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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re A. S. et al., Persons Coming Under  
the Juvenile Court Law.

B256706  
(Los Angeles County  
Super. Ct. No. CK93938)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

V. P.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Marilyn Kading Martinez, Commissioner. Affirmed.

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

Richard D. Weiss, Acting County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Aileen Wong, Deputy County Counsel, for Plaintiff and Respondent.

## I. INTRODUCTION

The mother, V.P., appeals from the June 3, 2014 orders denying her Welfare and Institutions Code<sup>1</sup> section 388 petition and terminating her parental rights. She argues it was error to deny her modification petition without a hearing. The juvenile court did not abuse its discretion in denying the section 388 petition. The mother also contends the juvenile court should have applied the parent-child relationship exception instead of terminating her parental rights. The juvenile court could reasonably conclude the mother failed to show her relationship with the children outweighed the benefits of adoption. We affirm the orders under review.

## II. PROCEDURAL HISTORY

On June 14, 2012, the Los Angeles Department of Children and Family Services (the department) filed a section 300 petition on behalf of 4-year-old A.S., 2-year-old Julie S., and 16-month-old L.S. The petition alleged the mother was arrested for drug trafficking and incarcerated. Also, she failed to make an appropriate plan for the children's care and supervision by placing them in the home of an unrelated adult female, Ruby Z. On June 1, 2012, the children were found dirty, with mold on their clothing and wearing soiled diapers.

At the June 14, 2012 detention hearing, the juvenile court detained all three children. The children were placed with the maternal grandmother, E.P., pending the next hearing. The mother and father, Ivan S., were granted monitored visits.

On July 24, 2012, the department filed a first amended petition concerning the father's substance abuse history. On July 26, 2012, the juvenile court found the children were dependents of the court under section 300, subdivisions (b) and (g). The juvenile

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<sup>1</sup> Further statutory references are to the Welfare and Institutions Code.

court sustained the allegations in counts b-1 and g-1 of the first amended petition: “On May 30, 2012, the [mother] was arrested for drug trafficking. The mother placed the children in the care and supervision of an unrelated adult female Ruby [Z.]. The unrelated adult established a filthy and unsanitary home environment for the children and that on June 1, 2012, the home was dirty and the odor of urine permeated the home. The children were dirty, with mold on their clothing and wearing soiled diapers. The unrelated female that the mother placed the children in the care of was not appropriate. These facts place the children at risk of harm.” The children were removed from the parents’ custody. The parents were granted monitored visitation with the mother’s visits to include telephone calls. The mother was ordered to participate in individual and substance abuse counseling, a parenting program and weekly random drug testing. If any test was missed or dirty, the mother was to participate in a full drug rehabilitation program with random testing.

At the January 24, 2013 six-month-review hearing, the juvenile court continued the parents’ reunification services. The juvenile court found the mother was in partial compliance with her case plan. At the July 25, 2013 twelve-month review hearing, the juvenile court found the mother was in compliance with her case plan. On January 30, 2014, the juvenile court gave the department discretion to liberalize the mother’s visits with the children. At the 18-month review hearing on March 7, 2014, the juvenile court found the mother was in partial compliance with her case plan and terminated her reunification services.

On June 2, 2014, the mother filed a section 388 petition. The mother requested the children be returned to her custody. In the alternative, the mother asked for reinstatement of her reunification services with liberalized visits including unmonitored day and overnight visits. On June 3, 2014, the juvenile court denied the mother’s section 388 petition without a hearing. The juvenile court found the mother’s petition did not “state new evidence or change of circumstances” and the proposed order did not promote the children’s best interests. The juvenile court also stated: “Mother at beginning of

addressing issues which brought children to dependency court. While children enjoy visits [with] mother[,] they look to [maternal grandmother] as parental figure.”

