Filed 1/11/13 In re P.B. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re P.B., a Person Coming Under the Juvenile Court Law.	B242717 (Los Angeles County Super. Ct. No. CK82661)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. V.W., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Philip Soto, Judge. Affirmed.

William Hook, under appointment by the Court of Appeal, for Defendant and Appellant.

M. Elizabeth Handy, under appointment by the Court of Appeal, for Minors and Appellants.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

V.W. (mother) and her children, P.B., N.B., and Z.W. (the children), appeal from the juvenile court's order terminating mother's parental rights. According to mother and the children, the juvenile court erred in terminating mother's parental rights because her evidence, including a bonding study and the testimony of the psychologist who prepared the bonding study, was sufficient to establish the beneficial parent-child relationship exception (parental bond exception) to the termination of parental rights under Welfare and Institutions Code section 366.26.[1]

We hold that the juvenile court's finding that mother failed to satisfy her burden of proof on the parental bond exception was supported by sufficient evidence. We therefore affirm the order terminating parental rights.

FACTUAL AND PROCEDURAL BACKGROUND

The children came to the attention of the Department of Children and Family Services (DCFS) in June 2010, when a police officer responded to a radio call concerning a child who had been left unattended at a motel. When the officer arrived at the motel, he found two young children, ages two and three, alone in the lobby of the motel, "running around playing." One of the two children in the lobby, P.B., informed the officer that his mother had gone out with an uncle to buy milk. The officer determined from a photocopy of a driver's license in the motel's records that a woman had checked into a room at the motel early that morning with three children. A motel employee went to the room and entered with a key because he heard crying. Based on the employee's report to the manager, police officers entered the room and found an infant, Z.W., the third child, in a crib.

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

During the police investigation, a woman arrived and identified herself as the children's mother. She told the officers that she had left the room while the children were asleep to meet the father of her youngest child, Z.W., to obtain money from him. Mother subsequently admitted to the officers that she had previously been arrested for prostitution and that she left the children alone that day to make money by "conducting acts of prostitution." But mother thereafter denied engaging in prostitution that day. The officers arrested mother, and the children were placed in protective custody.

Based on the incident at the motel, DCFS filed a petition under section 300 alleging, inter alia, that the children were at risk of harm in mother's custody based on mother's neglect in leaving them alone at the motel, her marijuana use, and the failure of the children's respective fathers to provide them with the basic necessities of life. At the June 2010 detention hearing, the juvenile court found that DCFS had made a prima facie showing for detaining the children and showing that the children were persons described in section 300, subdivisions (b) and (g). The juvenile court vested temporary placement and custody of the children with DCFS pending disposition.

In November 2010, the juvenile court held a combined jurisdiction and disposition hearing at which it sustained the petition pursuant to section 300, subdivision (b). The juvenile court removed the children from mother's custody, ordered DCFS to provide family reunification services, and granted mother monitored visitation rights. The children were placed in a foster home with Mrs. W.

Although mother was thereafter provided reunification services, she failed to comply with her case plan and reunify with the children. As a result, in September 2011, the juvenile court held a contested section 366.21, subdivision (f) hearing at which it terminated reunification services and set a hearing to select and implement a permanent out-of-home placement for the children.

In a January 2012 section 366.26 report, DCFS informed the juvenile court that the foster mother, Mrs. W., was the children's prospective adoptive parent and that the children had resided with her since shortly after detention in June 2010. In February

2012, DCFS reported that Mrs. W.'s adoption home study had been approved and, at mother's request, the juvenile court set a date for a contested section 366.26 hearing.

In February 2012, mother filed a section 388 petition requesting that the juvenile court reinstate her custody of the children or, in the alternative, reinstate reunification services based on alleged changed circumstances. The juvenile court set a hearing on the section 388 petition and, in response, DCFS submitted a report showing, inter alia, that mother had tested positive for opiates and Hyrocodone, as well as high levels of marijuana. DCFS also reported that mother had missed drug tests on October 20, 2011, January 25, 2012, and on February 24, 2012. A children's social worker (CSW) reported, inter alia, that the high levels of marijuana in mother's system would adversely affect her reaction time if she was alone with the children. The CSW provided mother with an in-patient drug treatment program, but mother denied having a drug problem. Mother told the CSW that she tested positive for opiates and Hydrocodone because she was "trying to get off marijuana and somebody gave her something to help with sleep."

