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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re C.M. et al., Persons Coming Under the Juvenile Court Law.	B269346, B275351, B277251 (Los Angeles County Super. Ct. No. CK70017)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. S.M. et al., Defendants and Appellants.	

APPEALS from orders of the Superior Court of Los Angeles County, Daniel Zeke Zeidler, Judge. Affirmed.

Amy Z. Tobin, under appointment by the Court of Appeal, for Defendant and Appellant A.G.

Emery El Habiby, under appointment by the Court of Appeal, for Defendant and Appellant S.M.

Turf G., in pro. per., for Appellant Turf G.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, Tracey F. Dodds, Deputy County Counsel, for Plaintiff and Respondent.

This dependency case began when the twins C.M. and J.M. were born drug exposed. Several placements were unsuccessful, and family maintenance services were impeded by the mother's desultory drug rehabilitation and the father's incarceration, and were interrupted for a year when the parents absconded with the children to Arizona. Upon resumption, the juvenile court many times denied requests from all sides to remove the children from a successful placement with adoptive foster caregivers and place them with the maternal grandfather and his wife. In two appeals, which we consolidate for purposes of oral argument and decision, the parents contend the court abused its discretion by failing even to consider placing the children with the maternal grandfather and his wife.

We do not find that the trial court erred in awarding custody to the proposed adoptive parents, as it determined—after considering the family preference stated in Welfare and Institutions Code section 361.3—that such a placement was in the best interests of the children. Although the paternal grandfather could have proceeded at an earlier time in the proceedings below to seek custody, and the welfare agency unfortunately delayed in rendering its finding that the

grandfather's home was acceptable to receive the children, the decision to keep the children with their present foster caregivers was a difficult decision which we do not find on our review to constitute an abuse of discretion, especially given the several prior unsuccessful placements. Accordingly, we affirm.

BACKGROUND

A. Detention and Reunification Efforts

C.M. and J.M. were born in June 2013, three months premature, methamphetamine exposed, and weighing two pounds. They spent the first three months of their lives in a neonatal intensive care unit.

The twins' mother, A.G. (mother), had an extensive criminal history and had long struggled with drug abuse, and in 2008 had lost guardianship of her daughter, K.J. Their father, S.M. (father), had an extensive criminal and domestic violence history and had previously failed to reunify with two children of his own.

On September 25, 2013, Turf G., the twins' maternal grandfather, and his wife, Denise G., indicated they were willing and able to care for the children once they were discharged from the hospital. Turf represented to the Department of Children and Family Services (DCFS or the department) that mother and father were incapable of caring for the children due to their drug abuse and father's violence.

The department detained the twins on September 27, 2013 and filed a petition on October 2 pursuant to Welfare and Institutions Code section 300,[1] alleging mother's drug use endangered the children.

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[1] All further statutory references will be to the Welfare and Institutions Code unless otherwise designated.

While the children were still in the hospital mother indicated they should be placed for adoption. C.M. was released from the hospital first and was placed with the maternal grandmother. However, she quickly realized she could not meet the child's needs, and the twins were then placed in a nonadoptive foster home. (There are five grandparents active in this case: maternal grandfather Turf G. and his wife Denise, the paternal grandparents, and the maternal grandmother.)

The department assessed the paternal grandparents for placement and found their home, where father also lived, to be appropriate, but the placement could not be approved until one resident obtained a waiver of a criminal history, a paternal uncle was live-scanned, the paternal grandmother received medical training (J.M. required oxygen), and father moved out of the home.

Mother and father tested negative for drugs in November 2013, but missed subsequent tests.

On February 27, 2014, the juvenile court found true that the children were endangered by mother's drug use, and declared them to be wards of the court. The children were released to father on the condition that he reside with the paternal grandmother.

One month later, the maternal grandmother disclosed that father and the children had moved out of the paternal grandmother's home, after which father at times left the children with "Cynthia," his friend. He thereafter refused to cooperate with DCFS, telling a social worker "fuck the services, I am not doing anything."

By April 9, 2014, DCFS reported that a DUI conviction in Turf G.'s background prevented the twins' placement with him

absent a waiver, for which he had not provided the necessary documentation. The paternal and maternal grandmothers stated they could not take the children.

