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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.D. et al.,

Defendants and Appellants.

E059085

(Super.Ct.Nos. J-232526 &
J232527)

OPINION

APPEAL from the Superior Court of San Bernardino County. Cheryl C. Kersey,
Judge. Affirmed.

Patricia K. Saucier, under appointment by the Court of Appeal, for Defendant and
Appellant G.H.

Elizabeth C. Alexander, under appointment by the Court of Appeal, for Defendant
and Appellant J.D.

Jean-Rene Basle, County Counsel, and Jeffrey L. Bryson, Deputy County Counsel, for Plaintiff and Respondent.

Defendant and appellant G.H. (Mother) appeals from an order terminating her parental rights concerning her children, Jonathan and Jeremiah. Defendant and appellant J.D. (Father), the presumed father of Jonathan, appeals from an order terminating his parental rights as to Jonathan. (Jeremiah's father is not a party to this appeal.) The orders were made at a hearing held pursuant to Welfare and Institutions Code section 366.26.¹ Mother and Father (the Parents) contend the court erred by failing to apply the beneficial parental relationship exception to terminating parental rights. We affirm the court's orders.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. *Detention (April 2010)*

Jonathan was born in April 2010. Three days later, a social worker at the hospital where he was born contacted plaintiff and respondent San Bernardino County Children and Family Services (CFS) because of concerns about Jonathan's well-being. The social worker reported that Mother said she did not want Jonathan in the room with her and was unable to care for him. The social worker was also concerned that Mother, who had a seizure disorder, was planning on driving the child home by herself.

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

Mother was uncooperative with the CFS social worker who responded to the referral. She denied saying she was unable to care for Jonathan and demanded to be discharged from the hospital and be allowed to take Jonathan with her. The social worker then arranged to detain Jonathan and his two-year-old half brother, Jeremiah.

Two days later, CFS filed juvenile dependency petitions under section 300 concerning Jonathan and Jeremiah. CFS made allegations under subdivision (b) of section 300 (failure to protect) based on Mother's inability to care for the children due to her seizure disorder and mental health issues, Mother's history of substance abuse, and Mother's history of domestic violence. On May 20, 2010, CFS filed amended petitions that added allegations regarding the children's respective fathers. Relevant here is the allegation that Father had a history of domestic violence, which placed Jonathan at risk of physical and emotional abuse.

At a detention hearing, the court found a prima facie case for jurisdiction under section 300 and placed the children in the temporary custody of CFS. The court ordered visits between Mother and the children to take place at least once each week.

B. Jurisdiction and Disposition (May 2010)

Following the initial detention of the children, a social worker met with Mother. Mother denied saying she could not take care of Jonathan and believed her children had been taken from her for no reason. She said she used to smoke marijuana when she was 16 and 17 years old (she was 24 years old at the time of the social worker's interview), and denied any current drug use or mental health issues. The social worker noted that

medical records indicated Mother used cocaine in 2006, “crystal meth” in 2004, and marijuana in 2007.

Mother explained that her arrest on spousal battery charges in 2009 arose from a fight with Father in which she defended herself. It was not domestic violence, but “just one adult hitting another.”

Mother told the social worker she had had a seizure disorder since she was 10 or 11 years old, for which she took medication. Mother’s medical records indicated she had been diagnosed with “Major Depression with Psychosis” and “Impulse Control Disorder,” among other mental health problems. She had also attempted suicide on several occasions.

Father’s whereabouts were unknown. The social worker reported that Father “has a conviction for domestic abuse and has a history of domestic violence.”

During the one visit that had occurred during the period covered by the jurisdictional/dispositional report, Mother “verbally attack[ed]” the foster parents for being late and accused them of taking her children away from her. She remained hostile even after the social worker intervened. Eventually, Mother calmed down and was appropriate with the children.

In June 2010, the court found the allegations of the amended dependency petitions true, except for the allegation regarding domestic abuse by Father. The children were declared dependents of the court and removed from the Parents. Reunification services were ordered for Father and Mother.

