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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re BRANDON M., et al., Persons
Coming Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

M.B.,

Defendant and Appellant.

G046144

(Super. Ct. Nos. DP021330,
DP021331, DP021332)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Dennis J. Keough, Judge. Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for
Defendant and Appellant.

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

No appearance for the Minors.

* * *

Cindy J. (Mother) has three sons, Brandon M., I.B., and N.B., having different biological fathers (only Brandon's case is relevant to this appeal). J.M., who lives in Texas, is the biological father of 10-year-old Brandon. M.B., who is Mother's boyfriend, is the biological father of I.B. and N.B. This appeal concerns M.B.'s desire to have standing as a party in Brandon's dependency proceedings. M.B. asserts the juvenile court erroneously denied his oral request for standing at a hearing held for the court to consider Mother's Welfare and Institutions Code section 388 petition (hereafter 388 petition) regarding Brandon. M.B. also maintains the court should have, *sua sponte*, bestowed upon him party status as a *de facto* parent. We find M.B.'s contentions lack merit and we affirm the court's order.

I

In June 2011, Brandon and his half siblings were taken into protective custody due to allegations of physical abuse. On June 2, Brandon ran away from home, and Mother called the police. The police found Brandon and returned him home. M.B. and Mother struck Brandon with a belt leaving long red marks (1/2 inch wide) on his upper arm and abdomen that turned into bruises. Brandon also had two dark purple bruises just below his waistline on both of his buttocks. The next day, Mother and M.B. were arrested for child cruelty.

Brandon had been living with Mother, M.B., and his half siblings. He had limited contact with his biological father, J.M. In 2008-2009, he lived for a short time with J.M. in Texas. M.B.'s role in the family was that of Brandon's stepparent.

Brandon was first placed in the custody of his school's principal and later he moved to Orangewood Children and Family Center (Orangewood). His half siblings

were placed with their paternal grandmother, G.B. She did not take Brandon because she blamed him for the family's problems. In addition, she explained she was not his "biological grandmother."

The social worker reported Mother and M.B. blamed Brandon for their own misconduct. Mother stated Brandon had been in trouble at home and school for the past six months, and he had been suspended many times from school. Brandon was receiving counseling at school. Mother took him to a therapist but stopped going because it was too expensive. The therapist told her Brandon was depressed. Mother stated that usually she disciplines the children by giving them time outs. The last time she spanked Brandon was in January 2011, when he stole \$500 from his uncle. She admitted spanking Brandon with the belt four times, and that M.B. spanked him two times.

M.B. told the social worker that ordinarily he disciplined the children by talking to them or grounding them. He complained, "Brandon does not respond to any form of discipline at all [and] that he has never seen anything like it." M.B. stated he recently had to be hospitalized for heart palpitations, which he attributed to the stress caused by Brandon's behavioral issues. He stated Brandon had been grounded for a long time. He explained the child was spanked with a belt for running away.

The social worker also interviewed J.M., who stated Brandon was his son and he had been paying child support. J.M. indicated he knew Brandon was having trouble in school, but he did not know the extent of what was going on. He saw Brandon on holidays, and two years ago, Brandon lived with him briefly.¹ Brandon confirmed he rarely spoke to J.M. on the phone and visited him last summer. Brandon referred to M.B. as "dad."

¹ We note J.M. stated he lived with Brandon for one and one-half years. Mother stated Brandon lived with J.M. for just nine months. This factual dispute need not be resolved as it is not relevant to the issues raised on appeal.

On June 8, 2011, the court held a detention hearing as to all three children. The court appointed separate counsel for Mother, M.B., and J.M. Mother's counsel first addressed the paternity issue. Mother alleged J.M. was Brandon's father. They were not living together when the child was conceived or at the time he was born, and they never married. However, J.M. was listed on the birth certificate and had provided child support. She believed J.M. held himself out as being Brandon's father and he lived with Brandon briefly.

Mother alleged M.B. was the father of I.B. and N.B. She was not married to him, but they had lived together for a long time and he was present when both children were born. M.B. was listed on their birth certificates, and he had provided child support.

J.M. was not present at the hearing, and his counsel stated he wanted to wait before making a motion for presumed father status. On the other hand, M.B. confirmed Mother's statements about paternity and he orally requested "presumed [father] status" with respect to I.B. and N.B. The court granted M.B.'s motion for presumed father status.