In April and May 2014, father continued to refuse to cooperate with DCFS, and obstructed the department's access to the children by shuffling them between the paternal and maternal grandmothers' homes and misrepresenting their locations. Father gave mother unrestricted access.

B. Arizona Interregnum

In May 2014, father and mother absconded with the children to Arizona. The juvenile court issued warrants for the minors' return, but the paternal and maternal grandmothers denied to law enforcement and DCFS that they knew where the family lived. It was later discovered that both grandmothers were on a visitor's list for a jail in Arizona where father was recently incarcerated after having been arrested for domestic violence against mother.

A maternal great-grandmother indicated she did not want the children to stay with her when they returned because she was afraid of father.

While the family lived in Arizona, the children were sometimes visited by a doctor who resided next door.

The family remained in Arizona until June 2015, when DCFS discovered father's arrest (he was ultimately convicted for domestic violence offenses), and also discovered that mother had been involved in a car accident as the passenger in a car driven by a person who was intoxicated. The twins were returned to California and in July 2015 were placed in their current foster home, which was J.M.'s fifth placement and C.M.'s sixth.

C. Placement and First Appeal

Turf G. again indicated he was willing to take the children, and represented he could control mother's access to them and place boundaries on her behavior with them. But processing the documentation to obtain his conviction waiver was delayed for unexplained reasons. He finally obtained the waiver in December 2015.

Before and after the twins were returned to California, the department filed and twice amended a petition pursuant to section 342 (subsequent petition alleging new facts independently justifying jurisdiction), alleging father's conduct, not just mother's, placed the twins at risk. The juvenile court found the allegation to be true, ordered that the children remain wards of the court, and declined to offer family reunification services to either parent pursuant to subdivisions (10) and (15) of section 361.5 (reunification services need not be provided where a parent previously failed to reunify with a child or willfully abducted one).

The twins were diagnosed with expressive language delay, which was addressed by language stimulation and comprehension activities requiring consistent parent participation. C.M. received speech therapy twice a week. She also received weekly mental health family counseling to help her deal with anxiety over separation from the foster caregivers, which began when mother's visitation resumed in October 2015 and manifested in clingy behavior with the caregivers and excessive anxiety and nighttime fears when separated from them. J.M. participated in speech, occupational and physical therapy.

The foster parents provided a safe, loving and structured environment. They were described as "hands-on parents,

extremely patient and [going] to great lengths to make [the children] feel safe and to provide a stable home." They devoted quality time to the children every day, read to them, worked on homework, and reinforced and practiced what they learned at school, integrating friends and family into the process. They provided an "abundance of hugs, kisses, positive encouragement and laughs," and a "wonderful and loving home environment." They took the children to their medical and therapy appointments, to preschool and music classes, and on play dates and field trips, and were described by the preschool as showing "great interest and enthusiasm" in the children's development.

The minors flourished in the foster home and made friends in the neighborhood and preschool. They developed strong bonds with the caregivers and were integrated into the caregivers' extended family, spending time with both sets of grandparents as well as siblings, nieces, nephews, and longtime friends. The children were described as happy and comfortable, possessing a sense of confidence and independence, and "always laughing and smiling."

The caregivers stated they were "completely invested" in caring for the children and hoped to adopt them, but if the children were to be removed from their home, the caregivers felt it would be "extremely important that [the twins] are provided with a loving, nurturing permanent environment," with caregivers who would "aggressively seek out the services [they] need."

This sentiment was echoed by the minors' speech pathologist, who stated, "Consistency is an integral component of early intervention."

In November and December 2015, the minors enjoyed unmonitored eight hour visits once a week with Turf and Denise G.

On December 15, 2015, DCFS assessed Turf G.'s home as compliant with the Adoption and Safe Families Act of 1997 (42 U.S.C. § 670 et seq.; ASFA), which establishes federal guidelines for foster care and relative care placements. However, ASFA approval was not finalized until January 25, 2016.

