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

In re JAMES B., a Person Coming Under the
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF SOCIAL
SERVICES,

Plaintiff and Respondent,

v.

DAMIEN R.,

Defendant and Appellant.

F068081

(Super. Ct. No. JD129332)

OPINION

THE COURT*

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

Jacob I. Olson, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Gomes, J. and Kane, J.

Damien R. (father) appealed from a September 2013 order terminating his parental rights (Welf. & Inst. Code, § 366.26) to one-year-old James.¹ After reviewing the entire record, father's court-appointed appellate counsel informed this court he had found no arguable issues to raise in this appeal. Counsel requested and this court granted leave for father to personally file a letter setting forth a good cause showing that an arguable issue of reversible error does exist. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844.)

Since then father has written this court requesting the opportunity to reunify with James. On review, we conclude father has not made a good cause showing that an arguable issue of reversible error does exist on this record and order the appeal dismissed.

FACTUAL AND PROCEDURAL SUMMARY

James came to the juvenile court's attention when he was a newborn due to his mother's methamphetamine abuse. The juvenile court adjudged James a juvenile dependent and removed him from parental custody in May 2013.

At the May 2013 hearing, the juvenile court denied both parents reunification services. With regard to father, the court found by clear and convincing evidence that in 2007, father inflicted severe physical harm on James' half-sibling, was denied reunification services with that child due to the seriousness of the abuse, lost his parental rights to the child, and had not made a subsequent effort to address the problems which led to that child's removal.

Having denied both parents reunification services, the court set a section 366.26 hearing for September 2013, to select and implement a permanent plan for James. Neither parent challenged the setting order in this court.

At the September hearing, father's counsel informed the court that father was currently enrolled in a parenting class that father believed he would finish soon. In addition, father claimed he was in a substance abuse rehabilitation program at the time

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

James was removed and had since completed the program. Father requested that the court consider placing James with him or at least consider offering him reunification services, rather than terminating parental rights.

The court said it would consider father's offer of proof as part of a petition to modify its prior order (§ 388) and construe it to show changing circumstances. However, the court could not find that granting such a petition would be in James' best interests.

Having found clear and convincing evidence that James was likely to be adopted, the court terminated parental rights.

DISCUSSION

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is appellant's burden to raise claims of reversible error or other defect and present argument and authority on each point made. If appellant fails to do so, the appeal should be dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Father does not raise any claim of error or other defect against the termination order in his letter brief. He complains that he did not receive an order for reunification services. However, he fails to make even an arguable claim that the court committed reversible error.

First, to the extent father challenges the court's May 2013 decision to deny him reunification services, he has forfeited that argument by not seeking timely writ review from the May 2013 order setting the section 366.26 hearing. (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452.)

Second, to the extent father assumes the court should have granted him services at the September 2013 permanency planning hearing, he overlooks the law on modifying a prior court order as well as the purpose of a permanency planning hearing.

While a parent may petition a court to modify a prior order on grounds of change of circumstance or new evidence, the parent must also show that the proposed change would promote the child's best interests. (§ 388, subd. (b); Cal. Rules of Court, rule

5.570.) In addition, whether the juvenile court should modify a previously made order rests within its discretion and its determination may not be disturbed unless there has been a clear abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318 (*Stephanie M.*.)

As the California Supreme Court explained in *Stephanie M.*, by the time a child's dependency has reached the permanency planning stage, a parent's interest in the care, custody, and companionship of the child is no longer paramount. Rather, the focus shifts to the child's needs for permanency and stability. In fact, there is a rebuttable presumption that continued out-of-home care is in the best interests of the child. A court hearing a modification petition 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. (*Stephanie M.*, *supra*, 7 Cal.4th at p. 317.)

Here, father did not introduce any evidence, let alone establish, that James' need for permanency and stability would be advanced by ordering reunification services. Therefore, there can be no arguable claim that the court erred.

DISPOSITION

This appeal is dismissed.