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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re PRECIOUS R., a Person Coming  
Under the Juvenile Court Law.

B256709  
(Los Angeles County  
Super. Ct. No. CK49994)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

DAVID R.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Annabelle Cortez, Judge. Affirmed.

Aida Aslanian, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Mark A. Saladino, County Counsel, Dawyn R. Harrison, Assistant County  
Counsel, Tyson B. Nelson, Deputy County Counsel, for Plaintiff and Respondent.

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David R. (Father) appeals the termination of parental rights to his daughter Precious R., who tested positive for drugs at birth and went directly from the hospital to the home of a relative. Father visited Precious devotedly, but was never able to take custody. When the juvenile court terminated parental rights, Precious had spent her life—nearly three years—with her uncle and aunt, and was bonded with them. Father did not show that Precious would be greatly harmed if parental rights were severed. The legislative policy favoring the permanency of adoption applies here. We affirm.

### **FACTS**

Precious tested positive for methamphetamine at birth in September 2011, as did her mother Cynthia V. (Mother), who also tested positive for amphetamines and barbiturates during a prenatal exam when she was seven months pregnant. Mother denied any history of drug use or previous child welfare referrals. Contrary to Mother's claims, her three older children were juvenile dependents due to neglect and physical abuse, and a sustained 2002 dependency petition cited Mother's methamphetamine use.<sup>1</sup>

Precious is Father's first child. He does not use drugs and forbade Mother from using drugs, drinking or smoking when she moved in with him. Father told a social worker from the Department of Children and Family Services (DCFS) that "he is 100% sure that Mother is not using any substances."

Father has no criminal history. However, the social worker discovered a 2006 referral in which Father's 16-year-old sibling Desirae alleged that Father sexually abused her since she was 10 years old, touching her private parts; giving her oral sex; forcing her to give him oral sex; and trying to have sexual intercourse with her. Father's landlord and a family friend both described Father as "very aggressive," once breaking down Mother's door to gain entrance to her home. Father called Desirae a liar and denied her disclosures of sexual abuse; he also denied kicking in Mother's door.

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<sup>1</sup> Mother and her older children are not parties to this appeal.

DCFS detained five-day-old Precious citing Mother's drug abuse; her failure to reunite with three children; Father's aggression toward Mother; and the report that Father sexually abused a sibling, categorizing the family as being at "very high risk" for future abuse. A dependency petition alleged that Precious is at risk of harm because Mother is a substance abuser who is incapable of providing regular child care and supervision and exposed Precious to methamphetamine in utero. Father knew or should have known of Mother's substance abuse and failed to protect Precious from harm. The child's three siblings received permanent placement services due to Mother's substance abuse.

On September 23, 2011, the court found a prima facie case for detaining Precious. It found Father to be a presumed father. Mother was referred for drug rehabilitation. Father was to participate in Nar-Anon, a fatherhood program, parenting and individual counseling, and authorized to have monitored visits.

In the jurisdiction report, Mother said "she has never used methamphetamine in her life." She uses the prescription pain killer Vicodin, but did not tell her doctor that she was taking it during pregnancy. Mother could not explain why she failed to reunify with her older children, and accused relatives of lying that she maltreated the children. She has no contact with a son who was adopted by his grandmother; another son has been with a legal guardian since he was nine months old.

Father denied knowing that Mother uses drugs: she did not display odd behaviors that might indicate drug use. He knows that Mother uses Vicodin since having gall bladder surgery in 2009. Father could not explain why Mother had a positive drug test at the hospital and is certain that she did not use illicit drugs. He stated that Mother is willing to move out of the home so that he can take custody of the infant, and his aunt will tend to Precious while he is at work. Father informed the social worker that he did not live in California when Desirae accused him of sexual abuse: he produced a driver's license from Utah issued in 2006, when he was in job corps there. He had no contact with Desirae, who lived with his mother; Father lived with his father and brothers. He was unaware until now that Desirae accused him of abuse.

