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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re J.N. et al., Persons Coming
Under the Juvenile Court Law.

B347002

(Los Angeles County
Super. Ct. No. 22LJJP00269A–B)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.R.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Jennifer Baronoff, Juvenile Court Referee. Affirmed.

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

Dawyn R. Harrison, County Counsel, Kim Nemoy,
Assistant County Counsel, Bryan Mercke, Deputy County
Counsel, for Plaintiff and Respondent.

Appellant C.R. (mother) appeals from juvenile court orders terminating her parental rights over minor children J.N. and I.N. (the children). We affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prior DCFS history

Between January 2019 and December 2021, the Department of Children and Family Services (DCFS) received four reports that mother generally neglected J.N. and/or I.N., and two reports that mother neglected and abused one or both children. The reports were closed as unfounded or inconclusive.

In March 2022, mother called the child protection hotline and asked DCFS to take care of J.N. Mother explained that the children overwhelmed her and that she was unable to take care of J.N., who had special needs, because he was “a handful.” After speaking with mother, DCFS deemed allegations of general neglect substantiated. Mother agreed to engage in a voluntary family maintenance plan.

II. Welfare and Institutions Code section 300 petition¹

On July 4, 2022, DCFS received a report that mother attempted to commit suicide by taking Oxycodone pills while at home with the children. J.N. was three years old at the time, and

¹ All further undesignated statutory references are to the Welfare and Institutions Code.

I.N. was 19 months old. A sheriff's deputy responded and detained the children. After the children were medically cleared, they were moved to a transitional shelter care program.

DCFS filed a section 300 petition as to the children on July 6, 2022. The petition alleged that mother had a history of mental and emotional problems, that she failed to make a plan for the children when she attempted to commit suicide, and that this conduct endangered the children's safety and placed them at risk of serious physical harm, damage, and danger.

At the July 7, 2022 detention hearing, the juvenile court temporarily removed the children from mother. A few days later, the children were placed in a foster home.

At the August 23, 2022 adjudication hearing, the court sustained the petition and ordered that the children remain under DCFS supervision. It ordered reunification services and monitored visitation for mother.

At the November 4, 2022 dispositional hearing, the juvenile court removed the children from mother. It ordered mother to continue to participate in reunification services. Mother's case plan included weekly and random drug and alcohol testing, a developmentally appropriate parenting program, individual counseling to address case issues, and a psychological evaluation. The court ordered monitored visits with the children three times per week for three hours per visit.

III. Six-month review hearing

In January 2023, the children were placed in a resource family home. A DCFS social worker observed that the children felt comfortable with their new caregivers. J.N. began biweekly therapy sessions at the end of January 2023. In March 2023,

J.N. “was referred to the Regional Center due to hyperactivity and speech concerns.”

Mother completed a developmentally appropriate parenting class at the end of January 2023. She attended weekly individual counseling most weeks between July and September 2022, but then stopped participating in services. She resumed individual therapy with another provider in March 2023. Mother began family therapy in March 2023. In late March 2023, mother told a DCFS social worker that she had completed a psychological evaluation, but by the time of the six-month review hearing, the psychiatrist had not confirmed this was accurate. Mother failed to attend all 21 weekly drug tests scheduled between November 2022 and March 2023.

DCFS reported that mother was “not . . . consistent with visits” between November 2022 and May 2023. Although the court had granted mother nine hours of monitored visitation per week, mother asserted that she was available only on Saturdays for two or three hours. Mother visited with the children only four times during this six-month timeframe, and she chose to end two of the visits one hour early. During a February 2023 visit, the children “exclaimed ‘mommy’ ” when their caregiver arrived. Near the end of an April 2023 visit, J.N. stated that he did not want the visit to end and that he wanted to go home with mother.

At the May 8, 2023 six-month review hearing, the juvenile court determined that continued jurisdiction was necessary because returning the children to mother would create a substantial risk of detriment. It found that mother’s progress was unsubstantial and ordered continued reunification services. The court also ordered a parent-child interaction therapy (PCIT) referral for mother.

IV. 12-month review hearing

Over the following six-month period, the children remained in the same resource family home. A DCFS social worker observed that they were happy and playful in the home. The children bonded with their caregivers and called them “ ‘ma’ and ‘pa.’ ” Both children participated in mental health services and attended daycare three days per week.