On December 18, 2015, the juvenile court held a review hearing to determine whether the twins should be placed with Turf G. At the hearing, the department informed the juvenile court that Turf's home had been approved, and mother, father, and Denise G. requested placement with him. However, the minors' counsel requested that the children not be placed with Turf, and represented that Denise had stated in October 2013 that she did not want to take in the children. Denise and the maternal grandmother disputed this account, but the court accepted it.

The juvenile court found there was no evidence that the department performed a timely criminal records check on Turf G. or assessed him for placement in a timely manner. But it also found he had shown no particular interest in or attentiveness to the proceedings for a year, and it was not clear that either he or Denise G. "really came forward in a timely manner and really followed up in a timely manner in the pendency of this case to try to get the kids with them." The court stated, "The kids are two and a half years old and have been with the current caretakers for half a year already." It therefore denied all requests that the children be placed with Turf and ordered that they not be taken from the foster home.

Mother and father appealed this order.

D. Section 388 and Other Petitions

On January 11, 2016, K.J., the twins' 10-year-old half sister, filed a section 388 petition seeking placement of the twins with Turf G., stating she wanted to "grow up with them" in her life. The juvenile court denied the petition without a hearing, finding it presented no new evidence or change of circumstances, and the proposed change would not be in the minors' best interests.

Also on January 11, 2016, the maternal grandmother filed a section 388 petition seeking placement of the twins with Turf G. She represented that Turf and his wife were invested in caring for the children and had made early efforts to obtain them but were stymied by the department's unresponsiveness. The juvenile court denied the petition without a hearing, finding it presented no new evidence or change of circumstances, and the proposed change would not be in the minors' best interests.

On January 13, 2016, Turf and Denise G. filed section 388 petitions seeking placement of the twins with them. They detailed the steps they had taken since June 2015 to obtain the children. Turf was live-scanned and filled out an application for a waiver of his 20-year-old DUI conviction. He gave the application to DCFS on July 24, 2015 and was told it would take several weeks to process. He tried to call DCFS to inform the social worker that pending his assessment he would move out of the house so the twins could be placed with Denise, but his repeated phone calls went unanswered over the next several months. The department waited until October 20, 2015, three months after his application, to hold a Child and Family Team meeting, at which time he and Denise expressed their strong

desire to take the twins. DCFS failed to process Turf G.'s criminal waiver application until after that meeting, and even then submitted only an incomplete application, which delayed approval for yet another 30 days, further delaying an ASFA inspection.

Turf and Denise G. represented that they were devoted to the children, as were Denise G.'s 15-year-old son, who lived with them, and K.J., who visited often. They had stood vigil at the hospital in the months immediately after the twins' birth, and had wanted to take them in from the beginning but thought placement with other relatives would be a better solution due to their own health and family issues: Denise was caring for an elder in the home, and was in the process of undergoing what turned out to be nine reconstructive surgeries after losing an eyelid to melanoma. They had not known that other relatives who agreed to take the children had backed out, or that mother had taken the children to Arizona, as neither mother nor the other grandparents communicated with them.

But by June 2015, when the children were returned, Denise G.'s medical and family issues had been resolved, and she and Turf did everything they could to have the children placed with them. The children had bonded with them and their son during all-day visits, and there was now a bedroom prepared for them, decorated on one side in a "Frozen" theme for C.M. and on the other in a SpongeBob theme for J.M.

Turf G. again represented that he was willing to control mother's access to the children and place boundaries on her behavior with them.

The juvenile court denied the petitions without a hearing, finding they presented no new evidence or sufficient change of

circumstances, and the proposed change would not be in the minors' best interests.

On January 22 and 26, 2016, the paternal grandparents filed section 388 petitions seeking placement of the children with Turf G. on the ground that children are better placed with relatives than in foster care. The juvenile court denied the petitions without a hearing, finding they presented no new evidence or change of circumstances, and the proposed change would not be in the minors' best interests.

On January 25, 2016, DCFS finalized the assessment of Turf G.'s home as compliant with the ASFA.

On February 17, 2016, the foster parents filed a request to be awarded de facto parent status. They represented they each spent 130 hours weekly seeing to the children's day-to-day needs, including their education, social network, and emotional and medical needs. Mother, father, the minors, and DCFS opposed the request.