DCFS observed that Mother used drugs during pregnancy and lost custody of her older children due to drug abuse. Father did not ensure Precious's safety: he reported having no knowledge of Mother's drug use, but is aware that she used Vicodin and he never asked a doctor if it is safe to use opiates during pregnancy. Father's ability to care for Precious is questionable, given his failure to ensure her safety in utero and his history of sexually abusing a female relative. Mother and Father feel that there is no reason why Precious should be removed from their care. Mother steadfastly denies ever having a substance abuse problem and Father denies that he ever abused his sister.

Precious was placed with paternal uncle Rene R. and his wife on October 3, 2011. She had a good appetite and was gaining weight. Mother and Father visited Precious three days per week, for several hours at a time. They acted appropriately during visits, which the caregivers monitored.

A multidisciplinary assessment team met with the family in November 2011. Mother denied drug use or a criminal history.<sup>2</sup> She and Father were willing to do whatever DCFS recommended to reunify with Precious, hoped to find programs to attend, and have three monitored visits per week, which Precious enjoys. The caregivers take good care of Precious with help from family members who babysit during the day. Despite having tremors for two weeks after her birth, Precious is meeting developmental milestones and making eye contact. Her caregivers are schoolteachers who are open to permanent placement if reunification does not occur.

The court directed DCFS to further investigate the sexual abuse claims against Father. In an interview, the paternal grandmother stated that in 2006, Desirae accused four men, including Father, of molesting her, but she disbelieves Desirae. Father lived with the paternal grandfather, not with Desirae. Police and social workers did not question any of the alleged perpetrators of the sexual abuse. Desirae does not answer telephone calls from her mother.

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<sup>2</sup> Mother has a criminal history involving drug possession, driving under the influence, and false personation of another.

The paternal grandfather said that he originally had custody of Father; they did not get along, so Father moved in with his mother and half sister Desirae in 1999. Father and Desirae argued and fought all the time. After five months, Father moved back to his father's home. Father lived in Utah for 10 months in 2006-2007. The paternal grandfather did not believe that Father sexually abused Desirae.

Desirae told the social worker that she was not going to lie for Father and "confirms that she was in fact sexually abused by her brother David [R.]" from age 10 until it was reported in 2006, when she was 16. She avoids any contact with Father. In a December 2011 message to Desirae, Father wrote, "I love you. I'm not mad at you. We all have said and done stupid things when were young but by then it's too late. But Des you have a chance to make things right for all of us. We want you to be a part of your niece's life. Again, I love you. I'm not angry and I hope you can find it in your heart to forgive me for all the bad I've done to you when I was young and mad. Wasn't your fault. . . . I'm hoping and praying and asking you as your brother a father to your niece to help me. Please think about it. Love always your brother Davey."

DCFS construed Father's message as an apology for abusing Desirae. On December 22, 2011, DCFS filed an amended petition alleging that Father sexually abused his minor sibling. A relative reported that Father plans to have Mother return to live with him and Precious, once he obtains custody and DCFS is out of the picture.

In January 2012, DCFS reported that Mother does not return the social worker's telephone messages. Father said that Mother's whereabouts are unknown; however, he and Mother continue to have joint visits with Precious, sometimes arriving together, according to the caregiver. Father enrolled in a fatherhood program. He denied arriving together with Mother for visits, and denies that they are in a relationship. Father has three security guard jobs. Nevertheless, he wants custody of Precious.

The petition was adjudicated on January 30, 2012. The court sustained allegations that Precious was born with a detrimental condition, i.e., a positive screen for methamphetamine. This condition would not exist if Mother had not placed the child at risk of harm by using illicit drugs. Mother has a 19-year history of substance abuse and

currently uses methamphetamine, rendering her incapable of providing regular care and supervision for Precious. Mother tested positive for drugs first while pregnant and a second time when she gave birth to Precious. Father knew or reasonably should have known of Mother's substance abuse and failed to protect the child. Precious has three siblings who received permanent placement services due to Mother's substance abuse. Over Father's objections that he never knew of Mother's drug use, the court expressed its belief that Father "knew she is using. I believe you can tell when somebody is using drugs," adding that methamphetamine has observable intoxicating effects. The court dismissed allegations that Father sexually abused his minor sibling because Desirae refused to come forward and testify against him.