At the hearing, Mother requested the return of all three children. She argued the spanking was an isolated incident, and usually Mother and M.B. take Brandon to therapy or speak to his school principal to deal with behavioral issues. She noted this was the family's first contact with social services and there was no evidence the other children suffered bruising when spanked.

M.B.'s counsel argued I.B. and N.B. should be returned home but counsel stated, "I don't particularly have standing to argue with respect to Brandon. [¶] However, my client does feel at this time it's actually best for Brandon to stay out of the home. As the report indicates . . . Brandon is a handful, and these parents have been doing the best that they could to handle his behavioral issues." Although M.B. did not want Brandon to return home, he did request visitation with Brandon. Counsel explained,

“My client does have a very close relationship with Brandon. He’s been in his life for eight years now, and he does financially support and live in the home with him.”

The court detained the children and authorized M.B. to visit with Brandon. The court determined M.B. and J.M. should also be authorized to have telephone contact with Brandon. It ordered visitation should occur between the siblings, it ordered a new evaluation regarding therapeutic intervention, and it authorized funds for independent and conjoint therapy. The social worker sent an Interstate Compact for the Placement of Children (ICPC) request to Texas to possibly place Brandon there with J.M.

In the social worker’s next report, she recommended the court sustain the dependency petition and order reunification services to Mother and M.B. The social worker concluded Mother and M.B. beat Brandon with a belt, and the “whooping was severe enough for the police to file criminal charges against the parents.” The social worker stated she was ordered not to discuss the criminal charges, but the parents blamed Brandon before she could “get a word or two in” to stop them. The social worker concluded it was understandable why Mother and M.B. were angry with Brandon, but there was no excuse for leaving welts and bruises on the boy’s body.

M.B. filed an objection to evidence contained in the social workers report, and the hearing was continued. Orange County Social Services Agency (SSA) filed an amended petition alleging the children came under Welfare and Institutions Code section 300, subdivision (a) [serious physical harm], and (b) [failure to protect]. Mother, M.B., and J.M. pled no contest and the court found the allegations of the amended petition to be true. It issued two separate minute orders: (1) One order related to I.B. and N.B. and stated these minors were to be released to their parents under the conditions of a Conditional Release with Intensive Supervision (C.R.I.S.P.) agreement; and (2) the second order stated custody of Brandon was taken from his parents (Mother and J.M.) and vested with SSA for suitable placement.

The court scheduled a six-month review hearing in Brandon's case for January 24, 2012. It ordered SSA to provide referrals for therapeutic intervention, and it ordered the ICPC to be resubmitted.

At the September dispositional hearing, it was reported the C.R.I.S.P. agreement had gone well. Mother and M.B. were participating in services. The court declared I.B. and N.B. dependents and ordered they remain in the custody of their parents under continued SSA supervision.

For Brandon's six-month review hearing, the social worker reported that in July 2011, Brandon was placed with non-related family members that were family friends. Brandon exhibited many behavioral problems with his new caretakers. He destroyed toys, threw himself against the walls, hoarded food in his room, urinated on the mop, and put yogurt on the dogs. He required constant supervision and was caught stealing items from the grocery store and the doctor's office.

In September 2011, the social worker, Brandon's caretakers, Mother, M.B., and J.M. participated in a Team Decision Making meeting regarding Brandon. The caretakers stated they called SSA with concerns but the social worker was on vacation for three weeks and the case was transferred to a new social worker. They complained services were not put in place to support the family and they felt they could no longer take care of Brandon. It was reported Brandon was very bright academically, but he had many behavioral issues. Mother and M.B. were participating in, and completing, their case plan objectives.

The caretakers agreed to keep Brandon if SSA promised to expedite a psychiatric medication evaluation and Brandon continued to receive therapy. Four days later the caregivers contacted the social worker and reported they were no longer willing to have Brandon placed in their home because he kicked their five-year-old daughter. Brandon was returned to Orangewood.