At the June 3, 2014 hearing, the juvenile court explained: “While mother confirms that she is attending [Alcoholics Anonymous/Narcotics Anonymous] on a very frequent basis since the end of December, she has a sponsor, she has not verified that she attended and completed and made substantial progress in a drug rehabilitation program. [Alcoholics Anonymous/Narcotics Anonymous] is not a drug rehab program, although it addresses substance abuse. [¶] She has been in individual counseling in 2013 for quite a while. She then transferred to another therapist and enrolled in that program on April 10th. And according to the letter from her therapist, she is just at the very beginning of addressing issues. [¶] So I find that circumstances are beginning to change. They’re not yet changed given the very long history of drug involvement, and the court ordered a full substance abuse counseling program with individual counseling, that mother is just at the beginning of addressing these issues. [¶] And, therefore, the first prong of the 388 petition is not met. And also based on the current information and history of the case, I, therefore cannot find it’s in the children’s best interest to grant the request which is, number one, to return the children to their mother’s custody and, in the alternative, to order reunification services with unmonitored visits including overnights. [¶] And, therefore, the request is denied.”

For the section 366.26 hearing, the juvenile court found by clear and convincing evidence it was likely the children would be adopted. The juvenile court ruled: “The basis for the findings and orders are as follows: [¶] These children are well-cared for by their maternal grandmother, who specifically wants to adopt these children. She has made a commitment to permanency. She has participated in the preparation of the home study. The home study is now completed and has been approved. These children are healthy. They do not have special needs which would pose a barrier to them becoming adopted, and whatever are their needs, they are clearly well-known to their caretaker who has been meeting their needs on a daily basis for a substantial period of time. . . . [¶] The

children were receiving therapy to address a variety of issues and they completed all their goals and apparently are no longer in need of therapy.”

The juvenile court terminated parental rights, rejecting the mother’s contention that the parent-child relationship exception applied. The juvenile court stated: “Now, to address mother’s issues that it would be detrimental to terminate parental rights, I do not agree that she occupies a parental role. She is a visitor. Other than a couple of lapses for months at a time, she has visited fairly regularly, once a week. [¶] On her visits, she plays with the children. She interacts well with them. They do age-appropriate activities. The visits go very well, as do the visits with the father when he visits. [¶] However, the law is clear that visitation in and of itself is insufficient to persuade the court that it would be detrimental to terminate parental rights. [¶] [The mother] has a familial relationship with the children. The children enjoy her company when she does visit, but the court cannot find that those visits, which are once a week unless there were great lapses in the visits. The evidence does not support that this visitation benefits the children so significantly to outweigh the strong [p]reference for adoption. . . . [¶] The evidence does not support that the parental relationship will remain, that this would promote the well-being of the children to such a degree as to outweigh the well-being the children would gain in the permanent plan of adoption. [¶] There isn’t any evidence that by terminating parental rights these children will be deprived of a substantial positive emotional attachment with their mother. She has a friendly and familial relationship. The children know because they are of an age that their caretaker is their grandmother and their mother is their mother. [¶] And while they enjoy their visits, no evidence has been presented that they’ll suffer detriment by terminating parental rights. Perhaps it’s a balancing and a weighing of the degree to which the relationship might be beneficial. And the evidence does not support these children have a substantial and positive emotional attachment with their mother such that they would be greatly harmed by terminating parental rights.”

### III. EVIDENCE

#### A. Detention Report

The June 14, 2012 detention report was prepared by children's social worker Mari Nakayama. On June 5, 2012, the department received a referral alleging the mother was neglecting the children. On June 6, 2012, Ms. Nakayama interviewed the maternal grandmother and children. The interviews were conducted in the maternal grandmother's home. On June 1, 2012, the maternal grandmother received a call from the mother's attorney in San Diego. The attorney stated the mother was arrested on May 30, 2012 for drug trafficking. The maternal grandmother was asked if she would like to post bail. The maternal grandmother refused. The maternal grandmother was unaware the mother had a history of drug use or any criminal record for substance abuse.

After the phone call, the maternal grandmother went to the home of Ruby Z., who is the sister of the mother's boyfriend. The maternal grandmother found the children in soiled diapers with mold on their clothes. The children appeared to not have been bathed for three to four days. The apartment did not have a stove or refrigerator and the home smelled like urine. One-year old L.S. was propped on blankets that were about four feet high behind the staircase. The maternal grandmother took the children to her home.

