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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

E085877

Plaintiff and Respondent, (Super.Ct.Nos. 1298224, 1298225,
1298229 & 1298230)

v.

OPINION

M.W., ET AL.,

Defendants and Appellants.

APPEAL from the Superior Court of San Bernardino County. Lynn M. Poncin, Judge. Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant M.W. (Mother).

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and Appellant RA. (Father RA.).

Jacob I. Olson, under appointment by the Court of Appeal, for Defendant and Appellant J.O. (Father J.O.).

Laura Feingold, County Counsel, and Helen Rho, Deputy County Counsel, for Plaintiff and Respondent.

I.

INTRODUCTION

M.W. (Mother), RA. (Father RA.) and J.O. (Father J.O.) appeal from the juvenile court's orders terminating their parental rights pursuant to Welfare and Institutions Code¹ section 366.26. The sole contention on appeal is that the juvenile court failed to apply the beneficial parent-child relationship exception to adoption pursuant to section 366.26, subdivision (c)(l)(B)(i) as to their respective children. We disagree and affirm the juvenile court's orders terminating parental rights.

II.

FACTUAL AND PROCEDURAL BACKGROUND

A. General Overview of the Dependency Matter

Mother had seven minor children in her care when the San Bernardino Children and Family Services (CFS) investigated her family for substance abuse, neglect and domestic violence between her and Father RA. The seven children are 14-year-old J.R., 13-year-old L.O., 10-year-old J.N., eight-year-old RN., seven-year-old M.N., four-year-old

¹ All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

C.A., and three-year-old A.A.² Father J.O. is the father to L.O., and Father RA. is the father to C.A. and A.A.

RN., M.N. and J.N. were placed in custody of their father. The juvenile court eventually closed out their cases with family law custody orders granting their father sole custody of the children.

Father J.O. remained uninvolved in the case despite having been granted reunification services with L.O. Father L.O. was incarcerated for most of the dependency matter and later expressed that he wanted what was best for L.O.

Mother and Father RA. failed reunification services because they failed to resolve their drug and domestic violence issues for which the juvenile court asserted jurisdiction. Eventually, the two oldest children, J.R and L.O., refused to visit Mother because she had regularly failed to show up to her scheduled visits with them. Further, CFS investigation showed a history of severe neglect and abuse in Mother's care.

As to the youngest children, C.A. and A.A., while Mother and Father RA. visited them regularly and the juvenile court found that they did have a strong attachment to their parents, the juvenile terminated parental rights because the security and benefit of adoption outweighed any benefit conferred by a continued relationship with their parents.

² "2CT" denotes the clerk's transcript in case No. E085877; "lCT" will refer to the clerk's transcript in case No. E085155, to which we took judicial notice of on our own motion; "SCT" will refer to the supplemental clerk's transcript in case No. E085877; and "lRT" and "2RT" will represent the reporter's transcripts in case Nos. E085155 and E085877, respectively.

B. Initial Investigation and Detention

The family came to the attention of CFS on August 16, 2023, after Mother and Father RA. took then two-year-old C.A. to the hospital due to fever and vomiting. Mother and Father RA. were observed behaving "strange and unusual," and cursed at each other in the lobby with then one-year-old A.A. Mother asked the hospital to drug test C.A. Mother appeared "high," "couldn't sit still" and "kept walking back and forth."

Hospital staff reported that C.A. was discharged as Mother rescinded her request to have her drug tested. A neighbor reported that there was "always constant yelling" between Mother and Father RA. while the children were home. Father RA. was observed throwing things at Mother's vehicle while she and the children were inside. Mother and Father RA. used the youngest child as a "pawn" and Mother was usually accusing Father RA. of cheating on her. Mother also regularly cursed at the children. J.R was heard crying after Father RA. pulled her hair. There were suspicions of drug use by Mother and Father RA. as they were "up at all hours of the night pacing back and forth."