C. Six-month Review (June 2010 - February 2011)

In a status review report prepared for the six-month review hearing (filed in December 2010), the social worker reported the following regarding Mother: She had been diagnosed with numerous mental and personality disorders; her “unstable personality” was evidenced by angry and rude outbursts directed at social workers, CFS staff, and the foster mother; on one occasion, she told a social worker that “she hopes something horrible happens to one of her children one day”; she “experiences seizures from time to time, and when stressed could have up to ten in one day”; she “has been for the most part consistent with her therapy, her visitation, and with following through with the psychiatric evaluation appointments”; over a five-month period, she had six negative drug tests and “four no shows”; and she was unemployed and had very limited support.

Regarding Father, the social worker reported that he had been convicted of having sex with a minor and was the subject of several referrals to child protective agencies involving domestic violence. Father’s therapist terminated therapy after an incident in which Father became angry and argumentative toward the therapist. The social worker also described incidents in which Father became confrontational with her, and concluded that “he is not a person who has much control and the anger management classes have done very little if anything to change this behavior.”

Mother had regular supervised visits with the children. She showed up accompanied by different men, which made the foster mother uncomfortable. Visits were then moved to CFS offices. Father also had regular visits, but missed some visits because

of his work schedule. Father “is very appropriate with [Jonathan]” and “very loving and attentive” toward him.

The children are reportedly in good health, developmentally on target, and experiencing no mental or emotional difficulties. They are both comfortable and happy in their foster home.

CFS recommended that reunification services be terminated as to both parents. Although Mother had participated in reunification services, the social worker cited Mother’s chronic mental illness, her seizure disorder, her personality disorder, the lack of a support system, and her statements that she did not feel capable of caring for Jonathan as reasons for believing the children could not be safely reunited with Mother. The social worker’s greatest concern regarding Father was his inability to control his anger and his history of domestic violence. In addition, the social worker cited Father’s transient lifestyle and the absence of a stable home environment to support the poor prognosis for reunification.

In a February 2011 addendum report, CFS changed its recommendation regarding Mother to allow services to continue for her. The change was based on several facts. First, Mother “has made great progress in her therapy.” The therapist indicated that Mother demonstrated “a stable mood and insight into ways she can establish a stable and safe environment for her children.” The improvement may be due to medication prescribed for Mother’s mental health issues. Second, Mother had visited the children regularly and “demonstrated to be a loving, patient and concerned parent.” Mother

attributed her change to Mr. V., who the social worker described as Mother's "support system, her rock, the support that she never felt she had from any family member"; "Mother appears to be more at peace with all that is happening . . . with [Mr. V.] at her side." Third, Mother had drug tested regularly, all with negative results. Fourth, Mother's seizures had "decreased immensely" due to reduced stress. Finally, Mother had completed the majority of her case plan.

Regarding Father, the social worker provided a long list of arrests and convictions that had not been mentioned in prior reports. The convictions included assault with a deadly weapon, battery of a spouse, sex with a minor, assault with a firearm, and obstructing/resisting an officer. Father was also the subject of a restraining order obtained by a former spouse.

In February 2011, the court found that the Parents had failed to participate regularly and make substantive progress in their plans. It ordered that the reunification plans remain in effect and set a further review date.

D. Twelve-month Review (March 2011 - August 2011)

In August 2011, CFS changed its recommendation again. This time to return the children to Mother's care under a family maintenance program. The recommendation was based on Mother's completion of her case plan, continuing improvement regarding her mental health and seizure issues, progress in therapy, and "an excellent record of visitation with her children."

Between May and August 2011, Mother's visits were increased and became less supervised. She began to have overnight visits in July 2011 and weekend visits in August 2011. The social worker reported that Mother had "done very well with accepting more and more responsibility of her children" and "interacts in a nurturing way with her children and openly enjoys parenting them." The social worker further noted that the "children are bonding with their mother and respond to her voice and direction."

