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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B238252
(Los Angeles County
Super. Ct. No. CK81467)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.B.,

Objector and Appellant.

APPEAL from orders of the Superior Court of the County of Los Angeles,
Rudolph Diaz, Judge. Affirmed.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Objector and
Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County
Counsel, and Angela Williams, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

D.B. (mother) appeals from the juvenile court's orders terminating her parental rights under Welfare and Institutions Code section 366.26.¹ Mother contends that the juvenile court erred in failing to find the parental visitation exception to the termination of parental rights under section 366.26, subdivision (c)(1)(B)(i). The juvenile court did not err.

FACTUAL AND PROCEDURAL BACKGROUND

On March 12, 2010, the Department filed a detention report stating that in February, 2010, then three-year-old A.H, six-year-old Y.H, and nine-year-old H.H (collectively, the children), came to the attention of the Department of Children and Family Services (Department) because it was reported that a narcotic raid was conducted at the children's home and large amounts of methamphetamine and cocaine were recovered at the premises, and mother possessed \$3,000 in cash. Mother was arrested by the Los Angeles Police Department. Father had been incarcerated for possession of cocaine.² According to the detention report, upon release from detention, both parents will be deported to Mexico.

The March 12, 2010, detention report provided that A.H. said that she had been well-fed and clean in her parents' care, and H.H. said she had been well-fed, clean, and attended school regularly. H.H. said that she was aware that drugs were in the house and where they were located and would see the parents hide it. Y.H. refused to speak with the children's social worker (CSW) regarding the substance abuse in the home. Mother said she did not know why she was arrested, and she and the children were unaware of drugs in the home. Father said that he had been arrested three times in 2010 for drug related offenses, including for being under the influence of drugs. The children were

¹ All statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² Father is not a party to this appeal.

initially placed with the paternal aunt and uncle, but because on March 9, 2010, the Department learned that the paternal uncle had been arrested for possession of an unregistered handgun, and the parents had not provided the Department with written authorization for the paternal aunt and uncle to care for the children, the Department removed the children from the paternal aunt and uncle's home and placed them in foster care.

On March 12, 2010, the Department filed a petition under section 300, subdivisions (a), (b), and (j) alleging that father physically abused H.H., mother failed to protect H.H. from father's physical abuse, the parents established a detrimental home environment for the children because the parents possessed methamphetamine and cocaine in the home within access of the children, father abused cocaine, and mother failed to protect the children from father's cocaine abuse.

At the March 2010, detention hearing, the juvenile court found a prima facie case for detaining the children and ordered that they remain in foster care and the Department had discretion to release them to any appropriate relative. In March 2010, and June 2010, the juvenile ordered that the parents were to have monitored telephone visits with the children. In August 2010, the juvenile court ordered that the children be placed back in the home of parental aunt and uncle.³ In September 2010, father plead no contest to the petition allegations.

At the November 2010, adjudication hearing, mother waived her rights to a court trial, and the juvenile court sustained the petition, as amended, regarding

³ The Department's jurisdiction/disposition report, which was not admitted into evidence at the October 12, 2011, contested permanency planning hearing, states that the Department received documents evidencing that no charges had been filed against the paternal uncle in connection with his arrest for possession of an unregistered handgun, and the paternal uncle said he explained to the police that he has been robbed three times and he had wanted to protect his family. According to the paternal uncle, the firearm had been confiscated by the police.

father's physical abuse of H.H., mother's failure to protect H.H. from father's physical abuse, the detrimental home environment because the parents possessed methamphetamine and cocaine in the home, father's abuse of cocaine, and mother's failure to protect the children from father's cocaine abuse. At the November 2010, disposition hearing, the juvenile court ordered no family reunification services for parents, and monitored visits between the parents and the children, and set the matter for hearing to select a permanent plan.

On March 14, 2011, the Department filed a "366.26 WIC report" [Welfare and Institutions Code report] stating that mother was incarcerated, and had been sentenced to state prison for a term of four years. Mother and father had "a hold for immigration deportation."

