leg and arm when playing with J.E. because of lack of supervision. Mother was also reported to be using drugs. It was determined the referrals were unfounded when J.E. and C.H. denied any abuse by Mother and Mother passed a drug test.

R.H. had two prior convictions in 2004 for possession of a controlled substance, a felony, and being under the influence of a controlled substance.

C.H. was interviewed and reported that she had observed Mother and R.H. fighting. C.H. claimed that J.E. touched her on her vagina and bottom. J.E. continued to do this to C.H. even though C.H. told her to stop.

Mother was also interviewed. She and R.H. had fought because he cheated on her. Mother admitted to using marijuana and methamphetamine a few hours prior to the interview and used them both daily. A saliva drug test confirmed she was under the influence of methamphetamine. Mother got pregnant with her first child while in high school. She had six children by five different men. She did not complete high school and had been unemployed for one year. She had not started a drug treatment program.

Mother began using methamphetamine when she was 16 years old and had used it off and on since then, sometimes on a daily basis. She used drugs in order to cope with life. R.H. had maintained contact with Mother but appeared to be avoiding the Department.

C.H. reported that she liked her foster home. She reported she wanted to return to Mother's care at her grandfather's home. She had no developmental delays, and she appeared to be a happy child. She reported (in a serious and quiet manner) that J.E. had touched her private parts. Visitation between Mother and C.H. was appropriate.

Addendum reports were prepared on September 1, 2010, and October 8, 2010. The Department recommended that family reunification services be denied to Mother

(pursuant to § 361.5, subd. (b)(13)) and that the allegations in the petition be found true.

It was recommended that R.H. be offered reunification services with C.H.

J.E. had been moved to another foster home away from C.H. because of the allegations of sexualized behaviors exhibited by J.E. C.H. remained in the original placement.

Mother enrolled in an outpatient drug treatment program and was on a waiting list for inpatient treatment, but she discharged herself from the program after four sessions. Mother had been attending Alcoholics Anonymous. She tested clean on two occasions. Mother might have known about sexual abuse committed against J.E. and appeared to have done nothing to protect the child.

C.H. was thriving in the foster home. She reported when J.E. touched her private parts, she told her to stop, but J.E. had refused. Mother oftentimes used her telephone during visits instead of visiting with the girls.

A contested jurisdictional/dispositional hearing was conducted on October 28, 2010. Mother was present at the hearing; R.H. was not present but was represented by counsel. The parties submitted on the documents filed by the Department. Mother objected to the denial of reunification services. The juvenile court found the allegations under section 300, subdivisions (b) and (g) of the petition true for both children. Reunification services were denied to Mother but granted to R.H. for C.H. The matter was set for a section 366.26 hearing for J.E. For C.H., the matter was set for a six-month status review hearing.

C. *Section 366.21, Subdivisions (e) and (f) Reports*

On April 15, 2011, a six-month status review report was filed for C.H. The Department recommended that reunification services be terminated for R.H. and that a section 366.26 hearing be set. R.H. had admitted that he was the biological father of C.H.

Mother was unemployed and had no housing. It appeared she and R.H. were still in a relationship, which was of concern to the Department due to the domestic violence. Mother was diagnosed as bipolar and had been put on medication. She reported she was able to maintain her sobriety on the medication. She was enrolled in family preservation court (FPC) and was doing well. R.H. had not made any progress in his case plan and had little contact with the Department. He had failed to appear for drug tests.

C.H. was developing normally. She was very intelligent. She was doing well in the foster home. A therapist stated that C.H. no longer needed treatment. She could be placed with J.E. because of the therapy they received. C.H. denied that anyone had ever touched her inappropriately except for J.E.

The plan was to transition C.H. into the same home with J.E. for adoption once the school year ended. There were several visits with C.H. and J.E. in the adoptive home where J.E. was placed, and the visits went well. The adoptive mother was committed to keeping J.E. and C.H. together.

Regular visitation with Mother, C.H., R.H., and J.E. occurred between October 12, 2010, and March 30, 2011. On some visits, Mother would talk to C.H. about the case. Further, during some of the visits, Mother and R.H. would go outside to smoke, leaving

the children with only an agency worker. C.H. and Mother had a positive relationship, and C.H. appeared to enjoy the visits. R.H. had missed several visits.

