

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

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

2d Juv. No. B279529  
(Super. Ct. No. J070686)  
(Ventura County)

VENTURA COUNTY HUMAN  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

J.M.,

Defendant and Appellant.

J.M. (Mother) appeals orders of the juvenile court after it terminated her parental rights to her child B.R., a minor coming under the juvenile court law. (Welf. & Inst. Code, § 366.26.)<sup>1</sup> We conclude, among other things, that the court did

---

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

not err by finding that the beneficial relationship exception to adoption does not apply in this case. We affirm.

### FACTS

On September 30, 2015, the Ventura County Human Services Agency (HSA) filed a juvenile dependency petition. (§ 300, subd. (b)(1).) It said Mother's "recurring substance abuse" places B.R., a six-year-old boy, "at substantial risk of serious harm." Mother had "a history of domestic altercations, including verbal abuse and physical violence, in the presence of the child." HSA said that B.R.'s "half-sibling" was "made a dependent of the [juvenile court] due to the mother's substance abuse while pregnant with the half-sibling."

On October 28, 2015, the juvenile court sustained the petition. It declared B.R. and his half-sibling to be dependents of the juvenile court. HSA initially placed B.R. with his aunt. It subsequently placed him with his paternal grandfather.

Mother received family reunification services. In an April 2016 status review report, HSA recommended that family reunification services be terminated. It noted that Mother did not complete her drug treatment programs and that "she relapsed to heroin." In a May 2016 HSA report to the court, the social worker said Mother had entered the Prototypes program and "tested positive for methamphetamine and opiates." Mother had an appointment for the New Start For Moms program, but "she did not show up." She did not communicate with the social worker and she missed drug testing appointments.

On May 17, 2016, the juvenile court terminated Mother's family reunification services. It found Mother did not comply with her case plan and she "did not demonstrate that she was living a drug free lifestyle."

In its section 366.26 report, HSA recommended that Mother's parental rights be terminated and that a "permanent plan of adoption . . . be implemented with the paternal grandparents." It said these "prospective adoptive parents have demonstrated their ability to meet the child's needs." "[M]other has yet to address mental health issues as well as issues of domestic violence." She "has not consistently participated in visitation since Family Reunification Services were terminated." Mother has had "an ongoing and unaddressed history of substance abuse."

At the section 366.26 hearing, Mother testified that she had a "very close" relationship with B.R. Before the juvenile dependency petition, she saw the child "everyday." She said she is concerned about his progress in school. "It's just been hard since everything has happened to, you know, see him and talk to him just because I'm going through everything, I had to work to get better . . . ." She said, "I have struggled a lot this past year, but I'm really trying now." Her counsel said "the beneficial-relationship exception does exist in this case."

The juvenile court said, "I think there is no question that there is a significant relationship between [B.R.] and his mother. . . . The question comes down to whether it is a beneficial relationship and whether . . . the benefit to be derived outweighs the permanence and stability that would be provided by terminating parental rights and adoption by [the] paternal grandfather." It found the child "is adoptable." He has "really blossomed in his current placement and [is] doing well now that he's in a stable home." It said "adoption is appropriate" for the "permanent plan." The child "needs a stable home." The court

found the beneficial relationship exception to adoption did not apply. It terminated Mother's parental rights.

## DISCUSSION

### *The Beneficial Relationship Exception*

Mother contends the juvenile court erred because the beneficial relationship exception to adoption applies given the facts of this case.

"Section 366.26 provides that if parents have failed to reunify with an adoptable child, the juvenile court must terminate their parental rights and select adoption as the permanent plan for the child." (*In re Marcelo B.* (2012) 209 Cal.App.4th 635, 642.) "The juvenile court may choose a different permanent plan only if it 'finds a compelling reason for determining that termination [of parental rights] would be detrimental to the child [because] . . . [t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.'" (*Ibid.*)

"A beneficial relationship 'is one that 'promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.'"" (*In re Marcelo B., supra*, 209 Cal.App.4th at p. 643.) "A biological parent who has failed to reunify with an adoptable child may not derail an adoption merely by showing the child would derive *some* benefit from continuing a relationship maintained during periods of visitation with the parent." (*Ibid.*) The parents must demonstrate "an ability to provide [the child], over the long term, with a stable, safe and loving home environment." (*Id.* at p. 644.)