Moving to disposition, the court removed Precious from Father's custody. Father was ordered to participate in Nar-Anon and complete a fatherhood program. DCFS was to provide a detailed report on Father's visits with Precious. Mother was denied reunification services. Mother and Father must visit Precious separately.

A DCFS social worker saw Mother and Father during a visit with Precious on January 26, 2012. Mother claimed to be living with a friend but refused to supply the address. She has not enrolled in any programs. Father visited Precious regularly, for two hours per visit: he feeds Precious; changes her diaper; sometimes brings toys and clothing; and attempts to put her to sleep. He is still learning how to make her comfortable while she is falling asleep, and was told not to telephone Mother during visits. Father resists advice from the caregivers on how to interact appropriately with Precious, seemingly unaware that instructions from the caregivers pertain specifically to Precious. His fatherhood program covers self-esteem issues; attachment theory; child abuse; personal growth; drug abuse; domestic violence; rites of passage; and health care.

Mother ceased visiting Precious after the court ordered her to have separate visits from Father. She avoids DCFS and has not participated in drug counseling or testing. While Father's visits are consistent, he still requires parenting help from the caregivers. The social worker was concerned that Father's program does not teach hands-on parenting or child development skills, and also that Mother is laying low until Father

obtains custody so they can live together. Father's claimed unawareness of Mother's whereabouts is not credible as he continues to communicate with her. On March 5, 2012, the court ordered Father to complete a standard parenting class.

During an unannounced visit to Father's home on May 29, 2012, the social worker found Mother, who refused to speak to the social worker. Father was nervous and did not invite the social worker inside. When asked why Mother was there, Father said she was picking up personal effects. The social worker suspects that Mother resides with Father. The social worker made a second unannounced visit to Father's home on July 12, 2012, and found personal items belonging to a female, such as a hair iron, a hair clip on the bed, and cigarette butts with red lipstick in an ashtray. Father denied a relationship with Mother and reported that he does not even speak to her. Mother made no effort to contact DCFS to arrange visitation with Precious. The social worker found a high risk of abuse and neglect if Precious is reunited with Father.

In July 2012, DCFS reported that Precious, at 10 months, is healthy and happy in the care of her paternal uncle and aunt. She is developing age appropriately, babbles, crawls and can stand. Father did not provide verification of enrollment in a parenting class or Nar-Anon, though he was given referrals.

Father moved into his parents' home in October 2012, but they have a tumultuous relationship and verbal altercations. Relatives felt the living situation would be unhealthy for Precious, plus Father is still in contact with Mother. In March 2013, Father indicated that he enrolled in parenting classes three days earlier, and began a Nar-Anon class in September 2012. He has had periods of underemployment. The paternal grandmother stated that she is not allowed to be alone with Precious, so Father cannot take custody of the child.

At a contested 12-month hearing in March 2013, a program instructor testified that Father was attentive, engaged in dialogue and graduated from the fatherhood program, but he has never seen Father interact with Precious. Hands-on skills such as feeding or disciplining difficult behaviors were not taught. The leader of Father's Nar-Anon support group testified that Father has attended every week since September 2012. The paternal

grandmother stated that Father loves Precious, but doubts his ability to care and provide for the child. Father continues to sleep on her sofa and does not seem motivated to find work or stable housing. He could benefit from anger management, in her view.

Father testified that he completed a fatherhood program, is in his second week of parenting classes, and attends Nar-Anon. He visits Precious three times per week for two to six hours per visit. He reads to her, they play with number toys, watch television, and he feeds her. Visits take place at his parents' home because the caregivers do not want him at their house. He has learned not to punish a child but only to discipline by teaching right from wrong. Father lost his apartment and was homeless for a period; he now lives with his parents. His mother does not want him living with her so he plans to get his own place as soon as possible. Father works as a security guard 18 hours per week. He wanted immediate custody of Precious and would ask family members to help out with a place to live and babysitting; he will put Precious in day care when he gets the money.

