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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re C.R. et al, Persons Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

K.W. et al.,

Defendants and Appellants.

E062603

(Super.Ct.No. SWJ006577)

OPINION

APPEAL from the Superior Court of Riverside County. John M. Monterosso,  
Judge. Affirmed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and  
Appellant, K.W.

Cristina Gabrielidis, under appointment by the Court of Appeal, for Defendant and  
Appellant, J.R.

Gregory P. Priamos, County Counsel, James E. Brown, Guy B. Pittman and Julie Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

Appellant K.W. (mother) appeals from the juvenile court's denial of her Welfare and Institutions Code<sup>1</sup> section 388 petition regarding her children, A.R. and S.R. She also claims that the beneficial parental relationship exception applied as to her children, A.R., S.R., as well as C.R. (the children). (§ 366.26, subd. (c)(1)(B)(i).) Appellant J.R. (father) filed a separate appellate brief arguing that the court erred in denying his section 388 petition regarding all three children, as well. He also joins in mother's brief. We affirm.

#### FACTUAL AND PROCEDURAL BACKGROUND

On December 2, 2013, the Riverside County Department of Public Social Services (DPSS) filed a section 300 petition on behalf of the children.<sup>2</sup> C.R. was seven years old, A.R. was five years old, and S.R. was two years old. The petition alleged that the children came within section 300, subdivisions (b) (failure to protect), and (g) (no provision for support). The petition included the allegations that mother and father (the parents) both had substance abuse histories; that mother had failed to benefit from previous drug treatment programs; that mother was a victim of domestic violence in the presence of the

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<sup>1</sup> All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

<sup>2</sup> Father previously filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, case No. E060536. We take judicial notice of the record in that case. (Evid. Code, § 452, subd. (d).)

children; that father perpetrated acts of violence toward mother in the children's presence and was arrested as a result; that father had a criminal history; and that the parents had a DPSS history, with substantiated allegations of general neglect due to their substance abuse and domestic violence issues. The petition also alleged that father was currently incarcerated.

The social worker filed a detention report, which stated that there was a domestic violence incident between the parents on October 30, 2013. Father and mother had been married for three years and had three children together. They were carving pumpkins inside the garage, when their two-year-old child began to cry. Mother picked up the child with one arm and placed her between her hip and arm, as she assisted the other children. Father began to yell at mother for the way she picked up the child. After the child stopped crying, mother put her down. Father cornered mother and grabbed her around the neck with both hands and squeezed. As he was choking her, he threatened to kill her. Mother became lightheaded and was scared for her life. Father was arrested.

A detention hearing was held on December 3, 2013. The court detained the children in foster care. The court ordered visitation to be twice a week.

#### *Jurisdiction/disposition Report and Hearing*

The social worker filed a jurisdiction/disposition report on December 24, 2013, recommending that the court declare the children dependents and that reunification services not be provided to either parent, pursuant to section 361.5, subdivision (b)(13), since they both had a history of extensive, abusive, and chronic use of drugs or alcohol and had resisted prior court-ordered treatment for this problem during a three-year period

immediately prior to the filing of the petition. The social worker also recommended that visitation be modified to once a week, that a section 366.26 hearing be set, and that adoption be ordered as the permanent plan. The social worker reported that mother had a criminal history dating back to 2006, which included multiple arrests and convictions for possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)) and being under the influence of a controlled substance (Health & Saf. Code, § 11550, subd. (a)). She was also arrested in 2013 for willful harm/endangering a child. (Pen. Code, § 273a, subd. (b).) Father's criminal history dated back to 1996 and included multiple convictions for driving under the influence (Veh. Code, § 23152, subd. (a)), as well as convictions for inflicting corporal injury on a spouse. (Pen. Code, § 273.5, subd. (a).)

