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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re A.G., et al., Persons Coming Under the
Juvenile Court Law.

TULARE COUNTY HEALTH AND HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

ANGELA G.,

Defendant and Appellant.

F063472

(Super. Ct. No. JJV064440A, B)

OPINION

APPEAL from a judgment of the Superior Court of Tulare County. Charlotte A. Wittig, Commissioner.

Catherine C. Czar, under appointment by the Court of Appeal, for Defendant and Appellant.

Kathleen Bales-Lange, County Counsel, John A. Rozum and Carol E. Holding, Deputy County Counsel, for Plaintiff and Respondent.

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Angela G. (mother) appeals from orders made at an August 2011 permanency planning hearing which (1) identified adoption as the permanent placement goal for her

two daughters and directed respondent Tulare County Health and Human Services Agency (Agency) to make efforts to locate an appropriate adoptive family for them within 180 days (Welf. & Inst. Code, § 366.26, subs. (b)(4) & (c)(3)),¹ and (2) terminated mother's visitation. Mother contends the juvenile court erred in finding that there would be no detriment to her daughters if parental rights were terminated and in terminating visitation. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In March 2010, the juvenile court determined that half-sisters A.G., then 11 years old, and M.L., then four years old, (collectively the girls) came within its jurisdiction under section 300, subdivisions (a) (serious physical harm), (b) (failure to protect) and (g) (failure to support). On two occasions, mother had physically abused A. In the first incident, she struck A. in the face, causing her to bleed and injuring her nose, and told A. she was going to kill herself and the girls. In the second incident, she struck A. repeatedly, causing bruising all over A.'s back. Later, mother told a social worker that she wanted to kill the girls and the girls were better off dead. Mother had a history of methamphetamine abuse. She failed to provide adequate medical care for A., who has a complex medical history, which includes having an imperforated anus, cloacal anomaly and renal insufficiency. A.'s medical conditions require her to take multiple medications and see health professionals every two months to monitor her medications and conditions. Mother, however, had not taken A. to her medical appointments, as it had been nearly a year since her last medical visit, and denied to Agency staff that A. had health issues. The girls' fathers were incarcerated and could not support them.

The girls have an older brother Paul, who was 19 at the outset of the proceedings. According to the girls' maternal grandmother, Paul left home when he was 16 because of mother's destructive behaviors, which included physical abuse. Paul had a criminal

¹ All undesignated statutory references are to the Welfare and Institutions Code.

background that precluded his consideration for relative placement. When A. was younger, Paul had lived with her and helped to care for her.

At the same hearing, the juvenile court adjudged the girls juvenile dependents, removed them from mother's custody, and ordered reunification services for mother. The case plan required mother to participate in counseling, complete a parenting education program, complete a substance abuse assessment and follow any recommended treatment, and submit to random drug testing. Mother was given twice weekly supervised visits with the girls. Despite 12 months of reasonable services, she failed to successfully comply with the case plan and reunify with the girls.

The Reunification Period

During the first six months of services, mother completed a parenting education program. In mother's psychological assessment, the psychologist found that she had a characterological disorder, but did not qualify for specialty mental health treatment. Mother was evaluated by an Agency clinician and attended two counseling sessions, but stopped attending appointments. After completing a substance abuse assessment at the outset of the case, mother was referred to an outpatient treatment program. Mother, however, missed several individual and group sessions. Following a second assessment, she entered an inpatient program in July 2010. Sixteen of the 27 drug tests mother took before entering the program were positive for methamphetamine/amphetamine or opiates. Mother had visited the girls consistently. During visits, mother appeared to talk to A. as if she were a friend and not a child. She brought food for the girls and talked with them, and the girls looked forward to visits.

During the second reunification period, mother attended 12 counseling sessions, but cancelled or missed nine sessions. Conjoint therapy had not yet started because the girls' therapists did not feel they were ready to begin. While mother had been ordered to participate in the girls' medical appointments, she failed to attend one of A.'s medical

appointments as well as M.'s appointments, claiming she did not know about them although she had been informed on two separate occasions.