According to the report, paternal aunt indicated that she was devoted to adopting the children and making them a permanent part of her family. The children seemed to be doing well under paternal aunt's care and supervision, and the Department recommended adoption as the permanent plan for the children. The children were adoptable as they were emotionally stable, healthy, and had no developmental delays or physical limitations. Paternal aunt and uncle's home study was pending. On occasion, H.H. would avoid the subject of adoption.

On September 12, 2011, the Department filed a last minute information for the court report stating that the adoption home study for paternal aunt and uncle had been approved. Also on September 12, 2011, the Department filed a status review report stating that the children continue to live with paternal aunt and uncle. The children have adjusted well with living with them, expressed that they were happy living with their maternal aunt and, according to the report, paternal aunt "provide[d] a nurturing environment for the children" The social worker observed a "strong bond" between paternal aunt and Y.H. and A.H. According to the report, "The children's placement is appropriate as they are all receiving excellent care." Paternal aunt discussed the children's school report cards with them, and the report detailed the children's completion of house chores. The children's needs were being met, including their

educational and therapy needs, and they have been provided with timely and appropriate medical and dental care.

The report stated that H.H. said she wanted to be adopted, “but I also want to see my parents.” Y.H. said he was happy, but that he also missed his parents and he liked to speak with mother on the telephone. H.H. and Y.H. created a Mother’s Day card for both mother and paternal aunt. H.H. and Y.H. showed excitedly pictures of their parents and when H.H and Y.H. were younger to the social worker, and the social worker stated that they had many good memories to share. Paternal aunt facilitated “regular” telephone contact between the children and mother. On April 26, 2011, the children had a face-to-face visit with mother at juvenile court, and the report stated that the social worker would facilitate a face-to-face visit between the children and mother at the county jail on September 9, 2011.

In September 2011, the juvenile court identified adoption as the appropriate permanent plan. On October 12, 2012, the Department filed a 366.26 WIC report, stating that H.H. said that when she lived with her parents, the children did not have an established bedtime and they often went to bed after midnight. As a result, H.H. was often “too tired” to go to school the next morning. H.H. also said that her parents argued about her father’s girlfriend, and the arguments often resulted in mother taking the children from the home to spend the night in a hotel.

The report stated that both H.H. and Y.H. were receiving therapy to address case issues, the loss of their parents due to incarceration, and possible adoption by the caregivers. H.H. and Y.H. understood what adoption meant and they said that they wanted to be adopted by the parental aunt and uncle. H.H. said she looks forward to being adopted by paternal aunt and uncle because they took care of her and were doing a good job of raising her and her siblings. H.H. explained that they played with her, helped her with her homework, taught her how to do chores, and established a bedtime of 8:30 p.m. for her. She said she wanted to remain with paternal aunt and uncle because she did not want to live in Mexico, and that Mexico was “scary and too dangerous.” Y.H. stated that adoption meant that he would be able to stay with paternal aunt and uncle. Y.H. also

stated that adoption meant, “I’m losing my parents,” but according to the report he “went on to say that he likes living with [paternal aunt and uncle] and would like to be adopted by them.” Y.H. stated that adoption was a “good thing” because it makes him feel happy. He said paternal aunt and uncle take good care of him and “put him to sleep at the right time.” A.A. said she likes living with paternal aunt and uncle and she often refers to paternal aunt as “mami.”

According to the report, on September 10, 2011, the social worker facilitated a face-to-face visit between the children and mother at the county jail. When the social worker asked mother about her wishes concerning adoption of the children, mother responded, “I know that [paternal aunt] has been taking good care of my children, and I know she would be the best one to have them.” The report stated that it was likely that the children would be adopted.

At the October 12, 2011, contested permanency planning hearing, mother waived her appearance. The juvenile court admitted into evidence the March 12, 2010, detention report, the March 14, 2011, 366.26 WIC report, the September 12, 2011, status review report, the September 12, 2011, last minute information for the court report, and the October 12, 2012, 366.26 WIC report.