The social worker reported that, in February 2006, the parents lost two children in a house fire. Mother was home and father was incarcerated for domestic violence, at the time. Thus, when C.R. was born later in September 2006, there was concern for her well-being. Mother was subsequently arrested for possession of a controlled substance, and C.R. was placed in protective custody. From September 2006 to July 21, 2008, the parents were provided with reunification services, including parenting classes, counseling, drug testing, and drug treatment. They failed to benefit from their services, as they continued to have drug-related problems and violence in their home. The family reunification case was terminated on July 21, 2008.<sup>3</sup> The social worker noted that mother had been ordered by the criminal court to participate in substance abuse treatment on two

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<sup>3</sup> The record does not appear to explain exactly what occurred with C.R. at that point.

prior occasions. Father had been ordered by the criminal court to participate in substance abuse treatment on four prior occasions. The social worker opined that, despite an abundance of services, the parents appeared incapable of ceasing their drug use for the sake of their children.

Regarding visitation, the social worker reported that the first visit with mother was chaotic, with the children running everywhere in excitement. Mother had approximately six visits. As to father, he had not had any visits with the children, since he was incarcerated.

The social worker filed an amended section 300 petition on January 29, 2014. It added the allegation that “despite participation in several drug and alcohol rehabilitative programs, the father continues to use marijuana and other substances in the presence of his children.”

A contested jurisdiction/disposition hearing was held on January 31, 2014. The court found that the children came within section 300, subdivision (b), and declared them dependents of the court. The court denied reunification services to both parents, pursuant to section 361.5, subdivision (b)(13), and it ordered visitation to be reduced to one time a week. The court also set a section 366.26 hearing.

*Mother's Section 388 Petitions*

On May 12, 2014, mother filed section 388 petitions with regard to A.R. and S.R. only.<sup>4</sup> Mother requested that the court provide reunification services and liberalize visitation. Mother alleged that she completed a substance abuse treatment program on February 20, 2014; that she had been participating in a Family Preservation Court program since the beginning of March 2014; that she was enrolled in counseling and domestic violence classes; and that she had been drug testing negatively. She further alleged that she had maintained consistent visitation, and that she loved her children.

The social worker recommended that the court deny the section 388 petition.

*Sections 366.26/366.3 Report*

The social worker filed a report pursuant to sections 366.26 and 366.3 on May 14, 2014, and recommended that the children remain dependents of the court, that the permanent plan be adoption, and that the section 366.26 hearing be continued for 120 days since the children were not currently in a prospective adoptive home. There were two relatives being assessed for placement and possible adoption. The social worker reported that mother said she filed for divorce from father. However, they were currently residing in the same home due to financial restraints. Mother denied they were in a relationship and said they were residing in different rooms. Mother said she was unemployed and that father was paying most of the bills. The social worker further reported that mother had provided certificates of completion for the services she had

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<sup>4</sup> Since the petitions were identical, we will hereinafter refer to them collectively as "the petition."

completed on her own. Furthermore, mother's counselor in the Family Preservation Court said mother was actively participating, and that she was testing clean. Father's circumstances were unknown because he failed to keep in contact with DPSS.

The social worker further reported that, during visits, mother focused her attention on A.R. and ignored the other two children. Father was reported to appear emotional at visits and was often holding back tears. The maternal and paternal grandmothers attended the visits and reported that they were appropriate.

The social worker acknowledged that mother had completed many services on her own. However, she noted that mother was still residing with father, despite their domestic violence history. The social worker reported that all the children had made drastic improvements in behavior, education, and speech, since being placed in foster care. The social worker asserted that they deserved to have stability and permanency.

On May 29, 2014, the court held a contested section 366.26 hearing, and the matter was continued. The court ordered visitation to be twice a month.

#### *Father's Section 388 Petitions*

On August 29, 2014, father filed section 388 petitions<sup>5</sup> as to all three children, requesting that the court order reunification services and order visitation to be at least two times a week.<sup>6</sup> The petition alleged that father had completed parenting classes, attended

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<sup>5</sup> Since the petitions were identical, we will hereinafter refer to them collectively as "the petition."