Mother had completed the inpatient drug treatment program and was in an aftercare program. Mother said she missed some sessions due to her health issues, as she had surgery in September 2010 and was hospitalized for other health reasons in November 2010, and she lacked transportation to the classes. Mother was taking prescribed pain medication for a medical condition, which she was advised to stop taking because such medications were prohibited in the aftercare program. After mother was warned in November 2010 that she could be dropped from the aftercare program if she continued to miss appointments, mother attended the program consistently, but the treatment counselor believed she was there only because she needed to be. Mother had been called to drug test 29 times during this reporting period; in 17 of those tests, mother tested positive for opiates and failed to show up for two tests. The social worker attributed the positive tests to mother's use of the prescribed narcotics. Mother continued to consistently visit the girls twice a week, but had not moved beyond supervised visits, as A.'s therapist opined in December 2010 it was not in A.'s best interest to allow unsupervised visits.

In February 2011, the juvenile court found that mother had failed to participate regularly and make substantive progress in court-ordered treatment programs, terminated reunification services and set a hearing to select and implement a permanent plan for the girls. (§ 366.26.) Although the court set the section 366.26 hearing for June 3, 2011, it did not conduct the hearing until August 25, 2011.² In the interim, mother petitioned twice to reopen reunification services, authorize unsupervised visitation, and give the social worker discretion to return the girls to her care. The court held a hearing on the

² Subsequent references to dates are to the year 2011, unless otherwise stated.

first petition, which it denied as there was not a sufficient change of circumstances, and summarily denied the second petition.

The Section 366.26 Hearing

In an Agency report prepared for the June 3 hearing, the Agency recommended the girls remain dependents and the case be continued for 180 days to allow time to determine the appropriateness of possibly separating the girls and pursuing different plans for them. The Agency recommended reduction of mother's visits to twice a month, as the girls did not interact a lot with mother and were anxious to leave the visits even before they ended.

The girls had been placed together since the outset of the dependency case, with the exception of three days that M. was placed separately with her paternal aunt; the two had been in a total of six placements together. Their most recent placement began in February. A. did not like it there because she thought the foster parent always yelled at her, although the social worker said the foster parent just talked very loudly. M. also did not like it there, although she seemed to be adjusting well.

The girls told the social worker they would not mind not being placed together. M. stated that A. was mean to her, and would yell and hit her. When that happened, M. told the foster parent, who talked to A. The social worker believed this was a sibling issue, rather than a parenting issue, as A. had been trying to discipline M. since they had been in the placement. A. told the social worker M. gets on her nerves and annoys her, and that she would like to be in a different placement, away from M. A paternal cousin who was interested in adopting M. was being assessed for placement. The social worker had supervised a visit between the relatives and M., and M. wanted the visits to continue.

The girls had twice weekly supervised visits with mother. Mother always brought food to the visits. A. had asked the social worker whether she had to attend the visits, as she sometimes did not want to go to them. The social worker reported that in the past, A. spent the whole visit playing with mother's phone, A. did not really interact with mother,

and the two were not very affectionate. M. was happy during visits as long as mother brought food. M. and mother interacted much more than A. and mother, and it appeared to the social worker that mother was “more vested” with M. M. got bored towards the end of the visits and wanted to leave. M. was usually the first one out of the visiting room and ready to leave when the visit ended.

No prospective adoptive parent or legal guardian had been identified for the children. With respect to adoption, A. stated she wanted to be adopted so she wouldn't “have to see my mom until I am 18 years old or older,” but she wanted to be adopted by someone other than her current foster parent. M. had stated that she liked being able to visit and get to know the paternal cousin; she wanted to keep visiting them and maybe stay with them. Mother continued to participate in services despite their termination; she attended a positive parenting conference and the outpatient drug treatment program, where she was in full compliance.

The social worker believed the case should be continued for 180 days so an appropriate permanent plan could be developed for the girls and to assess if they should be separated or remain as a sibling group. A team who had reviewed the case concluded the children should be separated as A. tended to try to parent M. and would yell at M. and hit her to discipline her. The social worker also believed that M. should continue to visit her paternal cousin, with whom placement should be considered if the cousin passed the assessment. Two other families, one a former foster parent and the other a respite care provider, were interested in having A. placed with them if the girls were separated.

An adoptions assessment completed in May recommended reduction of mother's visits to every other week. It was noted in the assessment that the girls' therapists had not yet explored with them the implication of permanently being separated from one another, nor addressed the grief and loss of not returning home to mother. The assessment worker believed more time was needed to determine the best outcome and permanent plan for the girls, as the girls were not emotionally ready for permanency, and requested the case be

continued for 180 days to allow time to determine the appropriateness of separating the girls and pursuing two different plans for them.