Father maintained that he has not lived with Mother since Precious was born. Mother is incarcerated. Father has visited Mother some 20 times in prison since November 2012, but asserted that Mother is "not a part of my life" and "there's no emotional attachment there between the mother and I." Father was warned in his Nar-Anon group that visiting Mother was "enabling" behavior. He sends Mother letters and Mother sends him cards with messages to pass along to Precious.

Father sometimes clashes with his brother and sister-in-law during visits. Father stated that he once burned Precious's mouth with food from the microwave, causing his brother to come and check the food. The caregivers teach him things, "but then they keep on and on and on. And I tell them, 'I get it.' They keep telling me again; 'I get it.'" The caregivers then think Father does not take instruction well. Father testified that his sister-in-law instigates arguments and treats him as if he were uneducated.

Paternal uncle Rene R. testified that Precious has been in his care since October 4, 2011. He opined that Father "is not ready to take responsibility" for Precious. Father just started parenting classes. He has been told many times not to do specific things while caring for Precious, especially during feeding; Father is defensive and says that he knows



what to do. For example, Rene R. told Father to microwave Precious's food in a Pyrex dish, instead of on a plate, so the food heats evenly. Father ignored the instructions and Precious's tongue was burned. Also, Father takes cell phone pictures instead of interacting with or caring for his daughter.

DCFS asked the court to terminate reunification services because the proceeding was well beyond the six-month date for services for a newborn. Father only recently enrolled in parenting; he has no suitable housing; his mother opposes having Precious in her home; he does not feed Precious correctly; he has anger issues; and he continues to be in a codependent relationship with Mother, visiting her in prison and corresponding with her. Counsel for Precious agreed, saying there is no substantial probability Father and daughter can be reunited by the next hearing. Father countered that he has done all that the court ordered and shown his commitment to reunification with constant visits.

The court granted Father more reunification services, owing to his love for and dedication to Precious and his participation in court-ordered classes, terming it "extraordinary efforts." The court frowned upon Father's relationship with Mother, given her lengthy addiction and use of drugs while pregnant. The court said, "in order for me to feel that you're ready to protect [Precious], I need to see you sever that relationship." The court directed Father to participate immediately in a hands-on, interactive parenting class with Precious. The court wanted Father to have the opportunity to learn how to parent on a day-to-day basis, find steady employment, and a place to live with his child. He would be given unmonitored visits after four sessions of interactive parenting. The court warned Father that Mother cannot have contact with Precious, in prison or elsewhere.

By May 2013, Father had not enrolled in a hands-on parenting course. His Nar-Anon group had disbanded. The organizer for the group opined that Father is "too immature to have Precious in his care" and hoped that the child was not removed from her placement. During visits, Precious refers to him as "daddy" and to her caregivers as "uncle" and "tia." Father told the caregivers that Mother should be given a second chance. The paternal grandmother indicated that she plans to move out of her home and

is not on speaking terms with Father. On May 30, 2013, the court set the matter for a contested hearing.

DCFS reported that Father was unreachable for several months. Finally, the social worker tracked him down in an unannounced visit. He claimed inability to enroll in hands-on parenting, but the social worker telephoned and helped Father enroll in a Baby-and-Me class, without any problems. Father's monitored visits were consistent, three times per week.

On August 5, 2013, Father testified that he just enrolled in a hands-on parenting class, two months after the DCFS social worker gave him program referrals. He attended two sessions, one with Precious, whom he continues to see three times per week. She is nearly two years old. During visits they watch cartoons, dance, sing, play and read books. He started to attend her doctor visits with the caregivers. He still lives with his parents, sleeping in the living room with a brother who recently moved in. Precious would sleep in a crib next to him.