When CFS met with the family, J.R was "guarded" and said she had been in foster care in the past and hated it. J.R refused to disclose the whereabouts of her siblings. Mother presented as agitated, fast speaking and short tempered. She first stated the hospital was going to drug test C.A. without her permission. Then she said she did initially request the drug testing because C.A. could have been sick from ingesting the "crap" or substances on her driveway or near her home. Mother showed the social

worker a small container she believed contained substances. While Mother said C.A. could have ingested drugs, she refused to take C.A. to the hospital to get drug tested or have a public health nurse assist C.A.

CFS obtained numerous videos of Mother cursing at Father RA. and the children at all hours of the day and night. A video dated August 11, 2023, showed Mother screaming at 11:46 p.m. for a male to leave her home and saying she wanted her gun because she was "pissed." On another occasion, Mother was heard cursing at the children and told them she was "not going to be with a man that lies to her." She was heard "continuously accusing a male in the home of lying and cheating," and claiming she was going to find a "real fuck[ing] dad," in front of the children, who appeared "unperturbed" by her profanity laced screaming.

CFS also spoke to then six-year-old RN. and then eight-year-old J.N. RN. reported that Mother and Father RA. screamed at each other, that Mother did not allow him to speak to his father, and that Mother was going to take him and his siblings to live in Las Vegas. J.N. also reported that Mother and Father RA. screamed at each other, which made him sad. J.N. reported wanting to live with his father. CFS determined that the children were at risk, obtained detention warrants for their removal and took them into protective custody.

CFS interviewed the paternal grandfather to A.A. and C.A., who feared Father RA. was neglecting his schizophrenia disorder. The paternal grandfather was concerned about the children being neglected, as the parents were "frequently in their room with the

door close[d]" and would regularly argue loudly. The paternal grandfather noted that the home was messy, cluttered and had limited food; that the children were dirty and wore dirty diapers; that the oldest child provided care for the younger children; that the children had medical and dental issues which were not addressed; and that the children were often sick. C.A. was observed missing for "weeks at a time," as she was sent to live with a godmother named "Delores." A.A. consumed cat feces and Mother directed the paternal grandfather to take A.A. to the hospital, instead of taking A.A. herself. He also reported Father RA. and Mother led "unstable, unpredictable, and chaotic" lifestyles. On one occasion, they had dropped A.A. to his house at 2:00 a.m. and then picked her up after midnight on a different day, providing no reason for their absence.

CFS also discovered that L.O. and J.R. were cared for by "god parents" when they were under two years old, even though Mother did not know the god parents well. Godmother "Ms. S." primarily cared for L.O. for the first five years of her life. There were concerns about Mother's drug use during those years. L.O. disclosed that she wanted to reside with Ms. S. J.R. was with "Ms. J." until Mother asked for her after CFS became involved. J.R. cried upon return to Mother and said she did not want to go back because "she was made to cook and clean for her siblings."

Mother's criminal history revealed a 2013 case being under the influence of a controlled substance. Father RA.'s criminal history involved 10 cases from 2013 to 2020, including charges of drug possession, narcotic sales, burglary and robbery. Father

J.O.'s criminal history included 18 cases from 2010 to 2023, including charges of drug possession, firearm possession and numerous cases involving car theft.

Mother had an extensive CFS history, which included 18 referrals from 2012 to 2023, and a prior dependency case from 2017 to 2019, involving Mother's substance abuse issues, domestic violence, Mother's neglect of the children, and sexual abuse of the children. The first referral involved Mother and Father J.O., and alleged suspicions of their substance abuse upon L.O.'s birth. Both parents appeared drowsy and had to be awakened to care for the newborn. Mother also was not compliant with feeding L.O. Mother's behavior was erratic and both parents appeared "to be on some type of heavy sleeping pills."