The maternal grandmother, the mother and children had resided together until October 2011. During that time, the mother would not cook or care for the children. The maternal grandmother cared for the children most of the time. After the maternal grandfather was diagnosed with lung cancer, the maternal grandmother asked the mother to care for the children. The mother started a relationship with her boyfriend, Sunny Z., and later moved with the children to his home. The mother refused to provide the maternal grandmother with the address for Sunny's home. During the time the maternal grandfather was home on hospice, the mother would not visit or bring the children to see the maternal grandfather. When the maternal grandfather passed away in April 2012, the

mother did not come to the home or the funeral service. The last time the maternal grandmother saw the mother with the children was “about two weeks ago.”

The maternal grandmother had the children in her home for a few days. She reported the children would wake up a few times at night, crying and screaming. The children also were anxious and nervous when other people came to the home.

## B. Jurisdiction and Disposition Report

The July 26, 2012 jurisdiction and disposition report was prepared by dependency investigator Sandra Cardenas. The mother admitted she was being charged with transporting 35 kilos of marijuana from Mexico to the United States. The mother was incarcerated and had no visits with the children. The mother had written letters to the maternal grandmother and sent the children handmade drawings. The mother told Ms. Cardenas: “My understanding is that they took the kids because I was arrested and because of the way they found the kids. It was neglect on my part. Now I’m just waiting to serve my time. I know this was wrong and I regret it now. I just wanted to help my family. My dad died in April (2012) and we didn’t even have money to bury him.” The mother admitted it was not a good plan to leave the children with her boyfriend’s mother and sister. The mother admitted: “I know my [mother] wouldn’t lie about the condition in which the kids were found. I am just glad now that the kids are with my mom and that they are safe.” The mother was asked why she took the children to live with Sunny and her. The mother responded: “Because my dad had just passed away and my mom was already depressed. I didn’t want to overwhelm her with the kids. And I left my mom’s house in October 2011 because we got into an argument.” (As noted, the mother took the children to live with Sunny in October 2011. The paternal grandfather died six months later in April 2012.

### C. Six-Month Review Report

The January 24, 2013 status review report indicates the mother was released from custody on September 28, 2012. The mother was not in full compliance with the court orders. She missed three out of six drug tests and tested positive for alcohol. The mother reported she was enrolled in a substance abuse program in December. But on January 15, 2012, the substance abuse counselor stated the mother had attended only one session and failed to return since then. The mother reported she could not afford the substance abuse session fees. The social worker gave the mother referrals for no cost substance abuse classes and individual counseling.

The maternal grandmother expressed concerns about the mother's monitored visits. The mother did not respect her visitation schedule and would come on weekends without notification. The maternal grandmother reported the mother constantly made telephone calls during visits with the children. During one visit, Julie asked for milk. The mother ignored Julie. Julie had to ask for milk two more times. On the third occasion, the mother yelled at Julie. The mother's outburst caused Julie to cry. On another visit, the mother became irritated with Julie. The mother then screamed at Julie. Julie cried and the maternal grandmother ended the visit for that day. The social worker had a meeting with the mother and maternal grandmother on December 21, 2012. Thereafter, the maternal grandmother reported improvements in the mother's visits.

### D. 12-Month Review Report

The July 25, 2013 status review report indicates the mother was in partial compliance with the court orders. The mother never met or called children's social worker Sandra Jimenez from January through April 2013. During January and February 2013, the mother did not participate in any court-ordered services. On May 24, 2013, the mother contacted Ms. Jimenez to provide a new address and telephone number. The



mother reported she was enrolled in a substance abuse program, parenting classes and individual counseling since May 2, 2013. On July 11, 2013, Sylvia Martin, the mother's therapist, confirmed what had occurred during court-ordered therapy. Ms. Martin stated the mother had been cooperative and active during parenting classes and individual counseling sessions. The mother was only in partial compliance with juvenile court's random drug testing order. The mother missed four drug tests in January and February 2013 and two tests in May and June 2013.