At the March 2012 hearing on mother's section 388 petition, the juvenile court heard testimony from mother, a CSW, and mother's pastor. Following argument, the juvenile court, denied the motion, finding that mother had failed to show the requisite changed circumstances. The juvenile court explained its ruling on the section 388 petition as follows: "The Court: I've read and considered all the documents. I've heard the testimony, heard the argument. [¶] This is not a difficult case, ma'am. You make the circumstances. You make the facts. This court does not make them. It's clear to me that you've not met your burden by [a] preponderance of the evidence that there's been a change of circumstances; and, therefore, I don't need to reach the next prong which is what's in the best interest of the children at this point. [¶] Your [section] 388 will be denied, counsel. Mother's [section] 388 [petition] on February 23, 2012, will be denied. [¶] . . . [¶] I want to make it clear. I have to stay within the parameters of what the law requires in here; otherwise, we would be here and just listening to anybody and anyone in the neighborhood. [¶] And it's good that she's participating in certain things. [¶] But, ma'am, you have not learned. It's clear and easy for me to make the decision. You're

not where you're supposed to be. You're not going to get any more time other than the extension of the hearing pursuant to Welfare and Institutions Code [section] 366.26. [¶] . . . [¶] And I don't make the facts, ma'am. You know what you've been doing. You know exactly what you were doing and you've chosen a different way. [¶] . . . [¶] Everyone that comes here, when they are given orders, they are not requests. They are orders. If we decide to just do away with the orders and not make the people do what they are supposed to, the children will be in danger. [¶] And I'm going to tell you one thing. Testing is the most important of all of those. You don't understand that. You're not understanding what's going on with respect to your children. So do the right thing for yourself and you will do the right thing for the children if they are still with you later on or to get to see them." Following its ruling denying the section 388 petition, the juvenile court continued the section 366.26 hearing so that an Evidence Code section 730 expert report could be completed.

In May 2012, Dr. Michael Ward, a licensed psychologist, submitted an Evidence Code section 730 expert report to the juvenile court. The report addressed two issues as requested by the juvenile court: The nature and extent of the relationship between mother and the children and the nature and extent of the relationship between the foster mother and the children. Dr. Ward began his report with a "special note" that stated, in part,: ". . . I need to point out that there is no such formal thing . . . as a 'bonding study,' in the sense of some specified, standardized procedure or protocol that allows someone to come up with some quantifiable index or categorical level of the nature and strength of a bond or relationship, much less trying to compare any two such indices or categories. The best we can do in this regard is to make some clinical assessment of and clinical judgment about this issue, fully recognizing that it is not some precise figure or statement and that there is great variability in how different professionals approach this assessment and judgment."

Dr. Ward's report then proceeded to document the results of his evaluations of mother, the children, and the foster mother, each of whom he interviewed and observed. Dr. Ward concluded his report as follows: "In short and in conclusion, while it is frankly

hard to have anywhere near as much confidence in this mother as in the foster mother, these children do seem to be understandably much more bonded to their mother than to their foster mother. Moreover, for all her problems and all the concerns about her, this mother really is good with and apparently for her children in so many regards, based on how she interacts with and engages them. So it comes down to an issue of bond versus risk, and therefore to some extent, of apples versus oranges. Both sides are clearly arguable. However, the primacy of bonds, especially if risk has been somewhat reduced and can somewhat be managed or monitored, may necessitate the taking of a reasonable chance at family reunification, given all that is at stake, both now but especially in the future. Of course, this would have to be done cautiously and carefully, which would include long-term supervision of this case and situation. In other words, while there are continuing problems and concerns here, referring primarily to the mother, this family may well deserve a chance at being a family, given that the mother has made some progress and has been fairly consistently visiting her children, and in light of the obvious mother-child bonds that clearly exist between her and her children. [¶] Being safe rather than sorry is always the way systems understandably believe and behave, and which is also why they are very cautious and conservative. But is the price for safety sometimes too high in some of these cases in terms of the children involved, especially when the risk has been and/or can be reduced and managed? Families should be together, unless, of course, they cannot be or should not be. This may well be one of those cases where, taking everything into account, we ought to consider another reasonable chance at reunification, given all that is at stake here for these children."