At the June 3 hearing, the juvenile court continued the hearing after appointing separate counsel for the girls. The court asked the parties to address at the next hearing concerns it had regarding the Agency's recommendation that would result in separating the girls, as it was uncertain whether separation was in their best interests and whether their problems were simply adolescent issues.

On June 28, a team from the Agency discussed permanency for the girls and determined the plan should be foster care for the next six months so a proper assessment could be made of the impact of separation on each girl and whether separation would be in their best interests.

On July 12, the girls were removed from the foster home after M. told the social worker the foster mother had pushed and choked her. Following an investigation, it was determined that the allegations were unfounded. Nevertheless, the girls were moved to a new foster home as a precaution. The foster home was an emergency placement, as the Agency was having difficulty finding a home that could take both girls. On July 25, the social worker asked M. about her visits with her paternal relatives. M. responded she really liked visiting and wanted to live with them. When the social worker asked M. about A., since A. could not go with her, M. responded that was okay because A. told her "I'm not her sister anymore because our foster mom's baby is her sister not me." A. told the social worker that everything was going well at the foster home and she wanted to stay there, as she liked the town and the family.

M.'s therapist told the social worker on July 7 that she was working with M. on helping her understand and verbalize her feelings and emotions. The therapist agreed to work with M. on grief and loss, her sibling relationship and permanency. On July 20, M.'s therapist told the social worker M. said that in their previous placement A. would hit her and when M. told the foster parent, A. denied doing it. The foster parent made A. go

to their room for a time out. M.'s paternal cousin was approved for relative placement, and M. had been having day, overnight and weekend visits with the cousin.

M. told the social worker it was not nice for a sister to hit her little sister in the stomach so hard it knocked the wind out of her, which A. had done to her. M. said it really hurt. M. did not tell the foster parent because A. would hit her again. When the social worker asked A. about this, A. denied hitting M., but admitted she told M. what to do. The former foster mother reported that when she packed up the girls' belongings, she noticed many of M.'s things were missing. The foster mother said A. often was cleaning their bedroom and throwing things away. According to M., A. always got into her things; A. told M. the foster mother put her things in the closet to keep them safe. The foster mother, however, denied that, saying the girls kept their things with them in their room. M. said her things would come up missing and she did not know what happened to them.

M.'s therapist reported that M. had been diagnosed with oppositional defiant disorder. Her previous foster parent told the therapist M.'s behavior is positive throughout the week, but became "challenging" after M.'s visits with mother. M. was happy during visits, but became sad when they were over. The therapist believed M. would benefit from a stable environment where she could progress as developmentally appropriate. A.'s therapist reported that A. was diagnosed with adjustment disorder with mixed disturbance of emotions and conduct, physical abuse and neglect as a victim.

In a report prepared for the July 26 continued hearing, the Agency recommended that visitation be reduced to once a month because the visits seemed to be disruptive to the girls' permanency plan as they acted out after visits. The social worker noted that A. was participating in visits now that she was aware mother's reunification services had been terminated. A.'s therapist, however, had stated A. told her she did not want to visit mother. The Agency also recommended the case be transferred to the adoptions unit for further assessment for adoption.

At the July 26 continued hearing, the juvenile court asked the Agency to clarify whether its recommendation was to continue the matter for 180 days and find termination of parental rights would not be detrimental to the girls, or to order planned permanent living arrangement as the permanent plan with a goal of adoption. County counsel responded that it was the first option, as the Agency thought M. was adoptable, but it wanted to continue the matter for six months so it could evaluate whether there was an exception to adoption. The court continued the hearing, however, because one of the fathers had not been transported to the hearing. M.'s attorney asked that M. be placed with the paternal cousin. A.'s attorney, however, stated A. told him she wanted to remain with M. The court authorized separate placements for the girls, finding separation would be in their best interests, and ordered weekly sibling visits if they were separated.