The social worker noted that Father's visits with his son ended in April 2011. The following month he was arrested on multiple felony charges, including resisting arrest and inflicting corporal injury on a cohabitant. Because of Father's history of substance abuse, his "violent criminal lifestyle, and current incarceration," CFS continued to recommend the termination of services for Father.

At a hearing held in August 2011, the court ordered the children be placed with Mother with family maintenance services. The following month, the court terminated reunification services for Father.

E. Supplemental Dependency Petitions (September 2011 - December 2011)

The children lived with Mother and Mr. V. for about three months. Then, in November 2011, a social worker observed that Jonathan (then 18 months old) had two red linear facial injuries, a small scab on his forehead, and two small bruises on his right buttock. Mother attributed the marks to the child falling down and bumping into things, or to fights with his three-year-old brother. She admitted spanking the children, but

denied harming them. The social worker stated that the marks on Jonathan “appeared non-accidental and were not adequately explained by” Mother.

Mother told the social worker she was overwhelmed and very “frustrated” with caring for Jonathan because the child had not yet bonded to her. She had also missed counseling and psychiatric appointments. At one point, she requested the social worker remove Jonathan from her, but later said she wanted both of her children. Eventually, she agreed to turn over custody of both children to CFS.

CFS filed supplemental dependency petitions as to the two children. Regarding Jonathan, CFS alleged (as amended), under section 300, subdivision (b), that Mother used inappropriate corporal punishment against Jonathan and that Jonathan suffered physical harm due to Mother’s inability to adequately supervise and protect him. Regarding Jeremiah, CFS alleged under section 300, subdivision (j), that he would be at risk of “similar abuse” in Mother’s care.

In November 2011, the court ordered that the children be detained in foster care. Visitation was to be one hour per week.

After Father’s release from jail in October 2011, he consistently visited Jonathan. He was appropriate during visits and cooperative with CFS. Mother attended one scheduled visit; she missed two others due to a conflict with other appointments and transportation problems.

In a jurisdictional/dispositional report, CFS recommended that Mother not be given reunification services and that a hearing pursuant to section 366.26 be set.

According to the social worker, the “non-accidental injuries to [Mother’s] one-year old child indicate that [M]other failed to benefit from [reunification] services.”

At a contested hearing held in February 2012, the court found true the allegations of the supplemental petitions and removed the children from Mother. The children’s permanent plan was placement in foster care with a specific goal of returning them to Mother. Although the court terminated reunification services, it ordered that Mother be provided services under the children’s permanent plan. The court did not set a section 366.26 hearing at that time.

F. Children Return to Mother’s Care Under Family Maintenance (April 2012 - August 2012)

In April 2012, the court ordered that Mother be allowed unsupervised and overnight visits with the children.

In August 2012, CFS recommended that the children be returned to Mother’s care under family maintenance. The social worker reported that Mother had participated in and benefitted from the services she had received; her epilepsy had been controlled by medication; and she had stable housing and income and was in a committed relationship with Mr. V.

Mother had unsupervised and overnight visits with the children during June and July 2012. She was reportedly “becoming more confident and competent with appropriate parenting skills.” Moreover, she “appears to be taking care of the children well during her visits” and “responded appropriately during [a] visit by taking Jeremiah

to the hospital when he accidentally got hurt by biting himself when he fell.” She “is eager to have her children returned to her custody.” The children reportedly looked forward to the visits.

CFS reported that Father visited regularly with Jonathan and was attentive to and engaged with him. Jonathan was familiar with Father and appeared to enjoy his time with Father.

At a hearing in August 2012, the court ordered the children be maintained in Mother’s custody. The court declared the goal of returning the children home to Mother had been successfully fulfilled.

G. Second Supplemental Petition (September 2012 - February 2013)

By September 2012, Mother was pregnant with her third child and had to discontinue her seizure medication.² In October 2012, she brought the children to a CFS office and said she was unable and unwilling to provide for their care. She said she was experiencing health problems, including epileptic seizures, due to the stress of caring for the children and participating in services. She signed a declaration consenting to give up custody and to have the children placed for adoption.