In a June 2012, last minute information report for the court, DCSF advised the juvenile court that mother continued to test positive for marijuana and that the physician's statement regarding marijuana that she provided to DCFS was invalid.

At the July 3, 2012, contested section 366.26 hearing, the juvenile court heard testimony from Dr. Ward and Mrs. F., the foster family agency visitation monitor. Dr. Ward testified, in part, as follows: The two boys, P.B. and N.B., shared a primary bond with mother. He also felt that mother's daughter, Z.W., may also share a bond with

mother, but conceded that it was difficult to evaluate Z.W. because she was at the time only two years old. The two boys referred to the foster mother as "granny," but the children referred to mother as "mom" or "mommy." The boys expressed that they enjoyed spending time with mother and that they wanted to spend more time with her.

When asked why he thought mother should be given another opportunity to reunify with the children, Dr. Ward explained that "when you look at how these children relate to their mother, and equally important how mother relates to the children . . . in spite of the concerns [about mother], . . . [those concerns] can be addressed and managed, then . . . under these circumstances, [the juvenile court] ought to seriously consider giving another chance at reunification, mainly for . . . the children's sake and their future."

Dr. Ward further explained that mother "was excellent in terms of how she related to the [children] when [he] saw them. Maybe it [was] an act, maybe she [was] horrible at other times, [he] had no way of knowing that. But . . . when [he] saw her, she was excellent, and they responded to her. [¶] And given that, [he] . . . [felt] she [was] good for them. She was constantly trying to teach them their alphabet, [and] their numbers. There was clearly a focus on development, getting them to grow, as well as being affectionate and nurturing. [¶] . . . [Mother] was good with [the children] and for them in [Dr. Ward's] opinion . . . ." Dr. Ward also opined that mother was above average "in terms of the quality of the interaction with her children, compared to all the other interactions [he had] observed . . . ."

When asked to compare the respective bonds between the children and mother, on the one hand, and the children and the foster mother, on the other, Dr. Ward stated that "there was a difference . . . [¶] The foster mother was less hands-on, [and] tend[ed] to let [the children] just play and interact with themselves, not unlike older people with children or a grandmother who [allows] the [children] . . . to do their own thing."

In response to an inquiry about whether termination of mother's parental rights would be detrimental to the children, Dr. Ward concluded that he "would be concerned that it would be negative for the . . . long-term development of [the] children to have their

mother disappear from their life. [¶] [He further concluded that] [i]t could be mildly to moderately negative right now, given that they have a definite bond with [mother]. As time goes on, and as [the children become] older and aware of what a mother and father are and their own identity and relationship, it could be even more negative to them not to have their mother."

On cross-examination, Dr. Ward conceded that mother had "a history of problems, contacts with the law. She [also] had some problems with substance abuse. So there [were] a lot of issues and concerns with her. [¶] But all and all, [he] believe[d] [mother was] addressing them and they [were] manageable, and [mother could be] supervise[d] and [evaluated on] how she's doing."

Michelle Fields, mother's monitor for her visits with the children, testified that she had monitored mother's visits with the children for six months or more prior to the section 366.26 hearing. Mother may have missed three or four visits with the children over a six-month period. Ms. Fields observed that the children were happy during their visits with mother. Mother's interaction with the children was positive and she engaged with them while they played. Mother also read to the children and brought them puzzles to piece together. The two youngest of the children played together and P.B. liked to sit near mother and play with her phone. Mother tried to teach P.B to tie his shoes and encouraged him when he was doing so. Mother was a positive role model who did not say anything negative about the foster mother while visiting with the children. Mother seemed to want what was best for the children and was always teaching them things like the alphabet and numbers. The children called mother "mommy or mom" and they called the foster mother "granny" or "auntie."

