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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re RACHEL M., a Person Coming
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

FELIPE M.,

Defendant and Appellant.

G045995

(Super. Ct. No. DP017957)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Douglas Hatchimonji, Judge, and Barbara Evans, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Pamela Rae Tripp, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel and Karen L. Christensen, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for the Minor.

A father's three children were taken into protective custody. The youngest, a newborn, had not even been released from the hospital at the time, due to significant medical problems. The father was deported to Mexico, but continued to seek reunification. His two older children were ultimately returned to his care. However, at the 18-month review hearing, he abandoned his request that his youngest child be returned to him, because he believed she would receive better medical care and have better chances in the United States. At the Welfare and Institutions Code section 366.26 hearing,¹ however, he expressed a change of heart. Under the circumstances of this case, it was too late. Contrary to the father's arguments on appeal, the court did not violate his due process rights in terminating his parental rights to his youngest child. We affirm.

I

FACTS

On December 22, 2008, the Orange County Social Services Agency (SSA) filed a section 300 juvenile dependency petition with respect to infant Rachel M., her two full siblings and her one half sibling. The police had been called by Rachel's 15-year-old half brother. He said he was made to work all night every night with his stepfather, Rachel's father, and come home from work at 6:00 a.m. before going to school. He was doing badly in school and did not want to continue working all night. When he told his mother on the telephone, she became very angry and threatened to assault him. She had previously struck him with a wire hanger leaving red marks on him that lasted a couple of days, and she had attempted to hit him with a broom handle or a closed fist on numerous occasions. Consequently, he told the authorities that he did not want to live with his mother anymore.

¹ All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specifically noted.

In addition, SSA alleged that the mother of the children had engaged in various acts of physical abuse against Rachel's other siblings and that the children were at risk of suffering serious physical harm. It also alleged that after injuring one of the children, a two year old, in a way that left a scar on her forehead, the mother told the child, "Next time I will kill you." Furthermore, SSA alleged that Rachel's mother had stabbed Rachel's father with car keys, causing him to bleed, and, on a different occasion, had hit him in the face, again causing him to bleed. These acts purportedly took place in front of the children, placing the children at risk of suffering severe emotional distress. SSA asserted that Rachel's father knew or reasonably should have known of the risk of physical abuse to Rachel and of the physical abuse to his other two children, and that he failed to protect the children.

The court ordered the children detained. At the detention hearing, Rachel's father was arrested on an outstanding warrant, and was thereafter deported to Mexico.

Rachel was born hydrocephalus (fluid in the brain), a heart murmur, and an underdeveloped ear. The hydrocephalus required the surgical implantation of a shunt in her head. She had to be monitored carefully, because she was at risk of potentially life threatening complications from the shunt. In early February, 2009, heart surgery was performed on Rachel to repair her murmur.

Rachel's father sought services from the Desarrollo Integral de la Familia (DIF) in Mexico, in order to be able to reunify with his children. In February 2009, the court ordered SSA to contact DIF and inquire about the availability of services for Rachel's father and for the evaluation of his home for placement.

At the dispositional hearing on February 24, 2009, the court found by clear and convincing evidence that section 361, subdivision (c)(1) applied and that to vest custody with her parents would be detrimental to Rachel. It also found that the progress each of Rachel's parents had made towards alleviating or mitigating the causes

necessitating placement had been minimal. It ordered that Rachel be declared a dependent child of the juvenile court, under section 360, subdivision (d), and ordered SSA to continue to work with DIF and the Mexican Consulate to evaluate the possibility of returning Rachel to her father's home and the suitability of his home for placement.

At a medical examination on March 5, 2009, Rachel was diagnosed with moderate valvar pulmonic stenosis. The physician noted that she would need "continued outpatient follow with echocardiograms at regular intervals to evaluate for progression of stenosis."

In April 2009, SSA contacted Rachel's father in Mexico. He reported that he was living in his own father's house, located in a rural area, and was working as a mechanic. He had not then started any classes with DIF, but he had attended an orientation. DIF reported to SSA that there were doctors available for Rachel's medical treatment, but they were located about an hour away. DIF also said an application could be put in for medical insurance for Rachel and speech therapy could be made available.

After a June 18, 2009 medical exam, it was reported that in addition to the congenital heart disease and hydrocephalus, Rachel had both hearing and vision loss. She was scheduled to receive weekly vision services through Blind Children's Learning Center, and weekly physical therapy. In addition, she had been fitted for hearing aids. Rachel's shunt remained in place, and would remain in place for the rest of her life, and she was being monitored by a neurologist.