Minor's counsel asked the court to terminate reunification services: Father has taken too long to complete classes and the child is bonded to the paternal uncle and aunt. DCFS joined in the request. The court observed that Father was "minimally offending in this petition" and "didn't have to do much to get Precious back in his care." Yet Father was "not going gung-ho like he needs . . . to demonstrate his commitment" by acting immediately upon receiving the court order in March, five months earlier. His housing is unsuitable, in terms of space and family dynamics. He is not sufficiently involved in the child's day-to-day care. "Basically he is not showing the commitment and growth of maturing," the court opined. The court terminated reunification services and set the matter for a permanent plan hearing.

In February 2014, DCFS reported that Precious is a happy, healthy 25-pound two-year-old blossoming in the care of her uncle and aunt, who provide stability and all of her needs. She speaks in sentences, is bilingual, and runs, jumps and dances. The caregivers are committed to adoption and have an approved adoption home study. The court found a substantial risk of detriment if Precious were placed in parental custody.

In advance of the permanent plan hearing, DCFS reported that Father continues to have monitored visits. Mother never visits Precious and her whereabouts are unknown. The caregivers now have a five-month-old biological son and love both children equally. They want to adopt Precious, who is extremely attached to them and is welcoming and receptive to the newborn. During one of Father's recent visits, Precious had an asthma attack and was screaming, crying and coughing. The caregivers began to administer treatment with an inhaler when Father pulled Precious away, expelling the medication into the air instead of into the child. He has never administered asthma medication before, and blamed the caretakers for his inability to complete a parenting class. He later apologized for the incident, but the caretakers felt his actions were detrimental to the child's health. DCFS advised the caretakers to call 911 if this ever occurs again.

The contested permanent plan hearing was conducted on June 3, 2014. Father testified that Precious has never lived with him, but he has visited her consistently throughout her life, three times per week. During visits, they play a counting game, learn shapes and colors, and play with Play-Doh. He feeds her chicken, spaghetti and fruit. She calls him "Daddy." He enjoys his visits very much and would like to eventually have her returned to his care.

DCFS argued that Precious is adoptable and has spent her entire life with the prospective adoptive family, who provide a loving, structured home life. Because Father has never been the primary caregiver, he cannot show that terminating parental rights would be detrimental to Precious. Counsel for Precious joined in the request to terminate parental rights and provide Precious with permanency in the home where she has been thriving since October 2011. Father was never allowed unmonitored visits because he did not complete the court-ordered interactive parenting course. Father responded that there is a parent-child bond: Precious refers to him as "Daddy" and to the caregiver as "Uncle." Father feeds her, plays with her, changes her diaper, and teaches her things. He has visited consistently throughout her life.

The court stated that the focus is on the best interest of the child and achieving permanency. Precious is adoptable and has been with the caregivers since she was a

newborn. It would be detrimental if Precious were returned to parental custody. Father has not carried his burden of showing that an exception to adoption applies. Though Father visits consistently, “any benefit that Precious derives from that visitation does not rise to the level of the exception in that the day-to-day parental role is being fulfilled by the current caregivers, not by [Father]. The visits still remain monitored. She hasn’t lived [with Father]. And, again, Precious has been stable in her current placement since she was a month old.” The court terminated parental rights and declared adoption to be the permanent plan. Father appeals.

## **DISCUSSION**

### **1. Father Was Advised of His Right to Pursue a Writ**

When the court terminated Father’s reunification services on August 5, 2013, it stated that “Father will be served with the .26 notice and the father is advised that in order to preserve any rights on appeal, the father needs to proceed by way of petition for extraordinary writ in setting the .26 hearing and the clerk has served father with the writ notice.” The minute order reads, “clerk hand[s] father 366.26 writ documents.”

Despite this record, Father argues that he may now contest the adequacy of reunification services because he “was not provided legal notification and advisement of his writ rights.” He maintains that he was not orally advised by the court of his ability to challenge the order terminating reunification services by writ, nor did the clerk mail him notification. The record belies his claim. The court orally advised him of his writ rights and the clerk handed him written notification during the hearing. Father received personal notification.<sup>3</sup> He did not pursue a writ.