At the October 12, 2011, hearing, the Department argued that there was clear and convincing evidence that the children were adoptable, and it was mother’s burden to prove that an exception to adoption existed. The children’s counsel stated, “Your Honor, I agree with the Department. I know that the children love their parents very much and have a close bond with their mother, but I believe in this case, stability and permanency outweighs that. And I have spoken to [the children] about it, and they have stated in the most recent report, as well, that they would like to be adopted by [paternal aunt and uncle].

At the hearing, mother’s counsel argued that the parental visitation exception to the termination of parental rights under section 366.26, subdivision (c)(1)(B)(i) applied, and requested that the juvenile court order a legal guardianship instead of terminating parental rights. The juvenile court stated, “ I’m going to deny mom’s request. [¶] These

parents put these children at great risk. Apparently, they had been engaged in substantial trafficking in drugs, and they put them at such risk, and they ran the risk themselves, but they decided to do so, and they were going to be detained and in this case they're both subject to deportation, father has been deported already, and the same is going to happen to mom, most likely. [¶] The children are entitled to permanency. That is the objective of the system, and it appears that they're stable and they have someone who's going to give them the appropriate care." The juvenile court terminated mother's parental rights and found that the children were adoptable.

DISCUSSION

Mother contends that the juvenile court erred in failing to find the parental visitation exception to the termination of parent rights under section 366.26(c)(1)(B)(i). The juvenile court did not err.

A. Standard of Review

Some courts have held that challenges on appeal to a juvenile court's determination under section 366.26(c)(1)(B)(i) are governed by a substantial evidence standard of review. (See, e.g., *In re Mary G.* (2007) 151 Cal.App.4th 184, 207; *In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53, fn. 4.) Under a substantial evidence standard of review "“the power of an appellate court begins and ends with a determination as to whether there is any substantial evidence, contradicted or uncontradicted,” to support the findings below. [Citation.] We must therefore view the evidence in the light most favorable to the prevailing party, giving it the benefit of every reasonable inference and resolving all conflicts in its favor in accordance with the standard of review so long adhered to by this court.' [Citation.]" (*Bickel v. City of Piedmont* (1997) 16 Cal.4th 1040, 1053; accord, *In re Mary G.*, *supra*, 151 Cal.App.4th at p. 206.) We do not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. (*In re Casey D.*, *supra*, 70 Cal.App.4th at pp. 52-53.) If supported by substantial evidence, the judgment or finding must be upheld, even though substantial

evidence may also exist that would support a contrary judgment and the dependency court might have reached a different conclusion had it determined the facts and weighed credibility differently. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Other courts have applied an abuse of discretion standard of review. (See, e.g., *In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449; *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351.) Under an abuse of discretion standard of review, we will not disturb the juvenile court's decision unless the juvenile court exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.) In this case, we need not decide whether a juvenile court's ruling on the section 366.26(c)(1)(B)(i) exception is reviewed for substantial evidence or abuse of discretion, because, under either standard,⁴ we affirm the juvenile court's decision.

B. Applicable Law

The parental visitation exception in section 366.26(c)(1)(B)(i) provides that parental rights will not be terminated and a child freed for adoption if parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” Application of the parental visitation exception requires a two-prong analysis. (*In re Aaliyah R.*, *supra*, 136 Cal.App.4th at pp. 449-450.) The first is whether there has been regular visitation and contact between parent and child. (*Id.* at p. 450.) The second is whether there is a sufficiently strong bond between parent and child that the child would suffer detriment from its termination. (*Ibid.*) The parent/child relationship must promote “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 other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the

⁴ “The practical differences between the two standards of review are not significant.” (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.)

child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575; *In re Dakota H.*, *supra*, 132 Cal.App.4th at p. 229.) The visitation exception does not apply when a parent fails to occupy a parental role in his child's life. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350; *In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419; *In re Casey D.*, *supra*, 70 Cal.App.4th at p. 51.)