Rachel had been placed with a foster care parent who was a nurse. Her siblings were placed elsewhere.

As of August 2009, Rachel's father had not visited with the children, inasmuch as he had been deported to Mexico. DIF had informed SSA that Rachel's father had been participating in some classes.

At the six-month review, on August 13, 2009, the court found by clear and convincing evidence that return of Rachel to her parents would create a substantial risk of detriment to her physical or emotional well-being. (§ 366.21, subd. (e).) It further found that Rachel's father's progress towards alleviating or mitigating the causes necessitating the placement had been minimal.

A DIF social worker disclosed to SSA in October 2009 that Rachel's father had not been attending his classes, for reasons unknown. The SSA social worker telephoned Rachel's father in Mexico on January 7, 2010 and Rachel's uncle answered the phone. The uncle reported that the father was working in the fields at the family farm and "had stopped doing his case plan because his town [had] a new mayor and that the Mayor had cancelled all program[s.]" The SSA social worker asked the uncle to have the father call her collect and contact his DIF social worker as well.

Not having received a return call from Rachel's father, the social worker placed another call to him on January 27, 2010. The uncle answered the phone again, and confirmed that he had given the father the prior message. However, the uncle said that the father worked in the family fields during the day and worked as a mechanic at night and did not get home until after 10:30 p.m. The uncle also said, "As far as I know, the programs that [the father] is supposed to be doing continue to be suspended. I told him to call DIF, but I don't know what happened with that." He assured the social worker that he would tell the father to call her collect.

SSA received a message from DIF on January 29, 2010. The message stated that Rachel's father had stopped attending domestic violence classes because of his financial situation and the hours he was working in the fields.

In its February 2, 2010 status review report, SSA stated that Rachel had been seeing her pediatric cardiologist every two months. It was reported that if the previously diagnosed pulmonary stenosis (small opening) did not close up by age 18

months, Rachel would need surgery to close the opening. Rachel also continued to see her pediatric ophthalmologist and her audiologist in connection with her vision and hearing impairments, and to receive weekly physical therapy. Furthermore, Rachel's foster mother was teaching her sign language.

Rachel's father still had not visited with the children, inasmuch as he was in Mexico. However, on February 26, 2010, DIF notified SSA that Rachel's father had reenrolled in and completed his classes.

On March 25, 2010, the SSA social worker again telephoned Rachel's father, inasmuch as he had not returned her telephone calls or otherwise made contact with her. Once again, the uncle answered the phone. He stated that Rachel's father was out working. He said: "I gave him your previous messages and encouraged him to call you. I don't really know what is going on with him. . . . I will give him your message to call you and to tell his DIF agency to send you his reports." Rachel's father did not return the telephone call.

At the 12-month review hearing on April 5, 2010, the court found by clear and convincing evidence that return of Rachel to the parents would create a substantial risk of detriment to her physical or emotional well-being. (§ 366.21, subd. (f).) It further found that reasonable services had been offered or provided to the parents and that there was a substantial probability that Rachel would be returned to the physical custody of a parent within six months. However, the court also found that Rachel's father had made minimal progress towards alleviating or mitigating the causes necessitating placement. An 18-month review hearing was set for June 14, 2010.

In May 2010, DIF reported to SSA that Rachel's father had completed classes in counseling, domestic violence, and parenting. DIF also reported that Rachel's father was "very motivated to reunite with his children." In addition, DIF stated that it had a reintegration program available and would assist Rachel's father in obtaining

necessary referrals with respect to Rachel's needs. DIF explained that Rachel's father lived in an extended family situation and that Rachel's grandparents were willing to assist with Rachel's care, including medical care.

The SSA social worker spoke to Rachel's father by telephone on June 4, 2010. He stated that he had completed all the classes that DIF offered and that he had prepared rooms for his children, if they were returned to him. He was arranging for his sister to take care of Rachel. He would have to travel to Mexico City, which was about two hours away, to get medical care for Rachel. Rachel's father informed the social worker that he did not intend to get back together with Rachel's mother, who had a bad temper and liked to scream and boss people around.

In its June 2010 reports, SSA indicated that photographs it had received showed the residence of Rachel's father might not be safe for children or for Rachel's special needs. It also expressed concern about the ability of Rachel's father and extended family to care for her and provide her with the ongoing attention and medical care she needed. Rachel's cardiologist was recommending heart surgery to close the hole in her heart. With these medical issues, SSA was concerned that the nearest hospital was two hours away.