At the first family therapy session on September 19, 2011, although the therapist had instructed M.B. and Mother to come without Brandon's half-siblings, they brought the children, and M.B. stayed with them in the car. Only Mother came to the therapy session, and after a while, she left Brandon alone with the therapist while she went to help M.B. with the half-siblings. The therapist stated, "I am really concerned about Brandon's lack of emotions, lack of any feelings, a very bright child, very sweet, very sad, very flat affect. I asked [Mother] why they did not see him alone and she said an excuse. . . . They do not seem to get it."

At the end of September 2011, Mother filed a 388 petition seeking to modify the court's order. She asked the court to (1) place Brandon in her care under a family maintenance plan, and (2) order SSA to facilitate a psychological and medication evaluation. Mother stated she was employed, she lived in a two-bedroom apartment, and she had a "safety plan in place, where Brandon will not be left unsupervised with his younger siblings."

On September 26, 2011, the court considered Mother's petition. The hearing was attended by counsel for Mother, SSA, the minor, and J.M. They argued about whether the petition presented a prima facie case Brandon's return would not be detrimental. J.M.'s counsel suggested the court consider ordering an Evidence Code section 730 evaluation (hereafter 730 evaluation) because it sounded like Brandon had a lot of issues and may require additional services. Brandon's counsel agreed a 730 evaluation would be a good idea. The court denied Mother's request for a hearing to decide if Brandon could be returned to her care, but stated it would consider her second request for a medical evaluation. The court continued the hearing for one day.

On September 27, Mother withdrew her 388 petition. She filed an appeal and later abandoned it. The trial court ordered a 730 evaluation and scheduled a progress review to address completion of the evaluation. In addition, it ordered Brandon detained at Orangewood.

The court held additional placement review hearings for Brandon on October 11 and 25. These hearings were attended by counsel for Mother, J.M., SSA, and Brandon. On November 2, 2011, M.B.'s counsel filed a motion seeking to continue the next scheduled review hearing. M.B. argued counsel for SSA, Mother, and J.M. had engaged in "unauthorized ex parte communications on an unknown date at which the court heard a 388 petition and motion brought by [Mother.]" M.B. argued he was never served with notice of the motion. He complained Mother's counsel believed she was not required to inform M.B. about the motion because he was not "a party" to the action.

In his continuance motion, M.B. argued he was a party and had standing to participate in Brandon's hearings because (1) he resides in the same home as Mother and their sons on a family maintenance plan, (2) he has raised Brandon in a parental role, (3) and he could be injuriously affected by the court's decision in Brandon's case. As to the final point, M.B. explained, "The outcome of [Mother's 388 petition] could have injuriously affected [his] cognizable immediate and substantial interest" in living at home with his sons "who he has a duty to protect." He requested the next hearing date (November 14) be continued to November 22, 2011.

On November 8, 2011, the social worker reported Brandon remained in Orangewood because a suitable placement had not been found. She noted the child's two previous placements failed due to behavioral problems. The ICPC had been initiated in Texas. At Orangewood, the staff reported Brandon was doing better. He was getting along with his peers and doing well academically. The court noted the next progress review scheduled for November 14, 2011, would remain.

The social worker's next report, dated November 14, stated Brandon was placed at the Olive Crest Group Home Garfield House in Orange. The social worker summarized the 730 evaluation as follows: Brandon, now 11 years old, was friendly and overtly cooperative during the interview. He denied any symptoms of depression or

anxiety. He was eager to discuss how much progress he had made regarding controlling his impulses and expressing anger more appropriately.

The evaluator, Thomas Geisz, opined Brandon tried to portray himself as a changed person, but he still exhibited behavioral problems such as verbally harassing and bullying other children. He had attempted to steal from staff members and exhibited difficulty observing limits and boundaries. Geisz concluded Brandon's defiance and oppositional behavior had escalated. He stated it appeared Mother and M.B. physically abused Brandon "on at least one occasion out of frustration and desperation. It does not seem likely that they are currently able to effectively contain Brandon's problematic behaviors."

Geisz stated J.M. expresses a willingness to have Brandon live with him in Texas but it is likely J.M. does not have an adequate understanding of Brandon's behavior problems to effectively parent him. His experience as a parent, and his relationship with Brandon, was very limited. Geisz concluded Brandon appeared to be very intelligent and therefore able to "manipulate others to serve his own purpose." He can "become sneaky or defiant and oppositional when he does not get what he wants." Brandon had not developed much of a sense of empathy, he could be cruel if he perceived others as being weak to entertain himself. Brandon often became angry due to a low frustration tolerance.

