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

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

KERN COUNTY DEPARTMENT OF HUMAN
SERVICES,

Plaintiff and Respondent,

v.

KATHERINE W.,

Defendant and Appellant.

F065597

(Super. Ct. Nos. JD127651 &
JD127652)

Kern County

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Louie L. Vega,
Judge.

Janette Freeman Cochran, under appointment by the Court of Appeal, for
Defendant and Appellant.

Theresa A. Goldner, County Counsel, and Elizabeth M. Giesick, Deputy, for
Plaintiff and Respondent.

* Before Hill, P. J., Wiseman, J. and Peña, J.

Katherine W. (mother) appeals from orders denying her petitions under Welfare and Institutions Code¹ section 388 and terminating her parental rights to her daughters, Dana A. (born December 2006) and Mary A. (born August 2008) (collectively, the children). Mother contends the juvenile court erred by denying her section 388 petitions seeking reunification services and her alternative request for a bonding study. She also contends the court erred by failing to apply the beneficial relationship exception to termination of parental rights. We reject these contentions and affirm the judgment.

FACTS AND PROCEEDINGS

Background

On October 20, 2011, the children and their half-brother, John B., Jr., (born June 2010), were taken into protective custody by the Kern County Department of Human Services (department) after the department received a referral of general neglect. The reporting party stated that mother and her boyfriend, John B., were “bad drug addicts” and their apartment was “unlivable.”

A police officer went to mother’s home to investigate. Upon entering the apartment, the officer noticed a large amount of clutter on the floor—including old food, broken dishes, and cigarette butts—that was easily accessible to small children. As he walked around the apartment, he saw numerous items stacked four to five feet in the air. He checked the refrigerator and observed that it contained insufficient food to feed the five people living in the apartment. He also noticed all the trash cans in the apartment were overflowing with numerous flies flying around them.

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

The day after the children were removed, mother admitted to the social worker that methamphetamine was her drug of choice and that she had used the drug on two recent occasions. Mother claimed she had been “clean” for six years but relapsed in June 2011 “due to financial struggling.” Mother also acknowledged a report that John B. had beaten her up in the apartment courtyard but insisted it was not true. In addition, mother “reported being bipolar and ... prescribed 300 mg. Lithium three times a day.” But she was not currently taking any medication for the condition.

Mother had a chronic history of abusing methamphetamine and a long history with child protective services. In 2003 and 2005, two of mother’s older children (the children’s half-siblings) were removed from parental custody due to their parents’ substance abuse and acts of domestic violence by the father against mother. Mother failed to reunify with the children’s half-siblings, her parental rights were terminated, and those children were adopted.

Previous referrals had brought mother and John B. to the department’s attention, including in August and September 2011. During that time, mother and John B. signed safety plans, agreeing to clean up the apartment and submit to drug testing. On August 12, 2011, mother tested positive for amphetamine and methamphetamine, and John B. tested positive for marijuana. On September 21, 2011, mother tested positive for amphetamine and methamphetamine, and John B. tested positive for amphetamine, methamphetamine, and marijuana.

On October 25, 2011, the department filed petitions on behalf of the children under section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling) based on mother and John B.’s substance abuse and the circumstances relating to mother’s failure to reunify and termination of her parental rights with respect to the children’s half-siblings. The children were formally removed from parental custody at the detention hearing. Mother and John B. were permitted one-hour supervised visits twice weekly.

Mother signed an initial case plan on October 25, 2011, which included “parenting, neglect, substance abuse counseling, domestic violence as a victim, and drug testing.” The social worker also suggested that mother pursue treatment for her bipolar disorder.

Jurisdiction and Disposition Hearings

The jurisdiction report, which was prepared in early December 2011, reflected that mother had not yet enrolled in any of the recommended components of her case plan, she submitted a positive drug test for methamphetamine in November 2011, and she missed three visits with the children. When reviewing her case plan letter in mid-November, mother told the social worker “she was not aware she needed to take domestic violence as a victim.” The social worker explained domestic violence as a victim counseling was part of mother’s current case plan “due to not completing her past Child Protective Services case plan.”