In July 2010, the SSA social worker placed a couple more telephone calls to Rachel's father, but was unable to reach him. He did not return her calls. However, she spoke to Rachel's grandfather, who stated he was willing to help out with the family. When asked, he said that DIF had not provided any instruction to the family on how to care for Rachel's special needs.

Rachel had heart surgery on July 27, 2010. Two days later, the SSA social worker spoke with Rachel's father, who said he had bedrooms ready for the children. He confirmed that DIF had not provided him and his family with a class for special needs children.

On August 9, 2010, SSA contacted DIF to ascertain whether changes had been made to make the grandparents' residence safer for the children, but no response was received. The next day, SSA telephoned Rachel's father, and his sister-in-law answered the phone. Rachel's father did not return the call. SSA tried again in mid-September and left a voice mail message, but Rachel's father never called back.

SSA left additional messages on September 30, October 4, and October 6, 2010, asking Rachel's father to make plans to visit the children at the border, and stating it was very important that he call back. He finally called back on October 6, 2010. He stated that he had made repairs to the home to make it safer for the children and had completed a DIF class on parenting special needs children.

Several border visits took place between Rachel's father and her two full siblings in October 2010. They went very well. At the 18-month review hearing on November 2, 2010, the court ordered additional visitation in Mexico for Rachel's two full siblings. After a November 29, 2010 visit between Rachel's father and her two full siblings, the two children reported that they wanted to live with their father.

With regard to Rachel, in late January 2011, her father stated to SSA social worker Diana E. Mendez: "[T]his is my final and last answer regarding Rachel. I will not fight for her anymore, I wish for her to be adopted in the U.S. Please understand that it breaks my heart and this is not easy, but after meeting with the DIF's doctors, therapist, psychologist and my case worker, I have come to realize that Rachel will not have the care and services for all her medical and developmental needs if she is to come to Mexico, neither will I be financially able to provide for her medical care and special needs. The DIF delegates clarified that although Rachel might be qualified to receive some assistance from our government, still most of the financial responsibility will be mine to cover. I would have to be very well off financially to pay for the services, even if DIF provides some financial help, it will not be enough, and logically I don't have that

kind of money to commit for her ongoing care. The DIF delegates stated that I need to be realistic and to consider that Rachel's medical needs will leave me with few financial resources for [her siblings]. The delegates advised me that technology in the U.S. is very advanced and it cannot compare to what is offered here and Rachel will need someone to supervise her and care for her at all time[s]. I can't afford to hire someone to provide that type of care and supervision. Rachel will have better opportunities to reach her potential and be the best that she can be within her delays in the U.S. I am sad, but after much soul searching, and doing research with DIF, and talking to the DIF delegates, I made my decision that Rachel should be considered for adoption in the U.S. and I won't fight to reunify with her anymore. . . . Also tell the court that I am not going to change my mind, this is my final decision for Rachel. I will contact my attorney with my decision so that my attorney does not continue to fight for Rachel."

Given that, and Rachel's extensive medical issues, SSA recommended that the court terminate reunification services to Rachel's father and place Rachel for adoption. At the continued 18-month review hearing on January 31, 2011, counsel for Rachel's father reiterated his decision to stop fighting for reunification, because of a belief that Rachel's medical needs would be better met in the United States and that she would have a better life here.

The court returned the custody of Rachel's full siblings to her father and ordered the termination of reunification services as to both Rachel's father and her mother. It found, pursuant to section 366.22, subdivision (a) that the return of Rachel to her parents would create a substantial risk of detriment to her safety, protection, or physical or emotional well-being. It ordered a section 366.26 hearing to take place within 120 days and ordered adoption as the permanent plan.

Rachel was placed in a prospective adoptive home on or about May 13, 2011. SSA requested a continuance of the section 366.26 hearing for "90 days to ensure

that the prospective Adoptive family is ready, willing and capable of meeting all of Rachel's medical and developmental needs.”

At the May 31, 2011 permanency planning hearing, the court found by clear and convincing evidence, pursuant to section 366.26, subdivision (c)(3), that termination of parental rights would not be detrimental to Rachel, that Rachel had a probability of adoption but was difficult to place and there was no identified or available prospective adoptive parent. It identified adoption as the permanent placement goal and ordered efforts to be made to locate an appropriate adoptive family within 180 days.

