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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

In re J.F., a Person Coming Under the
Juvenile Court Law.

H040193
(Santa Cruz County
Super. Ct. No. DP002754)

SANTA CRUZ COUNTY HUMAN
SERVICES DEPARTMENT,

Plaintiff and Respondent,

v.

M.F. et al.,

Defendant and Appellant.

In May 2013, the Santa Cruz County Human Services Department (Department) filed a petition under Welfare and Institutions Code section 300, subdivisions (a), (b), and (d).¹ It alleged that the father, H.F. (Father), had inflicted serious physical harm upon, and had sexually molested, his daughter, J.F. (at the time, 16 years of age; the minor), who was the youngest of three siblings. The Department alleged further that the mother, M.F. (Mother), had willfully or negligently failed to supervise or protect the minor. The minor was placed in protective custody. After a contested jurisdictional and dispositional

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise stated.

hearing in September 2013, the juvenile court did not sustain the allegation that Father had inflicted serious physical harm under subdivision (a) of section 300. The court further modified the petition's allegations under subdivisions (b) and (d) of section 300 and sustained them as modified. The court declared the minor a dependent child; ordered her removed from the parents' care and custody; and ordered reasonable reunification services.

Both Father and Mother (collectively, Parents) appeal the jurisdictional and dispositional order. They contend they were denied due process because the juvenile court became an advocate in the contested proceedings by posing numerous questions to the witnesses. Parents assert further that they were deprived of effective assistance of counsel because their attorneys failed to object to the active role undertaken by the trial court.

We conclude that Parents were not deprived of due process or the effective assistance of counsel. The trial court acted properly in its role as trier of fact and did not assume the role of advocate. Accordingly, we will affirm the jurisdictional and dispositional order declaring the minor a dependent child and removing her from Parents' custody.

FACTS AND PROCEDURAL HISTORY

I. *Petition and Detention Order*

On May 17, 2013,² the Department filed a petition under subdivisions (a), (b), and (d) of section 300. It alleged³ under subdivision (a) of section 300 that the minor suffered serious physical harm that was inflicted upon her by Father. On May 13, Father pushed

² All dates are in 2013 unless otherwise indicated.

³ For convenience and to avoid repetition, we will avoid the phrase "the Department alleged" when identifying the allegations contained in the petition.

the minor, causing her to fall and strike her head on a mirror. Father called her a name and pushed her a second time, resulting in the minor hitting her head on a bed frame.

Under subdivision (b) of section 300, the Department alleged that the minor was at risk as a result of the willful or negligent failure of one her parents to supervise or protect the minor from the conduct of the other custodial parent. The minor had reported that Father had sexually abused her since she was in the sixth grade. There was one occasion in which he lay on top of her in his bedroom with his pants unzipped and her pants down, and Mother walked into the room. Mother asked Father what he was doing. He replied that the minor was sleeping; he got up, and covered himself with a blanket. Mother did nothing to protect the minor and did not question her husband further about his conduct. After the minor reported the sexual abuse in May, Mother told police that she did not believe her daughter and that she wanted her out of the house.

The petition contained separate allegations under subdivision (d) of section 300 that the minor had reported that Father had sexually abused her since the sixth grade, and that the abuse included sexual intercourse as well as fondling and digital penetration. The incident discussed in the previous paragraph was repeated, and it was alleged that Mother knew or should have known the minor was in danger of being sexually abused, and it was unlikely that Mother would take action to protect the minor in the future from sexual abuse.

On May 20, the court ordered the minor detained and that temporary placement be vested with the Department. The court ordered that Parents receive supervised visitation of the minor a minimum of one time per week.

II. *Jurisdiction/Disposition Report and September 2013 Hearing*

In its June jurisdiction/disposition report, the Department repeated and elaborated upon the allegations in the petition. The report included as attachments several reports prepared by the Watsonville Police Department that included interviews of the minor, Father, and Mother. The Department reported, based upon the assigned social worker's

contact with the Watsonville Police Department, that the minor, after staying with a friend on the weekend, told the friend's mother, C.A., on or about May 13, that Father had been sexually abusing her since she was in the sixth grade. C.A. contacted Mother, who said she did not believe the minor. C.A. then took the minor to the police station, where she made a report about the alleged sexual abuse.