The separate disposition report recommended denying reunification services to mother pursuant to section 361.5, subdivisions (b)(10) and (b)(11), and setting a section 366.26 permanency planning hearing as to the children, Dana and Mary, the whereabouts of whose alleged father was unknown. As to the children’s half-brother, John, Jr., the department recommended granting reunification services to his father, John B., and setting a section 366.21, subdivision (e) status review hearing. The report also recommended permitting mother to have monthly visits with the children, and permitting John B. to have weekly visits with John, Jr.

On December 12, 2011, the department filed amended petitions on the children’s behalf, adding allegations under section 300, subdivision (b), based on the unsanitary and hazardous conditions of the home.

At the uncontested jurisdiction hearing on December 20, 2011, the juvenile court found the allegations of the petitions to be true. At mother's request, the disposition hearing was continued to February 7, 2012.

At the hearing on February 7, 2012, the children's counsel expressed concern that he might have a conflict of interest in that the department was making different recommendations for the children and John, Jr., whom he also represented, thereby setting the minors on different paths. After further discussion, the court found a conflict existed and appointed new counsel to represent Dana and Mary. The disposition hearing was then continued to February 21, 2012.

The department filed a supplemental report, which reflected that mother should have started a parenting and neglect class in early January 2012. However, due to her late payment of the program fee, she would not be able to start the class until March 2012. On December 7, 2011, mother tested positive for amphetamine and methamphetamine, and on January 10, 2012, tested positive for methamphetamine. On January 12, 2012, she had a negative drug test, and two tests from February were currently pending.

At the disposition hearing on February 21, 2012, mother's counsel argued that mother should be provided reunification services because she was receiving substance abuse counseling, had negative drug tests on January 12 and February 7, 2012, and her pending drug test was also likely to be negative. Counsel also argued that offering reunification services to John B. and not mother would undesirably send the children and their half-brother on two different tracks, one of adoption and the other of family reunification.

After listening to the argument of counsel, the juvenile court adopted the department's recommendations to deny mother reunification services and set a section

366.26 hearing for June 20, 2012, as to Dana and Mary. Mother was permitted one-hour supervised visits to occur every other week.

Section 388 Petitions

On March 7, 2012, mother filed her first set of petitions under section 388, seeking reunification services. In each petition, mother averred she had “distanced herself from situations & people that have influenced in the past” and was “attending classes SAP, domestic violence victim & will soon be attending parenting classes beginning March 6, 2012.” Supporting documentation was filed showing that mother entered a residential drug treatment program on March 19, 2012, and that she had two negative drug tests.

On April 9, 2012, the department filed a supplemental report responding to mother’s section 388 petitions. The report noted that mother was visiting consistently and appropriately with the children. She was also successfully participating in substance abuse and parenting counseling through her residential treatment program. However, the report observed, mother had “not been participating in these counseling components for a substantial length of time.” Although she signed the initial case plan on October 25, 2011, she did not enroll in substance abuse and parenting counseling until March 2012. In addition, mother still had not enrolled in counseling for domestic violence as a victim. The report concluded: “Since [mother] has previously failed to reunify with two of her children and has not shown that she is able to maintain a stable and sober lifestyle for a substantial period of time, the [department] is recommending that the 388 petition be denied.”

At a hearing on April 9, 2012, the juvenile court denied mother’s section 388 petitions, explaining:

“At this time, this is a dynamic situation at best, which indicates that the mother is now taking steps to deal with the issues that have—she’s had to deal with for a significant period of time. And I was not impressed in a positive way that since October of last year through February of this year,

she hadn't done—done what was requested of her. So—that she's doing those things or at least making an attempt at this time is a positive direction, but it's not significant enough at this time to be a basis for granting these petitions. So the petitions for both minors are denied at this time. That's the basis for the court's ruling.”