As of August 29, 2011, SSA reported that the prospective adoptive parents were committed to adopting Rachel. The prospective adoptive mother is a special education speech therapist, is fluent in American Sign Language, and able to fully communicate with Rachel. SSA requested that the court grant the caretakers de facto parent standing, appoint an attorney to represent them, order the termination of parental rights, and refer Rachel to the county adoption agency for adoptive placement.

At the continued section 366.26 hearing on September 22, 2011, counsel indicated that Rachel's father had had a change of heart. Counsel for Rachel's father objected to the termination of parental rights on three grounds: (1) Rachel was neither generally nor specifically adoptable; (2) the sibling bond exception applied; and (3) the parent-child bond exception applied.

However, the court found that Rachel was both generally adoptable and specifically adoptable by the prospective adoptive parents in question, and that neither the sibling bond exception nor the parent-child bond exception applied. The court found by clear and convincing evidence that the termination of parental rights was in the best interests of Rachel. It ordered the termination of the parental rights of both of her parents and granted de facto parent standing to the prospective adoptive parents. Rachel's father filed a notice of appeal.

II DISCUSSION

A. FATHER'S ARGUMENTS:

On appeal, Rachel's father argues that the juvenile court violated due process by terminating his parental rights without making a finding that he was an unfit parent. In support of his position, he cites several cases, including *In re Gladys L.* (2006) 141 Cal.App.4th 845, *In re G.S.R.* (2008) 159 Cal.App.4th 1202, *In re P.C.* (2008) 165 Cal.App.4th 98, and *In re Frank R.* (2011) 192 Cal.App.4th 532. We consider those cases in turn.

In *In re Gladys L.*, *supra*, 141 Cal.App.4th 845, when the child was detained, she was in the custody of her mother. The section 300 juvenile dependency petition named only the mother and made no allegations of abuse or neglect against the presumed father. Although the presumed father appeared at the detention hearing, he later disappeared for several years. He showed up again at the section 366.26 hearing and requested visitation. The court denied the request and later terminated his parental rights. (*Id.* at p. 847.) The presumed father appealed and the appellate court reversed. It stated: "Before a juvenile court may terminate a presumed father's parental rights over his child, the juvenile court must find by clear and convincing evidence that the presumed father is unfit." (*Ibid.*)

Relying upon this case, Rachel's father claims that the court in the matter before us could not terminate his parental rights because it had never made a finding that he was unfit. He reads too much into *In re Gladys L.*, *supra*, 141 Cal.App.4th 845. The *Gladys L.* court stated that the social services agency had "never alleged that [the presumed father] was unfit and the trial court [had] never made that finding. Due process therefore prohibit[ed] the termination of [the presumed father's] parental rights." (*Id.* at p. 848.)

In the matter before us, however, Rachel's father was a custodial parent, not a noncustodial parent as was the case in *In re Gladys L.*, *supra*, 141 Cal.App.4th 845. Moreover, the section 300 juvenile dependency petition contained allegations against both of Rachel's parents. SSA specifically alleged that Rachel's father knew or reasonably should have known of the risk of physical abuse to Rachel and of the physical abuse to his two other children and that he failed to protect his children. At the February 24, 2009 dispositional hearing, the court found by clear and convincing evidence that to vest custody with the parents would be detrimental to Rachel. It also found that Rachel's father had made minimal progress towards alleviating or mitigating the causes necessitating placement.

At the six-month review hearing on August 13, 2009, the court found by clear and convincing evidence that to return Rachel to her parents would be to create a substantial risk of detriment to her physical or emotional well-being and, again, that her father had made minimal progress towards alleviating or mitigating the causes necessitating the placement. The court made the same findings again at the 12-month review hearing on April 5, 2010.

At the continued 18-month review hearing on January 31, 2011, as we have discussed, Rachel's father, through counsel, formally stated that he would no longer request reunification with Rachel. Consequently, the court ordered termination of reunification services for him and ordered a section 366.26 hearing to take place, with adoption as the permanent plan. And, at the May 31, 2011 permanency planning hearing, the court found by clear and convincing evidence that termination of parental rights would not be detrimental to Rachel and it identified adoption as the permanent placement goal.

Clearly, this is not a case where no notice had been given to Rachel's father, he had not been named in a dependency petition, no allegations had been made

against him, or no findings had been made against him. *In re Gladys L.*, *supra*, 141 Cal.App.4th 845 is simply inapposite.