On February 18, 2016, mother filed a section 388 petition seeking return of the children to her or resumption of reunification services. She apologized for abducting the children in 2014 and stated she had now completed a 90-day drug program and had tested negative seven times for drugs. The juvenile court denied the petition without a hearing, finding completion of a 90-day drug program was insufficient in light of the family history. The court invited mother to resubmit the petition with information from her therapist regarding the extent to which she no longer posed a risk to the children.

On February 19, 2016, Adrianne Ludwig, the adoptions case social worker, filed a section 388 petition on behalf of DCFS, recommending that the children be placed with Turf G. In it, the

department represented that all necessary prerequisites were now complete. Although DCFS acknowledged that the caregivers had taken "excellent care" of the children, it recommended they be placed with Turf because "[s]ocial science literature inclines that children in foster care fare better being raised by relatives." The trial court found that this issue had been fully addressed at the December 18, 2015 hearing, and denied the petition without a hearing and recommended that DCFS consider replacing Ludwig and her supervisor in the case.

On February 24, 2016, an adoption home study approved of Turf G.'s home.

On February 25, 2016, the paternal grandmother sent a handwritten letter to the juvenile court judge, Judge Zeidler, asking whether he "knew what happened in Denmark during WWII?" Judge Zeidler, who is Jewish, thought this was probably a reference to Hollanders rescuing Jews from the Nazis in World War II, probably sent to invoke his sense of gratitude, but at the direction of the presiding judge he referred the letter to the court's judicial protection unit.

On March 2, 2016, the children filed a section 388 petition in which they sought to continue an upcoming permanency planning hearing and hold an evidentiary hearing regarding placement with Turf G. They cited the adoption home study as a new circumstance and argued that Turf had sought placement of the children with him as early as July 2015, but DCFS neglected to assess him when seeking a suitable placement. The court initially indicated it would deny the continuance, but ultimately granted it.

On March 3, 2016, DCFS received 17 reference letters attesting to the excellent character of Turf and Denise G.

Administrators and teachers at the school where Turf worked as an instructional aide in a special education class described him as compassionate, genuine, loving, and highly devoted to the students under his care. And several friends and fellow church members praised the couple's patient, caring nature.

At a hearing on March 3, 2016, the juvenile court granted the foster caregivers' request to be awarded de facto parent status.

At 10:00 a.m. on the day of that hearing, mother sent text messages to the foster caregivers in which she stated, "you pickded [*sic*] the Wrong people to fuck with. I promise" and "Get ready for school bitches."

E. Permanency Planning and Second Appeal

During an unmonitored visit on March 27, 2016, Denise G. observed during a diaper change that C.M.'s vaginal area was "extremely red, irritated, and open." She reported this, and also reported that C.M. told her that one of the foster parents had given her a bruise that Denise observed on her cheek. A social worker inspected C.M. and saw nothing amiss, and the foster parents took her to a physician, who likewise found nothing.

On April 18, 2016, Turf G. filed a section 388 petition seeking placement of the children with him. The juvenile court denied the petition on the grounds that the request presented no change in circumstances and did not promote the best interests of the children.

On April 20, 2016, mother and father represented to the department that they wished to relinquish their parental rights in favor of Turf and Denise G.

On April 22, 2016 at the permanency planning hearing, mother requested a continuance to afford her an opportunity to

finalize relinquishment of her parental rights. The juvenile court denied the request.

Mother then requested that the children be returned to her. She testified she visited them once a week for two hours at a foster family agency office. They would eat snacks and play with the toys she brought, read, watch movies, sing songs, and cuddle. The children called her "Mommy," would run to her and hug and kiss her, and were sad when the visits ended. Mother admitted she did not participate in the children's therapy or medical evaluations.

The juvenile court found the children were adoptable and mother filled no parental role for them. The court also noted that when it denied placement with Turf G. in December 2015, it did so based on (1) his ASFA having not yet been finalized, (2) the length of time he deferred being assessed, and (3) the amount of time the children had been in their current placement. The court terminated parental rights and transferred custody to DCFS for purposes of adoption planning and placement.