Parents bear the burden of establishing that the visitation exception to termination of parental rights applies. (*In re Zachary G.* (1999) 77 Cal.App.4th 799, 809.) A relationship sufficient to support the visitation exception “aris[es] from day-to-day interaction, companionship and shared experiences.” (*In re Casey D.*, *supra*, 70 Cal.App.4th at p. 51.) “[T]o establish the exception in section 366.26, subdivision (c)(1)(A), parents must do more than demonstrate ‘frequent and loving contact’ [citation], an emotional bond with the child, or that the parents and child find their visits pleasant. [Citation.]” (*In re Andrea R.* (1999) 75 Cal.App.4th 1093, 1108.) A parent must show that a benefit to the child from continuing the relationship would result. (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 207; *In re Derek W.* (1999) 73 Cal.App.4th 823, 826-827.) “The parent must show he or she occupies a parental role in the child's life, resulting in a significant, positive, emotional attachment between child and parent. [Citations.]” (*In re Mary G.*, *supra*, 151 Cal.App.4th at p. 207; see *In re Helen W.* (2007) 150 Cal.App.4th 71, 80-81; *In re Beatrice M.*, *supra*, 29 Cal.App.4th at pp. 1416-1418.)

Whether the exception applies is determined “on a case-by-case basis, taking into account the many variables which affect a parent/child bond. The age of the child, the portion of the child's life spent in the parent's custody, the ‘positive’ or ‘negative’ effect of interaction between parent and child, and the child's particular needs are some of the variables which logically affect a parent/child bond.” (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.)

C. Analysis

There was substantial evidence⁵ to support the juvenile court's conclusion that mother failed to meet her burden of establishing that the parental visitation exception to the termination of her parental rights applies. (*In re Zachary G.*, *supra*, 77 Cal.App.4th at p. 809.) Regarding the first prong of the exception—maintenance of regular contact and visitation—mother was absent from the children's life for approximately 19 months. Although the Department reported that paternal aunt facilitates “regular” telephone contact between the children and mother, mother did not cite to any evidence in the record of the frequency, duration, or quality of that telephone contact or of the monitored visits between the children and mother. There is substantial evidence that mother failed to meet her burden of establishing the first prong of the exception.

Regarding the second prong—that the children would benefit from continuing the relationship—substantial evidence establishes that mother's relationship with them did not promote their well-being “to such a degree as to outweigh the well-being the child would gain in a permanent home with [a] new, adoptive parent[. . .]’ [Citation.]” (*In re Autumn H.*, *supra*, 27 Cal.App.4th 567 at p. 575; *In re Dakota H.*, *supra*, 132 Cal.App.4th at p. 229.) When the children were in mother's care, she put them at great risk. Mother exposed the children to a drug-abusing lifestyle, and mother failed to protect H.H. from father's physical abuse of her. Mother also did not provide the children with an established bedtime; they often went to bed after midnight, and H.H. said this often caused her to be “too tired” to go to school the next morning. Mother also often took the children from the home to spend evenings in a hotel because mother had argued with father. There is no evidence in the record that mother's situation has improved.

At the time the juvenile court terminated mother's parental rights, mother was incarcerated and was subject to deportation to Mexico. H.H. said she wanted to remain with paternal aunt and uncle because she did not want to live in Mexico, and that Mexico

⁵ Although referenced by both mother and the Department in their appellate briefs, we do not consider the reports by the Department not admitted into evidence at the contested permanency planning hearing.

was “scary and too dangerous.” For approximately 14 months the children had settled into the home of the paternal aunt and uncle. As argued by the children’s attorney at the hearing terminating mother’s parental rights, although there is evidence that the children love mother, the children are entitled to permanency by terminating the parents’ parental rights and allowing the children to be adopted by paternal aunt and uncle who will give them appropriate care.

Mother failed to establish that she had a parental relationship with the children that would benefit them significantly enough to outweigh the strong preference for adoption. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) The conclusion reached by the juvenile court that no compelling reason existed to conclude termination of parental rights would be detrimental is amply supported by substantial evidence and not an abuse of discretion.

