Filed 2/2/15 In re Courtney T. CA2/4

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

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| In re COURTNEY T., a Person Coming Under the Juvenile Court Law. | B256589<br><br>(Los Angeles County Super. Ct. No. CK88909) |
| LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES,<br><br>Plaintiff and Respondent,<br><br>v.<br><br>S.T.,<br><br>Defendant and Appellant. | |

APPEAL from an order of the Superior Court of Los Angeles County, Tony L. Richardson, Judge. Affirmed.

Anne E. Fragasso, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Appellant S.T. appeals the juvenile court order terminating his parental rights, contending that the trial court erred by failing to find that he qualified as the presumed father of Courtney T. under *Adoption of Kelsey S.* (1992) 1 Cal.4th 816 (*Kelsey S.*) and Family Code section 7611, subdivision (d), and by finding that it would be detrimental to release Courtney to his care. We find that S.T. does not fall within *Kelsey S.* because, by making only limited attempts to establish a relationship with his daughter and failing to meet or speak with her even once, he failed to demonstrate the full commitment to parental responsibilities necessary for *Kelsey S.* to apply. We further find that, in light of S.T.'s failure to establish a relationship with Courtney, the court properly found that it would be detrimental to release Courtney to his care. Finding no error, we affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### A. Family History

It is undisputed that S.T. is Courtney's biological father. According to S.T. , he and Courtney's mother, L.T. had been in a relationship for one year, when L.T. became pregnant with Courtney. L.T. left S.T. before Courtney's birth. L.T. claims that she left because she discovered that S.T. was married. Courtney was born in 2007.

S.T. –who has always believed that he was Courtney's biological father–learned of Courtney's birth through the website Facebook. S.T. claims that during the "couple months" following Courtney's birth, he made "numerous attempts" to arrange visits with Courtney by sending text messages and communications through Facebook to Courtney's mother, L.T. L.T. never responded. S.T. testified that after failing to make contact with Courtney's mother for a couple of months, he ceased his attempts because he "just didn't think it was worth it anymore." During this time, S.T. knew the city in which L.T. and Courtney lived, but he did not know their address.

According to L.T., she met T.F. a couple months after her relationship with S.T. ended. When Courtney was two months old, L.T. and T.F. moved in together. L.T. and T.F. had three children–Courtney's half siblings–and along with Courtney, they lived together as a family unit. Prior to these dependency proceedings, Courtney believed that T.F. was her biological father.

At some point after his relationship with L.T. ended, S.T. moved to Utah, where, during relevant times, he has been employed as a long-distance truck driver. S.T. is married and is living with his wife and five children, Courtney's half siblings. At the time of the April 15, 2014 hearing that is the subject of this appeal, S.T. had never met or spoken to Courtney.

According to L.T., even though S.T. was not involved in Courtney's life, he paid an estimated $59 per week in child support until 2011. L.T. reported to DCFS that when she asked S.T. over Facebook to give up his parental rights, he indicated he would "agree[] as long as she stop[ped] the child support." The record does not establish why S.T. ceased child support payments.

**B. The July 15, 2011, Petition and Detention Hearing**

On July 15, 2011, DCFS filed a petition under section 300 of the Welfare and Institutions Code[1] on behalf of then four-year-old Courtney and her three half siblings.[2] The petition alleged that S.T.'s whereabouts were unknown and that he had failed to provide Courtney with the necessities of life, including food, clothing, shelter, and medical care, which endangered her health and safety and placed her at risk of physical harm and damage, in violation of section 300, subdivisions (b) and (g). The accompanying detention report noted that L.T. reported that she had no information about S.T. except that he resided in Utah and had no contact with Courtney. The petition further alleged that T.F., the father of Courtney's three half siblings, had physically abused one of the half siblings, that T.F. engaged in violent altercations with L.T. in front of the children, and that L.T. suffered from mental and emotional problems, including self-mutilation behavior.

At the initial hearing on July 15, 2011, the juvenile court found that DCFS had established a prima facie case that Courtney was described by section 300.

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

[2] Courtney's half-siblings are not subjects of this appeal.