After hearing the testimony and argument, the juvenile court concluded that mother had failed to demonstrate a parental relationship exception and, therefore, terminated her parental rights to the children, explaining that "[e]ven though you don't have to show a primary attachment or a day-to-day caring for them, we still have to take into account that these children have been in—and certainly the baby has been in the system for much of her life. And the other two have been in half or more of their lives in

the system. And they deserve to have a permanent place to live with a family that adopts them as their own. [¶] I could be wrong, . . . I could be wrong, we're certainly going to be giving you a notice of appeal. You can talk it over with your lawyer if I'm wrong, the appellate court will let me know, and then we'll take some other route. [¶] But to say by clear and convincing evidence that there's a demonstration it would be beneficial for the children to continue the relationship with the mother when that means that it will preclude them from having the most permanent relationship they can have separate and apart from being returned to the mother, I can't find that's true by clear and convincing evidence. I have to go on the evidence that I've been presented. [¶] The mother, unlike the parents in the other cases, hasn't been demonstrating that she's in full compliance with the case plan, trying to get the children back. In fact, there are alternatives to marijuana, which is her drug of choice, that could make sure that the children are going to be taken care of and not have to worry about mother relapsing. [¶] As again I have to point out, and I think the appellate court would take into account, the most recent report indicating four tests that were positive for marijuana. That is—and Dr. Ward acknowledges, that is and will continue to be an issue that had to be dealt with. [¶] [Dr. Ward] can't answer this question that I have to ask myself, why would we deprive the children of the most permanent status that they can achieve, adoption, simply because they have a relationship with the mother that may not be beneficial to them in the future if the mother relapses?"

DISCUSSION

A. Standard of Review

There is a conflict in the authorities as to the standard of review that applies to a juvenile court's ruling on the existence of one of the section 366.26, subdivision (c)(1) exceptions to the termination of parental rights. (Compare *In re Cliffton B.* (2000) 81 Cal.App.4th 415, 424-425 [substantial evidence standard] and *In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449 [abuse of discretion standard].) Recently, the court in *In re*

I.W. (2009) 180 Cal.App.4th 1517 explained the appellate review process for a juvenile court ruling on a parental bond exception when, as here, the juvenile court determines that the parent has failed to carry his or her burden of proof on the issue. "'[T]he burden [of proof] is on the party seeking to establish the existence of one of the section 366.26, subdivision (c)(1) exceptions to produce that evidence.' (*In re Megan S.* (2002) 104 Cal.App.4th 247, 252 [127 Cal.Rptr.2d 876].) [¶] To meet the burden of proving the section 366.26, subdivision (c)(1)(B)(i) exception the parent must show more than frequent and loving contact, an emotional bond with the child, or pleasant visits—the parent must show that he or she occupies a parental role in the life of the child. (*In re Derek W.* (1999) 73 Cal.App.4th 823, 827 [86 Cal.Rptr.2d 739].)" (*Id.* at p. 1527.)

"We generally apply the familiar substantial evidence test when the sufficiency of the evidence is at issue on appeal. Under this test, '"we are bound by the established rules of appellate review that all factual matters will be viewed most favorably to the prevailing party [citations] and in support of the judgment . . . . 'In brief, the appellate court ordinarily *looks only at the evidence supporting the successful party, and disregards the contrary showing*.' [Citation.] All conflicts, therefore, must be resolved in favor of the respondent."' (*Campbell v. Southern Pacific Co.* (1978) 22 Cal.3d 51, 60 [148 Cal.Rptr. 596, 583 P.2d 121].)" (*In re I.W., supra,* 180 Cal.App.4th at p. 1527.)

"But this test is typically implicated when a defendant contends that the plaintiff succeeded at trial in spite of insufficient evidence. In the case where the trier of fact has expressly or implicitly concluded that the party with the burden of proof did not carry the burden and that party appeals, it is misleading to characterize the failure-of-proof issue as whether substantial evidence supports the judgment. This follows because such a characterization is conceptually one that allows an attack on (1) the evidence supporting the party who had no burden of proof, and (2) the trier of fact's unassailable conclusion that the party with the burden did not prove one or more elements of the case (*Oldenburg v. Sears, Roebuck & Co.* (1957) 152 Cal.App.2d 733, 742 [314 P.2d 33] [trier of fact is the exclusive judge of the credibility of the evidence and can reject evidence as unworthy of credence]; *Hicks v. Reis* (1943) 21 Cal.2d 654, 659-660 [134 P.2d 788] [trial court is

entitled to reject in toto the testimony of a witness, even if that testimony is uncontradicted])." (*In re I.W., supra,* 180 Cal.App.4th at p. 1528.)