On May 14, the minor was interviewed twice by the police. She told officers she had been raped by Father since she was in the sixth grade. The sexual abuse occurred while she was in the sixth and seventh grades; it stopped for a while, and then started again. The last incident occurred in 2012. The minor stated that the sexual abuse included sexual intercourse, digital penetration, and fondling. She reported one instance in which Father was lying on top of the minor having sexual intercourse and Mother walked into the room. Mother asked Father what he was doing. He responded that the minor was sleeping. He then got up and covered himself with a blanket. Mother did not say anything further or question Father about the incident.

During her interview with the police, the minor also reported that on May 11, she and Father had gotten into an argument. She said Father had pushed her forcefully, and she fell and hit her head on a mirror in her bedroom. Father yelled at her, called her a name, and he again pushed her, causing her to slip on some books on the floor and strike her head on the bed frame.

Both the Department and the police conducted interviews with Father. These interviews were held separately. In each interview, Father denied having ever sexually abused or physically assaulted the minor. He said the minor had told lies from an early age. Father told police there had been two recent problems with the minor. One occurred on May 3, when the minor stayed out all night on prom night despite having a 2:00 a.m. curfew. And on May 10, the minor was arrested in Salinas for shoplifting at a department store.

Mother was also interviewed separately by the police and the Department. She indicated that she had never witnessed anything that would cause her to suspect that Father was sexually molesting the minor. She told the social worker that the minor “has a history of lying and [Mother] could not trust [the minor] to be telling the truth this time. [Mother] . . . believes [the minor] made the reported allegations because she is upset at her and [Father] for scolding her about being caught shoplifting.” Mother also indicated that she was not present in the home at the time the minor reported that Father had physically assaulted her; she denied that Father had ever used physical force to discipline any of their three children.

The Department reported that Father had no criminal history, but Mother had one conviction for committing fraud to obtain federal assistance (§ 10980, subd. (c)). It indicated that the minor was “currently placed in a non[-]relative home approved by the Department . . . [and] is doing well in her current placement.”

It was recommended by the Department that the allegations of the petition be sustained; the minor be made a dependent and remain in out-of-home care; and family reunification services be provided to Parents. The Department explained: “The severity of risk to [the minor] is high at this time given that the minor adamantly supports her disclosure about being sexually abused by her father . . . despite lack of physical evidence to her disclosure and the mother . . . does not believe the minor’s disclosure.”

A four-day contested jurisdictional/dispositional hearing took place on September 4, 6, 9, and 11.⁴ After testimony and argument, on September 11, the court (1) did not sustain the allegations of the petition made under subdivision (a) of section 300; (2) modified certain allegations of the petition; (3) sustained the allegations of the petition, as modified, under subdivisions (b) and (d) of section 300; and (4) declared the

⁴ Further details regarding the jurisdictional/dispositional hearing are discussed, *post*.

minor a dependent of the court in out-of-home placement. It ordered family reunification services and supervised visitation a minimum of one time per week.

Parents separately filed timely notices of appeal. The order is one from which an appeal lies. (§ 395; see *In re Daniel K.* (1998) 61 Cal.App.4th 661, 667 [order entered at dispositional hearing is final judgment from which appeal lies].)

DISCUSSION

I. *Applicable Legal Principles*

Section 300 et seq. provides “a comprehensive statutory scheme establishing procedures for the juvenile court to follow when and after a child is removed from the home for the child’s welfare. [Citations.]” (*In re Celine R.* (2003) 31 Cal.4th 45, 52.) As our high court has explained, “The objective of the dependency scheme is to protect abused or neglected children and those at substantial risk thereof and to provide permanent, stable homes if those children cannot be returned home within a prescribed period of time. [Citations.] Although a parent’s interest in the care, custody and companionship of a child is a liberty interest that may not be interfered with in the absence of a compelling state interest, the welfare of a child is a compelling state interest that a state has not only a right, but a duty, to protect. [Citations.] The Legislature has declared that California has an interest in providing stable, permanent homes for children who have been removed from parental custody and for whom reunification efforts with their parents have been unsuccessful. [Citations.] This interest is a compelling one. [Citation.]” (*In re Marilyn H.* (1993) 5 Cal.4th 295, 307.)