Both parents appealed from this order as well. We consolidated the appeals. On July 5, 2017, Turf G. joined the appeals.

DISCUSSION

Mother and father contend (1) DCFS failed to timely assess placement of the twins with Turf and Denise G., (2) the juvenile court abused its discretion when it denied placement with them, (3) the court further abused its discretion when it refused on August 22, 2016 to continue the permanency planning hearing to afford the parents time to relinquish their parental rights in favor of Turf and Denise, and (4) the court committed misconduct.

I. Relative Placement Preference

When a child is removed from the physical custody of his or her parents pursuant to section 361, the department must contact and assess relatives desiring the child to be placed with them, and document these efforts in a social study report to be filed with the juvenile court. (§ 361.3, subd. (a).) "[P]referential consideration shall be given to a request by a relative of the child for placement of the child with the relative." (§ 361.3, subd. (a).) A "relative" for purposes of the relative placement preference includes a grandparent. (§ 361.3, subd. (c)(2).) "'Preferential consideration' means that the relative seeking placement shall be the first placement to be considered and investigated." (§ 361.3, subd. (c)(1).)

In determining whether placement with the relative is appropriate, the department shall consider, as pertinent here, the "best interest of the child, including special physical, psychological, educational, medical, or emotional needs," the wishes of the parents and the relative, the "good moral character of the relative and any other adult living in the home," the "nature and duration of the relationship between the child and the relative, and the relative's desire to care for and to provide legal permanency for, the child" and implement the case plan. (§ 361.3, subd. (a).)

"The intent of the Legislature is 'that relatives be assessed and *considered* favorably, subject to the juvenile court's consideration of the suitability of the relative's home and the best interests of the child.'" (*In re Isabella G.* (2016) 246 Cal.App.4th 708, 719.) "If the court does not place the child with a relative who has been considered for placement pursuant to this section,

the court shall state for the record the reasons placement with that relative was denied." (§ 361.3, subd. (e).)

Before a child can be placed in a relative's home, the juvenile court or department must initiate a criminal records check on anyone over the age of 18 who lives in the home or who may have significant contact with the child. (§ 361.4, subd. (b).) If the records check indicates the person has been convicted of a crime that would preclude licensure as a foster home, the child may not be placed in the home unless an exemption has been granted. (§ 361.4, subd. (d)(2).) If the department receives a request to waive the disqualifying conviction, it must evaluate whether the conviction was for an exemptible offense. (Health & Saf. Code, § 1522, subd. (g)(1).) If the offense is exemptible, the Director of Social Services (DSS) or its designee county may grant an exemption. (§ 361.4, subd. (d)(3)(A).) To grant an exemption, the DSS or county must have "substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child . . . ." (§ 361.4, subd. (d)(2).)

A. Standard of Review

We review whether DCFS failed timely to assess a relative's placement request under the substantial evidence test. (*In re H.G.* (2006) 146 Cal.App.4th 1, 12.) We review the juvenile court's determination regarding relative placement for abuse of discretion. "Such a determination, like decisions in custody cases, involves primarily factual matters and a judgment whether the ruling rests on a reasonable basis. . . . [Citations.] Broad deference must be shown to the trial judge. The reviewing court should interfere only '"if we find that under all the

evidence, viewed most favorably in support of the trial court's action, no judge could reasonably have made the order that he did.'"'" (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.)

B. Assessment of Turf G. was Delayed

Here, Turf and Denise G. indicated to the department in September 2013 that they were willing and able to take C.M. and J.M., although it appears that at a subsequent Team Decision Making meeting they deferred to placement with other relatives due to their own medical and family issues. They renewed their placement request almost two years later, in June 2015, when the children were returned from Arizona, but were unready at that time to be assessed for placement because Turf's old criminal conviction required a DSS (or county) waiver.

Beginning in June 2015, the department arguably failed to follow through in a timely manner with Turf G.'s criminal record exemption or to assess his home for placement. It delayed processing his application, failed to respond to communications from him and Denise G., and ultimately caused final ASFA approval to be delayed until early 2016. Once the waiver application was complete it was quickly granted, and once the ASFA evaluation was finally conducted their home was quickly approved, indicating that had the department been more diligent, Turf and the home likely would have been approved prior to the December 2015 hearing where placement with him was denied.

