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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re AALIYAH A., a Person Coming Under the
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF HUMAN
SERVICES,

Plaintiff and Respondent,

v.

KENNETH S.,

Defendant and Appellant.

F063861

(Super. Ct. No. JD116163-01)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Kern County. Jon Edward Stuebbe, Judge.

John L. Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Theresa A. Goldner, County Counsel, and Kelli R. Falk, Deputy County Counsel, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Kane, J. and Franson, J.

Kenneth S. is the biological father of six-year-old Aaliyah. On November 3, 2011, the juvenile court denied a petition filed by Aaliyah's mother, Aimee, pursuant to Welfare and Institutions Code section 388¹ seeking an order for reunification services. At the same hearing, the juvenile court terminated Aimee and Kenneth's parental rights. (§ 366.26.) Aimee appealed from the juvenile court's order denying her section 388 petition (*In re Aaliyah A.*, F063829) and we affirmed. Kenneth joins in Aimee's appeal. We affirm.

PROCEDURAL AND FACTUAL SUMMARY

We set forth a detailed summary of the facts surrounding Aaliyah's dependency in Aimee's related appeal. Thus, a brief synopsis suffices for purposes of Kenneth's appeal.

In September 2010, then four-year-old Aaliyah was removed from Aimee's custody for the second time because Aimee seriously physically abused her. Aimee identified Kenneth, who was incarcerated, as Aaliyah's alleged father. Paternity testing subsequently established his biological paternity. In May 2011, the juvenile court denied Aimee and Kenneth reunification services and set a section 366.26 hearing to implement a permanent plan of adoption. Meanwhile, Aimee filed a section 388 petition seeking a modification of the court's order denying her reunification services. On November 3, 2011, the juvenile court conducted a combined hearing on Aimee's section 388 petition and termination of parental rights pursuant to section 366.26. At that hearing, the court denied Aimee's section 388 petition and terminated Aimee and Kenneth's parental rights. Aimee appealed, challenging the juvenile court's denial of her section 388 petition as an abuse of discretion. We affirmed the juvenile court's order denying Aimee's section 388 petition.

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

DISCUSSION

Kenneth joins in all arguments raised by Aimee in her appeal that inure to his benefit. Aimee's sole argument on appeal was that the juvenile court abused its discretion in denying her section 388 petition. Her argument inures to Kenneth's benefit only if she prevailed. Specifically, had we found error in the juvenile court's denial of Aimee's section 388 petition, we would have directed the juvenile court to vacate not only its denial order but also its order terminating Aimee's parental rights. Since the juvenile court cannot terminate the rights of one parent, it would have been required to vacate its order terminating Kenneth's parental rights as well. (*In re A.L.* (2010) 190 Cal.App.4th 75, 80.) However, Aimee did not prevail on her appeal. Thus, the juvenile court's orders as to Aimee are affirmed. Further, since Kenneth did not independently challenge the juvenile court's order terminating his parental rights, that order is affirmed as well.

DISPOSITION

We affirm the juvenile court's November 3, 2011 order terminating Kenneth's parental rights as to Aaliyah.