On July 29, the Agency placed M. with her paternal cousin, while A. remained in the foster home the girls were moved to on July 12. Each girl was adjusting very well to their placements and bonding with their care providers. A. refused to attend visits with mother. A. wrote a letter on August 10, in which she explained that she was no longer visiting mother because they hardly talk during visits and the visits seemed to be mainly for mother and M. A. also wrote that if mother happened to talk to her, it was to tell her she was "doing a lot wrong" or she was trying to act older than she was, and that she and mother had gotten "more separated" while she was in foster care.

The social worker reported that during visits with M., mother tried to "sabotage" M.'s placement. Mother made comments to M. such as "I have your room and bed ready for when you come home and it has a lot of stuffed animal[s]." M. responded by telling mother that she had a nice bed and lots of stuffed animals in her new placement. During another visit, mother acted like she was tickling M., but she actually was whispering into M.'s ear that she needed to tell the foster parent she wanted to go back with A. and mother, and did not want to remain with her current care provider. Mother also gave M. notes she had written to the girls for her to take home and give to A. Although mother

knew she was not allowed unsupervised contact with the girls, she put her telephone number on the notes and told the girls they could call her whenever they want.

After the July 25 court hearing, mother gave the CASA representative letters to give to the girls, which the CASA representative gave to the social worker. In the letter addressed to A., mother appeared to blame A. for the situation they were in and for the fact that M. was not going to go home with mother, who would have to go home by herself. In the letter addressed to M., mother told M. how much she loves her and apologized for M. having to go through this. The social worker gave the letters to the girls' therapists.

A.'s therapist reported to the social worker that while A. wanted to trust mother, she still had a certain level of distrust towards mother's actions and motivations. A. had addressed adoption and the prospect of M. being adopted. A. told the therapist she felt responsible for M. and did not trust the family that was seeking to adopt M. as A. did not know them. A. also stated that if M. was to be adopted, she would be glad to not have to feel responsible for M. and be constantly annoyed by her. A. had begun to address the prospect of her own adoption. She was ambivalent and contradictory about this path, and contradicted herself many times during therapy sessions. According to the therapist, A. was a "very confused girl with seemingly no sense of self." The therapist believed it was very important for A. to have consistent contact with healthy individuals who make good choices so that A. could learn to make healthy choices herself.

In a report prepared for the August 25 hearing, the social worker reported that A.'s current care providers were willing and able to adopt A., and A. wanted to remain there and be adopted by them. M.'s current care providers were willing and able to adopt M., and M. wanted to remain in the home, but wanted to continue to visit A. and mother. The Agency recommended the girls remain dependents, that the permanent plan for the girls be adoption with their care providers, and mother's visits be reduced to once a month.

At the August 25 permanency planning hearing, mother testified about her visits with the girls. She visited the girls twice a week for one hour each visit. When the girls saw mother, M. always ran up to her and hugged her, while A. usually just said “hi.” They talk, play games, read books and watch movies, and she always brings the girls something to eat. Mother hugs and kisses the girls, who hug her back. M. will kiss her. Mother tells the girls that she loves them; M. will respond, while A. “not so much.” At the end of visits, M. starts to get distracted and does not listen when told to put things away. M. hugs her many times and kisses her until they have to “make her leave.” M. always tells mother the next day she will see her. A. appears ready to leave at the end of visits, but M. always tells her she does not want to go.

County counsel asked the court to follow the recommendation set out in the June report, asserting that the Agency believed the girls “could be adoptable.” Six-year-old M. was currently in a prospective adoptive home, and the Agency wanted to continue the matter for 180 days under subdivision (c) so it could further evaluate M.’s stability and progress in that placement working towards adoption planning. With respect to A., the Agency also asked for a 180 day continuance under subdivision (c) to allow additional time for A. and her foster family to explore adoption possibilities as well as other permanent plans such as guardianship. County counsel further explained that the goal of the plan was adoption and they wanted to transfer the case to the adoption unit to further explore and evaluate the adoption plan, but the Agency was not asking for termination of rights.

Mother’s attorney objected to the recommended finding that termination would not be detrimental to the children. She argued that mother’s visits had been appropriate and positive, and the girls were happy at visits and sad to leave. Mother’s attorney was concerned that the girls’ therapists had not explored the implications of separation from each other, or addressed grief or loss issues. She asserted it was clear from mother’s testimony that mother had a strong relationship with the girls, and argued it would be

detrimental to sever the girls' bond with each other, as they had been together since birth and had another adult sibling with whom they had contact. She also argued it would not be detrimental to the girls, and not in their best interests, to sever their relationship with mother. Mother's attorney asked the court to place the girls together and allow mother to have frequent contact with them instead of pursuing a plan of adoption, and to leave visitation at its current level, as there had not been a showing that visits were detrimental.