Two later referrals in 2012 involved reports of Mother using her welfare money on drugs and doing drugs around the children. Two additional referrals in 2013 reported that Mother was using her welfare money to buy drugs and she was yelling at her children "for unknown reasons." It was also reported that then two-year-old J.R. was outside in cold weather in only a diaper. In 2014, one referral alleged Mother left two children to go do drugs in the garage and she sold her food stamps for drug money. Another 2014 referral revealed Mother left L.O. with someone for a year and the caretaker did not hear from her in two weeks. J.R. also lived elsewhere. Both children were also medically neglected. Moreover, Mother left L.O. with a known sex offender and L.O.'s vaginal area appeared red and "smelled badly."

Another 2014 referral reported that J.R 's grandmother was concerned that J.R was sexually abused, but Mother did not take J.R to the hospital nor called the police. The grandmother took J.R to the hospital. A 2015 referral reported Mother physically abused J.R and L.O. and yelled that she would "fuck them up." Mother reported she "beat [L.O.'s] ass." L.O. was seen with bruises to the side of her face and both ears. J.R reported that Mother was beaten by her boyfriend. Another 2015 referral reported physical abuse to L.O. by Mother's boyfriend.

In 2017, Mother tested positive for THC upon the birth of RN. Another referral in 2017 reported Mother had "T.S." raise L.O. from seven months to five years of age. Mother asked to have L.O. back when T.S. refused to give Mother money for drugs. In 2017, a substantiated referral indicated that Father "Joe" hit L.O. on the head "repeatedly" and she required staples.

A 2021 referral reported Mother dropped off J.R and L.O. to a relative and would not pick them back up after 10 days. Upon the drop off, the girls were dirty and reported they had not showered in two weeks. Mother was seen "rolling a blunt" while she was seven months pregnant. In 2023, a referral alleged neglect and physical abuse of the children by Mother and Father RA. CFS observed Mother as rapidly "hyper" talking and the children "smelled foul" and appeared dirty. Mother refused to drug test on two occasions. CFS closed the referral because Mother eventually cleaned her home and the children appeared clean at their second meeting.

In August 2023, CFS filed petitions on behalf of the children pursuant to section 300, subdivision (b) (failure to protect), alleging Mother and Father RA. engaged in domestic violence, had substance abuse problems, and failed to adequately supervise C.A. and A.A. The juvenile court detained the children from Mother, and J.R, L.O., C.A., and A.A. from their respective fathers. Father J.N.'s children were placed in his care. J.R and L.O. were placed together in a nonrelated extended family member's home of Ms. J. as of August 21, 2023. A.A. and C.A. were placed in foster care.

C. *Jurisdiction and Disposition*

CFS recommended that the court find true the allegations in the petitions, except allegations B-3 and B-4 of C.A.'s petition which alleged that Mother and Father RA. failed to adequately supervise her, resulting in the consumption of an unknown substance. CFS also recommended family maintenance services to Father J.N. and reunification services to Mother and Fathers J.O. and RA.

As to the domestic violence allegation, Mother reported that Father J.N. was controlling and physically abusive. However, Mother denied physical altercations with Father RA. Father RA. also denied domestic violence with Mother. Mother also denied her substance abuse allegation. She reported that Father J.O. had introduced her to methamphetamine, and that she last used the substance "years ago." She reported being drug free since 2013. Father RA. tested positive for amphetamines, but he denied knowing how his test could be positive. Later, Father RA. said he took diet pills called "Phenaprin" for weight loss. He also said he had been sober for three years.

L.O. reported that what she did not like about Mother was that she was "not always with us." She said she wanted Mother to stop leaving her with relatives. L.O. wished to live with her godmother T.S. Mother reported L.O.'s father to be Father J.O., who was incarcerated. He was not involved in L.O.'s life and as he decided "that he did not want to be a parent." Mother reported he was either "in jail or running the streets." L.O. reported that she last saw Father J.O. four years ago when she was seven years old. Prior to that, she saw Father J.O. when she was three years old.

J.R and L.O. were placed in the home of J.R 's godmother RJ. C.A. and A.A. were placed in the foster home of Mrs. C. CFS also reported that Mother and Father RA. had missed five visits with the children.