Mother insisted that she was sober and had been in FPC for six months. She wanted custody of C.H. R.H. did not think he could care for C.H. Mother loved C.H., but the Department was concerned that she could not provide adequate supervision and care. C.H. was not protected as evidenced by the great-grandfather sexually abusing J.E. Mother had used drugs in front of C.H.

An addendum report was filed on May 16, 2011. The Department was now recommending six additional months of reunification services for R.H. under statutory guidelines. It was recommended that visitation for C.H. with Mother be reduced to monthly visits in order for C.H. to transition to her adoptive home. R.H. would continue weekly visitation.

It was reported that Mother continued to speak with C.H. about the case at visits and had to be warned not to do so. On April 13, 2011, R.H. brought his son to the visit without authorization. R.H. and Mother spent time alone together rather than interacting with C.H. Mother spent time playing with R.H.'s son rather than C.H. On a visit on April 27, 2011, R.H. and Mother left C.H. with a social worker while they went to smoke cigarettes. R.H. had not attended visitation since April 28. He had made no additional progress in his case plan.

J.E. and C.H. had been involved in weekend visitation at the adoptive mother's home. The visits had gone well.

The Department acknowledged that Mother had addressed her substance abuse issues. However, Mother had a history of short periods of sobriety and had not proven that she could maintain her sobriety. The Department noted that in 2006 C.H. and J.E. were removed from Mother's care because of her drug use. She was able to maintain sobriety, and the children were returned to her care in 2008. However, Mother relapsed as evidenced by the instant dependency proceedings.

On May 23, 2011, a review hearing was held for C.H. at the same time as the section 388 petition and section 366.26 hearing for J.E. As set forth in our previous opinion, Mother's parental rights to J.E. were terminated, and she was freed for adoption.<sup>3</sup> As for C.H., the Department submitted on the review report and addendum and sought to continue services for six months. Mother withdrew a section 388 petition she had filed. The trial court continued services.

A 12-month status review report was filed on August 2, 2011. It was recommended that reunification services for R.H. be terminated and that a section 366.26 hearing be set. C.H. had been placed with J.E. in the adoptive mother's home.

R.H. had not completed any services or drug testing as far as the Department was aware. Mother was working as a babysitter for her uncle. She was living with her uncle,

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<sup>3</sup> Mother sets forth the facts from the proceedings on the section 388 petition and the section 366.26 hearing for J.E. in her brief. However, C.H. was not a party to the proceedings. Mother withdrew her section 388 petition filed on behalf of C.H. before the section 388 hearing. As such, the evidence presented at that hearing was not part of the determination of terminating Mother's parental rights for C.H., or denying the section 388 petition as to C.H., and has no relevancy here.

who had a criminal record. Mother claimed that she and R.H. were not dating, but during visitation they appeared to have some relationship. Mother continued to do well in FPC. There was no possible relative placement.

R.H. had failed to attend most of the visitations and claimed he could not care for C.H. Mother had attended visitation on July 1, 2011. After the visit, C.H. told the adoptive mother that Mother had told her she was going to get her back. C.H. was having trouble adjusting from the prior foster home to the adoptive home. C.H. was, however, bonding with the adoptive mother.

At the contested section 366.21, subdivision (f) review hearing conducted on September 19, 2011, R.H. did not present any evidence. Reunification services for R.H. were terminated, and a section 366.26 hearing was set. Mother argued that she had completed FPC and that she was doing very well. She asked that visitation not be reduced to monthly visits, but her request was denied.

*D. Section 388 Petition*

On January 31, 2012, Mother filed a section 388 petition for C.H. Mother stated she had completed all of the requirements for FPC on November 29, 2011. She received a “Rockstar Award” for her participation. Mother had completed several other programs, including gender response group, nurturing families, anger management and training as a peer support specialist. Mother requested that the section 366.26 hearing be vacated and that C.H. be placed with her under family maintenance or, in the alternative, that she

receive reunification services with liberalized visitation. Mother attached several letters from friends who claimed she was sober and was regularly attending church.