In any event, Father received adequate reunification services. It was clear from the outset that Father either did not believe that Mother is a drug addict or discounted the

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<sup>3</sup> The court must orally advise a parent present at the hearing of the need to file a writ, or the clerk must send written notice to a parent who is not at the hearing. (Welf. & Inst. Code, § 366.26, subd. (1)(3)(A); Cal. Rules of Court, Rule 5.590(b). All further unlabeled statutory references in this opinion are to the Welfare and Institutions Code.

import of her drug use. Mother lost custody of three children due to her drug use, tested positive for amphetamines and barbiturates in her seventh month, tested positive for amphetamines at birth (as did Precious), and was using a prescription opiate (Vicodin) during pregnancy. Nevertheless, Father was “100% sure that Mother is not using any substances,” his rosy viewpoint apparently unaffected by news about her positive drug tests. Father associated with Mother while claiming ignorance of her whereabouts to DCFS: the social worker found Mother in his home, and Father visited Mother repeatedly in prison in 2012-2013, against the advice of his Nar-Anon support group to avoid codependency. A year and a half into the proceeding, Father said that Mother deserves a second chance, blithely overlooking her 20-year history of drug use, failure to reunite with three children, and refusal to rehabilitate. It has never been clear that Father has the insight to protect Precious from Mother.

The court initially ordered a fatherhood program for Father in January 2012. As the case progressed, however, it became clear that the subjects covered in that program did not prepare him to parent his first child, and he resisted taking instructions from the child’s caregivers. Father accidentally burned the baby’s mouth by overheating her food and spent time taking photos instead of caring for her. Father was ordered to take an interactive parenting class to learn day-to-day hands-on skills in March 2013, but did not enroll until July 24, 2013. It appears that he never completed the course.

This record does not show inadequate reunification services. The services that were ordered were appropriate to Father’s needs. Referrals were given, but Father did not follow through. Given Father’s reluctance to abandon his relationship with Mother, his untruthfulness about their relationship, and his struggles to learn hands-on parenting, the court reasonably ordered Father to continue taking classes to demonstrate his ability to take custody.

The maximum 18-month period for reunification services expired in March 2013. (§ 361.5, subd. (a)(3).) Father continued to receive services until August 2013, almost two years after Precious was detained. He never complained that services were inadequate, until now. It is proper to terminate services for a father after 23 months,

when he has a parental bond but lacks housing and is unable to take custody. (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1507-1511.) The Legislature mandates that the juvenile court “shall” set a selection and implementation hearing after 18 months, if the child cannot be returned to parental custody. (§ 366.22, subd. (a).) At this point, the court had no choice but to terminate services and proceed to a permanent plan, because there is “a limitation on the length of time a child has to wait for a parent to become adequate.” (*In re Marilyn H.* (1993) 5 Cal.4th 295, 308.)

## **2. Termination of Parental Rights**

At the selection and implementation hearing, the court must select adoption as the permanent plan and terminate parental rights if it finds that the child is likely to be adopted. (§ 366.26, subd. (c)(1); *In re Celine R.* (2003) 31 Cal.4th 45, 49; *In re Jamie R.* (2001) 90 Cal.App.4th 766, 773.) Adoption is the plan preferred by the Legislature. (*In re Derek W.* (1999) 73 Cal.App.4th 823, 826; *In re Ronell A.* (1995) 44 Cal.App.4th 1352, 1368.)<sup>4</sup> A parent may avoid termination of parental rights by showing why a statutory exception applies, and that termination would be detrimental to the child. (*In re Celine R.*, *supra*, 31 Cal.4th at p. 53.) *In re Derek W.*, *supra*, 73 Cal.App.4th at p. 826; *In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1252.)