At the December 2023 jurisdictional/dispositional hearing, the juvenile court found true the findings in the petitions as recommended by CFS, declared the children dependents of the court, and ordered reunification services to Mother, and Fathers RA. and J.O.

D. Review Hearings

By the time of the six month review hearing, CFS recommended continuing services to Mother and Father RA. CFS noted that Mother was arrested on January 28, 2024, for a firearm offense. Mother and Father RA. continued to lack stable housing. The children were reported to be doing well at their respective placements. Mother was reported to be engaged in therapy, domestic violence and parenting education programs. However, Mother was unable to demonstrate sobriety as she had nine no shows for

testing, and two positive tests for marijuana. Father RA. was also engaged in parenting and anger management classes but had missed all drug tests and was not participating in a drug program. Mother and Father RA. 's visits were reportedly going well. The parents were appropriate and C.A. and A.A. had enjoyed their time with them.

At the six month review hearing, the court adopted CFS's recommendation to terminate jurisdiction as to the N. children, giving their father sole legal and physical custody. Mother was provided with supervised visits with the N. children. The court ordered further services to Mother and Fathers RA. and J.O.

By the 12-month review hearing, CFS recommended terminating services to the parents and setting a section 366.26 hearing to establish guardianship or adoption for the children. CFS reported that Mother and Father RA. were not complying with drug testing, failed to participate in their drug programs and tested positive for drugs during the review period. Mother and Father RA. were also unstable with their living situation and continued to demonstrate volatility in their relationship as they left voicemails to the social worker, on which they could be heard arguing. They were further observed by CFS to engage in vulgarity laced arguments.

Mother and Father RA.'s visits with C.A. and A.A. were reported to be "good," but they missed some due to illness or transportation problems. They continued to visit twice per week for two hours. Father RA. was observed to appropriately redirect the children as needed and was described as a "good dad." As for Mother, J.R and L.O. refused visits with her. She had completed parenting and domestic violence programs,

but failed to finish her individual counseling, family therapy, and anger management. There were numerous attempts to enroll Mother in a drug program, but she had "made many excuses on why she could not attend [the] program." In addition, she tested positive for THC on two occasions, methamphetamine five times and once for fentanyl. Father RA. had completed his domestic violence program, but failed to complete anger management, individual therapy, family therapy, and a drug program. He was a no show to all random drug tests, and tested positive for methamphetamine seven times, fentanyl twice and cocaine twice.

After the hearing was continued several times in order for CFS to report as to Father J.O., on November 20, 2024, CFS reported that Father J.O. was no longer incarcerated, and had not contacted CFS to inquire about his services or to request visitation with L.O. CFS had made attempts to contact Father J.O. at the phone number in his file, but no response was received. Mother reported she had tried to reach Father J.O. in various ways, with no success. L.O. reported Father J.O. had called her on one occasion, but he did not leave her with a valid contact number. L.O. stated she "did not want anything to do with her father and did not want to see or [hear] from him again."

On December 2, 2024, CFS reported that the social worker had met with Father J.O. at a detention facility. Father J.O. said when he was released from custody, "he started running the streets again and was not living a good lifestyle." He noted he was aware L.O. was "in the system," but that he was not in a position to "do anything about it." He reported being unable to address his case plan because he was on bad terms with

Mother and did not have stable housing. Father J.O. further stated he tried to contact CFS on one occasion, but then he "started making bad choices and did not follow up on the case." He was out of custody for eight months until he was reincarcerated with an expected release date in March 2026. When asked about L.O. possibly being adopted by her current caregiver, Father J.O. said L.O. was old enough to decide if she was happy living there. He said his main concern was that L.O. was happy where she was.