Accordingly, the court released her to L.T.'s custody; detained her from T.F., whom the court found was Courtney's alleged father; ordered family maintenance services; and continued the matter for a pretrial resolution conference. S.T. did not appear, nor was he represented by counsel, at the hearing.

**C. The August 9, 2011, First Amended Petition and August 2011 Hearings**

On August 9, 2011, DCFS filed a first amended petition, listing S.T. as Courtney's biological father and his address as unknown. The first amended petition also included certain other amendments relating to L.T. and T.F. that do not affect this appeal. At the detention hearing held the same day, the court dismissed the July 15, 2011 petition, arraigned L.T. and T.F. on the first amended petition, and detained the children with discretion to release them to any appropriate relative.

At the pretrial release investigation hearing on August 25, 2011, the court detained all four children with a maternal great aunt and uncle–who, at the time of this appeal, were the children's prospective adoptive parents-pending approval under the Adoption and Safe Families Act. At the August 31, 2011, pretrial resolution conference, the court ordered the children to be placed with their maternal great aunt and uncle.

S.T. did not appear, nor was he represented by counsel, at either of the August 2011 hearings.

**D. DCFS Contact with S.T. and the September 28, 2011 Hearing**

In late August 2011, DCFS made contact with S.T. by telephone, at which time S.T. stated that he was currently trying to have a paternity test conducted regarding Courtney. Appointed counsel appeared on behalf of S.T. at the next hearing on September 28, 2011, but S.T. was not present.

At the hearing, the court found that substantial danger existed to Courtney's physical health and that there were no reasonable means of protection without removing

her and her half siblings from parental custody. The court also declared Courtney a dependent of the juvenile court, and ordered reunification services for L.T. and T.F. [3]

The minute order from the September 28, 2011 hearing indicates that S.T. did not request that Courtney be placed with him. However, the court ordered unmonitored visits three times per week between S.T. and Courtney, that S.T. participate in counseling with a DCFS approved counselor, and that he keep DCFS apprised of his address and telephone number.

The court clerk did not send a copy of the September 28, 2011, minute order to S.T. Although the clerk did serve a copy on S.T. 's counsel, S.T. claims he did not learn of it until two years later. Prior to mid-2013**,** S.T.'s counsel only spoke with S.T. once, over the phone, on the day he was first appointed.[4]

**E. Hearings Leading Up to the Initial Section 366.26 Hearing**

Several hearings took place between March 2012 and March 2013. Notice of at least some of these hearings was not sent directly to S.T. , and he did not appear at any of them. However, S.T.'s counsel appeared at all of them.

At the section 366.21, subdivision (f) 12-month review hearing on December 19, 2012, the court found that returning Courtney–and her three half siblings–to parental custody would create a substantial risk of detriment to her. The court accordingly terminated reunification services, ordered permanent placement services for Courtney and her half siblings, and set a section 366.26 hearing for April 17, 2013. DCFS

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[3] Although DCFS previously had requested that S.T. be dismissed from the first amended petition and counsel for DCFS and S.T. later agreed that the counts against him had been dismissed at the September 28, 2011, hearing and that he was non offending, the September 28, 2011, minute order states that the court sustained the section 300, subdivision (b) and (g) allegations in the first amended petition against S.T. In addition, none of the reports prepared by DCFS after the disposition hearing indicates that any allegations against S.T. were sustained. At the April 15, 2014, section 366.26 hearing, the court also considered S.T. to be non offending.

[4] It is unclear from the record how S.T. 's counsel lost contact with him.

attempted to send notice of the 366.26 hearing to S.T. by certified mail, but it was returned as "not deliverable as addressed/unable to forward."

DCFS subsequently submitted a declaration of due diligence documenting its efforts to locate S.T. and notify him of the section 366.26 hearing, and it filed an ex parte application asking the court to find that DCFS's due diligence was sufficient.[5] The court found that DCFS's due diligence was sufficient.

**F. The Initial Section 366.26 Hearing**

The juvenile court commenced the section 366.26 hearing on April 17, 2013, and found that notice to S.T. was proper. At the hearing, S.T.'s counsel requested to be relieved, explaining that he only spoke with S.T. once, on the day he was appointed, that he had no way to communicate with S.T. , and that when notice was served on him, he had no way to convey it to S.T. The court refused to relieve him.