The following day, when the social worker went to Mother’s home to pick up the children’s clothes and belongings, Mother told the social worker she did not want to continue visitation with the children because it “would be emotionally difficult for both

² Mother gave birth to her third child in February 2013. That child is the subject of separate dependency proceedings.

of them.” However, two days later, Mother said she wanted to reunify with the children and to continue having visits.

CFS filed supplemental petitions alleging that Mother “has severe medical and untreated mental health problems, which have rendered her unable and unwilling to provide adequate care and supervision for her children”

In a jurisdictional/dispositional report, the social worker reported that Father had maintained consistent visitation with Jonathan. Father was interactive and appropriate, and Jonathan enjoyed the visits.

Mother’s visits did not go so well. She used a cell phone to call her boyfriend during a visit and refused to hang up after the social worker told her that calls during visits were not allowed. She spoke to Jeremiah about court and how her boyfriend was going to take her away. These comments and Mother’s argument with the social worker caused Jeremiah to become distressed and to cry. According to the social worker, Mother “has misdirected anger at CFS, is inappropriately hostile, makes inappropriate comments upsetting to her son and acts unstable in front of the children.” CFS recommended that Mother not be permitted any more visits because of the detriment to the children.

In November 2012, the court found the jurisdictional allegation true, terminated reunification services, and set a hearing to be held under section 366.26. The court limited Mother’s visits to one per month.

In January 2013, the children were placed with prospective adoptive parents.

In February 2013, Mother gave birth to her third child. When a social worker served a detention warrant regarding the infant, Mother told an accompanying police officer that a person who had recently been on television news for killing police officers “had ‘the right idea to put cops in their place’ and the deceased cops ‘got what they deserved’ and she wished that the cop killer ‘had killed him . . . too.’” Mother also threatened to kill the social worker. Such behavior, the social worker stated, “is extremely inappropriate especially given that she has had anger management classes.”

H. *Section 388 Petitions and Section 366.26 Hearing (March 2013 - July 2013)*

In a report prepared in March 2013 for the section 366.26 hearing, the social worker reported that Mother “has been compliant since” visits were reduced to once per month. During visits in December 2012 and January 2013, Mother interacted appropriately and was engaged with the children. The children were excited to see Mother and enjoyed their time with her. During the most recent visit, Jeremiah cried and clung to Mother, and said he wanted to go home with Mother.³

When Father was having weekly visits with Jonathan, he rarely missed a visit and was always appropriate. Jonathan enjoyed the visits and was pleased to see Father. However, the social worker noted that Jonathan’s “attachment to his father [is] limited as

³ During the February 2013 visit, Jeremiah said to Mother and the social worker that “his ‘Mommy . . . hit me last Thursday.’” He cried and was fearful for several minutes. The social worker commented that the child’s statement did not make sense because he had not seen Mother for a month. The social worker concluded that Jeremiah was “disclosing past trauma and is grieving multiple losses in his life.”

he has never lived with his father or spent more than a couple of hours with him.” He did not act out or cry when the visits were over.

Once-per-month visits between Father and Jonathan began in December 2012. Jonathan enjoyed the December visit and Father was appropriate. Father missed the January 2013 visit because he was mistaken about the time. During the February 2013 visit, Father became upset because Jonathan was not wearing a jacket Father had bought for him; Father “had to be re-directed . . . not to curse in front of his son.”

According to the social worker, the prospective adoptive parents and the children had developed a mutual attachment. The children were affectionate toward the prospective adoptive parents, responded positively to them, and sought their attention.

In March 2013, Mother filed a request to change court order, commonly known as a section 388 petition. Mother requested the court to return custody of the children to her under family maintenance or provide her with reunification services.