In re G.S.R., *supra*, 159 Cal.App.4th 1202, also cited by Rachel's father, is similar. In that case, as in *In re Gladys L.*, *supra*, 141 Cal.App.4th 845, the father was a nonoffending, noncustodial parent. (*In re G.S.R.*, *supra*, 159 Cal.App.4th at p. 1211.) The juvenile court appeared to have terminated his parental rights largely because he was impoverished and unable to provide suitable housing for his children. (*Id.* p. 1212.) The appellate court said one could not bootstrap the fact that the father was too poor to provide housing into a finding of detriment. (*Id.* at p. 1213.) It also said that the juvenile court had adopted the social services agency's recommendations without giving the father "notice or a meaningful opportunity to address the issue of his fitness to parent." (*Ibid.*)

Here, in contrast, Rachel's father was not a noncustodial father. Furthermore, the juvenile dependency petitions made allegations against him that he failed to protect his children. He had every opportunity to address the issue of his fitness to parent Rachel. At the continued 18-month review hearing, he voluntarily relinquished his right to seek reunification with Rachel. This was not a lack of due process. It was a choice on his part.

Next, Rachel's father cites *In re P.C.*, *supra*, 165 Cal.App.4th 98. In that case, this court reversed an order terminating a mother's parental rights where it appeared the only reason the children were not returned to her care was because she was unable to provide suitable housing. (*Id.* at pp. 102-103, 107.) That case is distinguishable from the one before us, and thus not controlling. Here, the father informed the court that he would not seek reunification with his child and then changed his mind at the section 366.26 hearing held two years and nine months after his infant daughter had been detained.

Finally, Rachel's father cites *In re Frank R.*, *supra*, 192 Cal.App.4th 532. In that case, the father was a nonoffending, noncustodial parent of nine-year-old twins. (*Id.* at pp. 534-535.) Although the juvenile court sustained the juvenile dependency petition as to the mother, it "found the failure-to-provide allegations [of the petition] to be untrue and dismissed them as to [the] father." (*Id.* at p. 535.) The father had no stable housing and did not want the court to order a case plan for him. (*Id.* at pp. 534-535.) As of the 12-month review hearing, the father still was not requesting custody of the children and had not been offered reunification services. (*Id.* at p. 536.) However, by the time of the section 366.26 hearing, the father had informed the social services agency that he did not want his children to be adopted. The juvenile court nonetheless terminated his parental rights and he appealed. (*Ibid.*)

The appellate court reversed. (*In re Frank R.*, *supra*, 192 Cal.App.4th at p. 540.) It stated: "California's dependency system comports with [due process] requirements because, by the time parental rights are terminated at a section 366.26 hearing, the juvenile court *must* have made prior findings that the parent was unfit. [Citation.] . . . The linchpin to the constitutionality of the section 366.26 hearing is that prior determinations ensure "*the evidence of detriment is already so clear and convincing that more cannot be required without prejudice to the interests of the adoptable child, with which the state must align itself.*" [Citation.]' [Citations.] [¶] With respect to the necessary finding of unfitness, 'California's dependency scheme no longer uses the term "parental unfitness," but instead requires the juvenile court [to] make a finding that awarding custody of a dependent child to a parent would be detrimental to the child. [Citation.]' [Citations.]" (*Id.* at p. 537.) "[F]indings of detriment by clear and convincing evidence can provide an adequate foundation for an order terminating parental rights, if supported by substantial evidence. [Citation.]" (*Id.* at p. 538.)

In *In re Frank R.*, *supra*, 192 Cal.App.4th 532, the juvenile court erred because it “never made a finding father was unfit, having never made a finding of detriment by clear and convincing evidence with respect to father.” (*Id.* at p. 538.) Furthermore, the *Frank R.* court held: “Father did not forfeit his right to contest the termination of his parental rights by failing to act sooner or to file a petition for extraordinary writ from the setting of the section 366.26 hearing (§ 366.26, subd. (l).) The juvenile court did not duly advise father of his writ rights, with the result he is entitled to challenge the merits of the setting order on appeal from the termination order. [Citation.]” (*Id.* at p. 539.)

In the matter before us, however, Rachel’s father was a custodial parent and findings of detriment by clear and convincing evidence were made against father at the dispositional hearing, the six-month review hearing, and the 12-month review hearing. At the 18-month hearing, he voluntarily dropped his request to be reunited with Rachel. The court thus ordered that the 366.26 hearing take place within 120 days and that adoption be the permanent plan. Rachel’s father did not object. This notwithstanding, the court ordered that his counsel provide him with written notice of his right to seek writ relief in order to preserve any right to appellate review. Clearly, *In re Frank R.*, *supra*, 192 Cal.App.4th 532 is distinguishable on its facts and does not dictate the outcome of the case before us.