At the hearing, S.T.'s counsel apprised the court that S.T. had been paying child support until 2011. The court explained that, if true, S.T.'s child support payments, along with other factors, could lead to a finding that S.T. is Courtney's presumed father.

Ultimately, the court continued the section 366.26 hearing so that the home study of the prospective adoptive parents could be completed.

After the home study was completed, the court held the continued section 366.26 hearing on October 23, 2013, at which DCFS recommended that parental rights be terminated so the adoption process could move forward. S.T.'s counsel immediately objected that notice to S.T. was improper because, according to counsel, the mailing address for the notice listed the wrong city. S.T.'s counsel explained that S.T. was married with five children, employed, and nonoffending under the petition, but that he was not located until recently because DCFS's due diligence had been found to be proper. S.T.'s counsel also indicated for the first time in the proceedings that S.T. "registered an interest in having [Courtney] placed with him," and requested that the

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[5] As with S.T. 's attorney, it is unclear from the record how DCFS lost contact with S.T.

matter be set for a contested hearing. The court set the contested hearing, which was later continued to April 15, 2014.

**G. S.T.'s Attempts to Visit with Courtney**

The court held a status review hearing on December 18, 2013. DCFS reported that Courtney and her three half siblings were thriving with their prospective adoptive parents. Courtney appeared to be healthy and bright, was doing very well in school, did not have any behavior problems, and did not need any mental health services at the time. DCFS reported that all four children "appear[ed] to have bonded very well with their prospective adoptive parents as evidenced by the children . . . kissing and hugging their prospective adoptive parents and calling them 'Mommy and Daddy.'"

On December 18, 2013, DFCS also reported that on June 25, 2013, S.T. had telephoned the social worker, claiming that he had spoken with his attorney that day, learned that Courtney was "in a system," [sic] and planned to attend the July 15, 2013 section 366.26 hearing. S.T. claimed that he did not come forward sooner because when he spoke with his attorney in 2011, his attorney did not inform him "about his daughter being in the system." S.T. was aware that he was granted three three-hour visits per week, and he asked the social worker to arrange a visit prior to the July 15, 2013, hearing so that he could meet Courtney, then age six, for the first time.

The social worker later arranged for a visit between S.T. and Courtney on July 11 at a DCFS office. The social worker explained to S.T. that although he was entitled to unmonitored visits, she would like to be present to introduce them to one another and ensure that Courtney felt comfortable and safe alone with S.T. because this was their first face-to-face meeting. S.T. did not show up for the visit, nor did he call to cancel it.

DCFS also reported that, six months later, on December 11, 2013, S.T. contacted the social worker and requested that she schedule a visit with Courtney that same day. The social worker explained that a same-day visit was not possible, but that he could probably visit Courtney the next day. S.T. , however, could not meet with Courtney the following day because he had to return to Utah before then. When S.T. asked to visit Courtney on his return to Los Angeles the next week, the social worker suggested that

S.T. contact her before leaving Utah so that proper arrangements for a visit could be made. S.T. also asked to talk to Courtney, but the social worker informed him that, given her age and unfamiliarity with him, he should have a face-to-face meeting with Courtney before calling her. Finally, S.T. complained that he had placed several calls to the social worker the prior week, trying to arrange a visit. The social worker explained that because the social workers had been on strike from December 5 through December 10, she had just received his messages that day, December 11.

On April 15, 2014, DCFS filed a report detailing S.T.'s additional attempts to arrange visits with Courtney. According to the report, the social worker had scheduled a visit in February 2014, but S.T. requested that it be postponed because of his work schedule. The report also described S.T.'s attempts to schedule a visit just prior to the April 15, 2014, section 366.26 hearing. On April 1, 2014, S.T. sent a text message to the social worker asking her to arrange a visit on April 4. The social worker informed S.T. that she would not be working on that day, but after alternative arrangements could not be made, she agreed to work on that day to accommodate S.T.'s visit. She scheduled the visit at a DCFS office from 4:00 p.m. to 6:00 p.m. and informed S.T. that he should be on time and she and Courtney would wait only 15 minutes for him. S.T. confirmed the arrangements.