Geisz reasoned, "It is likely that his aggressive behavior could escalate without adequate supervision and treatment. [¶] It is my opinion that [Brandon] needs to be placed in a secure, supervised facility that has sufficient structure to contain his problematic behavior. He will need to learn to accept limits and boundaries including focusing on schoolwork. He needs to continue . . . therapeutic services that address his pathology especially in terms of developing better judgment, impulse control and empathy for others. [Mother and M.B.] also need to continue participating in supportive

services in terms of parenting. Goals should be set and sufficiently achieved in these areas prior to Brandon re-integrating with his family.”

At the November 14, 2011 hearing, the court considered M.B.’s motion and continued the hearing to November 22. On that day, M.B. requested “at this point that the court order the court officer to provide me with copies of reports regarding Brandon since the dispositional hearing in September on this matter, including the 730 evaluation. M.B.’s counsel argued M.B. was a party to the case and he had standing because his interests could be injured by the court’s decision. Counsel added M.B.’s interests related to his role as Brandon’s stepparent and to his duty to protect Brandon’s stepbrothers in the home should Brandon be returned. M.B. asserted he was in therapy with Brandon and it made no sense not to allow him to participate in Brandon’s case. When the court asked if M.B. was requesting “de facto standing,” his counsel did not directly answer the question affirmatively or negatively, but rather replied M.B. was simply seeking the right to participate in Brandon’s placement and care. M.B. also commented he was reluctant to interfere with J.M.’s rights or interfere with Brandon’s potential move to Texas with J.M.

The court pressed forward and asked the parties to state their positions about whether M.B., as a stepparent, should be considered a party with standing. Mother’s counsel stated that after speaking with Mother, they had changed their position and supported M.B.’s request for standing. SSA asserted it was opposed to treating M.B. as a party having unfettered rights to Brandon’s confidential records. SSA argued M.B. filed a motion to continue, not a motion for standing or to be heard on that issue. SSA noted California Rules of Court, rule 5.502(28)² defined stepparents as a type of “relative” with limited rights, and because M.B. is not a parent, he does not have

² All further rule references are to the California Rules of Court. All further statutory references are to the Welfare and Institutions Code.

standing. SSA explained the fact M.B. was authorized to visit and participate in counseling did not automatically make him a party to the matter. SSA stated that when they are trying to reunify a child to a home, the social workers have discretion “to offer services to any person in home that they feel would benefit.” SSA maintained the court had the discretion to allow M.B. to be present during any hearing, but the court should not deem M.B. to be a party.

Counsel for Brandon and J.M. agreed with SSA and maintained M.B. should have to make a request for confidential records under sections 827 and 828 (hereafter 827 petition). J.M.’s counsel added he agreed M.B. had a legitimate interest in the matter, but this interest did not rise to the same status as a party able to litigate the issues regarding Brandon. J.M.’s counsel added the issue of standing has not been properly “framed” before the court, and he believed “that if the court would [examine] the original petition that brought us here, there are also factors that are included in that petition that would indicate that even if [a] de facto motion was made, that there would be an argument that [it] should not be granted at this stage.”

The court asked M.B. to specify on the record what he was requesting. M.B.’s counsel replied, “[S]pecifically, I’m requesting in addition to having access to the reports with regard to Brandon, that the court find that my client is a party, that we can participate in the proceedings as they relate to Brandon moving forward.” He also clarified they were no longer seeking a motion to continue. The court denied M.B.’s request for standing stating, “The court is going to deny to the extent there is an oral request for standing.” The court advised M.B. to file an 827 petition to request copies of Brandon’s records and the 730 evaluation.

In making its ruling, the court referred to an argument raised by J.M.’s counsel and agreed there was not a properly framed motion for standing or a request for de facto parent status. The court commented there was clear criteria used to evaluate a

motion for de facto standing and M.B. failed to provide any case authority dealing with how to evaluate a “stepfather’s standing per se.”

At the hearing, because no party objected, the court permitted M.B. to participate in the subsequent discussion about a medical evaluation for Brandon. M.B. did not file a motion for de facto parent standing or an 827 petition. He filed an appeal.

