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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re DEMETRI W., a Person  
Coming Under the Juvenile  
Court Law.

B297403  
(Los Angeles County  
Super. Ct. No. DK20724)

LOS ANGELES COUNTY  
DEPARTMENT OF  
CHILDREN AND FAMILY  
SERVICES,

Plaintiff and Respondent,

v.

MICHELLE W.,

Defendant and Appellant.

APPEAL from the jurisdictional and dispositional orders of the Superior Court of Los Angeles County, Natalie P. Stone, Judge, and Thomas E. Grodin, Referee. Affirmed.

Emery El Habiby, under appointment by the  
Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,  
Assistant County Counsel, and Veronica Randazzo,  
Deputy County Counsel, for Plaintiff and Respondent.

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In December 2016, mother Michelle W. voluntarily relinquished custody over her young son Demetri. At that time, she explained she needed to improve her mental health before she could care for him. Shortly after relinquishing custody over Demetri, mother was hospitalized and then incarcerated for crimes committed in California and Arizona. Mother remained incarcerated throughout the reunification period, having no visits with Demetri. After her incarceration, she lived in Arizona until her probation officer permitted her to move to California. Mother was expelled from the half-way house in which she was living because she tested positive for marijuana and threatened other residents. Once in California, mother visited Demetri inconsistently; he suffered trauma before and after these court-ordered visits.

Mother appeals from the juvenile court's orders denying her Welfare and Institutions Code<sup>1</sup> section 388 motion and terminating her parental rights. We conclude that the juvenile court did not err in issuing these orders.

Mother's challenge to the orders is two-fold. First, she asserts because Nevada was Demetri's home state and did not

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<sup>1</sup> Undesignated statutory citations are to the Welfare and Institutions Code.

relinquish jurisdiction, the juvenile court lacked subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (Fam. Code, § 3400 et seq.) to issue its orders. Second, she contends the juvenile court abused its discretion in denying her section 388 motion and erred in not finding that terminating her parental rights would be detrimental to Demetri.

We conclude that even if Nevada were Demetri's home state, the record supports the inference that Nevada declined to exercise jurisdiction. Before taking any of the actions at issue here, the juvenile court asked the Nevada court whether it wanted to exercise jurisdiction over Demetri's case. The court noted its inquiry in its minute order. Taking all inferences in favor of the judgment, we conclude that the Nevada court declined to exercise that jurisdiction, thus permitting California to do so.

As to mother's challenge to the juvenile court's denial of her section 388 motion, we find no error. Even assuming mother demonstrated changed circumstances, the juvenile court did not abuse its discretion in finding that it was not in Demetri's best interests to provide mother additional reunification services where he was thriving with his foster parents, he suffered trauma both before and after his visits with mother, mother's visits were sporadic, and she had not developed the coping skills necessary to care for Demetri.

Finally, whether the standard of review is abuse of discretion or substantial evidence, the juvenile court did not err in finding that the above facts, among others, did not support the presence of a parental bond sufficient to constitute detriment to Demetri were he adopted.

We thus affirm the juvenile court's orders denying mother's section 388 petition and terminating her parental rights.

### **BACKGROUND**

Mother is from Chicago, and Demetri was born there in July 2015. In January 2016, mother left Chicago and went to Las Vegas to spend time with her dying father. In Las Vegas, authorities investigated mother for child abuse, but the authorities concluded the investigation without any court filing. When mother moved to California in approximately October 2016, she was homeless.

On December 12, 2016, mother went to the Los Angeles County Department of Children and Family Services (DCFS) office and requested services. Mother requested the social worker take Demetri to permit mother to enroll in a hospital to stabilize her mental health. Mother stated that she wanted Demetri returned to her care after her mental health improved. Mother indicated that she had not been taking her medication for her mental health conditions including bipolar disorder, posttraumatic stress disorder, and attention deficit hyperactivity disorder. Mother volunteered to be hospitalized. She had complaints of anxiety, insomnia, and homicidal ideation. According to her, she had been hospitalized on approximately 10 previous occasions. After her hospitalization, mother resumed taking her medication.