E. *Report for Section 366.26 Hearing*

On January 19, 2012, the Department filed its section 366.26 report. It recommended that the parental rights of both parents be terminated and that C.H. be freed for adoption. C.H. was developing normally and was doing well in school.

During recent visitation, Mother made it clear to C.H. that she was her mother. C.H. was confused because J.E. referred to their adoptive mother as their mother. C.H. began having nightmares. On December 1, 2011, she was referred for more therapy. C.H. and J.E. would be adopted together. The adoptive mother was willing to continue visitation between Mother and C.H.

At one visit, as mentioned above, C.H. had called the adoptive mother her mother, and Mother got upset. During the visit, Mother was whispering to C.H. and R.H. During another visit, Mother and C.H. were whispering together. C.H. said, “[Y]ou are my real mom; I came out of your stomach.” C.H. also said the adoptive mother was “not her real mother, she is my foster mom.”

The Department considered the detriment of the risk of returning C.H. to Mother as “high.” The adoptive mother was committed to caring for C.H. and J.E., and she considered them to be her own children. C.H. expressed to a social worker that she wanted to be adopted.

F. *Section 388 Petition and Section 366.26 Hearing*

The section 388 petition and the contested section 366.26 hearing were conducted together on January 31, 2012. The section 388 petition was denied because it was not in C.H.’s best interest to return to Mother’s care or to grant services, and there was no change in circumstances. The juvenile court terminated the parental rights of Mother and R.H., and C.H. was freed for adoption. The details of the hearings will be addressed in more detail, *post*.

II

SECTION 388 PETITION

Mother contends the juvenile court erred by refusing to grant her section 388 petition. She insists that despite a 20-year history of substance abuse, her completion of the one-year FPC program showed that she had completed her change and “resolved her drug problems” and necessarily addressed the domestic violence issues. It was therefore in C.H.’s best interest to return to her care.

A. *Additional Factual Background*

At the section 388 hearing, the Department submitted on the section 366.26 reports filed and asked that the juvenile court deny the section 388 petition. In lieu of

testimony, Mother's counsel submitted documentation that she completed every aspect of the FPC program. Further, Mother's counsel provided that, if Mother were to testify, she would state that she was interviewing for a job based on her participation in the peer support specialist program.

Mother referred to the section 388 hearing involving J.E. in which the trial court noted that she was "changing." Mother argued she had now completed the programs and had changed. She was not the same woman as at the beginning of the dependency process. Mother had attended every visitation. She had completed services even though not ordered by the Department.

Moreover, C.H. considered Mother her mother. She was bonded to Mother. Mother requested that reunification services be granted and that overnight and weekend visits be authorized so that she and C.H. could move into a family maintenance situation. In the alternative, Mother requested additional services and authorization for visits.

The Department contended that C.H. had been out of the home for two years, and Mother was a long-term drug user. C.H. deserved permanency, not a mother who "goes back and forth to using drugs." Mother had just completed the program in November. It was in C.H.'s best interest to remain with J.E. in the adoptive home. Mother was not looking out for C.H.'s best interest by telling her she was her real mother. Counsel for C.H. agreed with the Department.

The juvenile court ruled as follows:

“Regarding the 388 motion, I really do give mother a lot of credit. I have reviewed the motion. I have reviewed the certificates, the letter[s] written on her behalf. . . . Mother has really done a lot and worked hard to change her life, and I give her a lot of credit. [¶]

“Ma’am, I really do. You worked hard, and you deserve that credit. Given where mother has come from, this is a significant amount of evidence that the mother is very close to having totally turned her life around, and I really hope you do that. Given mother’s long history, she’s completed the program, the Family Preservation course in November of the last year, congratulations. That is not an easy program, ma’am, to complete, and you have done a good job.

“I think it’s easy to find that mother is in the process of changing her circumstances. They may be nearly changed, but I cannot find that given her long history that she’s actually met the first prong and changed her circumstances.

“No. 2, the second prong is somewhat of an easier call. We have a child . . . [who] has been placed for 7 months or 7-1/2 months with the p[ro]spective adoptive parents. . . . And it’s very important to this court, not only the bond that this child appears to be establishing or has established with the p[ro]spective adoptive mother, but she’s placed with her sibling.