Mother relies on *In re S.B.* (2008) 164 Cal.App.4th 289 to support her contention that she maintained a significant relationship with the children. In that case, the juvenile court determined that the parental relationship exception did not apply because the relationship between the child and her father was not parental in nature and there was no evidence that terminating the relationship would be greatly detrimental to the child. (*Id.* at p. 296.) The appellate court reversed, noting that the juvenile court had found that the child and her father had “frequent and loving visits” and shared “an emotionally significant relationship.” (*Id.* at p. 298.) In addition, the undisputed evidence demonstrated that the father had “maintained a parental relationship with [the child] through consistent contact and visitation. His devotion to [the child] was constant, as evinced by his full compliance with his case plan” (*Id.* at pp. 300.) When the child was removed from father’s custody, he “immediately recognized that his drug use was untenable, started services, maintained his sobriety, sought medical and psychological services, and maintained consistent and regular visitation with S.B. He complied with ‘every aspect’ of his case plan.” (*Id.* at p. 298.)

In re S.B., *supra*, 164 Cal.App.4th 289, is not dispositive of this case. As one appellate court observed, “The *S.B.* opinion must be viewed in light of its particular facts.

It does not, of course, stand for the proposition that a termination order is subject to reversal whenever there is ‘some measure of benefit’ in continued contact between parent and child.” (*In re Jason J.* (2009) 175 Cal.App.4th 922, 937.) In this case, unlike *In re S.B.*, the juvenile court did not find that mother and the children enjoyed “frequent and loving visits” or shared “an emotionally significant relationship.” (*In re S.B.*, *supra*, 164 Cal.App.4th at p. 298.) Mother did not provide evidence concerning the frequency, duration, or quality of her telephone contact or monitored visits with the children. In addition, there is no evidence in the record that mother recognized the impropriety of possessing methamphetamine and cocaine in the home within access of the children, failing to protect the children from father’s abuse of cocaine, or failing to protect H.H. from father’s physical abuse. Mother also failed to establish that she had undergone counseling to address case issues, including possession and use of illicit drugs and domestic violence.

In re C.B. (2010) 190 Cal.App.4th 102, cited by mother, is also inapplicable. In that case, the juvenile court found that the parent-child relationship exception of section 366.26(c)(1)(B)(i) did not apply because the prospective adoptive parents said that they were willing to allow the biological parent to have continued visitation and contact with the children. (*Id.* at p. 119.) The court reversed, reasoning that, “[I]f a juvenile court determines that a parent has ‘maintained regular visitation and contact’ (§ 366.26, subd. (c)(1)(B)(i)), that there is a ‘substantial, positive emotional attachment’ between child and parent benefitting the child (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575), and that the benefit from continuing that parent-child relationship in a tenuous placement ‘promotes the well-being of the child to such a degree as to outweigh’ the benefit that child would gain from the stability and permanency of adoption (*ibid.*), then the parent-child relationship exception is established. In those circumstances, the court cannot nevertheless terminate parental rights based upon an unenforceable expectation that the prospective adoptive parents will voluntarily permit future contact between the child and a biological parent, even if substantial evidence supports that expectation. The purpose of the parent-child relationship exception is to protect the parent-child relationship when

its continuation is more beneficial to the dependent child than a permanent plan of adoption and, in such case, a court cannot leave the protection of such a relationship dependent upon the hoped-for goodwill of the prospective adoptive parents.” (*Id.* at pp. 128-129.) Here, unlike in *In re C.B.*, the juvenile court did not terminate mother’s parental rights because of evidence that the prospective adoptive parents will voluntarily permit future contact between the children and mother.

Mother contends that the juvenile court should have ordered legal guardianship as the appropriate permanent plan for the children instead of terminating mother’s parental rights. We disagree.

Under section 366.26, the statutory preference is to terminate parental rights and order the child placed for adoption. (§ 366.26, subd. (b)(1).) “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.’ [Citation.] ‘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.’ [Citation.]” (*In re Celine R.* (2003) 31 Cal.4th 45, 53.)

In support of her contention that the juvenile court should have ordered legal guardianship as the appropriate permanent plan for the children, mother relies upon *In re Scott B.* (2010) 188 Cal.App.4th 452. In that case, the court reversed the juvenile court’s order terminating the mother’s parental rights, holding that compelling reasons existed to apply the parental visitation exception to termination of parental rights. (*Id.* at pp. 471-473.) The court remanded the matter to the juvenile court suggesting that the juvenile court order legal guardianship as the appropriate permanent plan for Scott B. (*Id.* at pp. 471-473.)