Adoption "is the permanent plan preferred by the Legislature." (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.)

It is the “parent’s burden to show exceptional circumstances exist.” (*Id.* at p. 574.)

We review the record to determine whether substantial evidence supports the juvenile court’s findings. (*In re Marcelo B.*, *supra*, 209 Cal.App.4th at p. 644; *In re E.B.* (2010) 184 Cal.App.4th 568, 575.) We do not weigh the evidence, resolve evidentiary conflicts or decide credibility issues as those are matters exclusively decided by the juvenile court. (*E.B.*, at p. 575.)

Mother contends the juvenile court should have chosen a guardianship instead of adoption. She claims, “[A] guardianship could be reviewed every six months, and if ever the relationship between [her] and [the child] weakened, or if an adoption for any reason was in [the child’s] best interest, the guardianship could be terminated . . . .”

HSA contends substantial evidence supports the juvenile court’s findings. It claims the court correctly determined that the child’s “need for stability and permanence outweighed the benefit he would receive from continuing the relationship with mother.”

In the section 366.26 report, HSA recommended that a “permanent plan of adoption” be “implemented.” It said the “prospective adoptive mother loves [B.R.]” The “prospective adoptive parents want to provide a safe, stable nurturing home for [B.R.]” They “have demonstrated their ability to meet the child’s needs . . . .” The child “feels loved and safe in the home of his prospective adoptive parents.” He is “thriving” there. His “physical, medical, emotional, and education needs are being met.” “The prospective adoptive parents are committed to the

plan of adoption . . . .” “They have cooperated in every way with the [HSA].”

Mother contends that she “maintained a regular presence in [the child’s] life” and she therefore “met the first prong of the benefit exception.” But the juvenile court also had to consider whether she “demonstrated an ability to provide [B.R.]” with a stable and safe environment, and it had to determine the child’s “well-being” from the totality of the evidence. (*In re Marcelo B.*, *supra*, 209 Cal.App.4th at pp. 643-644.)

In its report HSA highlighted: 1) Mother’s continuing problems that would not further the child’s right to a safe and stable environment, and 2) Mother’s lack of commitment to rehabilitation efforts. It said Mother has had “an ongoing and unaddressed history of substance abuse, including but not limited to heroin, Oxycodone, and methamphetamine.” Her “history of mental health issues and domestic altercations in the presence of the child periodically interfered with her ability to provide adequate care and supervision to the child.” She was offered family reunification services, but she “failed to address her issues of substance abuse.” She “has yet to successfully complete and demonstrate that she has benefited from a treatment program.” Mother “has yet to address mental health issues as well as issues of domestic violence.” In terminating family reunification services, the juvenile court found Mother was unable to “demonstrate that she was living a drug free lifestyle.”

In terminating Mother’s parental rights, the juvenile court said, “[T]here has been instability in [B.R.’s] life and I think adoption would give him the stability that he needs.” It noted how B.R. had “blossomed” in the care of his prospective adoptive parents. HSA’s extensive reports support the court’s findings.

“The Legislature has determined that the protection of the child is paramount.” (*In re Marcelo B.*, *supra*, 209 Cal.App.4th at p. 645.)

Mother has not shown that the juvenile court erred by finding the beneficial relationship exception to adoption does not apply in this case. (*In re Marcelo B.*, *supra*, 209 Cal.App.4th at p. 644.)

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Tari L. Cody, Judge  
Superior Court County of Ventura

---

Rich Pfeiffer, under appointment by the Court of  
Appeal, for Defendant and Appellant.

Leroy Smith, County Counsel, Linda Stevenson,  
Assistant County Counsel, for Plaintiff and Respondent.