M.'s attorney agreed with the Agency's recommendation, asserting that M. was adoptable, but asked that the matter be continued for 180 days because the placement was relatively new and the attorney wanted to ensure the girls' bond was assessed properly before termination of parental rights, so it could be determined whether there would be a sibling relationship argument as an exception to termination. M.'s attorney asked the court to find mother's visits with M. detrimental based on the notes and letters mother wrote the girls, as well as mother's comments to M. during visits, and terminate visitation. M.'s attorney asserted mother's conduct hindered permanency and affected M.'s emotional stability.

A.'s attorney also agreed with the Agency's recommendation, as well as M.'s attorney's argument, and said that A.'s last visit with mother was on July 25. He agreed more time was needed for placement, as A. had not been in her current placement very long.

The court stated that it intended to follow the Agency's recommendation to continue the matter for 180 days, but wanted County counsel to argue whether there was detriment because, although it was not terminating parental rights, it was required to find that termination of parental rights would not be detrimental to the girls and they had a probability of adoption. County counsel argued that termination of parental rights would not be detrimental, as neither the sibling nor beneficial relationship exceptions to termination of parental rights applied.

The court followed the Agency's recommendations and found termination would not be detrimental to the children who had a probability of adoption but were difficult to place. The court found visits with mother would be detrimental to the best interests of the girls and accordingly ordered there be no visitation, telephone contact or other communication. Having selected adoption as the permanent plan, the court set the matter for a further hearing in February 2012.

DISCUSSION

I. The No Detriment Finding

At a section 366.26 hearing, the juvenile court is expected to select a permanent placement plan for a dependent child. There are six possible courses of action the court may take. (§ 366.26, subd. (b).) One available course of action, which the court took here, is to identify adoption as the permanent placement goal and order the Agency to try, for no more than 180 days, to locate an appropriate adoptive family. (§ 366.26, subd. (b)(4).) The court may choose this course of action if it finds “that termination of parental rights would not be detrimental to the child pursuant to paragraph [(c)](1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, . . .” (§ 366.26, subd. (c)(3).)

When the juvenile court proceeds under section 366.26, subdivision (c)(3), it must make at least three findings: (1) the child has a probability of adoption; (2) termination of parental rights would not be detrimental to the child; and (3) the child is difficult to adopt for specified reasons. (*In re Gabriel G.* (2005) 134 Cal.App.4th 1428, 1436.) Here, mother challenges only the second finding, namely that termination of parental rights would not be detrimental to the girls.

The general rule in California dependency law is that once reunification efforts fail, the court must choose adoption as a permanent plan where possible. (*In re Celine R.* (2003) 31 Cal.4th 45, 53 (*Celine R.*)) At this stage of the dependency proceedings, “it becomes inimical to the interests of the minor to heavily burden efforts to place the child

in a permanent alternative home.” (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 256.) Although section 366.26, subdivision (c)(1) specifies circumstances in which termination of parental rights would be detrimental to a dependent child, those circumstances are *exceptions* to the general rule of adoption where possible. (*Celine R., supra*, 31 Cal.4th at p. 53.) It is the parent’s burden to establish termination would be detrimental under one of the statutory exceptions. (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 809.) When a juvenile court rejects a parent’s detriment claim, the issue on appeal is whether the juvenile court abused its discretion. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.)

Here, mother claims termination of parental rights would be detrimental to the girls on two grounds. First, she contends that termination would substantially interfere with the girls’ sibling relationships such that termination would be precluded by subdivision (c)(1)(B)(v).³ Second, she argues that pursuant to section 366.26, subdivision (c)(1)(B) she maintained regular visitation with the girls and they would benefit from a continuing relationship with her.⁴

A. The Sibling Relationship Exception

Mother argues it was premature to find the sibling relationship exception was inapplicable, as the underlying reason for the 180-day continuance was to explore

³ The exception of section 366.26, subdivision (c)(1)(B)(v) applies where: “There would be substantial interference with a child’s sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with a sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child’s best interest, including the child’s long-term emotional interest, as compared to the benefit of legal permanence through adoption.”