II

In the opening brief, M.B. argues he is not Brandon’s biological father, but it was undisputed he acted as the child’s parent on a daily basis and therefore “his status, with respect to Brandon is *most akin to that of a de facto parent*. In this capacity, he should have been afforded standing as a party to Brandon’s dependency proceeding.” (Italics added.) SSA responds by correctly noting M.B. specifically declined to request de facto parent status at the hearing and there is no legal category of standing of “akin to that of a de facto parent.” In his reply brief, M.B. clarified he is not seeking to create a new legal category of standing, but rather the court erred in denying his request for party standing as a de facto parent. We conclude M.B.’s contention lacks merit because he mischaracterizes the record, he never requested de facto parent status, and the court never ruled on the issue. The court’s denial of standing was properly based on the lack of a proper motion and the absence of authority holding a stepparent has automatic standing in dependency proceedings. We affirm the order.

A. *Applicable Legal Principles*

““Dependency proceedings are civil in nature, designed not to prosecute a parent, but to protect the child.” [Citations.] . . . Dependency proceedings are ‘adversarial in nature’ only insofar as the Agency ‘is advocating a position which, if successful, may result in depriving a parent of his or her constitutional right to parent.’ [Citation.] [¶] De facto parents are not part of any adversarial aspect of a dependency case. “De facto parent” means a person who has been found by the court to have assumed, on a day-to-day basis, the role of parent, fulfilling both the child’s physical and

psychological needs for care and affection, and who has assumed that role for a substantial period.’ (. . . rule 5.502(10).) ‘The purpose of conferring de facto parent status is to “ensure that all legitimate views, evidence and interests are considered in dispositional proceedings involving a dependent minor.”’ [Citations.]” (*In re B.F.* (2010) 190 Cal.App.4th 811, 816-817, fns. omitted (*B.F.*).

“The concept of the de facto parent in dependency proceedings is one that [was] judicially created [in 1974 by the Supreme Court in the case of *In re B.G.* (1974) 11 Cal.3d 679] . . . But the California Legislature has not recognized the de facto parent as a participant in dependency proceedings.” (Seiser & Kumli, *Cal. Juvenile Courts Practice and Procedure* (2012) § 2.60A[1], p. 2-134.) Thus, authority and information regarding de facto parent status is limited to the rules of court and case authority.

“The procedural rules governing de facto parent status are well settled. A person seeking de facto parent status must file a written application and establish by a preponderance of the evidence that he or she falls within the definition of a de facto parent.” (*In re Patricia L.* (1992) 9 Cal.App.4th 61, 67 (*Patricia L.*)). Specifically, “[w]hen making a request for de facto parent status, the applicant must submit Judicial Council forms JV-295—De Facto Parent Request and JV-296—De Facto Parent Statement.” (Seiser, *supra*, § 2.60A[2][a], p. 2-134.)

“Whether a person falls within the definition of a ‘de facto parent’ depends strongly on the particular individual seeking such status and the unique circumstances of the case. However, the courts have identified several factors relevant to the decision. Those considerations include whether (1) the child is ‘psychologically bonded’ to the adult; (2) the adult has assumed the role of a parent on a day-to-day basis for a substantial period of time; (3) the adult possesses information about the child unique from the other participants in the process; (4) the adult has regularly attended juvenile court hearings; and (5) a future proceeding may result in an order permanently foreclosing any future contact with the adult. [Citations.]” (*Patricia L.*, *supra*, 9 Cal.App.4th at pp. 66-67.) In

addition, the court can consider if the person applying for de facto parent status has acted inconsistently with the role of a parent by abusing or endangering the child, thus forfeiting the right to receive this special status. (See *In re Kiesha E.* (1993) 6 Cal.4th 68, 79-80.)

Moreover, the California Rules of Court clearly state that, “While de facto parents have ‘standing to participate as parties’ [citation], their role is limited and they do not enjoy the same due process rights as parents. [Citations.] De facto parents do not have an automatic right to receive the Agency’s reports and other documents filed with the court. (Cf. rule 5.534(k)(2)(A), (3) [parents and children have the right to receive Agency’s reports and, ‘[u]nless prohibited by court order, . . . the right to receive all documents filed with the court’]; rule 5.546(d)(6) [Agency’s duty to disclose material and information, ‘including results of . . . mental examinations,’ to parents and children].)” (*B.F., supra*, 190 Cal.App.4th at p. 818.)

