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

In re T.H., a Person Coming Under the  
Juvenile Court Law.

KINGS COUNTY HUMAN SERVICES  
AGENCY,

Plaintiff and Respondent,

v.

S.G.,

Defendant and Appellant.

F070416

(Super. Ct. No. 13JD0050)

**OPINION**

**THE COURT**\*

APPEAL from orders of the Superior Court of Kings County. Jennifer Lee Giuliani, Judge.

Lelah Fisher, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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\* Before Kane, Acting P.J., Detjen, J., and Smith, J.

S.G. (mother) appealed from the juvenile court's order terminating her parental rights (Welf. & Inst. Code, § 366.26)<sup>1</sup> as to her three-year-old son T.H. After reviewing the juvenile court record, mother's court-appointed counsel informed this court she could find no arguable issues to raise on mother's behalf. This court granted mother leave to personally file a letter setting forth a good cause showing that an arguable issue of reversible error exists. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844 (*Phoenix H.*.)

Mother submitted a letter in which she identified issues she claims merit our review. We conclude mother failed to make a good cause showing that any arguable issue of reversible error arose from the termination hearing. (*Phoenix H., supra*, 47 Cal.4th at p. 844.) Consequently, we dismiss the appeal.

#### **PROCEDURAL AND FACTUAL SUMMARY**

In May 2013, police officers from the Lemoore Police Department conducted a probation search at mother's residence. Mother was there with several adult males; one was suspected of being involved in a shooting in nearby Hanford and two others were parolees at large. There were also multiple children present, including mother's then eight-year-old daughter, six-year-old son, four-year-old son, T.G., and 22-month-old son, T.H.<sup>2</sup> Mother was charged with harboring fugitives and willful cruelty to a child.

The Kings County Human Services Agency (agency) took the children into protective custody, placed them with their maternal great-grandfather and filed an original dependency petition with the juvenile court. At the detention hearing on the petition, minors' advocate Maria Hoover informed Judge Jennifer Giuliani sitting as the juvenile court that she was available for appointment on behalf of the minors. Before

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

<sup>2</sup> T.H.'s half-siblings are not subjects of this appeal.

Judge Giuliani appointed Ms. Hoover as minors' counsel, she disclosed that Ms. Hoover made a contribution to her campaign for Kings County Superior Court Judge and stated she did not believe it would affect her ability to make decisions in the case. Judge Giuliani advised the parties they could discuss the matter with their attorneys and appointed Ms. Hoover as minors' counsel. There were no objections raised concerning the court's disclosure. The juvenile court ordered the children detained and set the jurisdictional hearing for June 2013. The court also ordered the agency to provide mother reunification services and visitation.

In September 2013, the juvenile court conducted the hearing on jurisdiction and disposition. The court considered and received into evidence several reports filed by the agency without objection. One of the reports included information that mother was seen with a minor in front of her residence smoking methamphetamine. The court adjudged the children its dependents, granted custody of the oldest two to their father, and ordered sibling visitation for all four children. The court removed T.H. and T.G. from mother's custody and ordered family reunification services for her.

In early November 2013, T.H. and T.G. were removed from their maternal great-grandfather and placed in foster care. They lived together for approximately a month until the agency removed T.G. because of his violent behavior and ultimately placed him in a group home.

In late November 2013, mother was arrested for receiving stolen property. In January 2014, she was convicted and sentenced to two years in prison.

In February 2014, the juvenile court found Lamar H. was T.H.'s biological father and at a subsequent hearing denied him reunification services.

In its report for the six-month review hearing scheduled for March 2014, the agency recommended the juvenile court terminate mother's reunification services and set a section 366.26 hearing for T.H. and T.G. The agency reported that mother had not

completed her court-ordered services because she was in and out of custody. However, she regularly visited T.H. and T.G. and they were happy to see her. They smiled and told her they loved and missed her.

Mother's attorney requested a trial on the agency's recommendation to terminate her reunification services and the juvenile court set a contested six-month review hearing for April 2014. On the date set, mother appeared with her attorney and submitted the matter to the court, acknowledging she would not be able to reunify with her sons by the 12-month review hearing in June. The juvenile court terminated her reunification services and set a section 366.26 hearing in August 2014.

In its report for the section 366.26 hearing, the agency recommended the juvenile court terminate mother's parental rights as to T.H. and free him for adoption. The agency reported that mother had not visited T.H. since April 2014 and had not contacted the agency to inquire about him. Further, he had no developmental or medical problems and his foster parents wanted to adopt him.