DCFS filed a section 300 petition on December 15, 2016. At that time Demetri was 16 months old. Mother was 27 years old.

**1. *The Juvenile Court Assumes Jurisdiction Over Demetri***

As later sustained, an amended section 300 petition alleged: Mother suffers from bipolar disorder, posttraumatic stress disorder, and attention deficit hyperactivity disorder rendering her incapable of caring for Demetri. Mother was hospitalized for her psychiatric condition in December 2016. The petition further alleged father failed to provide the child with appropriate care and supervision, including life's necessities.<sup>2</sup>

In May 2017, the juvenile court assumed jurisdiction over Demetri. The court ordered mother to attend parenting classes, mental health counseling, and individual counseling. The court also ordered mother to comply with all criminal court orders.

**2. *DCFS Reports During Mother's Reunification Period***

When interviewed by a social worker, maternal uncle reported that mother had been hospitalized numerous times since the 1990's. When mother lived as a child with maternal uncle in maternal grandfather's house, mother threatened maternal uncle with a knife. Maternal grandfather forced mother to leave his house because of mother's aggressive conduct. Maternal uncle, who at the time the dependency proceedings commenced lived in Illinois, believed that Demetri was at risk of harm because mother would become physically destructive and regularly fought with unidentified people.

Maternal grandmother, who also lived in Illinois, confirmed that mother went to Las Vegas to visit her dying father. Maternal grandmother also confirmed that mother suffered from

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<sup>2</sup> Because father is not a party to this appeal, we do not summarize the facts alleged as to him.

mental illness and was violent. Maternal grandmother believed that mother was unable to care for Demetri.

Paternal grandmother described mother as “always fighting.” Paternal grandmother, who lived in Illinois, said she lost contact with mother when mother moved to California.

In January 2017, mother was convicted in Santa Ana of burglary. Initially, she was incarcerated in Orange County. In March 2017, mother informed a social worker that she was incarcerated in Arizona. According to mother, she was transported to Arizona for trial on charges for armed robbery. In addition to armed robbery, mother was charged with aggravated robbery and burglary. The record confirms that mother was incarcerated in Arizona; it is unclear whether she was convicted of all of the charged offenses.

While incarcerated, mother took anger management and parenting classes. Demetri did not visit mother while she was incarcerated. Mother scheduled phone or video calls with Demetri for Tuesdays and Fridays. She would call when she could, or as she explained, when she had enough minutes. According to mother, from September 14, 2018 through November 24, 2018, she missed only three calls.

Mother was released from incarceration in February 2018 (over one year after DCFS filed the petition). After her release she lived in a halfway house in Arizona. Mother was not eligible to move back to Los Angeles because of the conditions of her probation. Mother took her medication regularly. Mother called Demetri regularly from her halfway house. In June 2018 (a year and a half after DCFS filed its petition), mother reported that she had her first individual counseling session. She was still living in Arizona, but expressed a desire to relocate to California.

While mother was incarcerated, DCFS placed Demetri in foster care, and he bonded with his foster parents. He has lived with them since December 2016. Demetri's foster mother worked with Demetri to improve his academic abilities. Demetri's foster parents wanted to adopt him. In May 2018, DCFS reported that Demetri was flourishing in the care of his foster parents. Social workers visited him monthly and described him as a happy, energetic child.

In July 2018, mother was expelled from her halfway house. She tested positive for marijuana and fought with other residents. Mother threatened other residents, pushed one, and emptied shampoo bottles on their beds. In August 2018, the juvenile court terminated mother's reunification services.