On April 4, Courtney's prospective adoptive parents brought her to the DCFS office for the visit. The social worker took Courtney into a separate room, where the social worker asked Courtney questions about the visit. After waiting approximately 20 minutes, the social worker asked Courtney if she knew that she has a biological father, and Courtney responded "My mommy (current caregiver) told me." Courtney then asked, "[i]s that man here?" The social worker responded that he was not there yet. The social worker then asked Courtney if she wanted to see her biological father, and Courtney responded, "[n]o." At that point, Courtney almost began crying. After comforting Courtney, the social worker asked who she wanted to live with, and Courtney, now in tears, responded, "I want to live with my mommy and daddy (her current caregivers). . . I want to live with my brothers and sister. I don't want to go anywhere. I

love my brothers and sister." The social worker further comforted Courtney, and because it was approximately 4:30 p.m., she brought Courtney to her prospective adoptive parents, and they left. The social worker left at approximately 4:45 p.m.

Four days later, the social worker received a text message from S.T. , dated April 4, 2014, at 1:50 p.m.—the afternoon of the scheduled visit.[6] S.T.'s text message requested that the social worker reschedule the visit for one hour later because he expected that traffic would prevent him from arriving at 4:00 p.m. S.T. texted again at 5:03 p.m., stating that he was at the DCFS office, and he texted at 9:26 p.m., stating that, "Caregiver said you guys never showed up and you lied about the meeting."

**H. The April 15, 2014, Section 366.26 Hearing**

The contested hearing was held on April 15, 2014. S.T. was present and testified that he always believed he was Courtney's biological father, that he never refused custody of Courtney, and that he wanted her in his care. He testified that he became aware of Courtney's birth in 2007 through Facebook, that "from the day [Courtney] was born [until a] couple months later," he made "numerous attempts [to contact Courtney's mother] . . . through text and Facebook," but after receiving no response for two months, he "didn't make any more attempts," because he "just didn't think it was worth it anymore."

S.T. further testified that he did not have notice of the proceedings in 2011 and that he did not know he was represented by counsel at that time. He stated that he first became aware that Courtney had an active dependency case and that the court had made a visitation order for him in November or December 2013. He claimed that he began calling DCFS in December 2013 and "every week" thereafter to arrange visits with Courtney, that he received no response from DCFS to his initial attempts, and that no

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[6] It is unclear from the record whether the message did not actually appear on the social worker's phone until April 8, or whether the social worker did not check her text messages until that date. The social worker's report notes that she previously had informed S.T. that he should contact her only through her work phone and that he should only attempt to contact the social worker through her cell phone after she initiated cell phone contact, whether through text message or phone call, with him.

visit had yet taken place.[7] With respect to the visit scheduled for April 4, 2014, S.T. testified that he showed up on time and waited for an hour, but nobody showed. S.T. also testified that the social worker told him he should visit with Courtney before speaking with her over the telephone and that he spoke with Courtney's caregivers once but did not get to speak with Courtney.

After S.T. testified, DCFS asked the court to terminate parental rights, arguing that all four children are adoptable; that, although S.T. is nonoffending under the petition, the court (a different judge) had made detriment findings against him on September 28, 2011; and that based on recent case law the court could address section 366.26 issues without a finding of parental unfitness as to S.T. DCFS also argued that none of the section 366.26 parental exceptions to adoption applied because S.T. gave up attempts to meet Courtney as a newborn after two months of text and Facebook messages, he still had not met Courtney, and there were considerable time gaps between his various efforts to meet her.

Courtney's counsel also requested that the court terminate parental rights, asking the court to make a finding under section 361.2 by clear and convincing evidence that it would be detrimental to Courtney's emotional well-being for her to be placed with S.T. Courtney's counsel also requested that the court find under section 366.26 that Courtney is adoptable and that the section 366.26 parent-child exception to adoption does not apply to S.T.