In August 2014, the juvenile court convened the section 366.26 hearing. Mother was not present and was no longer in custody. The court continued the hearing until September so the agency could notify Lamar. The court proceeded as to T.G. who was still in a group home and ordered him into long-term foster care.

In October 2014, the juvenile court conducted a contested section 366.26 hearing. Mother appeared with her attorney. Social worker Lupe Montes testified that T.H. was a "friendly, outgoing" three-year-old who was attached to his foster parents who he called "Mom" and "Dad." He had been with his foster parents since November 2013 and they wanted to adopt him.

Mother's attorney asked Montes whether she talked to T.H. about being adopted. She said she asked him if he wanted to stay with his foster parents or live with his brother. He said he wanted to stay with his foster parents. Montes did not ask T.H. about

mother. She explained that before she broached the issue of adoption with T.H. she spoke to the foster parents. They told her that T.H. never mentioned mother; he only talked about his brother.

Mother testified she stopped visiting when her reunification services were terminated. She said she expected to be sentenced to three years in prison at her sentencing hearing later that month but believed she would only serve 18 months with credits.

At the conclusion of the hearing, the juvenile court found that T.H. was adoptable and that the beneficial relationship exception to adoption did not apply. The court terminated mother and Lamar's parental rights and ordered adoption as T.H.'s permanent plan.

This appeal ensued.

### **DISCUSSION**

Mother contends: (1) the agency's decision to remove T.G. from his maternal great-grandfather and separate him from T.H. caused T.G. severe emotional harm; (2) the agency falsely accused her of smoking methamphetamine with a minor in front of her home; (3) Attorney Hoover's campaign contribution to Judge Giuliani may have adversely affected Giuliani's ability to be impartial; (4) the "fugitives" in her home were close relatives and she did not know they were there; (5) Montes should have explained adoption to T.H.; and (6) the agency did not consider family members willing to adopt T.H.

Generally, issues not raised in the juvenile court are forfeited on appeal. (*Woodridge Escondido Property Owners Assn. v. Nielsen* (2005) 130 Cal.App.4th 559, 574.) Mother could have, but did not, object through her attorney to Giuliani presiding over her case, to allegations she used methamphetamine with a minor and harbored fugitives, and to the agency's removal of T.G. from his great-grandfather's home. As a

result, Giuliani continued to sit as the juvenile court and make decisions in T.H.'s case based on the evidence presented. It would be unfair to the juvenile court and the adverse party for this court to consider issues which could have been presented to the juvenile court but were not. (*Menefee v. County of Fresno* (1985) 163 Cal.App.3d 1175, 1182.) Consequently, we consider mother's first four issues forfeited.

At the section 366.26 hearing, the focus is on determining the most appropriate permanent plan for the child. If the juvenile court finds that the child is likely to be adopted, it must select adoption as the permanent plan. (§ 366.26, subd. (c)(1).) Further, if the adoptable child has been placed in a prospective adoptive home, relative placement is no longer an issue before the court. Mother now contends there were relatives who wanted to adopt T.H. but were not contacted by the agency. She identifies one such relative by name who she states contacted a social worker in June 2014. By June 2014, however, T.H. had been with his foster parents for seven months, mother's reunification services had been terminated, and the section 366.26 hearing was two months away. Mother does not explain why her relatives did not come forward sooner to request placement. In any event, T.H.'s placement was no longer an issue on the eve of the section 366.26 hearing since he was adoptable and in a prospective adoptive home.

Finally, the juvenile court must select adoption as the permanent plan for an adoptable child unless it finds a compelling reason for determining that termination of parental rights would be detrimental to the child under one of the exceptions listed in section 366.26, subdivision (c)(1)(B). In this case, the juvenile court identified the beneficial relationship exception as the only relevant exception but determined it did not apply. The exception applies if "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).)

Mother does not argue the juvenile court should have applied the beneficial relationship exception to adoption or any of the other exceptions listed in section 366.26, subdivision (c)(1)(B). Instead, she merely faults Montes for not more fully explaining to T.H. the meaning of adoption. Given T.H.'s young age there is no reason to believe he would have understood the meaning of adoption. Moreover, the social worker's failure to explain adoption to an adoptable child does not render the juvenile court's selection of adoption error.

We conclude mother failed to show good cause that an arguable issue exists and dismiss the appeal.

#### **DISPOSITION**

This appeal is dismissed.