Mother continued to participate regularly in individual therapy between May and September 2023. DCFS took steps to identify a PCIT program, but as of September 2023, it had not identified any available program. Mother did not consistently participate in drug and alcohol testing during this period. DCFS reported that mother was inconsistent with visitation between May and September 2023. According to DCFS, mother visited with the children once per week “[f]or a period,” but she eventually asked to visit only every other week. DCFS reported that although mother had bonded with the children, she failed to demonstrate “the ability to engage the children during visits.”

On June 15, 2023, mother reported to a DCFS social worker that she had been arrested after a domestic violence incident with her fiancé. The social worker believed mother “minimize[ed] the incident” and did not fully appreciate its gravity. During a subsequent conversation mother “appeared to recognize that the incident was severe,” and she told the social worker that she had ended her relationship with the now-ex-fiancé. On June 25, 2023, mother went to her ex-fiancé’s home with a friend to retrieve some clothes, and he physically attacked her. The DCFS social worker expressed concern that these incidents might endanger the children if they were returned to mother’s care.

At the September 11, 2023 12-month review hearing, the court again determined that continued jurisdiction over the children was necessary, and again found that mother's progress was unsubstantial.

V. 18-month review hearing

DCFS reported that the children continued to bond with their caregivers between September 2023 and February 2024. The children continued to participate in mental health services and daycare.

According to DCFS, mother visited with the children more consistently during this timeframe. DCFS further reported that mother bonded and engaged with the children more effectively and made a greater effort. By December 2023, DCFS liberalized mother's visits to hybrid unmonitored visitation.

Mother was scheduled for 10 drug tests between September and December 2023. She missed six tests, tested positive for marijuana three times, and tested negative once. During a January 17, 2024 visit, a DCFS social worker reminded mother of the importance of drug testing consistently. Mother "became very upset and angry."

On January 24, 2024, maternal grandmother informed a DCFS social worker that mother had reunited with her ex-fiancé, with whom she had two violent altercations in 2023. Maternal grandmother also provided a video of mother from January 14, 2024. The video depicted a man driving a vehicle with mother in the passenger seat. Mother was crying and cursing. She attempted to grab the steering wheel three times and stated, "I'll make us crash.'" The social worker spoke to mother about the video on February 3, 2024. Mother initially denied that she had reunited with her ex-fiancé and claimed the video was old,

but she eventually accepted that it was created in January 2024. Mother avoided discussing the video and accused maternal grandmother of “trying to sabotage her.” The social worker advised mother that the children would be in danger if they were returned to mother’s care if her situation remained unstable due to domestic violence.

At the February 14, 2024 18-month review hearing, the juvenile court found that mother had made only partial progress with her case plan. The court terminated mother’s reunification services and set a .26 permanency hearing for June 2024.

VI. .26 permanency planning hearing

Between February 2024 and May 2025, the children remained in the same placement and continued to bond with their caregivers, and the caregivers remained committed to adopting the children.

In February 2024, I.N. was diagnosed with an unspecified developmental speech and language disorder.

In early 2024, the children’s caregiver reported that J.N. exhibited “maladaptive behaviors” including hitting a teacher. In May 2024, J.N.’s therapist informed a DCFS social worker that the child was “more rebellious and does not listen to directives” in the days after visits with mother. The therapist expressed concern that the visits caused J.N. to “regress.” In or around July 2024, J.N. was diagnosed with autism spectrum disorder, and was referred for services.

Mother visited the children once in each of June, July, August, and September 2024, twice in each of October and November 2024, and four times in December of that year. According to the caregiver, as mother’s visits became more frequent, both children increasingly misbehaved and acted

aggressively. The caregiver also reported that the children “appear[ed] upset” when they returned home from visits with mother.

In October 2024, J.N.’s teacher contacted the caregivers to convey that the child ran away from adults, did not listen, and refused to complete his work, and asked the caregivers to pick J.N. up early from school.

In or around January 2025, the caregivers reported that I.N. had been behaving increasingly aggressively at home and at school. I.N. was expelled from his daycare that month.

Mother visited with the children four times in January 2025, three times in February, and three times in March. The children’s caregiver reported that they appeared to enjoy the visits.

Meanwhile, mother gave birth to another child in September 2024. In February 2025, mother reported a domestic violence incident with her partner, and in March 2025 DCFS detained the baby. Because mother “was no longer considered a family,” she was asked to move out of the shelter where she was living. As a result of these developments, mother found it difficult to visit with the children regularly. She visited the children once in each of April and May 2025. In May 2025, the children’s caregiver reported that the children had not been asking about mother and that mother had not been calling or texting to ask about the children.

In April 2025, mother filed a section 388 petition seeking to change the court’s order terminating her reunification services. Mother asserted that she was participating in parenting and domestic violence classes, and asked the court to either return the children to her custody or order reunification services.