The contested 12-month hearing was held on December 4, 2024. Father J.O.'s counsel asked for a continuance as he was discovered to be incarcerated. The court denied this request, since Father J.O. had reported he would be incarcerated until March of 2026, and he supported L.O. if she wanted to be adopted by her caregiver. Father J.O.'s counsel argued against the termination of his services and asserted CFS had failed to provide him with reasonable services. The court declined to find that services to him were unreasonable, pointing out that Father J.O. was present at numerous hearings during the jurisdiction/disposition phase and aware of the court case plan. The court also noted that when Father J.O. was released from custody, he chose not to contact CFS, the court, or L.O. so that he could participate in court-ordered services.

Mother's counsel asserted that Mother was reenrolled in her drug program, was attending NA/AA meetings, and obtained a sponsor. Mother had proof that she was turned away from the drug collection site several times in November 2024. The court found that Mother and Father RA. failed to complete a drug program, even after almost 18 months of services. The court also stated that Mother and Father RA. failed to

demonstrate a period of sobriety. The court terminated services to Mother and Fathers RA. and J.O. and set a section 366.26 hearing. Mother and Father RA. 's visits with their children were reduced to one time per month.

CFS recommended adoption for the four girls. All of the children had been placed in their prospective adoptive homes for a year and a half, since their initial removal on August 18, 2023. C.A. and A.A. were placed with Mr. and Mrs. C. J.R and L.O. were placed in the home of Ms. J. Both placement caregivers wished to pursue adoption, and the children were "all bonded" to their respective prospective adoptive parents. The children were reported to be "on track" developmentally and meeting their age-appropriate milestones. A.A. was receiving WRAP services for anger management issues. The other children did not present emotional or mental issues.

As to visitation, C.A. and A.A. visited with their parents twice a month. Their caregiver also facilitated visits with their paternal grandparents at least once per month. The visits were reported to "go well," as the girls were excited to see the parents and the parents were excited to see C.A. and A.A. By this time, L.O and J.R did not participate in visits with Mother. They were "open" to eventually having contact with Mother, "if she [could] get herself together."

Mr. and Mrs. C. provided a good home to C.A. and A.A., who were "very happy active toddlers" and had adjusted well with the family. The C. family reported they wished to keep the children safe and loved. The children were "emotionally bonded" to them. Mr. C. was described as "incredibly hard working, a loving father and husband,"

who always placed his family first. Mr. C. was reported to be "present, physically, emotionally, and spiritually," and was an "incredible leader" with a "grateful heart." Mrs. C. was described as compassionate, loving, generous, kind. The C. family was described as supportive, active listeners and good teachers to the five children in their home. The C. family were "prepared and willing" to meet all of the children's needs and were motivated to adopt them.

Ms. J. was also committed to meeting L.O. and J.R.'s needs and desired to adopt them. The children were bonded to her. Ms. J. had obtained legal guardianship of her three nephews from the time they were infants. She believed it was vital that she "always" be there for all the children and to hear their voices out. She planned to instill good morals and values in the children. L.O. and J.R. reported they were happy to be in Ms. J.'s home and they wanted her to adopt them so they could be a permanent part of her family. CFS observed that the family and the children developed mutual positive bonds.

On the morning of the contested 366.26 hearing on April 7, 2025, Mother filed a section 388 petition. She requested that the section 366.26 hearing be vacated and be provided with further services and liberalized visits. She asserted that she had completed a six-month drug program, was participating in aftercare services, she had consistently visited the younger two children, and that the younger two children were excited to see her. The juvenile court denied Mother's section 388 petition, as there was not a sufficient change in circumstances, nor were the requests in the children's best interests. Specifically, the court found Mother's circumstances were "changing," but she had

provided no evidence as to completion of therapy, family therapy, and anger management. Moreover, Mother had missed a drug test on October 15, 2024, when CFS had explicitly requested she and Father RA. demonstrate sobriety. Further, the court noted Mother had produced only four negative tests at her drug program since December 2024. As such, the court determined that the requested changes would not advance the children's need for permanency and stability.