While the waiver and assessment process dragged on, two circumstances developed: The children were placed with foster parents who indisputably provided excellent care for them; and Turf and Denise enjoyed long, unsupervised visits with the children, bonded with them, and prepared their house to receive them.

C. The Juvenile Court Nevertheless Considered Relative Placement

However, any delay in assessing placement with Turf G. was harmless because at both the December 2015 hearing and thereafter, the juvenile court actually considered placing the twins with him, and the finalized assessment changed neither the factors gravitating in favor of him nor those gravitating against. (Cal. Const., art. VI, § 13 [only judgment resulting in a miscarriage of justice may be reversed]; *People v. Watson* (1956) 46 Cal.2d 818; *In re Joseph T.* (2008) 163 Cal.App.4th 787, 798; cf. *In re R.T.* (2015) 232 Cal.App.4th 1284, 1301 [error in § 361.3 proceedings evaluated for harmlessness].)

1. Relative Placement was Considered at the December 2015 Hearing

The court found at the December 2015 hearing that the interests of the children favored their staying with the foster caregivers. The minors were diagnosed with expressive language delay, which required consistent parental attention, which the caregivers provided. C.M. experienced severe separation anxiety when away from them, and her therapist and the twins' speech pathologist both stated that consistency in their placement would be essential to their progress. From this evidence the juvenile court reasonably concluded that the best interests of the minors would be served by their remaining with the caregivers, who had shown immediate and comprehensive responsiveness to their needs.

The court also considered the nature and duration of the relationship between the twins and Turf and Denise G., and found that Turf and Denise had made only belated efforts to obtain placement. This was a fair assessment. By December

2015, Turf and Denise had had five months of monitored and unmonitored visits with the children, including several eight-hour visits. We do not doubt this created a quality relationship. But in that same time the foster caregivers met the children's social, physical, and emotional needs on a daily and hourly basis. The juvenile court could reasonably conclude that the strength of the de facto parental relationship outweighed the relative relationship, and that the best interests of the children would not be served by removing them from this relatively long (to them) and successful placement.

Further, although Turf G. knew in September 2013 that mother could not care for the children, he did not seek placement with himself until almost two years later, in June 2015. But by then, the children had significant medical and emotional needs that only the foster parents were in a position immediately to meet.

Mother and father argue that Turf G. "requested placement at the earliest stage of the proceedings and again, prior to the disposition hearing." The parents forget that after seeking placement in September 2013, Turf deferred to other relatives for two years before reapplying for it in June 2015. We credit his explanation that other family members at first represented they would care for the twins and then failed both to do so or to communicate with him, but the court could reasonably conclude that a grandfather who for a year and a half allows himself to remain in the dark about the welfare of his admittedly endangered grandchildren has not shown particular diligence.

And although Turf G. represented that he was able to control mother and place boundaries on her access to the children, the record is to the contrary. Mother had a long history

of crimes and drug use. She flouted court orders at will, absconded with the twins for almost a year, attempted to obstruct the juvenile proceedings by threatening the foster caregivers, and continues to believe the best interests of the twins would be served by returning them to her. The court could reasonably conclude that Turf's control of mother and his ability to restrict her access to the children would be problematic.

Father, joined by mother, argues the juvenile court in fact failed to consider relative placement at the December 2015 hearing, apparently based on the court having stated that because the case was beyond the disposition stage, "in some ways, the relative preference doesn't—isn't in effect." But given that the court explicitly addressed relative placement and made express findings on the two contested (and in our view most important) factors—best interests of the children and duration and nature of their relationship with Turf G.—we reject the suggestion that relative placement was not considered.

2. Relative Placement was Considered in Ruling on Section 388 Petitions

The court also considered relative placement after the December 2015 hearing, when it reviewed multiple section 388 petitions seeking placement with Turf and Denise G. Some of these petitions described the significant efforts Turf and Denise had made since June 2015, as well as their good character, loving natures, and solicitude for and bonds with the children. The juvenile court never questioned their efforts and qualities, but nevertheless denied the petitions because they failed to set forth sufficient new circumstances to overcome its reasons for rejecting relative placement.

