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

In re R.W. et al., Persons Coming Under
the Juvenile Court Law.

MERCED COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

R.W.,

Defendant and Appellant.

F057888

(Super. Ct. No. 27810)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Merced County. Harry L. Jacobs,
Commissioner.

Valerie N. Lankford, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

* Before Wiseman, Acting P.J., Cornell, J., and Dawson, J.

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R.W. (father) appeals from April 2009 orders terminating parental rights (Welf. & Inst. Code, § 366.26) to his two children.¹ Earlier this summer, father's appointed appellate counsel informed this court by letter that counsel was not filing an opening brief for lack of any arguable issue (*In re Sade C.* (1996) 13 Cal.4th 952). This court in turn extended time for father to personally file a letter brief, which he has since done. In his letter brief, father asks us to allow him the chance to prove he can be a supportive and stable parent to his children.

PROCEDURAL AND FACTUAL HISTORY

Father was incarcerated for virtually all of his children's dependency.² He had been sentenced to state prison following a false imprisonment conviction (Pen. Code, § 236). In addition, father had a prior violent felony conviction for first degree robbery (Pen. Code, § 212.5, subd. (a)). Based on his violent felony conviction and a showing of detriment to the children if services were ordered while he was incarcerated, the court denied appellant reunification services. (§ 361.5, subds. (b)(12) & (e)(1).)

Although the court did order services for the children's mother, she failed to regularly participate in court-ordered services and made unsatisfactory progress. In light of her nonparticipation and the children's young ages (see § 361.5, subd. (a)), the court terminated reunification services following a six-month status review hearing. It also set a hearing pursuant to section 366.26 to select and implement a permanent plan for the children.

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

² The Merced County Superior Court exercised its dependency jurisdiction over the children based upon their mother's substance abuse and father's inability to provide care for the children.

Days before the section 366.26 hearing, appellant was released from prison. At the section 366.26 hearing, appellant testified he wanted custody of his children despite the fact he admittedly had no contact with them while he was incarcerated.

DISCUSSION

Appellant's allegations do not amount to claims that the juvenile court committed an error affecting the outcome of this case (*In re Sade C.*, *supra*, 13 Cal.4th at p. 994). Consequently, we will affirm.

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is up to appellant to raise claims of reversible error or other defect and present argument and authority on each point made. If appellant does not do so, the appeal should be dismissed. (*In re Sade C.*, *supra*, 13 Cal.4th at p. 994.) With no error or other defect claimed against the orders appealed from, we have no reason to reverse or even modify the orders in question. (*Ibid.*) In this case, appellant fails to allege any error on the trial court's part.

To the extent appellant assumes the court erred by not giving him the opportunity to reunify with his children upon his prison release, he fails to cite any legal authority to support his position and we are unaware of any such authority. He also ignores the children's rights at this stage of the dependency proceedings.

At the permanency planning phase, a parent's interest in the care, custody and companionship of the child is no longer paramount. The court's focus shifts to the children's best interests and their need for permanency and stability. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 309.) Appellant's desire to now be a father to his children does not address the children's interests.

In addition, a section 366.26 hearing 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 children. (*In re Marilyn H.*, *supra*, 5 Cal.4th at p. 306.) In fact, there is a rebuttable presumption that continued out-of-home care is in the

best interests of the children. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) If, as in this case, the children are likely to be adopted, termination of parental rights and adoption are the norm. (*In re Celine R.* (2003) 31 Cal.4th 45, 53.) Thus, appellant's assumption that the trial court should have given him the opportunity to reunify at this late stage of the proceedings is meritless.

DISPOSITION

The orders terminating parental rights are affirmed.