### **3. *Mother's Section 388 Petition***

On February 25, 2019 (more than two years after Demetri was removed from mother's care), mother requested the juvenile court order Demetri released to her custody or reinstate her reunification services and permit additional visitation. Mother indicated that the following conditions had changed: "I finally got permission . . . from probation office in Arizona to settle in California. I lived in [a] half way house up to 3 months ago and [I am] now living in [an] apartment. I have consistently been seeing my psychiatrist once a month[ ] and consistently take my medication. I see my therapist weekly." Mother indicated she visited Demetri weekly. Mother attached a letter from a therapist indicating that mother was attending weekly sessions.

Two days later, DCFS reported that Demetri continues to flourish in the home of his foster parents. DCFS described his close bond with his foster parents; he called his foster mother "mom." Demetri's foster parents had an approved home study

and wanted to adopt him. DCFS reported that Demetri was “hesitant and disconnected during visits with mother.” Often Demetri was angry after visiting mother.

In November 2018, mother indicated that “she needed to get some things done and she was unsure when she would be able to participate in visitation again.” A month later, mother requested to visit Demetri. She visited Demetri twice in December 2018. In January 2019, her visits were sporadic and she canceled several. In February 2019, mother visited Demetri twice.

In March 2019, Demetri’s therapist reported that he suffered severe anxiety and trauma when he anticipated his visits with mother and after them. He would throw tantrums, scream, cry, hit others, and say that he did not want to visit mother. A psychiatric social worker diagnosed Demetri with posttraumatic stress disorder. He had “dysregulated mood and behaviors” in the days just before and just after a visit with mother. Demetri’s foster parents attended weekly therapy sessions with him to assist him in developing skills to reduce trauma symptoms.

Mother testified at a hearing on her section 388 petition. Mother recounted that in December 2016, she was homeless and in February 2017, she was incarcerated. She explained that she was extradited to Arizona to serve time there, and returned to California in September 2018. Mother testified that while incarcerated, she completed a parenting class and learned about patience. Mother stated she consistently took her prescribed medication. Mother attended 12 individual therapy sessions, and according to her, had learned coping skills. Mother testified that



she had to cancel some visits because she moved to Palm Springs and cancel other visits because her car broke down.

Mother further testified that Demetri was always happy to see her; she would play, color, watch movies with him, and bring him lunch. Mother stated that Demetri hugs her and calls her “mama.” Mother thought that Demetri seemed sad when the visits ended. According to mother, Demetri told her that he loves her. Mother described her relationship with Demetri as her “first love.”

During cross-examination, mother acknowledged that Demetri required assurance from his foster mother that she would return for him at the end of the visit. Mother testified that after her “father died, I had a nervous breakdown and I was homeless with my son. And at that time, it was not appropriate for him to be with me; so I voluntarily signed him over to D.C.F.S.” Mother acknowledged that Demetri’s foster parents cared for him.

In denying mother’s section 388 petition, the court noted that mother had not been in Demetri’s life for a year and a half. The court observed that the “changed circumstances” were minimal in that mom occasionally visited and enrolled in counseling. Ultimately, the court concluded that it was not in Demetri’s best interest to grant mother additional reunification services.

#### **4. *Termination of Mother’s Parental Rights***

In advance of the selection and implementation hearing, DCFS reported foster parents had an approved home study. DCFS also reported that Demetri’s foster mother worked with him on academics. Foster mother had a bachelor’s degree in child development and had previously worked in a preschool. Social

workers observed that Demetri had a significant bond with his foster parents, who continued to care for his needs.

Mother testified at the section 366.26 hearing, which immediately followed the denial of her section 388 petition. When asked how she filled a parental role, mother responded, “By emotionally, spiritually, or physically being there no matter what has happened in this situation. I have taken the time, as far as growth and development, to be a woman and to be honest and come clean about my situation.” Mother testified she loved Demetri.