"Thus, where the issue on appeal turns on a failure of proof at trial, the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. (*Roesch v. De Mota* (1944) 24 Cal.2d 563, 570-571 [150 P.2d 422]; *Caron v. Andrew* (1955) 133 Cal.App.2d 402, 409 [284 P.2d 544].) Specifically, the question becomes whether the appellant's evidence was (1) 'uncontradicted and unimpeached' and (2) 'of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.' (*Roesch v. De Mota, supra*, at p. 571.)" (*In re I.W., supra,* 180 Cal.App.4th at p. 1528.)

Regardless of the standard of review that we apply to the juvenile court's ruling on the parental bond exception, we conclude, as explained below, that the juvenile court correctly determined that mother had failed to satisfy her burden of proof on the parental bond issue.

B. Applicable Legal Principles

"'Once reunification services are ordered terminated, the focus shifts to the needs of the child for permanency and stability.' (*In re Marilyn H.* [(1993)] 5 Cal.4th [295,] 309.) 'A section 366.26 hearing . . . is a hearing specifically designed to select and implement a permanent plan for the child.' (*Id.* at p. 304.) It is designed to protect children's 'compelling rights . . . to have a placement that is stable, permanent, and that allows the caretaker to make a full emotional commitment to the child.' (*Id.* at p. 306.) 'The Legislature has declared that California has an interest in providing stable, permanent homes for children who have been removed from parental custody and for whom reunification efforts with their parents have been unsuccessful.' (*Id.* at p. 307.)" (*In re Celine R.* (2003) 31 Cal.4th 45, 52-53.)

"The court has four choices at the permanency planning hearing. In order of preference the choices are: (1) terminate parental rights and order that the child be placed for adoption . . . ; (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). The circumstance that the court has terminated reunification services provides 'a sufficient basis for termination of parental rights unless the court finds a compelling reason for determining that termination would be detrimental to the child due to one or more' of specified circumstances. (*Ibid*.) The Legislature has thus determined that, where possible, adoption is the first choice. 'Adoption is the Legislature's first choice because it gives the child the best chance at [a full] emotional commitment from a responsible caretaker.' (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1348 [93 Cal.Rptr.2d 644].) 'Guardianship, while a more stable placement than foster care, is not irrevocable and thus falls short of the secure and permanent future the Legislature had in mind for the dependent child.' (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1344 [63 Cal.Rptr.2d 562].)" (*In re Celine R., supra*, 31 Cal.4th at p. 53.)

"The exception provided in section 366.26, subdivision (c)(1)(A) must be considered in view of the legislative preference for adoption when reunification efforts have failed. (*Marilyn H., supra*, 5 Cal.4th at p. 307 [provisions of dependency statutes 'may not be considered in a vacuum,' but must be 'construed with reference to the whole system of law'].) So viewed, the exception does not permit a parent who has failed to reunify with an adoptable child to derail an adoption merely by showing the child would derive some benefit from continuing a relationship maintained during periods of visitation with the parent. The section 366.26, subdivision (c)(1)(A) exception is not a mechanism for the parent to escape the consequences of having failed to reunify. That opportunity is provided by section 388, which permits a parent to petition for reconsideration of the reunification issue based on a finding of changed circumstances. (*Marilyn H., supra*, 5 Cal. 4th at p. 309.)" (*In re Jamine D., supra*, 78 Cal.App.4th at p. 1348.)

"Construing sections 366.26 and 388 together and in the context of the statutory scheme, the *Marilyn H.* court stated '[t]he parent's interest in having an opportunity to reunify with the child is balanced against the child's need for a stable, permanent home.' (5 Cal.4th at p. 309.) A similar balancing determination is obviously appropriate in deciding whether a child would be so harmed by terminating a relationship with a natural parent that an adoption should not go forward and the permanent plan should be diverted to guardianship or foster care. The Legislature has declared that in the ordinary case, a parent's failure to reunify and the termination of reunification services at a prior hearing are a sufficient basis for terminating parental rights. (§ 366.26, subd. (c)(1).)" (*In re Jasmine D., supra*, 78 Cal.App.4th at p. 1348.)