The mother was only in partial compliance with her monitored visit duties in the preceding six months. From January through March 2013, the mother had monitored visits with the children twice a week for two hours each visit. But on April 1, 2013, the maternal grandmother ended the visit early because the mother was on the phone texting a friend. The friend was not a good influence on the mother. The maternal grandmother told the mother to contact the social worker. The maternal grandmother no longer wanted to monitor the visits. However, the mother did not contact the social worker to request visits with the children until May 24, 2013. The mother resumed monitored visits with the children on June 8, 2013. The visits went well and the mother was appropriate and attentive with the children. The monitor, Marlene Graham, reported the mother and children appeared to be well-bonded.

The maternal grandmother stated she loved the children and would like to continue to care for them. She expressed a desire to adopt the children if the parents failed to reunify with them. A.S. and Julie reported they were happy in the maternal grandmother's care. The children also stated they enjoyed visits with their parents.

#### E. 18-Month Review Report

The December 10, 2013 status review report stated the mother was only in partial compliance with her court orders. The mother completed her parenting education program on November 26, 2013. In addition, the mother attended individual counseling

sessions once a week for an hour. The mother shared her issues in therapy. But Ms. Martin had some concerns about the mother's ability to care for the children. The mother admitted she was "struggling to make ends meet" and might be evicted from her apartment soon. During therapy sessions, the mother focused her discussions on selling cosmetics and self-care products from home rather than on making permanent plans to reunify with the children. The mother was not compliant with the juvenile court's random drug testing order. In the past 6 months, the mother had missed 6 out of 12 random drug tests.

The mother's monitored visits with the children were appropriate but she only visited them two hours per week. The monitor, Ms. Graham, and the mother reported the visits were going well. Ms. Graham and Ms. Jimenez observed the mother interacted well with the children. The children were well-bonded with the mother. In July 2103, Ms. Jimenez advised the mother to visit the children more frequently. But the mother did not ask for additional visits. The maternal grandmother reported the mother did not call to inquire about the children. The mother texted the maternal grandmother, on average, once every two months to ask how the children were doing.

The maternal grandmother continued to express a desire to adopt the children if the parents failed to reunify with them. On June 11, 2013, the father contacted department staff to relinquish his parental rights for the children. The father wanted to relinquish his parental rights so the children could be adopted by the maternal grandmother. The maternal grandmother's adoption home study was approved on August 13, 2013. In December 2013, the father continued to be interested in relinquishing his parental rights if the juvenile court terminated the mother's family reunification services.

A.S. was happy in the maternal grandmother's care. When asked about living with the mother, A.S. stated, "I don't want to live with her; I want to live with my grandma[.]" Ms. Jimenez wrote: "Julie reported . . . she likes living with [the] maternal

grandmother . . . because she is nice and she loves her.” When asked about living with the mother, Julie replied, “[Y]eah, I want to live with my mom[.]”

#### F. March 7, 2014 Last Minute Information for the Court Report

On March 4, 2014, Ms. Jimenez, the children’s social worker, spoke to Ms. Martin, the mother’s therapist from El Nido Family Centers. Ms. Martin reported the mother stop attending substance abuse and individual counseling after the last court hearing on January 30, 2014. Ms. Martin stated the treatment goals for the mother have not been reached. In the past month, the mother was argumentative and confrontational towards Ms. Martin and Ms. Jimenez. The mother harassed and used profanity in response to Ms. Jimenez’s questions about compliance with the case plan. Many times, the mother argued she had completed her substance abuse and individual counseling. The mother did not believe she needed to address any issues in counseling. The mother was evicted from her home in February 2014. The mother had not provided Ms. Jimenez with a new address. In addition, the mother missed drug tests on January 30 and February 12, 2014. The mother also missed two visits with the children in February 2014 allegedly because of doctor appointments.

#### G. The Mother’s Section 388 Petition

On June 2, 2014, the mother filed a section 388 petition requesting the children be returned to her custody. In the alternative, the mother asked for reinstatement of her reunification services with liberalized visits including unmonitored day and overnight visits. The mother submitted four documents in support of her section 388 petition: a letter from Bernie’s Lil Women Center Inc.; a letter and attendance document from NA-MI Neuva Conecta Narcotics Anonymous; a letter from El Nido Family Centers; and a certificate of completion from a parenting education program.