“This p[ro]spective adoptive mother is going to adopt both [C.H.] and her 8 year old sister [J.E.], and there is certainly a significant bond between the siblings. I cannot find that it’s in the best interest of the child to grant the 388 motion.”

B. *Analysis*

“Section 388 allows a person having an interest in a dependent child of the court to petition the court for a hearing to change, modify, or set aside any previous order on the grounds of change of circumstance or new evidence.” (*In re Anthony W.* (2001) 87 Cal.App.4th 246, 250. “[S]pecific allegations describing the evidence constituting the proffered changed circumstances or new evidence’ is required. [Citation.]” (*Ibid.*) It “shall set forth in concise language any change of circumstance or new evidence that are alleged to require the change of order or termination of jurisdiction.” (§ 388, subd. (a).) “‘There are two parts to the prima facie showing: The parent must demonstrate (1) a genuine change of circumstances or new evidence, and that (2) revoking the previous order would be in the best interests of the children. [Citation.]’” (*In re C.J.W.* (2007) 157 Cal.App.4th 1075, 1079, 1081 [Fourth Dist., Div. Two] [summary denial of § 388 petition was proper where there was no showing of how the children’s best interests would be served by depriving them of a permanent stable home in exchange for an uncertain future].)

“We review the juvenile court’s summary denial of a section 388 petition for abuse of discretion.” (*In re Anthony W.*, *supra*, 87 Cal.App.4th at p. 250.) A section 388 petition is addressed to the sound discretion of the juvenile court, and its decision will not be disturbed on appeal in the absence of a clear abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.)

As for the first prong, the change in circumstances, Mother had just completed a one-year drug treatment program on November 29, 2011. C.H. was originally detained in June 2010. In October 2010, Mother had enrolled in an outpatient program but dropped out after only four sessions. It was not until the review report was filed in April 2011 that she had finally entered the FPC program. Mother was commended for her progress at the section 388 hearing.

However, these changes must be viewed in light of Mother's 20-year history of drug use and relapses. Mother admitted she began using methamphetamine when she was 16 years old. She had lost custody to all of her other children. In 2006, Mother was involved in a dependency proceeding with C.H. and J.E. because of her drug use. In 2008, the dependency proceeding was terminated due to Mother's compliance with her case plan. Despite her "change" in 2008, Mother was engaged in the same behavior in the instant dependency proceeding in 2010. The trial court did not abuse its discretion by finding that this short period of sobriety did not constitute changed circumstances based on her numerous years of substance abuse and history of relapses.

Additionally, Mother never addressed the domestic violence issues between her and R.H. When Mother first came to the attention of the Department, C.H. reported that she had witnessed R.H. pull Mother's hair. C.H. reported that she had seen Mother and R.H. fighting. Mother never addressed or acknowledged the impact the domestic violence had on C.H.

Moreover, it clearly was not in C.H.'s best interest that the dependency process be continued. Mother was babysitting but living with her uncle, who she stated had a criminal record and who could not be considered for placement. Mother continued to ignore C.H.'s best interests by talking to her about being her "real" mother and about the case when she had been specifically admonished by the Department not to discuss the case. Mother told C.H. that she was going to get her back. C.H. started to have nightmares and was returning to therapy. Although Mother insists this shows that C.H. was bonded to her and that the adoption was causing C.H. distress, the juvenile court could also interpret this behavior as showing C.H. was afraid she might have to return to Mother's custody and that visitation was harmful.

C.H. was happy and healthy in the adoptive mother's home. C.H. was with J.E., and they clearly had a bonded relationship. "After termination of services, the focus shifts from the parent's custodial interest to the child's need for permanency and stability. [Citation.]" (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685.) The juvenile court did not abuse its discretion by denying the section 388 petition.

### III

#### SECTION 366.26 HEARING

Mother argues that the beneficial parent exception of section 366.26, subdivision (c)(1)(B)(i) applied, and the juvenile court erred by terminating her parental rights, since she and C.H. shared a significant bond.