On June 5, 2012, mother filed a second set of second 388 petitions, seeking reunification services or, alternatively, “a bonding study for the siblings as well as a bonding study between the children and their mother.” According to the petitions and supporting documentation, mother was enrolled in substance abuse counseling, and on June 11, 2012, would receive certificates of completion for her parenting and neglect classes. Mother had also been testing negative for drugs.

At a hearing on June 21, 2012, the juvenile court granted the department's request to continue the section 366.21 hearing to July 13, 2012, in order to give the department time to prepare a report and recommendation in response to mother's section 388 petitions. The court also addressed a section 388 petition mother apparently filed requesting reunification services as to John, Jr. Because John, Jr., is not a subject of this appeal, the petition and the department's response are not parts of the record before us. However, the reporter's transcript of the June 21, 2012 hearing reflects that the court granted the petition and ordered that mother be provided reunification services for two months, until the time of John, Jr.'s, section 366.21 hearing on August 21, 2012.

Section 366.26 Hearing

On July 13, 2012, the department filed a section 366.26 report, recommending that mother's parental rights be terminated as to Dana and Mary and the children freed for adoption. According to the report, on March 19, 2011, the children were placed together in their preadoptive home apart from John, Jr. There were no recorded visits between the children and their half-brother after the placement change. The children were adjusting to living without him, and the report concluded “[t]he benefits and permanence of

adoption outweighs the benefits of continuing Dana and Mary's relationship with their half-brother."

As to the likelihood of the children being adopted, the section 366.26 report noted that "[t]he children have presented with some maladaptive behaviors, which were likely learned in the environment of their family of origin." The children's current caretakers reported these behaviors—which included the children stuffing food in their mouths and destroying property, and Mary's eating out of a dog bowl and regurgitating food to eat it again—had decreased significantly as the children became more secure in their environment. The report observed that "[i]t might be difficult to find another pre-adoptive home for the girls considering past behavior, however, the current caretakers are committed to the permanent legal plan of adoption."

As to the children's contact with mother, the report observed that mother had attended 11 out of 14 scheduled visits. Mother's visits were described as "moderately consistent" and "good with no areas of concern." The report noted that during a visit on May 9, 2012, the children appeared comfortable with mother and called her "mommy." Mary told mother she missed her and mother began to cry, stating she missed her too. Physical affection was reciprocated throughout the visit. At the end of the visit, Dana stated she was not ready to go. After walking to the lobby, both girls gave mother a hug and kiss and left with the caretakers without incident.

On May 10, 2012, the social worker interviewed Dana in her preadoptive placement. When asked where she wanted to live until she grew up, Dana responded, "right here." When asked how she felt about visiting her mother, Dana said, "I don't like her." When asked why, Dana said, "Her don't take care of us and don't feed us." When the social worker explained adoption and indicated her caretakers would become her "new mommy and daddy," Dana replied that "[t]hey are already my mommy and daddy." The social worker observed that Mary was too young to make a statement.

In assessing the mother/child relationship, the report concluded:

“Given that the girls have spent a majority of their young lives up to this point with their mother, both children obviously know their mother and have some level of attachment to her. However, based on statements made by Dana indicating she does not like her mother because her mother did not take good care of her, Dana’s attachment to the mother appears to be somewhat insecure. When the mother was responsible for the daily care of the children, she was not a stable, secure, and consistent source of care for the children. Based on the foregoing, the stability, security, and consistency afforded by a permanent plan of adoption would outweigh any detriment caused by termination of the mother’s parental rights.”

The department also filed a supplemental report responding to mother’s section 388 petitions. The report reflected that mother was participating successfully in the residential drug treatment program she entered on March 19, 2012, and that she had 10 negative drug tests and no positive drug tests over a five-month period. Mother completed parenting and anger management programs in June 2012. However, she was not currently enrolled in domestic violence as a victim counseling. Mother reported that she contacted Alliance Against Family Violence and completed the application with them but claimed they had not called her back.