The May 22, 2014 letter was from D. Bo Hulen, the mother's therapist, at Bernie's Lil Women Center Inc. The letter stated the mother enrolled in individual counseling on April 10, 2014. The enrollment letter indicated the mother had started individual therapy sessions with Mr. Hulen. The mother's therapeutic goals were to: "[a]ccept personal responsibility for the role she played in her current . . . situation"; "[r]ecreate herself" as a better parent; and "comprehend the importance of parenting her children to the degree where she can serve as a role model by displaying positive behaviors."

The April 29, 2014 letter was from Mario Duenas, the mother's counselor and sponsor at NA-MI Neuva Conecta Narcotics Anonymous. Mr. Duenas stated the mother had attended the program since December 29, 2013. Mr. Duenas reported the mother had completed 50 open meetings and 40 closed meetings. Mr. Duenas wrote: "I as her sponsor have seen that she has accepted the consequence of her past. But she has learned to control and accept what she [has] done. I understand [the mother] was never a drug user but she has [complied] with all the needs of my program and counseling. She also has completed a 12 step course to live life drug free."

The February 26, 2014 letter was from Ms. Martin, the mother's family therapist at El Nido Family Centers. Ms. Martin stated the mother regularly attended individual counseling beginning on May 2, 2013. Ms. Martin wrote: "[The mother] has been cooperative and has explored issues surrounding; sobriety, coping strategies, triggers/urges, and future situations with high risk for relapse. [The mother] has expressed a desire to be with her children[:]; however, treatment goals have not been reached. Continuing work is needed for [the mother] to gain insight and awareness into the safety and detrimental impact/effects of her illegal activities . . . on her children." Ms. Martin also reported the mother began a parenting education program on May 2, 2013. The attached certificate of completion from El Nido Family Centers showed the mother completed 24 sessions of parent education on November 26, 2013.

#### H. Section 366.26 Report

The June 3, 2014 section 366.26 report stated the children were very attached to the maternal grandmother. The children has resided with the maternal grandmother since June 11, 2012, and she had been a part of the children's lives since their birth. The maternal grandmother had a good understanding of the children's needs and met them in a timely manner. The report stated there was a very strong likelihood the maternal grandmother would adopt the children.

In the past six months, the mother was in partial compliance with the visitation order. The mother had monitored visits once a week for two hours with the children. The monitor, Ms. Graham, reported the mother was attentive and interacted well with the children. The mother and children were well-bonded and the visits went well.

#### IV. DISCUSSION

##### A. Section 388 Petition

Section 388, subdivision (a)(1) states in part, "Any parent or other person having an interest in a child who is a dependent child of the juvenile court . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action . . . for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court." A parent requesting modification under section 388 has the burden of proving by a preponderance of the evidence that the child's welfare requires such change. (Cal. Rules of Court, rule 5.570, subd. (h)(1)(C); *In re A.A.* (2012) 203 Cal.App.4th 597, 612; *In re B.D.* (2008) 159 Cal.App.4th 1218, 1228.) The parent must show changed, not changing, circumstances. (*In re Mickel O.* (2011) 197 Cal.App.4th 586, 615; *In re Casey D.* (1999) 70 Cal.App.4th 38, 47.) In addition, new evidence or change in circumstances must be of such significant nature that

it requires modification of the challenged order. (*In re A.A.*, *supra*, 203 Cal.App.4th at p. 612; *In re Mickel O.*, *supra*, 197 Cal.App.4th at p. 615.) We review an order denying a section 388 petition for an abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317-318; *In re G.B.* (2014) 227 Cal.App.4th 1147, 1158; *In re A.A.*, *supra*, 203 Cal.App.4th at p. 612.)