<sup>6</sup> We note that the court had already ordered visitation to be two times a week at that point.

four counseling sessions, was participating in a Family Preservation Court program, and had enrolled in a domestic violence class and an “After Care program with MFI.” The petition also alleged that father had not had any positive drug screenings. Father further alleged that he had maintained visitation and had a loving bond with the children.

The social worker filed an addendum report on September 24, 2014, recommending that the court deny father’s section 388 petitions. The social worker reported that, at a hearing on July 31, 2014, the court highlighted the fact that mother continued to reside with father despite the repeated and severe domestic violence acts that he had perpetrated on her. On August 7, 2014, mother informed the social worker that she had asked father to move out. Mother shared with the social worker that she was having issues separating from him since she had been with him for 13 years. They had domestic violence issues the entire time. The social worker noted that “it took the reality of Juvenile Court involvement [for mother] to ask [father] to leave. This action was not self-realized and truly will take time, should it ever truly be changed.”

*Section 366.3 Status Review Report and Addendum Reports*

The social worker filed a status review report on November 17, 2014, and stated that, on July 10, 2014, the children had moved in with their paternal aunt and uncle. They were thriving, and the paternal relatives were willing to adopt them. The social worker further reported that, on October 23, 2014, it was discovered that mother had a three-year protective order against father. The order was signed and filed on November 1, 2013, and was effective until November 1, 2016. This order prohibited father from having any contact with mother, except through an attorney of record, and specified that

father was not to come within 100 yards of her. Regardless of the protective order, mother and father continued to live together in the same home, until she asked him to move out. Visitations were split up to accommodate both parents visiting with the children separately. On September 5, 2014, the parents attempted to persuade the caretakers to have an extra visit together, without prior authorization from DPSS.

On December 2, 2014, the social worker filed an addendum report to provide the court with the preliminary adoption assessment. The social worker reported that the prospective adoptive parents had cared for the children since July 10, 2014, and they were committed to having them become permanent members of their family. All three children were thriving in their home, and they were easily comforted by both prospective adoptive parents. The prospective adoptive parents were meeting their social, developmental, medical, and emotional needs. They were committed to adopting the children. The social worker further noted that the children rarely asked about the parents, and that C.R. and A.R. had increased anxiety before and after visits. C.R. and A.R. stated their desire to stay in their rooms and to never move again.

On December 10, 2014, the social worker filed another addendum report. The social worker reported that the parents still continued to violate the protective order. Although father had moved out, it was reported that he was regularly spending days and nights at mother's home. The social worker reported that the parents continued to be together as a couple, regardless of the protective order or the fact that father was on probation because of his domestic violence history with mother. The parents denied their relationship, even when confronted with information. The social worker asserted that the

parents had not benefitted from any services they had participated in. The social worker opined that neither parent had demonstrated the necessary changes to prove they were ready to be parents.

*Section 366.26 Hearing*

After several continuances, the court held a contested, combined hearing pursuant to sections 388 and 366.26 on December 16, 2014. Mother testified on her own behalf. She testified that she had a dependency case as to C.R. previously, and that she had successfully reunified with her. Mother further testified that, in the current dependency, she took it upon herself to enroll in services. She described the services she participated in. Mother also testified that she had not missed a visit with the children since November 2013. During visits, she played games with the children, read, took them out to eat, and went to parks and a pumpkin patch. When asked why she should be given an opportunity to reunify, she said that she was changing and that she could “be a better mother to them.” She said she had been employed since June 3, 2014, and the last time she worked was when she was 18 years old (she was currently 31 years old). Mother testified that she was no longer living with father, since he moved out on August 3, 2014. When asked why she had him move out, she said it was best for the children, and she thought she would have a better opportunity of reunifying with them. Mother said that father would have moved out sooner, but she was not financially able to handle everything by herself. On cross-examination, mother admitted that she finished her domestic violence class and training in July, but continued to live with father.