Mother’s counsel argued terminating mother’s parental rights would be detrimental to Demetri because of the parental bond between mother and Demetri. The juvenile court rejected that argument. The juvenile court found that mother had not consistently visited Demetri. Additionally, the court explained, “[T]he character of the visits themselves do not rise to the level that would allow the court to rule that it could be in the best interest of the child to continue with not terminating parental rights.” The juvenile court terminated mother’s parental rights.

Mother timely appealed from the denial of her section 388 petition and the termination of her parental rights.

## **DISCUSSION**

Mother argues that the juvenile court lacked subject matter jurisdiction; abused its discretion in denying her section 388 petition; and erred in terminating her parental rights. Respondent disputes each contention.

**I. Mother Demonstrates No Error in the Juvenile Court's Exercise of Jurisdiction After Contacting the Nevada Court**

Mother contends that the juvenile court lacked jurisdiction to adjudicate custody of Demetri: "Because Nevada was the child's home state, and it did not relinquish jurisdiction to California, all of the juvenile court's orders beyond temporary emergency jurisdiction are void, including its orders terminating parental rights." In making this argument, mother relies heavily on *In re Aiden L.* (2017) 16 Cal.App.5th 508 (*Aiden L.*)

**A. Additional background**

At the December 15, 2016 detention hearing, the juvenile court stated: "[T]he first issue is that mother only arrived from Las Vegas in November or December. So we have a U.C.C.J.E.A. issue." The court asked mother how long she lived in Nevada. Mother indicated she lived in Nevada beginning in January 2016 and then in October 2016 she moved to California. The juvenile court stated that it would contact the Nevada court about subject matter jurisdiction. In a minute order dated February 7, 2017, the juvenile court stated that it had communicated with a "judge in Las Vegas regarding the UCCJEA." (Capitalization omitted.)

**B. Analysis**

The UCCJEA (Fam. Code, § 3400 et seq.) is the exclusive means for determining subject matter jurisdiction in child custody proceedings. (*In re A.C.* (2017) 13 Cal.App.5th 661, 668.) A dependency action is a child custody proceeding within the meaning of the UCCJEA. (*In re M.M.* (2015) 240 Cal.App.4th

703, 715.) “ ‘Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.’ ” (*In re Gino C.* (2014) 224 Cal.App.4th 959, 965.)

“On appeal, ‘when the facts are contested, a trial court’s jurisdictional finding under the UCCJEA is reviewed under the deferential substantial evidence standard. [Citations.] When conducting a substantial evidence review, we must review the entire record in the light most favorable to the prevailing party, resolve all conflicts in the evidence in favor of the ruling or judgment being reviewed, and indulge all reasonable inferences in support of the family [or juvenile] court’s findings. [Citation.] The family [or juvenile] court’s resolution of conflicts in the evidence and credibility assessments are binding on this court. [Citation.]’ [Citation.] In contrast, we review de novo, or independently, a juvenile court’s determination of jurisdictional facts based on undisputed evidence and its interpretation of statutes.” (*In re A.C., supra*, 13 Cal.App.5th at pp. 669–670, fn. omitted.)

The UCCJEA defines terms that orient our analysis. Thus, the UCCJEA defines “ ‘[c]hild custody proceeding’ ” as “a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue.” (Fam. Code, § 3402, subd. (d).) The UCCJEA defines “ ‘[c]ommencement’ ” as “the filing of the first pleading in a proceeding,” which here was on December 15, 2016. (Fam. Code, § 3402, subd. (e).) Of special significance to this appeal, the UCCJEA defines “ ‘[h]ome state’ ” as “the state in which a child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.”

(Fam. Code, § 3402, subd. (g).) As set forth below, central to the parties' arguments is whether Demetri's home state is Nevada or whether he has no home state at all.<sup>3</sup>

Family Code section 3421, subdivision (a) provides four circumstances in which a California court has subject matter jurisdiction to adjudicate child custody. Only two are relevant here.