Father argues that his parental rights should not be terminated. To avoid termination, he must show that he has “maintained regular visitation and contact” with the child and there is a “compelling reason” to believe that ending the parental relationship would be detrimental to the child. (§ 366.26, subd. (c)(1)(B).) He bears the burden of proving that Precious would be “greatly” harmed by termination of parental rights, and that he holds a “parental” role with her. (*In re Brittany C.* (1999) 76 Cal.App.4th 847, 853; *In re Angel B.* (2002) 97 Cal.App.4th 454, 466-468.)

Father must show both prongs of the exception: regular visits and a benefit to the child if the relationship were continued that outweighs the well-being Precious would gain in an adoption by the paternal uncle and aunt. It is uncontroverted that Father’s

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<sup>4</sup> Father does not dispute that Precious is likely to be adopted.

visits have been consistent: his visitation schedule of three times per week for several hours per visit is exemplary. As to the second prong, the dependency court determined that the child's relationship with Father is not so significant that she would be greatly harmed if it were severed. The court's determination is supported by substantial evidence. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

Frequent and loving contact between parent and child cannot establish the requisite benefit to the child if Father does not occupy a parental role and cannot take custody. (*In re Teneka W.* (1995) 37 Cal.App.4th 721, 728; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419; *In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108-1109.) A "pleasant" relationship is not enough to establish a benefit to the child because "it bears no resemblance to the sort of consistent, daily nurturing that marks a parental relationship." (*In re Derek W.*, *supra*, 73 Cal.App.4th at p. 827.) "Interaction between natural parent and child will always confer some incidental benefit to the child." (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

Apart from the incidental benefit of parent-child interaction, we consider "the many variables which affect a parent/child bond. The age of the child, the portion of the child's life spent in the parent's custody, the 'positive' or 'negative' effect of interaction between parent and child, and the child's particular needs are some of the variables which logically affect a parent/child bond." (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.)

Precious has never lived with Father. She only knows Father from visits because the court found, at the disposition hearing in January 2012, that there is a substantial danger to her physical health if she is not removed from his custody.<sup>5</sup> Father loves Precious and is devoted to her, but he does not occupy a parental role and she does not look to him for her daily needs. It is difficult for a parent who has never had custody or

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<sup>5</sup> This is a finding of parental unfitness, belying Father's claim it was never made. A finding of unfitness was also made on August 5, 2013, when the court found a substantial risk of detriment if Precious lived with Father.

unmonitored visitation to show that his parental relationship outweighs the benefit of a permanent adoptive home. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51.)

Father does not dispute that Precious is thriving and bonded to her uncle and aunt, or that they will adopt Precious. At the permanent plan hearing, Father indicated that it is his desire to eventually have Precious in his care. Three years after his daughter's birth, his hope for eventual custody is not compelling. There is no telling when Father will have a safe, stable home for Precious.

In short, Father does not want Precious to be removed from his brother's home. He simply wants a guardianship to be in place, because he and Precious stand "a good chance of reunification" so that she can "be raised by him in the near future." This is not part of the legislative plan mandating a preference for adoption. "Once the court determines adoption is feasible, the less desirable and less permanent alternatives of guardianship and long-term foster care need not be pursued. " (*In re Jose V.* (1996) 50 Cal.App.4th 1792, 1799; *In re Josue G.* (2003) 106 Cal.App.4th 725, 732.) The fact remains that Father was never, is not, and does not currently plan to be his daughter's daily caregiver. Father's opposition to adoption, on principle alone, is not sufficient to overcome the legislative preference in favor of adoption.

Father did not carry his burden of showing that Precious would be greatly harmed by the termination of his parental rights or that the benefit of continuing their relationship outweighs the benefits of a stable, permanent home. The juvenile court could reasonably find that Father's relationship is not sufficiently beneficial. In a guardianship or continued foster care, Precious would have an unstable placement. Where, as here, a child is likely to be adopted, the court must choose "the most permanent and secure alternative that can be afforded." (*In re Beatrice M.*, *supra*, 29 Cal.App.4th at p. 1419.)



**DISPOSITION**

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

BOREN, P.J.

We concur:

ASHMANN-GERST, J.

CHAVEZ, J.