Mother's counsel argued that mother had clearly demonstrated that her circumstances had changed, as she had completed many programs. Father did not testify. However, his counsel asked the court to find that there had also been a change of circumstances, in that father was currently enrolled in domestic violence and anger management programs and was making progress. He was currently attending 12-step meetings. He had also completed an outpatient program, parenting classes, and a safety program. County counsel agreed that mother had shown changed circumstances, but argued that it was not in the best interest of the children to grant her section 388 petition. She noted how well the children were doing in their current home. With regard to father, she noted that he was the one violating the protective order. After considering mother's petition, as well as her testimony, the court stated that it was impressed with her changed circumstances and progress. The court acknowledged that her circumstances had changed dramatically. However, it was concerned because, despite her completion of a domestic violence program, she continued to reside with her perpetrator, even with a restraining order in place. The court was troubled that mother said the reason she stayed was because of financial reasons. Thus, the court found changed circumstances with regard to substance abuse, but not domestic violence. As to father, the court noted that he had been involved in some programs, but nothing was really complete; his situation was still evolving." However, the court noted that it was undisputed the children were now thriving in their placement. They had stability since they were no longer exposed to chaos, drama, or violence—"all the things that cause severe anxiety to children as they witness it." Under those circumstances, the court could not find any evidence to suggest

that it would be in the children's best interest to take them out of that stability and wait another six months. The court denied the section 388 petitions. The court further found that the children were adoptable, that it was likely they would be adopted. The court specifically noted there was some positive connection between mother and the children, but the minimal benefits of that connection were far outweighed by the overwhelming benefits of allowing the children to proceed with adoption. The court terminated parental rights, and set adoption as the permanent plan.

## ANALYSIS

### I. The Court Properly Denied Mother's and Father's Section 388 Petitions

Mother argues that the juvenile court abused its discretion in denying her section 388 petitions, since she had shown a change of circumstances. She contends that it was in A.R.'s and S.R.'s best interest to grant her services because she believed she was a great mother and they would thrive from being raised by their biological mother. Father similarly argues that the court erred in finding his circumstances had not changed and that it was not in the children's best interest to grant him services. We conclude that the court properly denied mother's and father's petitions.

#### A. *The Court Did Not Abuse its Discretion*

A juvenile court order may be changed, modified or set aside under section 388 if the petitioner establishes by a preponderance of the evidence that (1) new or changed circumstances exist, and (2) the proposed change would promote the best interest of the child. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 316-317 (*Stephanie M.*)) 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. (*Id.* at p. 318.)

“After the termination of reunification services, the parents’ interest in the care, custody and companionship of the child are no longer paramount. Rather, at this point ‘the focus shifts to the needs of the child for permanency and stability’ [citation], and in fact, there is a rebuttable presumption that continued foster care is in the best interests of the child. [Citation.] A court hearing a motion for change of placement at this stage of the proceedings must recognize this shift of focus in determining the ultimate question before it, that is, the best interests of the child.” (*Id.* at p. 317.)

The juvenile court here did not abuse its discretion in denying mother’s section 388 petition, as she failed to show changed circumstances or that a changed order would be in A.R.’s and S.R.’s best interests. As to changed circumstances, she alleged that she had been participating in a Family Preservation Court program since the beginning of March 2014, that she was enrolled in counseling and domestic violence classes, and that she had been drug testing negatively. While the court acknowledged how much mother’s circumstances had changed with regard to her substance abuse, it noted that domestic violence had been a key problem. It then asserted that, despite “being neck deep into the [domestic violence] program that she continued to reside with the perpetrator with a restraining order protecting her in place.” The court recognized that mother said she lived with father because of financial reasons, but noted that she stayed living with him for a significant period of time. Although father moved out before the hearing, the court concluded that mother’s decision to have him move showed “no change and no insight.” We agree with the court. At the hearing, mother testified that she had father move out

because she thought it was best for the children. She also confirmed that she thought it would give her a better chance to reunify with them. In her opening brief, mother concedes that she lived with father, despite the restraining order, but again argues that she did so because of financial constraints. She attempts to justify her living situation by adding that she and father were not in a relationship, and they lived in different rooms in the house. However, she then admits that she made him leave the house in August 2014 because she was “[f]inancially stable at last” and could support herself. In other words, mother’s reason for having father move out had nothing to do with domestic violence. She had him move out because she no longer needed his financial support. Mother’s arguments on appeal demonstrate that she still has not gained any insight from her domestic violence program. Thus, as the court stated, mother’s circumstances with regard to the domestic violence facet of this dependency case had not fully changed.