In response to Mother’s section 388 petition, CFS filed an “Interim Review Report.” CFS recommended the court not grant Mother’s request. Among other concerns, the social worker reported that Mother continued to suffer from seizure-related health problems that impacted her ability to parent. According to Mother’s doctors, “a major trigger for [Mother’s] seizures is stress, and historically [Mother] has found it very stressful to parent young children.” The social worker added that “history has shown repeatedly that [Mother] cannot sustain her children in her care without becoming overwhelmed.” Mother’s psychiatrist told the social worker that Mother denied being

depressed but had demanded a prescription for anti-depressant medication. The psychiatrist described Mother as “manipulative, hostile and angry,” and said “he ‘does not see improvement’ in [M]other’s functioning.” The social worker concluded that further services for Mother “are not going to eliminate the risk and instability to the children” The court thereafter denied the petition.

Father filed two section 388 petitions; one in January 2013 and one in April 2013. In his first request, Father sought to have Jonathan placed with paternal grandparents. In the second, Father sought to have custody of Jonathan or to receive reunification services. The court denied these requests.⁴

At the section 366.26 hearing, Mother testified about her visits with the children. She would play with them, feed them, watch movies with them, and change Jonathan’s diaper. When she had unsupervised weekend visits, she would also bathe and clothe them and provide for their day-to-day care. During the most recent visits with the children, Jeremiah (the older child) called Mother by her name. Previously, he had called her ““Mommy.”” Jonathan still calls Mother “Mommy.” When the children first see her at visits, they run toward her and hug her. Jeremiah will ask when he will get to go home with Mother and will cry at the end of visits.

⁴ The Parents do not challenge the orders denying their section 388 petitions. Mother did not indicate in her notice of appeal that she was challenging the order denying her section 388 petition and made no argument in her appellate briefs that the order was reversible. Father indicated he was appealing from both the order terminating his parental rights as to Jonathan and the order denying his section 388 petitions. In his opening brief he made no argument regarding the denial of his section 388 petitions. We therefore consider any issue regarding those orders to be abandoned.

Mother testified that she has a bond with Jeremiah and explained that she can see and feel that he loves her. She also believed she had a bond with Jonathan because she had gained his trust. She added that Jonathan told her he wanted to go home with her and to the park. At the end of visits, he throws a fit and hides behind her, holding onto her so that he cannot be taken away.

Father testified that he began visits with Jonathan immediately upon being informed of the child's birth. He visited regularly for about one year, until he was incarcerated. When he was released from jail six months later, he began visiting Jonathan again. He provided Jonathan with food, toys, and clothes. Jonathan knew him "as his daddy" and ran to him at visits. Other family members often come to the visits. When visits were over, Jonathan threw fits and cried.

Each parent (through counsel) argued that the court should select a permanent plan of guardianship, rather than adoption, because of the relationship and bond the Parents had with their respective children. The court rejected these arguments, selected adoption as their permanent plan, and terminated Father's and Mother's parental rights.

II. ANALYSIS

The Parents contend the court erred in failing to apply the beneficial parental relationship exception to terminating parental rights set forth in section 366.26, subdivision (c)(1)(B)(i).

At a section 366.26 hearing, the juvenile court determines a permanent plan of care for a dependent child. (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53; *In re Casey D.*

(1999) 70 Cal.App.4th 38, 50.) Adoption is the permanent plan preferred by the Legislature. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) ““Only if adoption is not possible, or if there are countervailing circumstances, or if it is not in the child’s best interests are other, less permanent plans, such as guardianship or long-term foster care considered.’ [Citation.]” (*Id.* at p. 574.)

“Once the court determines the child is likely to be adopted, the burden shifts to the parent to show that termination of parental rights would be detrimental to the child under one of the exceptions listed in section 366.26, subdivision (c)(1).” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297.) In this case, the Parents relied on the beneficial parental relationship exception to adoption.