An alcohol and drug counselor from the residential treatment program reported that mother was “very responsible, compliant and ha[d] a positive attitude.” Mother was allowed to leave the facility on passes and “while on passes she stay[ed] compliant with the program expectations.” The counselor explained that mother, who was currently 24-weeks pregnant, “would be allowed to stay in the program 60 days after the delivery of her child.” Mother’s expected exit date from the program was November 1, 2012. The counselor told the social worker that although the residential treatment program provided domestic violence counseling, it did not provide a certificate for it; it was up to the client to pursue any class not covered in the program.

When the social worker asked mother where she planned to live when she completed the residential treatment program, mother said she planned to resume living with her son's father, John B., and his mother, Debra, in their current two-bedroom apartment, and that she would continue to live with them if she ever regained custody of the children.

John B. told the social worker he was ordered to complete programs for substance abuse, parenting and neglect, and to submit to random drug testing. John B. reported he was enrolled in substance abuse counseling and went to Narcotics Anonymous meetings when he had the urge to use drugs. He was also enrolled in a parenting class that was scheduled to begin on June 26, 2012.

When the social worker spoke with John, Jr.'s, social worker on July 11, 2012, she reported that John B. continued to demonstrate he was unable to live a drug-free lifestyle. During the past five months, John B. had tested positive for marijuana five times and positive for both marijuana and amphetamine one time. He also had five negative tests during the same period.

On June 19, 2012, the social worker spoke with the children about where they wanted to live. Dana said she wanted to live "[h]ere" with "[m]y Daddy Scott and Mommy Cheryl." Mary said, "[s]ometimes I like to live here, sometimes I don't." The social worker attempted to speak further with Mary, but Mary appeared to lose interest in the conversation.

The supplemental report noted that the children's placement was currently stable. Although the children had only been there since March 19, 2012, the prospective adoptive parents were committed to caring for them through the permanent plan of adoption. The children had some difficulties adjusting in the home but progress had been made. Their behavioral issues had diminished with structure and consistency and their health was improving.

The social worker was informed by another social worker that the children's placement would be jeopardized if family reunification services were ordered to mother. On June 19, 2012, the prospective adoptive father reported that he and his wife had come to the difficult decision not to continue to act as foster parents for the children if reunification services were ordered. He explained that they entered the process for the sole purpose of adopting and that previous social workers had told them it was almost a guarantee that parental rights would be terminated due to the failure to reunify with other children. He feared it would be too difficult for him and his wife to keep the children in their home while their bond with them increased, knowing that they would have to leave. The foster care placement had also been a difficult transition for their biological children. Although they were committed and willing to help their biological children work through these issues, they were not willing to do so if the children were not going to be a permanent part of their family.

Notwithstanding mother's recent progress in her case plan and her positive visits with the children, the report recommended that the juvenile court deny mother's section 388 petitions, observing:

“The mother had several opportunities to start on the initial case plan; however, she spent several months demonstrating how much she was committed to abusing drugs. The mother has provided several months of clean drug test[s] and has taken nearly five months to demonstrate her efforts to change her circumstances. This is the first time the mother has attempted to address a case plan and is to be commended for her efforts. The mother has a very extensive history and has failed services before, and though she has enrolled in counseling there is nothing to show she will be successful over a significant amount of time and outside of a structured program. The mother has not enrolled in Domestic Violence as a victim and likely would not complete the counseling within the six month time frame that is allowed for Family Reunification, which is all that would be afforded due to the ages of the children. Further the mother continues to be involved with [John B.] who is the father of her youngest child and reported father of her unborn child. The mother plans to reside with him upon the

completion of her treatment. [John B.] is still abusing drugs. He is not making progress in his case plan as he has failed to enroll in parenting and neglect counseling, and is unable to demonstrate a drug free lifestyle even though he is enrolled in substance abuse.”