Mother relies on Family Code section 3421, subdivision (a)(2) to argue that California never obtained jurisdiction over Demetri's custody proceeding. Subdivision (a)(2) provides, in pertinent part, for subject matter jurisdiction in California when another state court is the home state of the child and has declined to exercise jurisdiction on the ground that California is the more appropriate forum.<sup>4</sup> (Fam. Code, § 3421,

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<sup>3</sup> Respondent concedes that California is not Demetri's home state. Neither party argues that any state other than Nevada could be Demetri's home state.

<sup>4</sup> Family Code section 3421, subdivision (a)(2) further requires that for jurisdiction to lie in California (a) "the child and at least one parent or a person acting as a parent, have a significant connection with [California] other than mere physical presence"; and (b) "[s]ubstantial evidence is available in [California] concerning the child's care, protection, training, and personal relationships." (Fam. Code, § 3421, subd. (a)(2)(A) & (B).) Mother does not address these requirements other than to say that mother's criminal history in California does not establish the significant connection with California or the availability of evidence. Mother fails to cite to, or address the evidence in the record, regarding these elements of the statute. Mother, moreover, was receiving government benefits and she stated her intent to remain in California. Absent mother's citation to, and

subd. (a)(2).) Mother maintains that given mother and Demetri moved to California from Nevada only two months before the dependency proceeding commenced, Nevada is Demetri's home state. Mother further contends that because Nevada never declined jurisdiction over Demetri's custody proceeding, the California dependency court did not have jurisdiction to issue its orders.

Respondent counters that Demetri has no home state because he did not live with mother in Nevada for "at least six consecutive months 'immediately before the commencement' of the child custody proceedings." (See Fam. Code, § 3402, subd. (g).) Respondent reasons the evidence was undisputed that mother moved from Nevada to California in October 2016, and the dependency proceeding commenced in December 2016. (*Ibid.*) Because Demetri did not live in Nevada for "six months immediately" before December 15, 2016, when DCFS filed its petition, Nevada could not be Demetri's home state. Accordingly, California had jurisdiction over Demetri's custody proceeding under subdivision (a)(4) because "[n]o court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3)." (Fam. Code, § 3421, subd. (a)(4).)

For the reasons set forth below, we conclude that even assuming Nevada was Demetri's home state, the record supports the only reasonable inference that the Nevada court did not object to California taking jurisdiction over Demetri's custody proceeding. Accordingly, jurisdiction in California was grounded in Family Code section 3421, subdivision (a)(2). We thus do not

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analysis of the record on these issues, we do not address them further.

address respondent's alternative basis for California jurisdiction over that proceeding.

We acknowledge “[a] child’s home state has priority over other jurisdictional bases.” (*In re A.C.*, *supra*, 13 Cal.App.5th at p. 669.) A home state, however, may decline to exercise jurisdiction. (Fam. Code, § 3421, subd. (a)(3).) A home state may convey a disinclination to assert jurisdiction through its silence or refusal to discuss the issue. (*In re M.M.*, *supra*, 240 Cal.App.4th at p. 717.)

Here, the juvenile court expressly recognized that Nevada might have jurisdiction over Demetri’s dependency proceeding under the UCCJEA. Accordingly, prior to adjudicating the merits of the amended petition, the juvenile court communicated with the Nevada court about jurisdiction as reflected in its minute order. The juvenile court’s subsequent orders, including the termination of mother’s parental rights, postdate its communication with the Nevada court about the UCCJEA. The only reasonable inference based on these facts is that the Nevada court declined jurisdiction. Mother, moreover, acknowledges her contention that the Nevada court “did not relinquish jurisdiction to California” is unsupported by any affirmative evidence in the record.

Mother’s assertion that Nevada did not relinquish jurisdiction also ignores that “[a]ll intendments and presumptions are made to support a trial court’s judgments, orders, rulings, and other actions where the record is silent, and it is the appellant’s burden on appeal to show those actions are erroneous.” (*In re A.C.*, *supra*, 13 Cal.App.5th at p. 673.)