The juvenile court held a hearing on May 28, 2025 to address .26 permanency planning and mother's section 388 petition. The court first denied mother's petition, reasoning that circumstances had not changed such that continued reunification services would be in the children's best interest. Its ruling was based in part on mother's involvement in domestic violence incidents with her ex-fiancé. The court also found that mother "did not really have a bond with [J.N.] because her ex-boyfriend's mother had kind of raised him."

During the .26 permanency aspect of the hearing, a DCFS social worker testified that the children would hug and kiss mother during visits, and that they appeared happy. According to the social worker, mother appropriately engaged with the children, even when they exhibited "challenging" behavior. The social worker testified that mother had a bond with the children, and that the children cry at the end of visits because they want to stay with mother.

J.N. testified that he enjoyed visiting with mother. He testified that he had two moms, and if he could choose, he would live with both of them. J.N. also testified that he "would be so sad" if he did not see mother again.

When I.N. testified about mother, he identified her by her first name. He testified that he liked visiting with mother.

Mother testified that when she arrived at visits, the children run to her and hug her. She testified that the children are connected to her and, when they visit with her, they did not want the visits to end. Mother testified that she believed adoption would not be appropriate because the children would always ask for her.

After testimony was completed, mother argued, among other things, that her parental rights should not be terminated because of the parental-benefit exception. Specifically, if the juvenile court finds by clear and convincing evidence that a child is adoptable, “the court shall terminate parental rights and order the child placed for adoption.” (§ 366.26, subd. (c)(1).) But the court should not terminate parental rights if it “finds a compelling reason for determining that termination would be detrimental to the child” because the parent “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B); *In re Caden C.* (2021) 11 Cal.5th 614, 630–631 (*Caden C.*)). Mother addressed the “three elements the parent must prove to establish the exception: (1) regular *visitation and contact*, and (2) a *relationship*, the continuation of which would *benefit* the child such that (3) the termination of parental rights would be *detrimental* to the child.” (*Caden C.*, at p. 631.) As for the third element, mother emphasized that the court must not compare mother to the children’s caregivers, but must instead consider whether permanent severance of mother’s relationship with the children would be so detrimental as to outweigh the benefits of adoption.

The court found by clear and convincing evidence that the children were adoptable by their current caregivers. It determined that the first two elements of the parental-benefit exception were satisfied, but not the third. The court explained:

“[I] have to find that the termination of parental rights would be so detrimental that that detriment would outweigh the benefit of adoption. And I think that, while in my perfect world I would

love for the boys to continue to have contact with [mother] because she will always be their biological mother, when I look at the fact that they've been out of her care since they were so little -- I think [J.N.] was just a year old -- excuse me. [I.N.] was a year old and [J.N.] was only three and then, as I said, had been cared for possibly for some amount of time by someone else even before then, just looking at the facts -- and I will say it is -- this is a really hard case because the kids are so young and because of some of their developmental needs. It is very hard for the court to get a good understanding of what they understand, how they feel.

"You know, I have to kind of cling to certain statements like [J.N.] wanting to live with both of his moms. I'm sure that is true, but at the same time they do refer to their caregivers as their mom and dad. And why wouldn't they? They've been in their home for a significant period of time.

"I just, by looking at, again, the facts of the case, the length of time that they've been out of their mom's care, the length of time that they have been with the current caregivers, the fact that they have been enrolled in services and do seem to be making progress in those services, the fact that when they were last in [mother's] care, that was something that she was struggling with in terms of -- as well as during visits in the past in terms of managing both of their needs, you know, unfortunately I can't say that

the detriment of severance would be so great that it would outweigh the benefits of adoption.

“So the court unfortunately finds that no exception to adoption exists.”

Mother timely appealed from the order terminating her parental rights.²

DISCUSSION

I. Legal principles and standard of review

“If the court cannot safely return a dependent child to a parent’s custody within statutory time limits, the court must set a hearing under section 366.26” to implement a permanent plan for the child. (*Caden C.*, *supra*, 11 Cal.5th at p. 630.) Section 366.26 requires the court to “first determine by clear and convincing evidence whether the child is likely to be adopted. (See § 366.26, subd. (c)(1).) If so, and if the court finds that there has been a previous determination that reunification services be terminated, then the court shall terminate parental rights to allow for adoption.” (*Caden C.*, at p. 630.)