⁴ The exception of section 366.26, subdivision (c)(1)(B)(i) applies where: “The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.”

whether the girls should be separated and whether the sibling relationship exception applied, and there was insufficient evidence available to make this determination. She also contends the evidence establishes that adoption would substantially interfere with the girls' sibling relationships.

Mother's argument that the juvenile court's finding on this issue was premature fails for the simple reason that the juvenile court was required to determine whether termination would not be detrimental when deciding whether to proceed under section 366.26, subdivision (c)(3). This determination included considering whether an exception to termination, such as the sibling relationship exception, applied. To require such a determination makes sense because, if there was compelling evidence that termination would be detrimental to a dependent child based on one of the statutory exceptions (§ 366.26, subd. (c)(1)), no purpose is served by postponing permanency planning for 180 days and directing the public agency to contact other private and public adoption agencies regarding the child's availability for adoption and search for adoptive parents. Thus, it is not only reasonable but important, in the case of a dependent child who has a probability for adoption but is difficult to place, for the court to first assess whether termination would be detrimental to the child.

Section 366.26, subdivision (c)(1)(B)(v) permits a finding of detriment in situations where termination would cause a substantial interference with the sibling relationship. If termination would substantially interfere with the sibling relationship, section 366.26, subdivision (c)(1)(B)(v) lists factors the juvenile court should consider in determining whether the circumstances of any given case warrant application of the exception. First, a juvenile court must consider the nature and extent of the relationship, including, but not limited to, factors such as 1) whether the child was raised with a sibling in the same home, 2) whether the child shared significant common experiences, or 3) whether the child has existing close and strong bonds with a sibling. If the relationship exhibits some or all of these factors, the juvenile court must balance any benefit,

emotional or otherwise, the child would obtain from ongoing contact with the sibling against the benefit of legal permanence the child would obtain through adoption.

(§ 366.26, subd. (c)(1)(B)(v); see *In re L.Y.L.* (2002) 101 Cal.App.4th 942, 949 (*L.Y.L.*).

Mother contends the record establishes that adoption would substantially interfere with the girls' sibling relationships, as the girls are closely bonded to each other and their adult brother Paul, they lived together most of their lives, visited each other frequently when in separate placements, and shared common experiences. She asserts it is in the girls' best interest to have frequent ongoing contact with each other.

There is no dispute here that the girls are bonded, and shared a home and common experiences. To establish the sibling relationship exception, however, mother must establish severing the sibling relationship would cause the girls detriment. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251 (*Megan S.*)). Here, there is no evidence that either A. or M. would suffer detriment if their relationship was severed. A.'s relationship with M. was more of a parent than a sister. A., who was six and a half years older than M., felt responsible for M., disciplined M. by hitting her, and would tell M. what to do. When asked how she would feel if M. were adopted by another family, A. expressed relief at not having to be responsible for M. M. also did not mind being placed separately from A. M. thought A. was mean to her, said A. would hit her hard, and it appeared that A. was taking M.'s things and lying to M. about it. Although the girls had been in the separate placements for only a short time, they were adjusting well, bonding with the care providers, and wanted to be adopted by them.

With respect to the girls' relationship with Paul, there is no evidence that M. had a relationship with him. While Paul had lived with A. and helped care for her in her early years, and A. spoke of him whenever her CASA representative visited her, Paul and his baby had visited A. only once or twice in a seven month period. There is no evidence that severing A.'s relationship with Paul would be detrimental to her. Moreover, as an

adult, Paul is capable of having a relationship with the girls regardless of whether mother's relationship remains intact. (*In re J.T.* (2011) 195 Cal.App.4th 707, 719.)

Even if the girls would suffer detriment if separated from each other or from Paul, the court may still terminate parental rights if it determines they would benefit more from adoption than by maintaining their sibling relationships. (*Megan S.*, *supra*, 104 Cal.App.4th at p. 252.) A.'s therapist opined that A. needed consistent contact with healthy individuals, while M.'s therapist believed M. would benefit from a stable environment. Their care providers were willing to adopt the girls and the girls wanted to be adopted by them. Given the girls' relationship with each other, which was more of a parent/child relationship than that of sisters, and the girls' need for stability and permanence, we cannot conclude that the juvenile court abused its discretion in determining that the children would gain more through adoption than by maintaining their sibling relationships.