At the section 366.26 hearing on July 13, 2012, the juvenile court first listened to arguments concerning mother’s section 388 petitions. Mother’s counsel began by pointing out that documentation had been submitted showing that mother had enrolled in counseling for domestic violence as a victim with a start date of July 12, 2012. He then argued that the department’s recommendation seemed to rely heavily on the current caretakers’ decision to withdraw as the children’s foster parents if reunification services were ordered, and argued this was not a proper basis for terminating parental rights. Rather, he argued, “[t]he question is, what’s changed and is it in the children’s best interest.” Counsel went on to assert that mother, “although it’s late in the game ... has finally gotten her act together” and was “finally able to kick the terrible habit.” Counsel further suggested that in light of the current caretakers’ “attitude” and the fact one of the children wanted to return to mother, it was in the children’s best interests to order reunification services for mother, or to grant her alternative request for a bonding study in order to obtain more information.

The children’s counsel expressed conflicting feelings about the case, observing that Mary was “connected to her mom” and “wants to go be with her mom” and that the children also appeared to have a bond with their half-brother. The children’s counsel concluded, however, that “mother’s situation could be classified as a changing situation, rather than a changed situation.”

Counsel for the department began by noting that the department was obligated to report all information to the court, which was why the report had included information about the current caretakers’ views on not continuing as foster parents if reunification services were ordered. The juvenile court interrupted and stated that it did not view the

information about the caretakers “as an ultimatum.” The department’s counsel went on to argue that mother had not met her burden of proof in proving circumstances had changed to an extent that the section 388 petitions should be granted, observing: “Her circumstances certainly are changing [but] she has not demonstrated sobriety outside of a controlled environment. She has a lengthy substance abuse history. And she just enrolled in the other component of domestic violence as a victim.”

The juvenile court then ruled as follows:

“All right. Of course right now we’re limiting ourselves to the issue of—or the issues presented in the 388 petition. These children are adoptable. They are in a stable home. And it’s drug free.

“According to the report, the mother intends to maintain a relationship with somebody who continues to have problems and is not doing anything to take care of those problems involving drugs and parenting and neglect. And the prospects for these children, they would not be in the best interest. It would be a bad situation as opposed to what is being recommended. Otherwise on the 26, mother’s circumstances at this time, I think can be best characterized as ... changing ... not changed.

“We have a long term problem that has not been properly addressed. Although there are efforts being made. I certainly hope that she does change, but that has not occurred up to this point.

“The best interest of these minors is to be in a stable home. And there is some equivocation by one of the children, but it’s one of those that she—it says here in the report she likes living with her biological mother and her current caretakers. She has mixed emotions about that, which would be normal. But once her situation stabilized, the Court feels it would be in her best interest that this petition be denied.”

After the court made this ruling, mother’s counsel renewed the request for a bonding study. Children’s counsel responded that he thought there was no basis at that point for a bonding study and that “the information ... contained in this 388 report essentially covers the substance of what a bonding study would present.” The juvenile court took the matter under submission and proceeded to announce its order to terminate

mother's parental rights and free the children for adoption. The same day, the court issued a minute order denying mother's request for a bonding study.

DISCUSSION

Introduction

A parent and child in juvenile dependency proceedings share a fundamental interest in reuniting, but only to a point. (*In re R.H.* (2009) 170 Cal.App.4th 678, 697.) Once a court terminates reunification services or, as in this case, denies services at the outset, the interests of the parent and the child diverge. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 254.)

The child has a fundamental, independent interest in belonging to a family unit, as well as compelling rights to be protected from abuse and neglect. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 306 (*Marilyn H.*)) In addition, the child is entitled "to have a placement that is stable, permanent, and that allows the caretaker to make a full emotional commitment to the child." (*Ibid.*)

Consequently, at the permanency planning stage, the juvenile court's focus shifts from family reunification toward promoting the child's need for permanency and stability. (*Marilyn H., supra*, 5 Cal.4th at p. 309.) Furthermore, adoption gives the child the best chance at a full emotional commitment from a responsible caretaker. (*In re Celine R.* (2003) 31 Cal.4th 45, 53.)