Section 366.26 specifies that if the juvenile court “finds a compelling reason for determining that termination would be detrimental to the child” because the parent “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship,” the court should not terminate parental rights and should instead implement a different permanent plan. (§ 366.26, subd. (c)(1)(B); *Caden C.*, *supra*, 11

² Mother’s notice of appeal also identified the May 28, 2025 order denying her section 388 petition. However, mother’s opening brief confirms that she has abandoned her challenge to that order.

Cal.5th at pp. 630–631.) This is known as the parental-benefit exception. Our Supreme Court has identified “three elements the parent must prove to establish the exception: (1) regular *visitation and contact*, and (2) a *relationship*, the continuation of which would *benefit* the child such that (3) the termination of parental rights would be *detrimental* to the child.” (*Id.* at p. 631.) A parent asserting the parental-benefit exception must demonstrate each of these three elements by a preponderance of the evidence. If the parent meets that burden, “the parental-benefit exception applies such that it would not be in the best interest of the child to terminate parental rights, and the court should select a permanent plan other than adoption.” (*Id.* at pp. 636–637.)

In assessing the third element, the court weighs “the harm of losing the relationship against the benefits of placement in a new, adoptive home. And so, the ultimate decision—whether termination of parental rights would be detrimental to the child due to the child’s relationship with his parent—is discretionary and properly reviewed for abuse of discretion.” (*Caden C.*, *supra*, 11 Cal.5th at p. 640.)

Under the abuse of discretion standard, we will not disturb a ruling “ ‘ “unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].” ’ ” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

II. The juvenile court did not abuse its discretion in determining that the detriment of termination was outweighed by the benefits of adoption

We assume without deciding that the juvenile court correctly determined that mother established the first two prongs

of the *Caden C.* analysis. We assess only whether the court abused its discretion in finding that mother did not satisfy the third prong, i.e., whether the detriment of severing the children's relationship with mother outweighed the benefits of adoption.

The juvenile court did not abuse its discretion. At the .26 hearing, “ [i]f the dependent child is adoptable, there is a strong preference for adoption over the alternative permanency plans.’ ” (*In re B.D.* (2021) 66 Cal.App.5th 1218, 1224.) The third element requires a juvenile court to “decide whether it would be harmful to the child to sever the relationship and choose adoption,” by considering “what life would be like for the child in an adoptive home without the parent in the child's life.” (*Caden C.*, *supra*, 11 Cal.5th at p. 633.) This element requires the court to engage in a “delicate balancing” and assess “the likely course of a future situation that's inherently uncertain.” (*Id.* at p. 640.)

There is some evidence that the children enjoyed visiting with mother. J.N. testified, for example, that he wished to live with both mother and his caretakers, and that he would be “so sad” if he never saw mother again. And a DCFS social worker testified that the children cried at the end of visits with mother. But “[a] parent ‘who has failed to reunify with an adoptable child may not derail an adoption merely by showing the child would derive *some* benefit from continuing a relationship maintained during periods of visitation with the parent.’ ” (*In re G.H.* (2022) 84 Cal.App.5th 15, 25; *In re C.F.* (2011) 193 Cal.App.4th 549, 555 [“A parent must show more than frequent and loving contact or pleasant visits” to establish detriment].) Here, other evidence suggests that mother's relationship with the children was not particularly strong. By the time of the May 2025 .26 hearing, four-year-old I.N. had spent most of his young life living away

from mother, and six-year-old J.N. had spent nearly half of his life with other caretakers. Mother sometimes visited the children infrequently, and when she visited them only twice in the two months leading up to the .26 hearing, the caregiver reported that the children did not ask about mother. (Cf. *In re A.L.* (2022) 73 Cal.App.5th 1131, 1158–1159 [potential benefits of adoption outweighed detriment where child “was easily redirected” following missed visits, despite consistent and positive visits].) And when mother did visit, her visits sometimes exacerbated the children’s misbehavior and aggression, particularly in the year leading up to the .26 hearing.

Overall, mother has not established that her relationship with the children was “so important . . . that the security and stability of a new home wouldn’t outweigh its loss.” (*Caden C.*, *supra*, 11 Cal.5th at p. 633.) We cannot conclude 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 [or she] did.’ ” ’ ” (*Id.* at p. 641.)