The court at the jurisdictional hearing must first determine whether the child, by a preponderance of the evidence, is a person described under section 300 as coming within the court’s jurisdiction. (§ 355, subd. (a).) Once such a finding has been made, the court, at a dispositional hearing, must hear evidence to decide the child’s disposition, i.e., whether he or she will remain in, or be removed from, the home, and the nature and extent of any limitations that will be placed upon the parents’ control over the child,

including educational or developmental decisions. (§ 361, subd. (a).) If at the dispositional hearing, the court determines that removal of the child from the custody of the parent or guardian is appropriate, such removal order must be based upon clear and convincing evidence establishing that one of five statutory circumstances exists. (§ 361, subd. (c).) One such circumstance is the existence of substantial danger to the dependent child's "physical health, safety, protection, or physical or emotional well-being" if he or she is returned to the home. (§ 361, subd. (c)(1).) Another circumstance is where "[t]he minor . . . has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, . . . and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent . . ." (§ 361, subd. (c)(4).)

II. *Deprivation of Due Process/Ineffective Assistance of Counsel Claims*

A. *The Due Process Claim Is Forfeited*

Father contends that he was deprived of his due process right to a fair hearing before an impartial judge. He claims the trial judge here "acted in the dual capacity of judge and advocate" by her "actively question[ing]" the minor and other witnesses during the jurisdictional/dispositional hearing. He argues further that, although trial counsel did not object to the court's questioning, the appellate claim is not forfeited because an objection would not have cured the prejudice caused by the alleged misconduct and any objection would have been futile.

Mother echoes Father's appellate claims, incorporating by reference his claim that the hearing was rendered "fundamentally unfair because the juvenile court assumed the role of an advocate and developed evidence in favor [of] the respondent." Mother points to the specific number of questions asked of the witnesses by the trial judge, claiming that "[t]his extensive questioning . . . (220 questions) developed the evidence in support of the allegations against Mother."

Neither Father nor Mother objected to the court’s questioning of any witnesses. They therefore forfeited their respective appellate challenges to the alleged impropriety of the court’s questioning. (*People v. Harris* (2005) 37 Cal.4th 310, 350 [claim that “court overstepped its bounds with respect to the tone, form, and number of questions posed” forfeited because of absence of objection at trial].) And we do not agree with Father’s conclusory statement⁵ that the forfeiture rule should not be applied because any objection to the juvenile court’s conduct in examining witnesses would have been futile.

Father and Mother take issue with the extensive examination of witnesses conducted by the trial court, not to any specific questions posed or responses thereto given. If the court’s actions were improper, trial counsel could have readily objected early in the process, and there is no evidence that such objections would have been futile. (Cf. *People v. Homick* (2012) 55 Cal.4th 816, 858-859 [failure to object to evidence forfeited; fact that court overruled other defense objections and mistrial motions did not demonstrate that objection to specific evidence would have been futile]; *People v. Adanandus* (2007) 157 Cal.App.4th 496, 512 [claim of misconduct forfeited due to trial counsel’s failure to object; “conclusory assertion that any objection and request for admonition would not have cured the prosecutor’s allegedly ‘inflammatory rhetoric’ is insufficient to avoid waiver”].)⁶

⁵ Father argues in his opening brief—and repeats in his reply brief—that any objection would have been futile because “[t]here was no way to put the genie back in the bottle here after the court ensured its release.” But this is not the type of case in which highly inflammatory and excludable evidence—a “genie”—was improperly introduced and in which a curative instruction would have been unavailing.

⁶ We likewise reject Father’s contention that the otherwise forfeited claim should be addressed because it “presents an important legal question.” Father does not identify the legal question here that he deems to be “important.” While we give full recognition to the important rights of Parents in these proceedings, we do not see that either appeal “presents an important legal question,” as claimed.

B. *Ineffective Assistance of Counsel Claim Fails*

Perhaps implicitly acknowledging that the absence of an objection below poses a problem with their appeals, Father and Mother both assert that the failure of their respective trial counsel to object to the court's questioning of witnesses constituted ineffective assistance of counsel. They contend that it was clearly error for trial counsel to have failed to object, and they claim that such deficient performance was plainly prejudicial.