Under the statutory scheme, "'adoption should be ordered unless exceptional circumstances exist, one of those exceptional circumstances being the existence of such a strong and beneficial parent-child relationship that terminating parental rights would be detrimental to the child and outweighs the child's need for a stable and permanent home that would come with adoption.' (*In re Casey D.* (1999) 70 Cal.App.4th 38, 51 [82 Cal.Rptr.2d 426] (*Casey D.*).) The Legislature emphasized the exceptional nature of all the circumstances identified in section 366.26, subdivision (c)(1) by revising the statute in 1998 to require the court to find not only that one of the listed circumstances exists, but also that it provide 'a compelling reason for determining that termination would be detrimental to the child.' (Stats. 1998, ch. 1054, § 36.6.) This amendment . . . makes it plain that a parent may not claim entitlement to the exception provided by subdivision (c)(1)(A) simply by demonstrating some benefit to the child from a continued relationship with the parent, or some detriment from termination of parental rights." (*In re Jasmine D., supra*, 78 Cal.App.4th at pp. 1348-1349.)

"To sum up, when the court has not returned an adoptable child to the parent's custody and has terminated reunification services, adoption becomes the presumptive permanent plan and parental rights should ordinarily be terminated at the section 366.26 hearing. The parent has the burden of proving that termination would be detrimental to the child under section 366.26, subdivision (c)(1)(A). (*Derek W., supra*, 73 Cal.App.4th

at pp. 826-827; *Lorenzo C., supra,* 54 Cal.App.4th at pp. 1343-1345.) The juvenile court may reject the parent's claim simply by finding that the relationship maintained during visitation does not benefit the child significantly enough to outweigh the strong preference for adoption." (*In re Jasmine D., supra,* 78 Cal.App.4th at p. 1350.)

C. Analysis

Mother and the children contend that mother's evidence in support of the parental bond exception was uncontradicted. According to mother and the children, that evidence supported one, and only one, conclusion—the detriment from severing mother's relationship with her children outweighed the benefit to the children from the permanence and stability of adoption.

Although the bonding study and the testimony of Dr. Ward and mother's visitation monitor supported a reasonable inference that mother had a beneficial relationship with the children, it did not compel the conclusion that, as a matter of law, the detriment from severing that relationship outweighed the benefit to the children from the permanency of adoption. Dr. Ward conceded that mother had continuing and serious problems with drug abuse, and the drug test evidence supported that conclusion. Moreover, because Dr. Ward mistakenly assumed that reunification was a possibility at the section 366.26 hearing,[2] he focused his opinion on reunification and identified the issue as a balancing between the benefit to the children from a continuing relationship with mother against the risk to the children from continuing that relationship. But Dr. Ward did not address the

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[2] As noted above, prior to the section 366.26 hearing, mother filed a section 388 petition seeking, inter alia, reinstatement of reunification services based on alleged changed circumstances. Because the juvenile court denied that petition, reunification was not an issue of the section 366.26 hearing. The focus of that hearing was selecting and implementing a permanent plan of out-of-home placement for the children. Thus, the children's needs for permanency and stability were the paramount concern for the juvenile court at the section 366.26 hearing, not mother's interest in reunifying with her children.

dispositive issue—whether the children's bond with mother was so strong and beneficial to them that the detriment from severing it outweighed the benefits of adoption. He merely concluded there was a definite bond between mother and the children, and that it would be "mildly" or "moderately" detrimental to the children if severed. He did not attempt to weigh or balance the benefits of the bond against the benefits of adoption and, instead, conceded that it was the juvenile court's duty to make that determination.

Given the evidence of mother's continuing serious drug abuse, it was not unreasonable for the juvenile court to be concerned about a risk of relapse and the potential ensuing harm such a development would have on the children. That risk, in turn, supported a reasonable inference that the benefits of the parental bond did not outweigh the benefits of adoption which, as discussed above, was the presumptive permanent plan.

As a result, this was not a case in which the parent's evidence was uncontradicted and unimpeached, and of such weight and character as to leave no room for the juvenile court to conclude that the evidence was insufficient to carry mother's burden on the parental bond exception. (See *In re I.W.*, *supra*, 180 Cal.App.4th at p. 1528.) This was a case in which the evidence left room for the juvenile court to conclude that mother's evidence did not demonstrate that the detriment from severing her bond with the children outweighed the benefit of permanence and stability that adoption could provide. Therefore, the juvenile court did not err in concluding that mother had failed to satisfy her burden of proof on the parental bond exception.

DISPOSITION

The order terminating parental rights is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MOSK, J.

We concur:

ARMSTRONG, Acting P. J.

KRIEGLER, J.