Mother asserts that the court “failed to weigh the detriment” that could result from termination of her parental rights because it did not expressly consider J.N.’s testimony that he would be “ ‘so sad’ ” if he did not see mother again. We do not agree. The juvenile court stated that its ruling was based on “all of the evidence” presented at the hearing. There is no indication that the court discounted or ignored J.N.’s testimony. In its oral analysis of the detriment element, the court recognized that J.N. testified that if he had the choice, he would live with both of his moms, i.e., mother and his caregiver. Thus, although the court did not quote the statement to which mother points, the court undisputedly considered J.N.’s testimony. To the extent that

mother means to argue that the court was obligated to discuss all evidence relevant to its determination, we reject her assertion, as a court is not required to “recite specific findings relative to its conclusions regarding any or all of the three elements to the exception.” (*In re A.L.*, *supra*, 73 Cal.App.5th at p. 1156.)

Mother also argues that the trial court abused its discretion because it considered improper factors. In particular, mother contends that the court erroneously considered the amount of time that the children were placed with their caregivers and by comparing mother’s caregiving ability to that of the caregivers. (*Caden C.*, *supra*, 11 Cal.5th at p. 634 [in assessing third element, court should not consider parent’s “attributes as custodial caregiver relative to those of any potential adoptive parent(s)"]; *In re M.G.* (2022) 80 Cal.App.5th 836, 852 [“When a juvenile court bases its decision to terminate parental rights on improper factors, the trial court abuses its discretion.”].)

We disagree that the court considered any improper factors. The juvenile court cited “the length of time” that the children had been “out of their mom’s care” and “with the current caregivers.” These facts are relevant to the strength of mother’s connection with the children and, in turn, the potential harm of severing their relationship with her. The court also cited the “the fact that they have been enrolled in services and do seem to be making progress in those services, the fact that when they were last in [mother’s] care, that was something that she was struggling with” Here, the court was simply describing one benefit of adoption—that the children would enjoy a stable home with caregivers who had demonstrated the ability to meet their needs. This consideration was particularly relevant since both children have special needs. Although the court mentioned that

mother had struggled in meeting those needs, its ruling was not premised on any direct comparison between mother's parenting ability and that of the children's caregivers. We find no abuse of discretion.

Mother also contends that the court abused its discretion by conflating the *Caden C.* analysis with its analysis of mother's section 388 petition. Specifically, at the start of its analysis of the third element of the parental-benefit exception, the court stated: "it's the third prong that really is tough to meet. And I think that a lot of that is because of what I stated with regard to the 388." In assessing mother's section 388 petition, the juvenile court found that mother "did not really have a bond with" J.N. That finding is certainly relevant to whether severing mother's relationship with her children would be so detrimental as to outweigh the benefits of adoption. The court also denied the section 388 petition based in part on mother's involvement in domestic violence incidents with her ex-fiancé. Mother's on-and-off-again relationship with a violent man is potentially harmful to her children, and a juvenile court may "find that terminating a relationship with negative aspects would have some positive effects that weigh in the balance — and may tip it in favor of severing the parental relationship to make way for adoption." (*Caden C.*, *supra*, 11 Cal.5th at p. 635.) Moreover, after the juvenile court mentioned section 388, it otherwise framed its analysis in terms of the *Caden C.* test, engaged with the facts of the case, and explicitly concluded that the detriment of severance would not outweigh the benefits of adoption. We see no abuse of discretion.

Finally, this case is unlike *In re D.M.* (2021) 71 Cal.App.5th 261, 271, which mother argues supports reversal. In that case,

the juvenile court determined the parental-benefit exception did not apply and terminated parental rights. The ruling was made before *Caden C.* was decided. (*Ibid.*) The appellate court reversed, reasoning that the juvenile court may have exercised its discretion differently “if it had the benefit of the *Caden C.* analysis when making its ruling.” (*Ibid.*) In contrast, here, the parties’ arguments were framed under *Caden C.*, and the juvenile court used the three-element framework of that case in its analysis. Even if the record were less clear, we would “presume the trial court followed applicable law” (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956), particularly since *Caden C.* was decided four years before the .26 hearing in this case.³

³ Mother also cites *In re S.B.* (2008) 164 Cal.App.4th 289, in which the court was “troubled by the argument that any detriment to [the child] from the loss of the parent-child relationship will eventually be ameliorated by time and [the child’s] strong relationship with her [caretaker].” (*Id.* at p. 299.) The court in this case did not rely on any such reasoning. In addition, mother cites *In re J.D.* (2021) 70 Cal.App.5th 833 for the proposition that the court “must assume that if it decides to sever parental rights, then parent and child will be left as not just legal strangers to one another but also literal strangers.” (*Id.* at p. 866.) The court here did not assume otherwise.

DISPOSITION

We affirm the orders terminating mother's parental rights
as to J.N. and I.N.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

HANASONO, J.

We concur:

EGERTON, Acting P. J.

ADAMS, J.