Furthermore, mother has failed to demonstrate that a changed order was in the best interests of A.R. and S.R. “[A] primary consideration in determining the child’s best interests is the goal of assuring stability and continuity.” (*Stephanie M., supra*, 7 Cal.4th at p. 317.) As to best interests, mother alleged that she loved her children, maintained consistent visitation, and felt a mutual bond with them. She then simply concluded that “implementing a permanent plan other than reunification with her would be detrimental to her children.” Mother clearly failed to show *how* it would be in her children’s best interests to provide her with reunification services. She had already participated in many services on her own, but clearly had not benefitted from her domestic violence program, since she continued to live with father. Moreover, her circumstances failed to assure the

court of any stability or continuity. (*Ibid.*) In her opening brief, mother proudly states that she was financially stable. However, by the time of the hearing, she had only been employed for approximately six months. Furthermore, although mother asserts that she had been separated from father for over four months, it was reported that he was regularly spending days and nights at her home. Mother claims that S.R. and A.R. would benefit from being raised by the biological mother who had “raised them for the majority of their lives so far.” However, during the time she was raising them, they were exposed to domestic violence and chaos in the home. Since mother was apparently still in a relationship with father, there was no assurance the children would not be exposed to that lifestyle again in the future. In view of the circumstances, it is difficult to see how providing mother with services, with the ultimate goal of returning A.R. and S.R. to her custody, would be in their best interests.

We similarly conclude that the court did not abuse its discretion in denying father’s section 388 petition. As to changed circumstances, father alleged that he had completed parenting classes, attended four counseling sessions, was participating in a Family Preservation Court program, and had enrolled in a domestic violence class and an “After Care program with MFI.” The petition also alleged that father had not had any positive drug screenings. We agree with the trial court’s assessment that father’s situation was “still evolving.” As the court noted, even though father had been involved in some services, nothing was complete or had fully shown any impact on his life. In particular, this dependency case arose from a domestic violence incident. Yet, father merely alleged that he had enrolled in a domestic violence class. He also asserts that he

ended his relationship with mother and was no longer living with her. However, the evidence showed that, even though he had moved out, he was spending days and nights at mother's home. Moreover, the social worker reported that, contrary to their claim, mother and father continued to be together as a couple. Thus, the evidence indicates father's circumstances may have been changing, but were not changed. To justify modification of previous orders under section 388, the circumstances must be changed, not merely "changing." (*In re Casey D.* (1999) 70 Cal.App.4th 38, 49 (*Casey D.*))

Furthermore, father has failed to demonstrate that a changed order was in the children's best interests. In the petition, he alleged that he had maintained visitation and shared a loving bond with the children, and then merely concluded that he felt it was in their best interests to be home as soon as possible. Father, like mother, clearly failed to show *how* it would be in the children's best interests to provide him with reunification services. Moreover, "[a]t the point of these proceedings—on the eve of the section 366.26 permanency planning hearing—the children's interest in stability was the court's foremost concern and outweighed any interest in reunification." (*In re Edward H.* (1996) 43 Cal.App.4th 584, 594; see *Stephanie M., supra*, 7 Cal.4th at p. 317.) The prospect of six months of reunification to see if father could successfully complete services would not have promoted stability for the children and thus would not have promoted their best interests.