After denying the section 388 petition, the juvenile court asked if the parties had any other evidence or argument on the section 366.26 termination of parental rights. Mother argued that there was a bond between her and C.H. C.H. had whispered to Mother that she was her real mother. The parental bond exception applied. Mother requested that legal guardianship be considered instead of termination of parental rights.

The juvenile court noted that it had reviewed the report filed on January 19, 2012, and found that termination of R.H.'s parental rights was appropriate. It stated, "[T]he Court also finds by clear and convincing evidence that a sufficient basis for termination of parental rights exist based upon findings made at the jurisdiction dispositional hearing held on October 28, 2010 as to mother. At that hearing, the Court ordered that reunification services not be provided pursuant to Welfare and Institutions Code Section 361.5 (b)(13) as to mother; ¶ And . . . the Court finds by clear and convincing evidence that termination of parental rights would not be detrimental to the minor in that none of the exceptions contained [in] Welfare and Institutions Code 366.26(c)(1), (a) and (b) are applicable to this case."

At the section 366.26 hearing, the sole issue "'is whether there is clear and convincing evidence that the child is adoptable.' [Citations.]" (*In re Josue G.* (2003) 106 Cal.App.4th 725, 733; see § 366.26, subd. (c).) "Adoption, where possible, is the permanent plan preferred by the Legislature." (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) If the court finds that a child may not be returned to his or her parents and is likely to be adopted, it must select adoption as the permanent plan, unless it finds that

termination of parental rights would be detrimental to the child under one of the seven exceptions set forth in section 366.26, subdivision (c)(1)(A) and (c)(1)(B)(i) through (v). (See *In re Jamie R.* (2001) 90 Cal.App.4th 766, 773.)

The parental benefit or “beneficial relationship” exception is set forth in section 366.26, subdivision (c)(1)(B)(i). The exception applies where “[t]he parents . . . have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 826.)

The parent has the burden of proving that the exception applies. (*Ibid.*) “The parent must do more than demonstrate ‘frequent and loving contact[,]’ [citation] an emotional bond with the child, or that parent and child find their visits pleasant. [Citation.] Instead, the parent must show that he or she occupies a ‘parental role’ in the child’s life.” (*Id.* at p. 827.) “In other words, for the exception to apply, the emotional attachment between the child and parent must be that of parent and child rather than one of being a friendly visitor or friendly nonparent relative, such as an aunt. [Citation.]” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 468.)

“‘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.’ [Citation.]” (*In re Derek W., supra*, 73 Cal.App.4th at p. 827.)

The substantial evidence standard of review applies to the evidentiary showing with respect to factual issues, such as whether the parent has maintained regular visits

with the child. A challenge to the trial court's determination of questions such as whether, given the existence of beneficial parental relationship, there is a compelling reason for determining that termination of parental rights would be detrimental to the child "is a quintessentially discretionary determination." (*In re Scott B.* (2010) 188 Cal.App.4th 452, 469.) We review such decisions for abuse of discretion. (*Ibid.*)

There is no dispute that Mother participated regularly in visitation. Moreover, there certainly was some type of bond between C.H. and Mother. However, Mother failed to show that there was substantial evidence that a parental/child bond was such that C.H. would be irreparably harmed by terminating the relationship. As outlined extensively, *ante*, Mother had a history of drug use and was only recently sober. She was disruptive during visitation by insisting to C.H. that she was her real mother despite being told not to engage in such behavior. C.H. had been out of her custody for almost two years and started having nightmares around the time that Mother told her she was going to get back custody. Mother had not shown how she would care for C.H. should she be given custody. Mother failed to establish that severing the parent/child relationship would deprive C.H. of a substantial, positive emotional attachment such that C.H. would be greatly harmed and did not overcome the preference for adoption. (*In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.)

Moreover, the adoptive mother was loving and caring and provided a stable home for C.H. C.H. and J.E. had a significant bond and would be adopted together. The adoptive mother agreed to maintain a relationship between Mother and C.H. if C.H.

wanted to stay connected. The juvenile court properly concluded that the parental benefit exception did not apply in this case.

IV

DISPOSITION

The juvenile court's orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RICHLI  
Acting P. J.

We concur:

KING  
J.

CODRINGTON  
J.