In re Scott B., *supra*, 188 Cal.App.4th 452, is distinguishable. There, the minor child suffered from attention deficit hyperactivity disorder and autism, needed special education services, had behavior problems at school, had problems interacting with his peers, and had bladder control issues. (*Id.* at pp. 455.) He lived with his mother for

nearly nine years. (*Id.* at p. 471.) The mother visited consistently after the child was removed from her care, and the child was always clear in his desire to live with the mother. (*Id.* at pp. 456-457.) When the child learned he might be adopted, his behavior regressed to growling and biting. (*Id.* at p. 458.) He was adamant at the section 366.26 hearing that he no longer wished to be adopted. (*Id.* at p. 464.)

In reversing the order terminating parental rights, the court in *In re Scott B.*, *supra*, 188 Cal.App.4th 452 reasoned: “Mother provides stability to Scott’s life. That is what adoption is supposed to do, but it may not in this case. Given Scott’s strong emotional attachment to Mother, his continued precarious emotional state, and his history of regressing and running away when he is stressed, there is a very good chance that he will have a meltdown if his usual frequent visitation with Mother does not continue. The only way to avoid that serious emotional and developmental setback and ensure that Scott’s usual visitation with Mother continues is by court order.” (*Id.* at p. 472.) The court agreed with the Department’s statement that “‘what is at stake is the fundamental question of whether Scott will continue to thrive, as he has done since being placed with [his foster mother].’ Termination of parental rights is unnecessary given that a legal guardianship will provide Scott with stability in his life.” (*Ibid.*, fn. omitted.)

The parent in *In re Scott B.*, *supra*, 188 Cal.App.4th 452 met the standard that to overcome the preference for adoption and avoid termination of the natural parent’s rights, by “showing that severing the natural parent-child relationship would deprive the child of a *substantial*, positive emotional attachment such that the child would be greatly harmed.” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 466.) There was substantial evidence that Scott was at risk of suffering a serious emotional and developmental setback if he were no longer able to see his mother. As the father’s counsel stated in *In re Scott B.*, *supra*, 188 Cal.App.4th 452, that case was “‘one of those rare cases’ where a parent [had] overcome the Legislature’s preference for adoption and demonstrated a statutory exception to termination of parental rights” (*In re Scott B.*, *supra*, 188 Cal.App.4th at p. 467.) The same cannot be said here.

Here, the juvenile court reasonably determined, and substantial evidence showed, that terminating parental rights and discontinuing mother's relationship with the children would not be detrimental to them. Unlike Scott, the children here are not emotionally fragile with social difficulties and developmental special needs, and there is no indication that the children will suffer an emotional or developmental setback if parental rights are terminated.

Mother also cites *In re Brandon C.* (1999) 71 Cal.App.4th 1530 in support of her contention that the juvenile court should have ordered legal guardianship instead of terminating her parental rights. *In re Brandon C.* does not assist mother. In that case, the appellate court affirmed a finding that the beneficial parental relationship exception applied. Here, on the other hand, the issue is whether the evidence supports a finding that the exception to adoption did not apply. And, as noted above, mother failed to show that an exception to termination of parental rights applies.

Mother failed to establish that she had a parental relationship with the children that would benefit them significantly enough to outweigh the strong preference for adoption. (*In re Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) The children are entitled to permanency by terminating mother's parental rights and allowing the children to be adopted. There is sufficient evidence that the children's adoption by the paternal aunt and uncle was appropriate. The children lived with the paternal aunt and uncle for approximately 14 months, and the children benefited from the stable, safe, loving, and nurturing environment they received from the paternal aunt and uncle. The paternal aunt and uncle stated that they loved the children and were willing to provide them with a permanent home by adopting them. Mother stated that paternal aunt had been taking good care of the children and, concerning adoption, maternal aunt is "the best one to have [the children]." On September 12, 2011, the Department reported that the paternal aunt and uncle's adoption home study had been approved. The children are adoptable.

DISPOSITION

The juvenile court's orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MOSK, J.

We concur:

TURNER, P. J.

ARMSTRONG, J.