Finally, we must keep in mind, “‘It is the express intent of the Legislature “that juvenile court records, in general, should be confidential.”’ [Citation.] Thus, section 827 restricts access to the case file in a juvenile proceeding. That section lists persons entitled to inspect the file without a court order, and a smaller number of persons who are also entitled to receive copies of the file without a court order. (§ 827, subd. (a)(1), (5); rule 5.552(b)(1).) De facto parents are not listed (§ 827, subd. (a)(1)), but they have standing to petition the juvenile court for the right to inspect or copy the case file (§ 827, subd. (a)(1)(P); rule 5.552(b)(3), (c)).” (*B.F., supra*, 190 Cal.App.4th at p. 818.)

B. Waiver

The court denied M.B.’s request for standing stating “The court is going to deny to the extent there is an oral request for standing.” The court referred to the lack of a written request for de facto parent status or direct discussion of de facto criteria. On appeal, M.B. acknowledges his request for standing “arose in the context of a motion to

continue. However, notwithstanding any procedural irregularities, the issue of [M.B.'s] party standing – as a de facto parent – was clearly before the court at the November 22, 2011 progress review hearing. No waiver occurred.” M.B. explained he believes the issue was “clearly” before the court because his counsel used language cited in de facto parent cases, referred to several cases discussing de facto parent requests, and requested standing generally based on de facto criteria. We disagree.

We have carefully reviewed the record and conclude that while the issue of a stepparent’s standing to participate was clearly before the court, the issue of whether M.B. qualified as a de facto parent was not. M.B. articulated two reasons for standing: (1) he was Brandon’s stepparent, and (2) his interests could be adversely affected by Brandon’s return home. He never asserted standing as a de facto parent. He did not submit the appropriate judicial forms requesting this special status. And, at the hearing, he did not argue he met the requirements to be deemed a de facto parent. Nor did he bother to explain why his severe physical abuse of Brandon would not warrant his exclusion as a de facto parent. The issue of de facto status was simply not before the court.

Moreover, although M.B. presents an interesting argument and factual analysis *on appeal* as to why he meets all the relevant criteria to be deemed Brandon’s de facto parent, he failed to do so at the hearing. Contrary to M.B.’s contention on appeal, vague and ambiguous references to this special status are not sufficient. Although he cited to several cases discussing de facto parents and when a parent has standing, none of that authority held a stepparent should be automatically conferred de

facto parent status absent a specific request.³ There was nothing in those cases to put the court on notice M.B. desired to be deemed a de facto parent.

More importantly, the court directly asked M.B., “I am wanting to be clear, counsel. Are you asking for de facto standing . . . [?]” Counsel replied, “This is a father that is . . . a player in this case, a biological father, that Brandon may return to him. I don’t—we are not intending [to] usurp his rights. We would like to be able to participate as a party with regard to Brandon’s placement and care.”

M.B. argues on appeal his counsel’s response to the question was “ambiguous” and therefore can be disregarded. We conclude counsel’s non-responsive and reluctant-sounding answer is very telling. Counsel was given an opportunity to consider and clearly articulate M.B. was seeking de facto standing and failed to do so. Instead, counsel affirmatively stated M.B. did not wish to do anything that would interfere with the possibility Brandon would return to and live with J.M. in Texas. Given M.B.’s prior request Brandon stay out of the home, this argument was not surprising. M.B.’s counsel appeared to believe that seeking de facto parental status, when J.M. had not yet requested presumed father status, would hinder J.M.’s ability to take Brandon to Texas. We find it disingenuous for M.B. to now fault the trial court for listening to his counsel’s statements in court. Indeed, to find error, we would have to hold the trial court had a sua sponte duty to declare M.B. a de facto parent, despite M.B.’s apparent wishes to the contrary. We find no policy or goal that would be served in the dependency law by

³ At the hearing, M.B.’s counsel cited the following three cases: *In re D.R.* (2010) 185 Cal.App.4th 852, 858-859 [did SSA lack standing to challenge trial court’s refusal to terminate parent’s de facto status]; *In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1053-1054 [before parental rights terminated, parent has standing to challenge placement decisions]; and *In re Valerie A.* (2007) 152 Cal.App.4th 987, 1000 [only parent who is an aggrieved party may appeal a judgment]. In addition, none of these cases addressed the issue of the standing of a stepparent to advocate in a stepchild’s dependency proceedings.

imposing such a duty. Having not made any request that can be construed as a call for de facto standing below, we conclude the issue was waived.