There are two elements to an ineffective assistance claim: (1) deficient performance, and (2) prejudice resulting from such deficient performance. (*People v. Weaver* (2001) 26 Cal.4th 876, 961; see also *In re O.S.* (2002) 102 Cal.App.4th 1402, 1407 [two-prong standard applicable to ineffective assistance of counsel claim by parent in dependency proceeding].) The deficient performance element consists of “a showing that ‘counsel’s representation fell below an objective standard of reasonableness.’ [Citations.]” (*In re Marquez* (1992) 1 Cal.4th 584, 602-603, quoting *Strickland v. Washington* (1984) 466 U.S. 668, 688.) “ ‘In determining whether counsel’s performance was deficient, a court must in general exercise deferential scrutiny . . .’ and must ‘view and assess the reasonableness of counsel’s acts or omissions . . . under the circumstances as they stood at the time that counsel acted or failed to act.’ [Citation.]” (*People v. Scott* (1997) 15 Cal.4th 1188, 1212.) Moreover, “[i]f the record does not shed light on why counsel acted or failed to act in the challenged manner, we must reject the claim on appeal unless counsel was asked for and failed to provide a satisfactory explanation, or there simply can be no satisfactory explanation.” (*Ibid.*) To satisfy the second element of “prejudice,” the party claiming ineffective assistance must show “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result would have been more favorable to [the proponent], i.e., a probability sufficient to undermine confidence in the outcome.” (*In re Ross* (1995) 10 Cal.4th 184, 201.) The burden of establishing ineffective assistance is upon the party claiming it. (*People v.*

Pope (1979) 23 Cal.3d 412, 425 (*Pope*), overruled on another ground, *People v. Berryman* (1993) 6 Cal.4th 1048, 1081, fn. 10.)

1. *Allegedly Deficient Performance*

Father contends: “The error of counsel in this case is evident in the record . . . [¶] Here, . . . there is simply no satisfactory explanation for trial counsel’s failure to object to the court’s extensive intervention and elicitation of unfavorable evidence.” Mother joins in Father’s argument. She argues that she was also entitled to effective assistance of counsel, that she was deprived of that right because her “trial counsel also failed to object to the juvenile court’s ongoing advocacy on respondent’s behalf throughout the proceedings.” These conclusory arguments are unhelpful to this court in attempting to evaluate Parents’ ineffective assistance of counsel claims.

It is well-settled that an appellate presentation that is “conclusory . . . , without pertinent argument or an attempt to apply the law to the circumstances of this case, is inadequate” and may result in the appellate court deeming the contention abandoned. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852 (*Benach*).) Further, where a party asserts a position but does not cite specifically to the record in support thereof, the appellate court may “simply deem the contention to lack foundation and, thus, to be forfeited” because “an appellate court need not search through the record in an effort to discover the point purportedly made.” (*In re S.C.* (2006) 138 Cal.App.4th 396, 406, 407; see also *City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239 [court may disregard unsupported contentions where appellant fails to provide citations to record in support of points made in the brief as required under Cal. Rules of Court, rule 8.204(a)(1)(B)].)

Here, Parents provide no specific citations to the record in support of their conclusory arguments that their respective counsel’s performances were deficient because they failed to object when the juvenile court (1) “acted in the dual capacity of judge and advocate”; (2) “[p]ierc[ed] the appearance of neutrality”; (3) took a

“prosecutorial posture”; (4) “assumed the role of an advocate”; (5) was “overreaching”; (6) acted in a manner that “thoroughly shattered the appearance of a neutral contested hearing”; and (7) questioned witnesses in a manner that constituted “extensive intervention and elicitation of unfavorable evidence.” Neither Father nor Mother, for instance, points to any particular questions by the court that exhibited bias, a “prosecutorial posture,” “advocacy,” sought inadmissible evidence prejudicial to Parents, or otherwise demonstrated unfairness in the proceedings. We are not required to search the record in an effort to find support for Parents’ conclusory allegations. (*In re S.C.*, *supra*, 138 Cal.App.4th at p. 406.) We may therefore deem abandoned Parents’ unsupported respective contentions that trial counsel’s performance was deficient. (*Benach*, *supra*, 149 Cal.App.4th at p. 852; see also *People v. Gurule* (2002) 28 Cal.4th 557, 627 [“rhetoric” in support of ineffective assistance of counsel based upon alleged inadequate closing argument did “not assist the court in deciding whether counsel provided deficient performance”]; *People v. Black* (2009) 176 Cal.App.4th 145, 153 [“ ‘bare assertion’ of incompetent advice by counsel is not enough to establish deficient performance”].)

Parents’ failure to provide the required support for their claims of deficient performance notwithstanding, our review of the record discloses that the claims are in any event without merit. The court did not overstep its role in examining witnesses and there is no hint that any action the court took deprived Parents (or any party) of due process.