Finally, mother complains that there was not an adequate record to determine whether the sibling exception applied because the girls had been in their separate placements only a short time, their therapists had not dealt with the issue in therapy, and the sibling relationship needed to be explored further. Should circumstances change or new evidence emerge regarding the sibling relationship before the section 366.26 hearing, however, the juvenile court may revisit the issue at that hearing. (*In re A.G.* (2008) 161 Cal.App.4th 664, 671.)

B. The Beneficial Relationship Exception

Mother contends she met her burden of establishing that the girls, particularly M., would benefit more from a continued relationship with her than from a permanent plan of adoption. Mother argues the evidence established she occupied a parental role in the girls' lives and that termination of parental rights would be detrimental, as she and A. shared a strong bond, she was the most important person in M.'s life and one of the

important persons in A's life, she visited the girls consistently, and the visits were affectionate.

The beneficial relationship exception in section 366.26, subdivision (c)(1)(B)(i) involves a two-part test: (1) did the parent maintain regular visitation and contact with the child; and (2) would the child benefit from continuing the relationship. For the exception to apply, "the parent-child relationship [must] promote the well-being of the child to such a degree that it outweighs the well-being the child would gain in a permanent home with new, adoptive parents. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) A juvenile court must therefore: 'balance . . . 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.' (*Id.* at p. 575.)" (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1342.)

There is no dispute that mother satisfied the first part of the exception, i.e. that she maintained regular contact with the girls. Mother failed to establish, however, the second part, namely that the girls would benefit from continuing their relationship with her. While mother presented evidence that she had pleasant visits with the girls, during which M. in particular enjoyed loving contact, and at least M. enjoyed the visits, this was not enough. Since contact between a parent and child generally confers some benefit on a child, mother had to demonstrate more than pleasant visits or loving contact to compel a finding that termination would be detrimental to the girls. (*L.Y.L., supra*, 101 Cal.App.4th at pp. 953-954.)

The juvenile court was not compelled to find detriment, as mother did not introduce any evidence of a substantial, positive emotional attachment such that either A. or M. would be greatly harmed should her parental rights be terminated. Instead, the evidence showed that mother did not have much of a relationship with A. The two did

not interact during visits and when they did, they acted more as peers than mother and daughter. By the time of the section 366.26 hearing, A. no longer wanted to visit mother, and did not trust her actions or motivations. As shown by mother's notes, she blamed A. for the family's involvement in the dependency system and for not getting M. back. While M. appeared to be more bonded with mother, her visits with mother showed the bond was not a strong one. While M. was happy during visits, the social worker reported it was because mother brought food. M. got bored toward the end of visits and wanted to leave, although she was sad afterwards. When mother told M. she had her room and bed ready for her, M. responded that she had those things in her current home.

Simply put, mother failed to establish that the relationship between her and the girls was so strong that they would suffer detriment from its termination. (*In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449-450.) At most, there was evidence that M. loved mother and enjoyed visits with her. Given that the loss of a child's frequent and loving contact with a parent is insufficient to show detriment (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418), we will not reverse the juvenile court's no detriment finding on this record.

II. Termination of Visitation

Mother contends the juvenile court abused its discretion when it terminated visitation because the evidence does not support a finding that visitation would be detrimental to the girls. On appeal, the Agency agrees that mother "may have a point" on this issue. The Agency states that it did not advocate for termination of visitation below and would not "take a different position on appeal[,] " but notes that whether to terminate or reduce visitation was "a close call" which the juvenile court made after it "thoughtfully considered all the evidence." To the extent this is a concession that the juvenile court erred, we do not accept it, as we conclude there was substantial evidence to support the juvenile court's decision.

Although the juvenile court previously had terminated mother's reunification services, absent a showing of detriment caused by visitation, it ordinarily is improper to suspend or halt visits even after the end of the reunification period. (§ 366.21, subd. (h); *In re Luke L.* (1996) 44 Cal.App.4th 670, 679; *In re David D.* (1994) 28 Cal.App.4th 941, 954.) We review the court's finding that visitation between a parent and his or her dependent child would be detrimental to the child for substantial evidence. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 581 & fn. 5 (*Mark L.*)) "We do not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts. [Citation.] The judgment will be upheld if it is supported by substantial evidence, even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Substantial evidence supports the juvenile court's finding of detriment in this case. After reunification services were terminated, mother continued to visit the girls. During those visits, mother did not interact with A., who played with mother's phone. The two were not affectionate. While mother interacted more with M., by the end of the visit, M. was bored and anxious to leave. After visits, M.'s behavior was challenging for the foster mother. Apparently A. also acted out after visits.