We find no legal basis for which the court could confer party standing to M.B. He does not fall into one of the three statutory categories of fathers (presumed, biological, or alleged). M.B. did not request presumed father standing or alleged father standing. It is undisputed he is not the biological father. We appreciate SSA treated him as a stepparent because he voluntarily undertook a parental role in Brandon's life. And although the court did not question M.B.'s status as a stepparent, it is unclear if he qualifies as a stepparent because he and Mother never married. In any event, this status does not confer standing per se. To the contrary, it is well settled, a stepparent is not considered a "parent" in the dependency statutes and M.B., not being otherwise related to Brandon, has no special legal standing in Brandon's case. (*In re Zacharia D.* (1993) 6 Cal.4th 435, 448 ["Courts have concluded that the word 'parent' in the dependency statutes does not include de facto or stepparents"].)

Only mothers and presumed fathers are entitled to all the rights afforded to parents in dependency proceedings. (Seiser, *supra*, § 2.60[2][a], p. 2-98.) As a stepparent, M.B. is included in the definition of "relative" under section 361.3, subdivision (c)(2), and rule 5.502(31)(ii). A relative's rights in dependency are limited: They can be present at hearings, address the court, and submit information (using form JV-285 or a letter to the court) pursuant to rule 5.534. Relatives are also entitled to written notice of some information regarding the case and only some relatives may be given preferential consideration for placement. (§ 361.3, subd. (c)(2).) We conclude these are the limits to M.B.'s standing to participate in Brandon's case.

M.B. argues the court's decision to deny him special party status was contrary to Brandon's best interests because it was undisputed M.B. was the only father figure in Brandon's life and he was in the unique position to offer the court "vital insights about Brandon which would help the juvenile court 'make a fully informed decision' as

to the child's future. By proceeding in his absence, the court denied itself access to this information." As noted above, M.B. had authority as Brandon's relative to address the court and submit information regarding "vital insights." On appeal, M.B. does not suggest what unique information he allegedly possessed that was unknown to Mother, the social worker, or the therapists regarding Brandon. If M.B. wishes to take a more prominent role in advocating for Brandon's best interests, he should file a request to be deemed the presumed father or a de facto parent.

M.B. suggests it was unfair of the court to treat him as a presumed father, authorizing visits and conjoint therapy, while denying him standing as a party. He has apparently forgotten the primary purpose of dependency proceedings is designed to protect the child, and clearly all the trial court's actions were reasonably related to further Brandon's best interests. As noted by SSA at trial and on appeal, the court has discretion to offer visitation and services to M.B. because he resided in the home where Brandon may be placed. (§ 362, subd. (c).) M.B. also received services because he was the presumed father in the dependency case involving Brandon's stepsiblings. We find nothing unfair about these services.

In addition, we fail to see how M.B. was actually prejudiced by the court's ruling. The court permitted M.B. to provide any relevant information to the court about Brandon. The court stated he could attend further hearings in Brandon's case as long as the other parties did not object. With respect to Brandon's confidential court reports and 730 evaluation, the list of individuals privy to this sensitive information is small. Neither a relative or a de facto parent has the automatic right to view those documents. The court correctly held that M.B. as a relative (or even if later deemed a de facto parent) would have to file an 827 petition for access to those confidential records.

We note M.B. has not yet filed an 827 petition, and it is unclear from this limited record why M.B. now wants access to the information. We caution counsel, as explained above, a stepparent will not have standing to advocate against SSA's

recommendation. It would certainly be inappropriate to use Brandon's confidential reports and evaluations for such a purpose.

III

The order is affirmed.

O'LEARY, P. J.

WE CONCUR:

RYLAARSDAM, J.

ARONSON, J.