Rachel’s father argues that the postdispositional findings of detriment are unsupported by substantial evidence. However, the record reflects that for a significant period of time, he failed to attend classes and he repeatedly failed to return the SSA social worker’s telephone calls. Furthermore, the social worker had been unable to verify that he would be able to provide the kind of medical care, therapy and attention that Rachel would require given her special needs. The nearest hospital was two hours away. Rachel’s father himself had expressed concerns about his ability to care for her given her

special needs. True, he ultimately completed certain courses and was able to reunite with his two older children, with whom he had a parent-child relationship. However, he cites no portion of the record to show that he had been able to demonstrate that he could provide for Rachel's special needs.

Moreover, Rachel's father voluntarily released his claim to her at the 18-month hearing and he did not seek writ relief. The court thereupon ordered the termination of reunification services, the setting of a section 366.26 hearing, and adoption as the permanent plan. We may deem him to have waived his right to challenge the setting of the section 366.26 hearing and to raise due process concerns never addressed below. (*In re Dakota S.* (2000) 85 Cal.App.4th 494, 501-502; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1338-1339.)

B. RACHEL'S NEEDS:

The emphasis in dependency law "is on 'setting outside limits to the length of time a child may be kept in foster care before a permanent plan is established.' [Citation.]" (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1510.) "'Once reunification services are ordered terminated, the focus shifts to the needs of the child for permanency and stability.' [Citation.] 'A section 366.26 hearing . . . is a hearing specifically designed to select and implement a permanent plan for the child.' [Citation.] It is designed to protect children's 'compelling rights . . . to have a placement that is stable, permanent, and that allows the caretaker to make a full emotional commitment to the child.' [Citation.]" (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53.)

At the section 366.26 hearing, if "the court finds 'that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption.' (§ 366.26, subd. (c)(1).) The circumstance that the court has terminated reunification services provides 'a sufficient basis for termination of parental rights unless

the court finds a compelling reason for determining that termination would be detrimental to the child due to one or more⁷ of specified circumstances. [Citation.]” (*In re Celine R.*, *supra*, 31 Cal.4th at p. 53; see also *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314.) The burden is on the individual seeking to avoid termination of parental rights to demonstrate the existence of one of those specified circumstances. (*In re Bailey J.*, *supra*, 189 Cal.App.4th at p. 1314.)

Given this, at the September 22, 2011 section 366.26 hearing, Rachel’s father argued that parental rights should not be terminated because Rachel was not adoptable, the sibling bond exception applied, and the parent-child exception applied. The court, as we have noted, found that Rachel was adoptable and that neither exception applied.

On appeal, Rachel’s father does not challenge any of these findings. Indeed, it would be hard to do so. The prospective adoptive parents with whom Rachel has been placed are ready to adopt her, Rachel has never lived with her siblings or father, and she only saw her father once in the time from her detention to the date of the September 22, 2011 hearing.

The prospective adoptive parents are close friends with the foster mother with whom Rachel was placed on May 26, 2009. The prospective adoptive mother was immediately drawn to Rachel and offered to work with her informally on speech and language. Rachel was often at the home of the prospective adoptive parents, receiving her speech and language therapy. Both of the prospective adoptive parents quickly formed a strong bond with Rachel. Their own children were thrilled with the possibility of Rachel’s adoption, because they had come to love her. Once the family decided to adopt Rachel, she started to spend more and more time at their home. When Rachel was placed in the home in May 2011, the transition was smooth.

In SSA's August 29, 2011 addendum report, the social worker stated that the family had adjusted well to Rachel's daily routine, experienced joy in being with her, and expressed pride in her progress. In addition, Rachel had formed a positive attachment to the prospective adoptive family members. She signed "Mommy" and "Daddy" at the prospective adoptive parents and smiled, and she sought out their comfort. Furthermore, she was playful with her new siblings.

Substantial evidence supports the finding of the juvenile court that Rachel is adoptable. Rachel's father has cited no evidence to show that any exception to the general rule of adoption applies. The juvenile court did not err in terminating his parental rights.

III

DISPOSITION

The order is affirmed.

MOORE, J.

WE CONCUR:

O'LEARY, P. J.

RYLAARSDAM, J.