By the time of the August 2011 review hearing, A. had not visited mother for nearly a month. She refused to visit because the two hardly talked during visits and when mother did talk to her, she criticized her. Mother tried to have unsupervised contact with the girls by having M. deliver letters to A.; mother also gave letters to the CASA representative to give to the girls. In a letter addressed to A., she blamed A. for the family's involvement in the dependency system and her failure to get M. back.⁵ Mother

⁵ Mother's statements in the letter included the following: "I did so much for you and this is what I get? You don't like me, but why didn't you tell them to give M[] back to me? It's possible that tomorrow at court the judge will give the okay for you and M[]"

tried to sabotage M.'s placement by telling M. she had a room ready for her when she came home and whispering to M. that she needed to tell her foster parent that she wanted to go back with mother and A. In a letter to M., mother wrote that she loved and missed M., and listed her telephone numbers "in case you ever want to call me, okay?" Mother asked M. to think of her "every day like I think about you!" In another letter to M., mother told M. she loved her very much and missed her when she did not see her all week, asked M. if she missed her, and said she wished M. "were here at night when I have bad dreams. And sometimes I wake up at night and look around and I say 'where is my [M].'"

Based on this evidence, the juvenile court reasonably could conclude that any benefit the girls derived from a continued relationship with mother was outweighed by the detriment continued contact with mother caused. At this point in the proceedings, the girls needed stability and permanency. A.'s therapist specifically stated that A. needed to have consistent contact with healthy individuals, as she was a confused girl with no sense of self. Mother's lack of responsiveness to A. and positive interaction with her during visits, as well as her attempts to place blame and guilt on A., defeated this goal. M. also needed a stable environment. Instead of fostering stability, mother's behavior in telling M. that she had a room for her and encouraging her to ask to return to mother could potentially disrupt her placement and create behavioral issues.

The girls were in new placements, to which they were adjusting well and bonding with the caregivers, which could lead to adoptive homes. The goal at the permanency

to get adopted. I really hope that's not what happens, cuz if it does the 3 of us will prob[ab]ly never see each other again. . . . I know they won't let me see M[] again. And you won't have to see me anymore. No matter what happens, remember, I was the one who took care of you through all your operations and every time you got sick. . . . I hope you don't get to[o] mad when you think of me. . . . I will be mad because people who don't know us decided you and Grandma were telling the truth and I didn't deserve to have kids. You know I can't have more kids. So now I'm all alone. I love you. . . ."

planning stage is to end the uncertainty of foster care and allow the child to form a long-lasting emotional attachment to a permanent caretaker. (*In re Jason E.* (1997) 53 Cal.App.4th 1540, 1548; *In re Gerald J.* (1991) 1 Cal.App.4th 1180, 1188.) This goal was being frustrated by mother's attempts to disrupt the permanency the girls so badly needed. Moreover, mother's behavior affects the girls' emotional stability.

Mother contends there was insufficient evidence of detriment because the facts here are not similar to those of *In re Manolito L.* (2001) 90 Cal.App.4th 753, 757, where the juvenile court found detriment from continued visitation with the minors' mother based on mother's inconsistent visitation and the disruption visits would cause to the bonding process between the minors and their potential adoptive parents, and *Mark L., supra*, 94 Cal.App.4th at p. 581, where the appellate court concluded the juvenile court's detriment finding was supported by evidence that the father had not visited the minor for over three years, and the minor testified he feared his father due to prior physical abuse and would be uncomfortable in his presence. Even if the facts here are not the same as in these cases, these cases do not set forth the exclusive bases for a finding of detriment. As we have discussed, the record demonstrates the ways in which visits would be detrimental to the girls.

DISPOSITION

The juvenile court's orders are affirmed.

Gomes, J.

WE CONCUR:

Levy, Acting P.J.

Detjen, J.