S.T.'s counsel requested that S.T. be declared Courtney's presumed father pursuant to *Kelsey S.*, *supra*, 1 Cal.4th 816. Counsel argued that S.T.'s testimony established that he had made efforts to establish a relationship with Courtney when she was a newborn, but he was unable to because of her mother's actions, and that the social worker similarly prevented him from establishing a relationship with Courtney. S.T.'s counsel did not dispute that no section 366.26 exception applied, but he argued that it was DCFS that prevented S.T. from attempting to establish the type of "endearing

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[7] There is a unexplained discrepancy between the social worker's report that S.T. initiated contact with her and tried to arrange a visit in June 2013 and S.T. 's testimony that his efforts began in December 2013.

relationship" [sic] that might trigger an exception. Counsel contended that, although aware that S.T. is a truck driver and lives out of state, DCFS was "entirely unaccommodating in terms of facilitating visits." In particular he pointed to the social worker's "arbitrary, not court-ordered, requirement" that she introduce Courtney to S.T. at their first face-to-face visit, despite the fact that the court had previously ordered unmonitored visits. Finally, S.T.'s counsel argued that a finding of parental unfitness could not be made on the record before the court.

After hearing argument, the court adopted the argument put forth by Courtney's counsel and ordered S.T.'s parental rights terminated under section 366.26. Based on the evidence before it, including S.T.'s testimony, the court specifically found that "whatever efforts [S.T. ] appeared to have made were half-hearted and not followed through," that it was not clear that Courtney's mother actively tried to thwart S.T.'s attempts to establish a relationship, that his efforts were insufficient to find that *Kelsey S.* applied, and that, accordingly, he is not the presumed father of Courtney. The court refused to upset the September 28, 2011, detriment finding and made a further detriment finding under section 361.2, stating that "although [S.T. ] is a nonoffending parent here, that under the circumstances there is a detriment to releasing the child to his care" because "he has just not established a relationship with this child." The court found that the social worker did take S.T.'s circumstances into account and that she took a "very reasonable position" in trying to set up visits that were comfortable for Courtney. Finally, the court found that Courtney's maternal great aunt and uncle, with whom Courtney and her three half siblings had been residing for nearly three years, would be the designated prospective adoptive parents for all four children.

S.T. timely appealed.

## DISCUSSION

### A. Standard of Review

S.T. and DCFS agree that we must review the juvenile court's order for substantial evidence. "Substantial evidence is evidence that is 'reasonable, credible, and of solid value'; such that a reasonable trier of fact could make such findings. [Citation.] [¶] It is axiomatic that an appellate court defers to the trier of fact on such determinations, and has no power to judge the effect or value of, or to weigh the evidence; to consider the credibility of witnesses; or to resolve conflicts in, or make inferences or deductions from the evidence. We review a cold record and, unlike a trial court, have no opportunity to observe the appearance and demeanor of the witnesses. [Citations.] 'Issues of fact and credibility are questions for the trial court.' [Citations.] It is not an appellate court's function, in short, to redetermine the facts. [Citation.] Absent indisputable evidence of abuse—evidence no reasonable trier of fact could have rejected—we must therefore affirm the juvenile court's determination." (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 199-200.)

Applying the foregoing rules to the facts of this case, we conclude that the court's finding that S.T. did not qualify as a presumed father under *Kelsey S.* and its finding of detriment were supported by substantial evidence.

### B. S.T. is Not a Presumed or *Kelsey S.* Father

In dependency proceedings, fathers are divided into several categories with varying rights. To be a presumed father, a man must fall within one of the categories enumerated in section 7611 of the Family Code. Relevant here is Family Code section 7611, subdivision (d), which provides that a man is a presumed father if he "receives the child into his . . . home and openly holds out the child as his . . . natural child." By contrast, "'[a] biological father is one whose paternity is established, but who does not qualify as a presumed father.' [Citation.] 'A man who may be the father of a child, but whose biological paternity has not been established, or, in the alternative, has not achieved presumed father status, is an "alleged" father.' [Citations.]" (*In re J.H.* (2011) 198 Cal.App.4th 635, 644.)