The court in *In re A.C.* applied this same principle in rejecting a challenge to California jurisdiction based on the

juvenile court's purported failure to verify contact information for the court in the home state, there Mexico: "[A]lthough the record in this case may not affirmatively show the court verified and authenticated that the e-mail addresses and Mexico judicial authorities were correct, we must presume the court properly acted because the record is silent on those issues." (*In re A.C.*, *supra*, 13 Cal.App.5th at p. 673.)

Similarly here, we take all inferences in favor of the juvenile court's orders. The juvenile court's UCCJEA inquiry of the Nevada court and its notation of that inquiry in its minute order before proceeding with Demetri's case support the inference that the Nevada court declined jurisdiction, or did not object to California asserting jurisdiction over Demetri's case. Mother's reliance on *Aiden L.* is misplaced because there the juvenile court did not even identify a UCCJEA issue or contact the court in the potential home state. In *Aiden L.*, Aiden lived in California for four months before the dependency petition was filed. (*Aiden L.*, *supra*, 16 Cal.App.5th at p. 520.) "Yet for unexplained reasons, the issue of subject matter jurisdiction under the UCCJEA was not raised by [DCFS] or addressed by the juvenile court either when it initially detained Aiden or when it made its jurisdiction findings and subsequent child custody orders." (*Id.* at pp. 520–521.) *Aiden L.* explained that "if the court is aware that another state (or foreign country) qualifies as the child's home state, the California court must contact the home state court to give it an opportunity to decide whether to exercise its home state jurisdiction." (*Id.* at pp. 518–519.)

Here, the juvenile court proceeded as *Aiden L.* counsels. The juvenile court identified that Nevada may be the home court and contacted the Nevada court to provide it an opportunity to



decide whether to exercise jurisdiction. The juvenile court, moreover, did not make the orders at issue here until it had contacted the Nevada court.<sup>5</sup> As noted earlier, and as mother concedes, the record is devoid of any indication that the Nevada court chose to exercise jurisdiction over Demetri's case or objected to California doing so. For all these reasons, we conclude the juvenile court had subject matter jurisdiction over Demetri's custody proceeding.

## **II. The Juvenile Court Did Not Abuse its Discretion in Denying Mother's Section 388 Petition**

Under section 388, subdivision (a)(1), the parent of "a dependent child of the juvenile court" may, "upon grounds of change of circumstance or new evidence," petition the juvenile court "for a hearing to change, modify, or set aside any order of court previously made . . . ." The juvenile court must hold the hearing "[i]f it appears that the best interests of the child . . . may be promoted by the proposed change of order, . . . ." (*Id.*, subd. (d).)

"To support a section 388 petition, the change in circumstances must be substantial." (*In re Ernesto R.* (2014) 230 Cal.App.4th 219, 223.) We review the juvenile court's

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<sup>5</sup> In addition to relying on *Aiden L.*, mother relies on *In re Gino C.*, *supra*, 224 Cal.App.4th 959. *In re Gino C.* is inapposite because in that case, the juvenile court did not contact the child's home state even when it was aware of a potential issue under the UCCJEA. (*Id.* at pp. 964–965.) Here, the record unequivocally demonstrates that the juvenile court contacted the Nevada court about jurisdiction over Demetri's custody proceeding under the UCCJEA.

decision to deny a section 388 petition for abuse of discretion. (*In re Y.M.* (2012) 207 Cal.App.4th 892, 920.)

Here, the juvenile court did not abuse its discretion in denying mother's section 388 petition. Assuming mother demonstrated changed circumstances, the record supports that it was not in Demetri's best interest to provide mother with additional reunification services. The juvenile court reasonably found that Demetri was bonded to his foster parents in whose care he was thriving. Demetri had suffered trauma whenever he visited mother and became anxious days before the visits. He was afraid that his foster mother would not retrieve him from those visits. Mother had not demonstrated that she had learned skills necessary to care for Demetri or to cope with the stressors in her life. Even after her incarceration, mother exhibited aggressive behavior causing her expulsion from the halfway house where she had been living. Mother's argument that the juvenile court should have granted her section 388 petition also fails to consider our standard of review and improperly relies on the evidence in the light most favorable to her, particularly her own testimony. To the extent the juvenile court credited other witnesses, we do not upset those credibility determinations on appeal.