The mother argues the juvenile court erred in denying her section 388 petition without a hearing. She contends: her petition set forth a sufficient *prima facie* case to warrant a hearing; she engaged in Narcotics Anonymous and began individual counseling; her prior failure to participate in Narcotics Anonymous prevented her from completing the El Nido treatment program; and she alleviated this issue through her active participation in Narcotics Anonymous. No doubt in December 2013, Ms. Martin stated the mother could not complete the El Nido program. This failure, according to Ms. Martin, resulted from the mother's failure to participate in Narcotics Anonymous. But Ms. Martin's February 26, 2014 letter, submitted with the section 388 petition, indicates the mother has not met the necessary treatment goals, irrespective of participation in Narcotics Anonymous. Ms. Martin wrote: "[The mother] has been cooperative and has explored issues surrounding; sobriety, coping strategies, triggers/urges, and future situations with high risk for relapse. [The mother] has expressed a desire to be with her children[;] however, treatment goals have not been reached. Continuing work is needed for [the mother] to gain insight and awareness into the safety and detrimental impact/effects of her illegal activities . . . on her children." Moreover, as the juvenile court noted, Narcotics Anonymous is not a drug rehabilitation program. As part of her case plan, the mother was required to participate in a full drug rehabilitation program with random testing if she missed a drug test or tested positive. The mother missed 17 random drug tests but never attended a drug rehabilitation program.

In addition, the mother still had not reached her treatment goals in March 2014. On March 4, 2014, Ms. Jimenez, the children's social worker, spoke to Ms. Martin. They discussed the mother's unsatisfactory participation in substance abuse and individual

counseling. Ms. Martin explained the mother stopped attending substance abuse and individual counseling after the last court hearing on January 30, 2014. Ms. Martin stated the treatment goals for the mother had not been reached. In the past month, the mother was argumentative and confrontational towards Ms. Martin and Ms. Jimenez. The mother harassed and used profanity in response to Ms. Jimenez's questions about her compliance with her case plan. On numerous occasions, the mother argued she had completed her substance abuse and individual counseling. The mother did not believe she needed to address any issues in counseling.

The mother contends Mr. Duenas, her Narcotics Anonymous sponsor, will provide her with the support and guidance she previously lacked. Mr. Duenas stated the mother had completed 50 open meetings and 40 closed meetings. He reported the mother had completed a 12 step program. However, Mr. Duenas also stated his understanding that the mother was never a drug user; a palpably false assumption. Given the mother's denial of any substance abuse issue, it is highly unlikely Mr. Duenas could provide her with support and guidance.

Finally, the mother argues her therapeutic goals with her new therapist, Mr. Hulen, addressed the department's concern she was not focused on reunification with the children. The May 22, 2014 letter from Mr. Hulen identifies the mother's previously described therapeutic goals. But as the juvenile court found, the mother recently transferred to her new therapist, Mr. Hulen, and enrolled in the program on April 10, 2014. The enrollment letter indicates the mother had just started individual therapy sessions with Mr. Hulen. As the juvenile court found, the mother was just at the very beginning of addressing her many issues. The juvenile court did not abuse its discretion in denying the mother's section 388 petition without a hearing as there was virtually no evidence of changed circumstances.

## B. Parent-Child Relationship Exception

At a section 366.26 hearing, the juvenile court selects and implements a permanent plan for the dependent child. (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53; *In re Marilyn H.* (1993) 5 Cal.4th 295, 304.) Our Supreme Court has summarized the juvenile court's options at the section 366.26 hearing: "In order of preference the choices are: (1) terminate parental rights and order that the child be placed for adoption (the choice the court made here); (2) identify adoption as the permanent placement goal and require efforts to locate an appropriate adoptive family; (3) appoint a legal guardian; or (4) order long-term foster care. (§ 366.26, subd. (b).) Whenever the court finds 'that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption.' (§ 366.26, subd. (c)(1).)" (*In re Celine R.*, *supra*, 31 Cal.4th at p. 53; see *In re Hector A.* (2005) 125 Cal.App.4th 783, 790-791.)