Of the categories, "'"[p]resumed father status ranks highest." [Citation.] Presumed fathers are vested with greater parental rights than alleged or biological fathers. [Citation.] "[O]nly a presumed . . . father is a 'parent' entitled to receive reunification services under [Welfare and Institutions Code] section 361.5," and custody of the child under Welfare and Institutions Code section 361.2.' [Citation.]" (*In re J.H., supra,* 198 Cal.App.4th at p. 644.) A presumed father's parental rights can only be terminated upon a showing of parental unfitness or detriment. (*Kelsey S., supra,* 1 Cal.4th at p. 849.) By contrast, a biological father who is not also a presumed father is not entitled to custody of his child. His rights are limited to establishing his right to presumed father status, and his parental rights can be terminated based on the child's best interests. (*In re J.H., supra,* 198 Cal.App.4th at p. 644; *In re A.S.* (2009) 180 Cal.App.4th 351, 362; *In re T.G.* (2013) 215 Cal.App.4th 1, 18.)

If a man's "attempt to achieve presumed parent status . . . is thwarted by a third party and he made a 'a full commitment to his parental responsibilities–emotional, financial, and otherwise'"–he may, under *Kelsey S., supra,* 1 Cal.4th 816, be accorded parental rights like those of a presumed father--a so-called *Kelsey S.* father. (*In re Elijah V.* (2005) 127 Cal.App.4th 576, 583.) In determining whether a biological father also is a *Kelsey S.* father entitled to presumed father status, "[w]e consider his conduct before and after the child's birth, including whether he publicly acknowledged paternity, paid pregnancy and birth expenses commensurate with his ability to do so, and promptly took legal action to obtain custody of the child. [Citation.] He must demonstrate a full commitment to his parental responsibilities within a short time after he learned that the biological mother was pregnant with his child. [Citation.] He must also demonstrate a willingness to assume full custody. [Citation.]" (*In re Elijah V., supra,* 127 Cal.App.4th at p. 583.)

S.T. contends that the court erred by failing to find that he qualified for presumed father status under *Kelsey S.* We disagree.

While it is undisputed that S.T. publicly acknowledged paternity and paid child support for a number of years, he did not demonstrate the prompt and full commitment to

Courtney necessary to deem him a *Kelsey S.* father. S.T. was aware of Courtney's existence from the beginning of her life, but he failed to take prompt legal action or demonstrate any willingness to assume custody. Unlike the father in *Kelsey S.*, who filed an action to establish his parental relationship and to obtain custody of his child two days after the child's birth (*Kelsey S., supra*, 1 Cal.4th at p. 822), S.T. merely sent unanswered text and Facebook messages for the first two months of Courtney's life, and then gave up because he "just didn't think it was worth it anymore." Such conduct does not qualify S.T. for presumed status under *Kelsey S.* (See *In re Elijah V., supra*, 127 Cal.App.4th at p. 584 (father's request to see child on only two occasions does not demonstrate a wish to be a parent).)

S.T. contends that he should be considered a *Kelsey S.* father because L.T. prevented him from meeting Courtney. However, because S.T. did not demonstrate a prompt and full commitment to his parental responsibilities, L.T.'s actions in this regard are irrelevant. (See *In re Elijah V., supra*, 127 Cal.App.4th at 584 (finding that because father did not take prompt legal action to seek custody or establish paternity, it was irrelevant under *Kelsey S.* that mother did not let him see the child).) In any event, as the juvenile court found, L.T.'s lack of response to two months of text and Facebook messages does not demonstrate that she actively tried to thwart S.T.'s attempts to establish a relationship with Courtney or assume parental responsibilities. And, as the court pointed out, S.T. was frequently in the Los Angeles area and knew the city in which L.T. and Courtney lived, but there was no evidence that he made any effort on his own or with the assistance of friends or relatives to meet Courtney. L.T.'s conduct, and S.T.'s efforts–or lack thereof–are insufficient to render S.T. a *Kelsey S.* father.