Denial of Section 388 Petitions

Any party may petition the juvenile court to modify or set aside a prior dependency order pursuant to section 388 on grounds of changed circumstance or new evidence. (§ 388, subd. (a).) The party bringing the section 388 petition must also show the proposed change is in the best interests of the child. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317 (*Stephanie M.*)) Section 388 provides a means for the court to address a legitimate change of circumstances even at the permanency planning stage while

protecting a child's need for prompt resolution of his or her custody status. (*Marilyn H.*, *supra*, 5 Cal.4th at p. 309.) Whether the juvenile court should modify a previously made order rests within its discretion and its determination will not be disturbed absent a clear abuse of discretion. (*Stephanie M.*, *supra*, at p. 318.)

Mother contends the juvenile court abused its discretion when it denied her second set of section 388 petitions seeking reunification services as to Dana and Mary. Mother argues she established a change of circumstances by participating in her residential drug treatment program, completing parenting and neglect classes and anger management group, enrolling in other classes, submitting to random drug testing with negative results, and consistently visiting the children. Relying on the factors set forth in *In re Kimberly F.* (1997) 56 Cal.App.4th 519 (*Kimberly F.*), mother asserts the evidence shows it was in the children's best interests to modify the prior order denying reunification services.

Against the backdrop of mother's troubled past, the juvenile court did not abuse its discretion in finding that her recent efforts at rehabilitation or her five-month period of sobriety established only *changing* circumstances and not *changed* circumstances sufficient to warrant a modification of the court's order denying reunification services. (See *Marilyn H.*, *supra*, 5 Cal.4th at p. 309 [burden on parent to show changed circumstances]; *In re Casey D.* (1999) 70 Cal.App.4th 38, 49 [merely changing circumstances].) Mother's relatively recent sobriety was untested by the stresses of ordinary life outside her residential treatment program, and her plan once she left this structured environment was to resume living with someone who was continuing to abuse drugs. Furthermore, despite frequent reminders, mother did not begin participating in counseling for domestic violence as a victim until the proverbial eve of the section 366.26 hearing. On this record, the juvenile court could reasonably reject mother's

argument that a legitimate change of circumstances occurred following its denial of reunification services.

Additionally, mother failed to show that providing her reunification services would be in the children's best interests. In *Kimberly F.*, the appellate court identified three principle factors relevant to the juvenile court's evaluation of best interests in the context of a section 388 petition: (1) the seriousness of the problem that necessitated dependency and the reason the problem continued; (2) the strength of relative bonds between the dependent child to the parent and caretakers; and (3) the degree to which the problem may be easily removed and the degree to which it actually has been.

(*Kimberly F.*, *supra*, 56 Cal.App.4th at p. 532.)

Applying the *Kimberly F.* factors, mother contends that providing her reunification services would serve the children's best interests. Specifically, mother contends that "the problem was not too serious to correct since, by the time of the July 13, 2012 hearing, mother had addressed her serious substance abuse problem." Additionally, mother contends that she had a strong bond with the children as evidenced by their positive and affectionate interactions during visitation. Finally, mother contends the problem resulting in the children's removal had been ameliorated, citing to her recent completion of parent and neglect training and a 12-week anger management program, her negative drug testing, and the fact she had remained compliant with her residential treatment program when allowed to go out on passes.

We concur with the juvenile court's evaluation of the children's best interests. The seriousness of the problem leading to the children's dependency status is not in dispute. Although mother had made commendable efforts to address the problem, the record does not support her suggestion that she had all but conquered the problem at the time of the section 366.26 hearing, or that she had ameliorated the problem to such a degree that ordering reunification services would be in the children's best interests. As

discussed above, she only had five months of sobriety following years of substance abuse. Even though she remained in compliance with her treatment program while out on passes, she had a sober living environment to which she could return. This would not be the case once she left the residential program and resumed living with John B., who continued to use drugs and was failing to make progress in his case plan. Finally, mother had only just begun to address the issue of domestic violence, which was included in her current case plan because of her failure to address this issue in the past with respect to the children's half-siblings.

As to the strength of relative bonds between the children to mother and to their caretakers, despite showing affection towards mother during visits, Dana expressed a preference to live with her caretakers and told the social worker she already considered them to be her "mommy" and "daddy." Dana also expressed dislike for her mother for failing to take care of her and her siblings. Although Mary appeared attached to mother, she expressed that she liked living both with her mother and her caretakers. Moreover, the section 366.26 report indicated the children's maladaptive behaviors had greatly decreased while placed with the caretakers.