The beneficial parental relationship exception applies when there is “a compelling reason for determining that termination would be detrimental to the child” because the parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) Here, CFS concedes that the Parents satisfied the requirement of showing that they “maintained regular visitation and contact with the child” (*Ibid.*) We are therefore concerned only with whether the Parents established the existence of a beneficial parental relationship and a compelling reason as to how termination of the parental relationship would be detrimental to the children.

To prove the existence of a beneficial parental relationship, 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.]” (*In re Derek W.* (1999) 73 Cal.App.4th 823, 827.) The parent must show that the “relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In 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.*, *supra*, 27 Cal.App.4th at p. 575.)

In reviewing challenges to a trial court’s decision as to the applicability of the parental relationship exception, we will employ the substantial evidence or abuse of discretion standards of review depending on the nature of the challenge. (*In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1315-1316.) We will apply the substantial evidence standard of review to evaluate the evidentiary showing with respect to factual issues. (*Id.* at p. 1315; § 366.26, subd. (c)(1)(B)(i).) However, a challenge to the trial court’s determination of questions such as whether, given the existence of a 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.*) In the dependency context, both standards call

for a high degree of appellate court deference. (*Ibid.*; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.)⁵

A. Mother's Appeal

Mother asserts that she was a parental figure in the children's lives and "not merely a friendly visitor." She relies heavily on the fact that CFS allowed increased visitation between Mother and the children, including unsupervised, overnight, and weekend visits. She points out that during extended visits she took on a parental role—she cooked meals, fed them, took them to appointments, changed diapers, washed their clothes, and taught them to clean their dishes and make their beds. Mother's factual points are supported by the record.

However, while the record indicates that Mother could competently parent the children during visits, she had difficulty when they were under her care for longer periods of time. When the children were returned to her custody under family maintenance in August 2011, she soon became overwhelmed and very frustrated caring for Jonathan and used inappropriate corporal punishment against him. She was initially equivocal about whether she wanted the children removed from her care, but eventually voluntarily turned over custody to CFS.

⁵ As the *In re Jasmine D.* court noted: "The practical differences between the two standards of review are not significant. '[E]valuating the factual basis for an exercise of discretion is similar to analyzing the sufficiency of the evidence for the ruling. . . . Broad deference must be shown to the trial judge. The reviewing court should interfere only "if [it] find[s] that under all the evidence, viewed most favorably in support of the trial court's action, no judge could reasonably have made the order that he did.' . . ."' [Citations.]" (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.)

In August 2012, after Mother showed increased confidence and competence during visits, the children were again returned to Mother's custody with family maintenance services. However, just two months later, Mother brought the children to a CFS office and voluntarily relinquished custody because of health problems brought about by the stress of caring for the children and participating in services. The next day she said she informed a social worker she did not want to continue visits with the children. She changed her mind about this two days later.

In her opening brief on appeal, Mother points to the act of returning the children to CFS as an act of "self-sacrifice[]," in which she "put her children's self-interests ahead of her own" This is a plausible interpretation of the events. It is also reasonable to interpret the event as an acknowledgement by Mother of her inability to adequately care for and parent the children on a long-term basis. Indeed, these interpretations are not inconsistent. It may well have been in the children's best interest to have CFS take custody of the children because Mother was unable to manage the responsibilities of being a parent to these children.

Mother's difficulty parenting for an extended period of time was highlighted in CFS's response to Mother's section 388 petition. The social worker noted that Mother's seizures and health problems continued to impact her ability to parent. According to Mother's doctors, a major trigger for the seizures is the stress of parenting young children. Because of these and other concerns, the social worker concluded that an "attempt to return the children to [Mother] a third time is just as likely to be unsuccessful

as history has shown repeatedly that [Mother] cannot sustain her children in her care without becoming overwhelmed.”

The record thus indicates that Mother twice turned over custody of her children when the stress and frustration of parenting became too much. Such actions, even if marked by self-sacrifice and motivated by a desire to do what is best for the children, indicates a fragile and uncertain parent/child bond. This is further evidenced by Mother’s concerns about her ability to bond effectively with Jonathan, which she expressed to a social worker four days before she turned the children over to CFS in October 2012.