This was fair. In determining whether placement with a relative is appropriate, the primary consideration in our view is "the best interest of the child, including special physical, psychological, educational, medical, or emotional needs." Here, all parties acknowledged that the foster caregivers were exemplary in meeting the twins' physical, psychological, educational, medical and emotional needs. Although Turf and Denise G. could probably also meet most of those needs, there is one they indisputably could not meet: The children's need for stability. By December 2015, C.M. had already been in six placements and J.M. five. C.M. experienced severe anxiety when separated from the caregivers, and her therapists agreed that she needed consistency in her home environment. Placement with Turf and Denise would have interrupted this consistency.

Admittedly, other factors gravitated in favor of relative placement: The parents and relatives desired it; and Turf and Denise G. were of unquestioned good moral character and loving nature; and they strongly desired and were highly able to care and provide legal permanency for the children and implement the case plan. (§ 361.3, subd. (c)(2).)

But with factors weighing strongly on both sides (including the factor discussed above concerning the nature and duration of the respective relationships), we cannot conclude the juvenile court's decision to retain the children with their foster family was unreasonable. The relative placement preference is not a guarantee. (§ 361.3, subd. (a); *In re Sarah S.* (1996) 43 Cal.App.4th 274, 282.) Here, the record amply supports the court's finding that the preference was overridden.

II. Denial of a Continuance to Permit Relinquishment of Parental Rights

Mother and father contend the juvenile court abused its discretion by refusing to continue the permanency planning hearing to afford them an opportunity to relinquish their parental rights in favor of Turf and Denise G.

A. Relinquishment of Parental Rights

A birth parent may relinquish a child to a licensed adoption agency by a written statement signed before witnesses and acknowledged before an authorized official of the agency. (Fam. Code, § 8700, subd. (a).) "The relinquishing parent may name in the relinquishment the person or persons with whom he or she intends that placement of the child for adoption be made . . . ." (*Id*. at subd. (f).)

"[W]hen a minor is adjudged dependent, the court may limit the control to be exercised over the child by the parent. However, these limitations do 'not limit the ability of a parent to voluntarily relinquish his or her child to . . . a licensed county adoption agency at any time while the child is a dependent child of the juvenile court . . . ." (*In re B.C.* (2011) 192 Cal.App.4th 129, 146.) "[W]hen a voluntary relinquishment becomes final before the . . . section 366.26 hearing, the relinquishment precludes the court from proceeding with the hearing." (*Id*. at p. 145.)

However, "a designated relinquishment will not always result in the child's being placed for adoption in the home of the designated adoptive parent, or eventual adoption by said individual." (*In re B.C.*, *supra*, 192 Cal.App.4th at p. 146.) "[I]f placement with an available relative is not in the child's best interest . . . the foster parent or parents of the child shall be considered with respect to the child" if "(1) The child has been in

foster care with the foster parent or parents for a period of more than four months. [¶] (2) The child has substantial emotional ties to the foster parent or parents. [¶] (3) The child's removal from the foster home would be seriously detrimental to the child's well-being. [¶] [and] (4) The foster parent or parents have made a written request to be considered to adopt the child." (*Id.* at p. 147; Fam. Code, § 8710, subd. (a).)

B. Good Cause is Required for a Continuance

Any juvenile court hearing may be continued upon a showing of good cause, "provided that no continuance shall be granted that is contrary to the interest of the minor. In considering the minor's interests, the court shall give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements." (§ 352, subd. (a).) An order denying a continuance is reviewed for abuse of discretion. (*In re Gerald J.* (1991) 1 Cal.App.4th 1180, 1187.) A juvenile court abuses its discretion if its decision is arbitrary, capricious or patently absurd. (*In re Tamneisha S.* (1997) 58 Cal.App.4th 798, 806.)