We conclude on this record that the juvenile court did not abuse its discretion in denying mother's section 388 petitions. In so concluding, we reject mother's claim that it was an abuse of discretion to deny her petitions as to Dana and Mary after previously granting her section 388 petition as to John, Jr. Because John, Jr.'s, case was proceeding on a different track than the current case, we are limited by the record before us to evidence pertaining to Dana and Mary. In light of that evidence, we cannot say the juvenile court abused its discretion or that its conclusion was "arbitrary, capricious, or patently absurd." (Stephanie M., *supra*, 7 Cal.4th at p. 318.) Mother cites and our independent research has uncovered no authority that it would be appropriate to find an abuse of discretion based on a ruling in a related case with a different procedural posture.

Denial of Request for a Bonding Study

Bonding studies can aid the court in determining the applicability of the beneficial relationship exception to the termination of parental rights. (See *In re Tabatha G.* (1996) 45 Cal.App.4th 1159, 1167.) However, the court is not required to order a bonding study as a condition precedent to terminating parental rights. (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1339.) “While it is not beyond the juvenile court’s discretion to order a bonding study late in the process *under compelling circumstances*, the denial of a belated request for study is fully consistent with the scheme of the dependency statutes, and with due process.” (*In re Richard C.* (1998) 68 Cal.App.4th 1191, 1197, italics added.)

Continuances in juvenile court are expressly discouraged because the Legislature seeks to keep children from remaining in dependency limbo any longer than necessary. (*In re Emily L.* (1989) 212 Cal.App.3d 734, 743.) They are permitted only upon a showing of good cause. (§ 352, subd. (a).)

Here, mother provided no justification, let alone good cause, for the delay in requesting the bonding study, which would have required a continuance of the permanency planning hearing. The juvenile court denied mother reunification services on February 21, 2012. Mother did not request a bonding study until June 5, 2012, and provided no justification for the delay in making the request. The juvenile court clearly did not abuse its discretion in denying mother’s request.

Failure to Apply the Beneficial Relationship Exception

Mother contends the juvenile court erred in failing to find an exception to the termination of parental rights under what is commonly referred to as the beneficial relationship exception. (See § 366.26, subd. (c)(1)(A).) This exception applies where “[t]he parents ... have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (*Id.*, subd. (c)(1)(A)(1).) The

parents have the burden of proving that the beneficial relationship exception applies. (*In re Derek W.* (1999) 73 Cal.App.4th 823, 826.) “The juvenile court does not have a sua sponte duty to determine whether an exception to adoption applies.” (*In re Rachel M.* (2003) 113 Cal.App.4th 1289, 1295.) A parent who fails to raise an exception to the termination of parental rights below, waives the right to raise the issue on appeal. (*Ibid.*; *In re Erik P.* (2002) 104 Cal.App.4th 395, 402–403.) This rule was explained in *In re Erik P.*, at p. 403:

“The application of any of the exceptions enumerated in section 366.26, subdivision (c)(1) depends entirely on a detailed analysis of the relevant facts by the juvenile court. [Citations.] If a parent fails to raise one of the exceptions at the hearing, not only does this deprive the juvenile court of the ability to evaluate the critical facts and make the necessary findings, but it also deprives this court of a sufficient factual record from which to conclude whether the trial court’s determination is supported by substantial evidence. [Citation.] Allowing [a parent] to raise the exception for the first time on appeal would be inconsistent with this court’s role of reviewing orders terminating parental rights for the sufficiency of the evidence.”

Mother never raised this exception before the juvenile court. Accordingly, she has forfeited the argument on appeal.

DISPOSITION

The juvenile court’s orders denying mother’s petitions pursuant to Welfare and Institutions Code section 388 and terminating her parental rights pursuant to Welfare and Institutions Code section 366.26 are affirmed.