On appeal, father ignores the Supreme Court's language in *Stephanie M., supra*, 7 Cal.4th 295 and instead urges this court to apply factors delineated by the appellate court in *In re Kimberly F.* (1997) 56 Cal.App.4th 519 (*Kimberly F.*). Those factors are: the

seriousness of the problem leading to dependency and the reason that problem was not overcome; the strength of relative bonds between the dependent children to both parent and caretakers; the degree to which the problem may be easily removed or ameliorated; and the degree to which it actually has been. (*Id.* at p. 532.) He contends that he and mother were no longer together and had no plans to reconcile, that he was successfully participating in and completing services, and that he had completed a substance abuse program and had been sober for at least one year. He further argues that, although the children were comfortable with the foster parents, they had only lived with them for six months, and they preferred to be with their biological parents. We decline to apply the *Kimberly F.* factors since they do not take into account the Supreme Court’s analysis in *Stephanie M.*, *supra*, 7 Cal.4th 295. (See *In re J.C.* (2014) 226 Cal.App.4th 503, 527.) Furthermore, it is not in the children’s best interests to “further delay permanency and stability in favor of rewarding [father] for [his] . . . efforts to reunify.” (*Ibid.*)

We conclude that the court carefully evaluated the evidence, determined that neither mother nor father had carried their burden of proof, and properly denied their section 388 petitions.

## II. The Beneficial Parental Relationship Exception Did Not Apply

Mother contends that the court erred in not applying the beneficial parental relationship exception under section 366.26, subdivision (c)(1)(B)(i). Father simply joins in her argument. We find no error.

At a section 366.26 hearing, the court determines a permanent plan of care for a dependent child. (*Casey D.*, *supra*, 70 Cal.App.4th at p. 50.) Adoption is the permanent

plan preferred by the Legislature. (*In re Celine R.* (2003) 31 Cal.4th 45, 53.) 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 a compelling reason for determining that termination of parental rights would be detrimental to the child under one of the exceptions set forth in section 366.26, subdivision (c)(1)(B). One such exception is the beneficial parental relationship exception set forth in section 366.26, subdivision (c)(1)(B)(i). (See *In re Jerome D.* (2000) 84 Cal.App.4th 1200, 1206.) This exception applies when the parents “have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) The phrase “benefit from continuing the relationship” refers to a parent/child relationship that “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.* (1994) 27 Cal.App.4th 567, 575 (*Autumn H.*)) It is the parent’s burden to show that the beneficial parental relationship exception applies. (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1345.)

In support of her position, mother asserts that she maintained regular visits with the children. She further states that she had established a bond with the children “by

raising them for the majority of their lives and then continued to nurture that bond through her consistent visitation and phone calls.” She then simply concludes that the benefit the children would gain from continued contact outweighed the benefits they would derive from being adopted. To support her argument, she asserts that she loved her children and they loved her, they were not afraid of her like they were of father, and A.R. talked about how she (mother) was nice to them and did not yell at them. Mother further states that, at visits, she and the children played games and participated in fun activities, and she was certain she would be a better mother now that she had changed. Finally, she points to the children’s stipulated testimony that they “would like to be with [the parents].”

Mother’s interactions with the children do not even begin to demonstrate that her relationship with them promoted their well-being “to such a degree as to outweigh the well-being the [children] would gain in a permanent home with new, adoptive parents.” (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) She has not proffered any evidence to support a finding that the children had a “substantial, positive emotional attachment [with her] such that [they] would be greatly harmed” if the relationships were severed. (*Ibid.*) To the contrary, the record shows that the children rarely asked about the parents, and that C.R. and A.R. had increased anxiety before and after visits. Furthermore, in contrast to mother’s claim that C.R.’s and A.R.’s “first choice was to be with their parents,” the record shows that they stated their desire to stay in “their” rooms at their current home and to never move again. In light of all evidence, it is difficult to conclude that the children had emotional or beneficial relationships with mother.

We further note that the children were thriving in their prospective adoptive home. They were easily comforted by both prospective adoptive parents. The prospective adoptive parents were financially stable, and they were committed to keeping the children together. They were willing, able, and eager to meet the needs of the children on a permanent basis.

We conclude that the beneficial parental relationship exception under section 366.26, subdivision (c)(1)(B)(1) did not apply here.

DISPOSITION

The court's orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

HOLLENHORST  
Acting P. J.

We concur:

MILLER  
J.

CODRINGTON  
J.