Even when a beneficial parental relationship exists, the court “shall terminate parental rights” unless there is “a compelling reason for determining that termination would be detrimental to the child” (§ 366.26, subd. (c)(1)(B).) Here, the court did not abuse its discretion in determining there is no such compelling reason. Indeed, there is evidence that the transition to adoption will be positive. According to the social worker, the children and the prospective adoptive parents have developed a mutual attachment. Both children treat the prospective adoptive parents with affection and greet them with hugs and kisses.

Mother points to her testimony and CFS reports that the children looked forward to visits and wanted to go home with her after the visits. During a recent visit, Jeremiah cried and clung to Mother, saying he wanted to go home with her. However, in contrast with *In re Scott B.*, *supra*, 188 Cal.App.4th 452, upon which Mother places heavy reliance, there is no evidence that either child would suffer a “serious emotional and

developmental setback” if the parental relationship was disrupted. (*Id.* at p. 472.) The child in *In re Scott B.* was described as having a “precarious emotional state,” a history of regressing and running away when stressed, and likely to “have a meltdown if his usual frequent visitation with Mother [did] not continue.” (*Ibid.*) Significantly, a court-appointed special advocate in that case opined “that it would be detrimental to [the child] for his relationship with Mother to be disrupted.” (*Ibid.*) Here, by contrast, there is no evidence that the termination of the parental relationship would cause a “meltdown” in either of the children involved in this case; and the social worker in this case expressly opined that termination of parental rights would not be detrimental to the children.

Based on our review of the record, the juvenile court could reasonably conclude that there was no compelling reason for determining that terminating Mother’s parental relationship would be detrimental to the children. Accordingly, we will affirm the court’s order.

B. Father’s Appeal

In support of Father’s argument that he had a beneficial parental relationship with Jonathan, Father points to his near-perfect record of visitation with Jonathan, interrupted only by six months of incarceration. He also relies on the social workers’ favorable descriptions of his behavior during visits, and evidence that Jonathan enjoyed the visits. Father brought food, clothes, and toys to the visits, as well as a dictionary to help the child learn English. Paternal relatives came to visits so that Jonathan would get to know his brothers, sisters, and grandparents. He concludes that “Father persevered in achieving

consistent, loving visitation with Jonathan despite a short incarceration and reduced visitation.” This is a fair summation of Father’s efforts.

However, as noted above, courts have repeatedly stated that evidence of frequent and loving contact is not sufficient to establish the existence of a beneficial parental relationship. (See, e.g., *In re Marcelo B.* (2012) 209 Cal.App.4th 635, 643; *In re Bailey J.*, *supra*, 189 Cal.App.4th at pp. 1315-1316; *In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.) Although such interaction “will always confer some incidental benefit to the child” (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575), the beneficial parental relationship exception to adoption contemplates that the parent occupy a parental role in the child’s life. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1419.) The court could reasonably conclude that Father did not fulfill that role here. Father never lived in the same household with Jonathan and never had overnight visits with his child. As the social worker noted in the report prepared for the section 366.26 hearing: “Jonathan knows [Father] and enjoys playing toys or running around on the playground with him. Jonathan is pleased to see [Father], but his attachment to [Father] [is] limited as he has never lived with [Father] or spent more than a couple of hours with him.” Based on such descriptions regarding the relationship between Father and Jonathan, the juvenile court could reasonably conclude that Father did not have a parental role in Jonathan’s life and the relationship did not 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.” (See *In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

Moreover, there is no showing on appeal that terminating Father's parental rights would be detrimental to Jonathan. The discussion above regarding this issue as to Mother applies equally here. There is nothing in the record to suggest the requisite detriment. Accordingly, we affirm the court's orders.

III. DISPOSITION

The orders appealed from are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

KING
J.

We concur:

McKINSTER
Acting P. J.

RICHLI
J.