The court is empowered to call and question witnesses on its own motion or on the motion of any party. (Evid. Code, § 775.) It is thus an inherent power of the court under Evidence Code section 775 “to interrogate witnesses called by the parties.” (*People v. Hawkins* (1995) 10 Cal.4th 920, 947, overruled on another point in *People v. Blakeley* (2000) 23 Cal.4th 82, 89-91.) The power to question witnesses applies to both jury trials and court trials. (*People v. Carlucci* (1979) 23 Cal.3d 249, 255 (*Carlucci*).)

As explained by our high court, “[I]t is not merely the right but the duty of a trial judge to see that the evidence is fully developed before the trier of fact and to assure that ambiguities and conflicts in the evidence are resolved insofar as possible. [Citation.] As we expressed at length in *People v. Rigney* (1961) 55 Cal.2d 236, 241: ‘A trial judge may examine witnesses to elicit or clarify testimony (citations omitted). Indeed, “it is the right and duty of a judge to conduct a trial in such a manner that the truth will be established in accordance with the rules of evidence.”’ Similarly, as noted in *People v. Lancelotti* (1957) 147 Cal.App.2d 723, 730: ‘[I]t has been repeatedly held that if a judge desires to be further informed on certain points mentioned in the testimony it is entirely proper for him [or her] to ask proper questions for the purpose of developing all the facts in regard to them. Considerable latitude is allowed the judge in this respect as long as a fair trial is indicated both to the accused and to the People. Courts are established to discover where lies the truth when issues are contested, and the final responsibility to see that justice is done rests with the judge.’” (*Carlucci, supra*, 23 Cal.3d at p. 255; see also *People v. Harris, supra*, 37 Cal.4th at p. 350.)

These principles apply as well in dependency proceedings. *In re S.C., supra*, 138 Cal.App.4th 396 was a dependency case that, as here, involved allegations of sexual molestation. There, the mother argued—similarly to Parents’ contention here—that the court exhibited bias: “[A]ppellant’s counsel argues the trial judge ‘was not impartial, per se requiring a reversal.’ Her complaint focuses primarily on questions the court asked the minor during direct examination by the minor’s attorney. According to appellant’s counsel, the judge ‘pressed [the minor], repeatedly, to say the words the judge was giving her, in order to endeavor to prove the government’s case.’ Appellant’s counsel also criticizes questions the court asked the social worker during her testimony. ‘[I]n each instance,’ appellant’s counsel asserts, the judge’s ‘“questioning appears to have been motivated by a desire to assist the prosecution’s case.” [Citation.]’” (*Id.* at pp. 422-423.) The appellate court rejected the contention, finding that the questions posed by the

juvenile court judge did not exhibit bias. (*Id.* at p. 423.) The court noted: “It is well within the province of the judge to ask a witness questions, particularly when the judge is the fact finder. (Evid.Code, § 775.)” (*Ibid.*)

Furthermore, the Welfare & Institutions Code specifically recognizes the anticipated active role the juvenile court will play in dependency proceedings: “The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought.” (§ 350, subd. (a)(1); see also *Renee S. v. Superior Court* (1999) 76 Cal.App.4th 187, 193.)

We have carefully reviewed the record from the four-day contested hearing. We conclude that the transcript offers no support for Parents’ contentions that the juvenile court’s questioning of witnesses demonstrated that the court assumed an adversarial or prosecutorial role, or showed a bias against any party or a party’s attorney.⁷ Instead, the court asked the minor’s older sister (Sister) several questions that were in the nature of follow-up questions to her prior testimony, covering topics such as clarifying the timing in which Sister returned to live with her family after briefly moving out; the hours Sister was attending school and thus was out of the house; the spelling of the name of a camp Sister attended; Sister’s relationship with her parents; and the minor’s relationship with her older brother (Brother).⁸ Similarly, the court asked follow-up questions during the examination of Mother concerning such matters as whether she was working when the

⁷ Although the point was not argued by Parents in their appellate briefs, none of the comments made by the court at the four-day hearing (as opposed to questions asked of witnesses by the court) suggests any bias or any adversarial or prosecutorial role assumed by the court in the proceedings.

⁸ Because the names of the minor’s two siblings (as well as Mother’s) begin with the letter “M,” we refer to the siblings generically as Sister and Brother in order to avoid confusion.

minor was in the sixth grade; what she said to the minor during an argument after she had been arrested for shoplifting; and when Mother had been hospitalized after the filing of the petition. The court asked no questions during the examination of Brother.