S.T. also contends that *Kelsey S.* applies because DCFS violated the court order granting him unmonitored visits and thwarted his attempts to visit and call Courtney. This contention is equally unavailing. First, DCFS clearly did nothing to prevent S.T. from establishing a meaningful parental relationship with his daughter for the first six years of her life. In fact, S.T. spoke with a social worker and his appointed attorney at an early stage of this case, but there is no evidence that he participated in the first two years

of the proceedings or asked through counsel that Courtney be placed with him. Second, the record reveals that when S.T. made efforts to meet Courtney in 2013 and thereafter, DCFS did not prevent his visits. In fact, it appears that in attempting to arrange visits, the social worker endeavored to accommodate S.T.'s schedule and circumstances. For instance, at one point, the social worker cancelled a planned day off work to facilitate a visit while S.T. was in town for his own work. The record shows that it was S.T. who failed to appear at the previously arranged time for this visit and repeatedly failed to appear at the other scheduled visits.[8]

The court found that the social worker's insistence that she be present to introduce S.T. and Courtney at their first meeting was "very reasonable under the circumstances" and did not trigger *Kelsey S.* We find no error. On the record before us, the social worker merely sought to introduce S.T. and Courtney and to ensure that Courtney, who had never met her biological father, "felt comfortable and safe to be alone in the room with him." There is no evidence that the social worker intended to supervise, or have someone else supervise, the visit. In fact, the record suggests the opposite–that the social worker expected S.T. to be alone in a room with Courtney during the visit. Likewise, there is no evidence in the record that the social worker intended to be actively involved in any visit besides the first, introductory visit. On this record, the social worker's insistence on introducing father and daughter does not approach a denial of unmonitored visits. Accordingly, the juvenile court did not err in finding that DCFS did not prevent S.T. from establishing a relationship with his daughter.

**C. The Detriment Finding Was Proper**

S.T. contends that the court's detriment findings were without a factual basis and do not support termination of S.T.'s parental rights. We disagree.

First, because S.T. does not qualify as a presumed father under the statute or *Kelsey S.*, "the court was not required to make a particularized finding of unfitness or detriment before terminating his parental rights." (*In re A.S.*, *supra*, 180 Cal.App.4th at

[8] As previously noted, although S.T. may have appeared at the DCFS office after 5:00 p.m., the meeting with Courtney was scheduled for 4:00 p.m.

362.) Instead, the court was entitled to focus on Courtney's best interests and could terminate S.T.'s parental rights without a finding of detriment or unfitness. (*Ibid.*; *In re Jason J.* (2009) 175 Cal.App.4th 922, 933-934.)

S.T. relies on *In re Gladys L.* (2006) 141 Cal.App.4th 845, but it is distinguishable. In *In re Gladys L.*, the father had been declared a presumed father and then, after a three-year disappearance, sought custody of his child. (*Id.* at p. 847.) The court held that because the presumed father had never been adjudicated to be an unfit parent, termination of his parental rights violated due process and was therefore prohibited. (*Id.* at pp. 848-849.) The analysis in that case was premised on the father's status of presumed parent. Here, by contrast, S.T. is not a presumed father, and no finding of parental unfitness is required for termination of his parental rights. Nonetheless, even if a finding of detriment were required, we find that the court did not err in finding detriment here.

S.T. contends that the court's detriment finding at the April 15, 2014, section 366.26 hearing was erroneously based on S.T.'s failure to establish a relationship with Courtney, because this failure was the result of L.T.'s and DCFS's conduct, which prevented him from establishing a relationship.[9] Here, S.T. merely rehashes the grounds underlying his argument that he qualifies as a presumed father under *Kelsey S.* We find this argument unavailing for the same reasons articulated above. Further, courts have repeatedly upheld findings of detriment under similar facts. (See, e.g., *In re A.S.*, *supra*, 180 Cal.App.4th at p. 363 [detriment finding upheld where father initially refused to participate in dependency proceedings, his whereabouts were unknown for a substantial period, and he did not visit the children for more than six months]; *In re P.A.* (2007) 155 Cal.App.4th 1197, 1210-1212 [detriment finding upheld where father persistently avoided responsibility, failed to seek any relief in the juvenile court, and was not

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[9] S.T. also contends that the court did not, in fact, find detriment at the September 28, 2011, hearing. We do not address this argument because we find that a detriment finding was not required and that, even if it were, the court's detriment finding at the April 15, 2014, section 366.26 hearing was not in error.

involved in the child's life for an extended period].) Accordingly, we find that the court did not err in finding detriment.

## DISPOSITION

The order is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

COLLINS, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.