One exception to adoption is the parent-child relationship exception. This exception is set forth in Section 366.26, subdivision (c)(1)(B)(i) which states in part: "[T]he court shall terminate parental rights unless either of the following applies: . . . [¶] (B) The court finds a compelling reason for determining that termination would be detrimental to the child due to one or more of the following circumstances: [¶] (i) The parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (See *In re K.P.* (2012) 203 Cal.App.4th 614, 621.) The mother has the burden of proving her relationship with the children would outweigh the well-being the children would gain in a permanent home with an adoptive parent. (*In re G.B.*, *supra*, 227 Cal.App.4th at p. 1165; *In re K.P.*, *supra*, 203 Cal.App.4th at p. 621.) Evidence of frequent and loving contact is not enough to establish a beneficial parental relationship. (*In re Marcelo B.* (2012) 209 Cal.App.4th 635, 645; *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1315-1316.) The mother also must show she occupies a parental role in the children's lives. (*In re G.B.*, *supra*, 227 Cal.App.4th at p. 1165; *In re K.P.*, *supra*, 203 Cal.App.4th at p. 621.)



Appellate courts have adopted differing standards of review for the parental relationship exception determination. Most courts review for substantial evidence. (*In re G.B.*, *supra*, 227 Cal.App.4th at p. 1165; *In re K.P.*, *supra*, 203 Cal.App.4th at p. 621; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.) One court has applied an abuse of discretion standard of review. (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351; see *In re K.P.*, *supra*, 203 Cal.App.4th at p. 621.) More recently, two courts have adopted both the substantial evidence and abuse of discretion standards of review. (*In re K.P.*, *supra*, 203 Cal.App.4th at pp. 621-622; *In re Bailey J.*, *supra*, 189 Cal.App.4th at pp. 1314-1315.) In evaluating the juvenile court's determination as to the existence of a beneficial parental relationship, these two courts review for substantial evidence. (*In re K.P.*, *supra*, 203 Cal.App.4th at pp. 622; *In re Bailey J.*, *supra*, 189 Cal.App.4th at p. 1314.) But whether termination of the parental relationship would be detrimental to the child as weighed against the benefits of adoption is reviewed for abuse of discretion. (*In re K.P.*, *supra*, 203 Cal.App.4th at p. 622; *In re Bailey J.*, *supra*, 189 Cal.App.4th at p. 1315.) No error occurred under any of these standards of review.

The mother argues it was error to terminate her parental rights because the parent-child relationship exception applied under section 366.26, subdivision (c)(1)(B)(i). The mother contends she maintained regular visits with the children after her release from custody in September 2012, except for two months in April and May 2013. The juvenile court found the mother "visited fairly regularly, once a week." But the mother fails to show her relationship with the children outweighs the benefits of adoption. The juvenile court found, "[T]he evidence does not support these children have a substantial positive attachment with their mother such that they would be greatly harmed by terminating parental rights."

The parent-child relationship exception is inapplicable. The mother's visits never went beyond monitored visitation. While the mother interacted appropriately with the children during monitored visits and they appeared well-bonded, she never occupied a parental role in their lives. The mother and children lived with the maternal grandmother

until October 2011. During that time, the mother would not cook or care for the children. This required the maternal grandmother to care for them. Once the children were detained in June 2012, the mother never regained custody of them. The December 10, 2013 status review report indicates Ms. Martin expressed concerns about the mother's ability to care for the children. During therapy sessions, the mother focused her discussions on her financial concerns rather than on making permanent plans to reunify with the children. The December 10, 2013 status report also states in July 2013, Ms. Jimenez, the children's social worker, advised the mother to visit the children more frequently. But the mother never asked for additional visits. The maternal grandmother said the mother did not call to inquire about the children. The mother texted the maternal grandmother, on average, once every two months to ask how the children were doing. The children, A.S. and Julie, reported they were happy in the maternal grandmother's care. A.S. wanted to live with the maternal grandmother, not the mother. Julie wanted to live with the mother but liked living with the maternal grandmother. The juvenile court, under any standard of review, could conclude the evidence is insufficient to demonstrate termination of the mother's parental rights would be detrimental to the children.

## V. DISPOSITION

The orders denying the mother's section 388 petition and terminating parental rights are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

KRIEGLER, J.

GOODMAN, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.