C. The Juvenile Court did not Abuse its Discretion in Denying a Continuance

Here, the section 366.26 hearing was scheduled for April 22, 2016, two and a half years after the initial detention and almost one year after the parents' conduct occasioned the department's section 342 petitions. The hearing was thus long delayed, by which time the juvenile court had already denied reunification and, on multiple occasions, denied the very relief mother and father sought in their relinquishments, placement with Turf and Denise G.

The purpose of the hearing was to determine whether mother's and father's parental rights should be terminated and, if so, where the twins should be placed, both issues to be resolved according to the children's best interests. (§ 366.26, subd. (h)(1).) But "it is *not* within a child's best interests to continue an already much-delayed Welfare and Institutions Code section 366.26 hearing in order to enable a parent to complete a last-minute 'end-run' around an anticipated termination of parental rights." (*In re B.C.*, *supra*, 192 Cal.App.4th at p. 145.)

Mother's and father's requests for a continuance to relinquish parental rights in favor of Turf and Denise G. can be seen as nothing but an end run around the juvenile court's prior orders and the anticipated termination of parental rights. Their decision came very late in the proceedings, just two days before the permanency planning hearing that itself was long delayed. And the decision was not motivated by the parents' evaluation of the twins' best interests but by their desire that mother maintain contact with the children, as evidenced by her section 388 petition filed two months before, in which she sought return of the children to her.

Although parents may prevent the juvenile court from proceeding with an involuntary termination by relinquishing parental rights, here, the court had no discretion to grant a continuance to enable them to complete the relinquishment where doing so would foreclose a long-delayed permanency planning hearing and circumvent the court's repeated finding that placement with Turf and Denise G. would not be in the twins' best interests.

Mother argues the section 366.26 hearing in this case had not been long delayed, but was continued only twice, for a total of

48 days. Given the history of this case and mother's yearlong sojourn in Arizona, this argument merits no consideration.

D. Placement

Father, joined by mother and Turf G., contends the juvenile court abused its discretion by failing at the permanency planning hearing to consider placing the twins with Turf and Denise G.

The parents have no standing to challenge the twins' placement at the section 366.26 hearing. "A parent's appeal from a judgment terminating parental rights confers standing to appeal an order concerning the dependent child's placement only if the placement order's reversal advances the parent's argument against terminating parental rights." (*In re K.C.* (2011) 52 Cal.4th 231, 238.) Here, placement with Turf and Denise G. would not advance the parents' argument against terminating parental rights because Turf and Denise were seeking either to adopt the twins or take guardianship over them, to the exclusion of mother and father. (See *In re Isaiah S.* (2016) 5 Cal.App.5th 428, 436 [court will not speculate whether relatives seeking adoption will follow through with it].)

In any event, as discussed above, the juvenile court many times considered placing the twins with Turf and Denise G.

III. Judicial Misconduct

Father, joined by mother, contends the juvenile court committed a number of acts of misconduct in the March 3 and April 22, 2016 hearings, exhibiting "overt bias" in favor of the de facto parents. For example, when discussion touched on the status or actions of interested persons, the judge made direct inquiry of both of them, if they happened to be in the audience, and of counsel. And when attorneys opposed the foster caretakers' request for de facto parent status and also sought

continuances, the judge questioned them closely in a "harassing and intimidating" manner.

Mother and father forfeited these contentions by failing either to object to the court's conduct below or to file a challenge to Judge Zeidler pursuant to Code of Civil Procedure section 170.1. "A party on appeal cannot successfully complain because the trial court failed to do something which it was not asked to do . . . ." (*In re Cheryl E.* (1984) 161 Cal.App.3d 587, 603.) At any rate, we have read the transcripts and perceive nothing extraordinary about Judge Zeidler's conversations with interested persons and counsel. A trial court has inherent power and broad discretion to regulate its proceedings and officers. (Code Civ. Proc., § 128, subd. (a); *People v. Miller* (1960) 185 Cal.App.2d 59, 77.) The court properly exercised that discretion and power here.

DISPOSITION

The juvenile court's orders are affirmed.

NOT TO BE PUBLISHED.

CHANEY, J.

I concur:

LUI, J.

I will be filing a dissent.

ROTHSCHILD, P. J.