### **III. Mother Demonstrates No Error in the Juvenile Court's Order Terminating Her Parental Rights**

The purpose of a section 366.26 hearing is to provide a permanent home for dependent children, and the Legislature has identified adoption as the preferred plan. (*In re Breanna S.* (2017) 8 Cal.App.5th 636, 645 (*Breanna S.*)). The juvenile court must order adoption unless it identifies an enumerated exception to adoption. (*Ibid.*)

In this case, mother argues the following statutory exception required the juvenile court to select legal guardianship rather than adoption as the children's permanent plan: "The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).) This exception applies "only in an extraordinary case." (*Breanna S.*, *supra*, 8 Cal.App.5th at p. 646.)

The exception on which mother relies requires her to prove not only regular visitation, but also that her relationship with the child " " "promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.' " " " (*Breanna S.*, *supra*, 8 Cal.App.5th at p. 646.) "A showing the child derives some benefit from the relationship is not a sufficient ground to depart from the statutory preference for adoption." (*Ibid.*) "No matter how loving and frequent the contact, and notwithstanding the existence of an ' "emotional bond" ' with the child, ' "the parents must show that they occupy 'a parental role' in the child's life." ' " (*Ibid.*) "Day-to-day contact is not necessarily required, although it is typical in a parent-child relationship." (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.) "[A] child should not be deprived of an adoptive parent when the natural parent has maintained a relationship that may be beneficial to some degree but does not meet the child's need for a parent. It would make no sense to forgo adoption in order to preserve parental rights in the absence of a real parental relationship." (*In re Jasmine D.*, *supra*, 78 Cal.App.4th 1339, 1350.)

Mother had the burden to establish the statutory exception to the termination of parental rights. (*Breanna S.*, *supra*,

8 Cal.App.5th at pp. 646–647.) Regardless of whether the standard of review of the juvenile court’s order is for substantial evidence or abuse of discretion, the result here would be the same. (*In re G.B.* (2014) 227 Cal.App.4th 1147, 1166 [applying substantial evidence standard of review]; but see *In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351 [applying abuse of discretion test].) Both standards of review call for a high degree of deference. (*In re J.S.* (2017) 10 Cal.App.5th 1071, 1080.)

As the juvenile court found, mother did not visit consistently. During the entire reunification period, mother was in Arizona and had no visits with Demetri. Even when she returned to California, her visits were inconsistent. Mother admits she canceled visits on the following days: January 14, 28, and 29, 2019, February 25, 2019, March 11, 12, 18, 19, and 26, 2019. For this reason alone, the juvenile court did not err in rejecting mother’s argument that mother had demonstrated an exception to the termination of parental rights.

The evidence also did not support mother’s argument that she shared a parental bond with Demetri. Although she played with him during her somewhat inconsistent visits with him, she carried no parental responsibilities. Merely playing with him and providing lunch at these visits are not enough to establish the parental bond necessary for a finding of detriment.

Significantly, Demetri was afraid of visiting mother and suffered posttraumatic stress. Mother admitted that Demetri required assurance from his foster mother that foster mother would return for him after a visit. On appeal, mother acknowledges evidence that Demetri was “hesitant and disconnected during visits with” mother. Although mother testified that Demetri told her he loved her and that he enjoyed

mother's visits, the juvenile court was not required to credit mother's testimony, especially given the overwhelming countervailing evidence.

**DISPOSITION**

The order denying mother's section 388 petition is affirmed.  
The order terminating mother's parental rights is affirmed.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.