The court's questioning of the minor and Father, although more extensive, was not improper and did not disclose bias or the court's assumption of an advocacy role. It asked the minor follow-up questions on such issues as the reasons she was depressed while in the sixth grade; specifics about her alleged molestation by Father, including her providing a detailed description of certain rooms of the house (specifically, Parents' bedroom); the time period in which Father did not molest her; the circumstances of the alleged physical assault of the minor by Father; and the circumstances of the shoplifting incident. The court asked questions of Father to clarify his testimony concerning such matters as the number of times he had been to counseling sessions; the circumstances in which he and Mother were briefly separated while the minor was in middle school; and whether the minor was closer to Mother or to Father.

In short, the juvenile court took an active role in the examination of trial witnesses, particularly the minor and Father. But it did not overstep its bounds, assume an advocacy role, or show bias in its handling of the hearing. Its questioning of the witnesses was an appropriate exercise of its authority and duty "to see that the evidence is fully developed before the trier of fact and to assure that ambiguities and conflicts in the evidence are resolved insofar as possible. [Citation.]" (*Carlucci, supra*, 23 Cal.3d at p. 255.) Because we conclude that the court acted properly, the failure of Parents' counsel to object to the court's questioning of witnesses did not constitute deficient performance.⁹ Parents have

⁹ Parents' reliance on *In re Jesse G.* (2005) 128 Cal.App.4th 724 in support of their respective positions is misplaced. There, Los Angeles County had filed a petition alleging that the juvenile was a minor who came within the provisions of section 601 by twice leaving home without permission. (*In re Jesse G.*, at p. 727.) The appellate court reversed the juvenile court's order sustaining the petition, based upon the fact that the

(continued)

therefore failed to establish their respective ineffective assistance of counsel claims. (*People v. Gamache* (2010) 48 Cal.4th 347, 378 [proponent has burden of affirmatively showing ineffective assistance, “in the absence of evidence” of deficient performance, the claim fails].)

2. *Claimed Prejudice*

Even were Parents to have established deficient performance here, they cannot prevail in their respective ineffective assistance claims unless they establish prejudice, i.e., a showing “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result would have been more favorable to [the proponent of the ineffective assistance claim], i.e., a probability sufficient to undermine confidence in the outcome.” (*In re Ross, supra*, 10 Cal.4th at p. 201; see also *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1668 [prejudice test applicable to mother’s claim in dependency proceeding that ineffective assistance of counsel deprived her of statutory right to competent counsel under § 317.5].)

Father makes the conclusory argument that trial counsel’s deficient performance “was undeniably prejudicial to Father.” He further argues: “The inaction of counsel led to a true finding on the allegations of sexual abuse and a resultant loss of custody . . . [T]he proceedings have been fatally impacted by the error of counsel to such an extent that the ensuing consequence is fundamentally unfair . . .” Mother similarly makes the bare assertion that counsel’s deficient performance “was also highly prejudicial to Mother.”

referee deciding the matter was required to prove the allegations of the petition after the deputy district attorney advised that it would not be prosecuting the matter because “ ‘[t]he court makes the inquiry.’ ” (*Ibid.*) Here, the Department filing the petition was represented by County Counsel who prosecuted the matter; the procedural anomaly present in *In re Jesse G.* did not occur.

Parents’ conclusory contentions that counsel’s claimed deficient performance was prejudicial to them are woefully insufficient to support an ineffective assistance of counsel claim. Their failure to cite to the record or to explain specifically how or why the omissions of counsel led to the adverse result—and a failure to argue in any fashion specifically why it is reasonably probable that, had counsel acted competently by objecting to the court’s questioning, Parents would have achieved a more favorable result—defeats their claim of prejudice. (*Benach, supra*, 149 Cal.App.4th at p. 852; see *People v. Alvarez* (1996) 14 Cal.4th 155, 241, fn. 38 [assertion of “ineffective assistance of counsel in violation of the Sixth Amendment . . . ‘assert[ed] . . . perfunctorily,’ and ‘[w]e deny it in the same fashion’ ”].) This court is not required to search the record in support of their contention that counsel’s alleged deficient performance was prejudicial. (See *In re S.C., supra*, 138 Cal.App.4th at p. 406.)

DISPOSITION

The September 4, 2013 jurisdictional and dispositional order declaring J.F. a dependent child and removing her from her Parents' custody is affirmed.

Márquez, J.

WE CONCUR:

Rushing, P. J.

Premo, J.