The court proceeded to the section 366.26 hearing. Mother testified at the hearing and requested the lesser permanent plan of legal guardianship. She said she never missed a single visit with C.A. and A.A. She ate with them and played games. She asserted A.A. was a "very verbal" two-year-old, and C.A. was a "very verbal" three-year-old. They were both affectionate with her and referred to her as "mommy." Mother stated L.O. was 12 years old and J.R. was 14 years old at the time, and they lived "their whole li[ves]" with her. Mother said she last saw them three months prior. When Mother "wasn't able to [visit] due to complications, they stopped coming." Mother believed the older girls thought she "gave up on them" when Mother missed her scheduled visits. Mother explained that "all they knew was they were waiting, and I did not show up." She said she could not visit due to her homelessness and transportation issues.

Father RA. also testified that A.A. and C.A. were excited to see him at visits, during which they ate, played, read, and colored. He said they cuddled up with him or laid on top. Father RA. claimed A.A. "freaked out" at the conclusion of their last visit because "she did not want to go." He also said that "they always react[ed] the same,"

that upon the conclusion of each visit, they will ask why they could not go home with Father RA. Father RA. said he was able to effectively redirect the children when appropriate.

Mother's counsel argued there was a beneficial relationship "between Mother and at least the two youngest children," and that she visited the older two children when she was not homeless. Mother and Father RA. asked for the lesser plan of legal guardianship. The children's counsel asked to terminate parental rights, and that the children were bonded to their caregivers, especially as the older two children requested adoption. The children's counsel pointed out that C.A. spent half of her life out of her parents' care and A.A. most of her life.

The juvenile court found that Mother met the first prong of *In re Caden C.* (2021) 11 Cal.5th 614 (*Caden C.*) as to all of the children, in that she had consistently visited them. The court found Father RA. had met this prong as to his children. The court further found that Mother and Father RA. met the second prong as to their respective children. The court, however, found Mother and Father RA. failed to establish the third prong, because the older children preferred to be adopted and there was no evidence the younger children experienced any emotional dysregulation, "any nightmares or any negative behaviors by the children after the visits." The court acknowledged that Father RA. testified that his children did not want to go back with their caregiver after visits, but this was not corroborated by the balance of the evidence. The court found the parents failed to prove that terminating parental rights would be detrimental even when balanced

against the countervailing benefit of a new adoptive home. The court thereafter found that the parents failed to prove the parental beneficial relationship exception, found the children adoptable and terminated parental rights.

On April 7, 2025, Mother timely appealed, contesting the juvenile court's judgment terminating her parental rights. On May 21, 2025, Father RA. timely appealed from the juvenile court's judgment with respect to A.A. and C.A. On June 5, 2025, Father J.O. filed a timely notice of appeal contesting the termination of his parental rights.

III.

DISCUSSION

Mother and Fathers RA. and J.O. contends the juvenile court erred in failing to apply the beneficial parent-child relationship exception to adoption pursuant to section 366.26, subdivision (c)(l)(B)(i) as to their respective children. Father J.O. does not assert that the parent child beneficial relationship exception applied to him and his child L.O., but joins with Mother in her challenges to the juvenile court's findings.

The purpose of the section 366.26 hearing is to select and implement a permanent plan for the child. (*Caden C., supra*, 11 Cal.5th at p. 630.) "[I]f the court finds that the child is likely to be adopted and that 'there has been a previous determination that reunification services be terminated, then the court shall terminate parental rights to allow for adoption. [Citation.] But if the parent shows that termination would be detrimental to the child for at least one specifically enumerated reason, the court should decline to

terminate parental rights and select another permanent plan.' (*Caden C., supra*, **11** Cal.5th at pp. 630-631; see§ 366.26, subd. (c)(1)(B)(i)-(vi), (4)(A).)" (*In re M V* (2025) 109 Cal.App.5th 486, 507 (*M V*).) One of those exceptions is the parental-benefit exception. (*Ibid.*) The California Supreme Court has explained that the exception " 'merely permit[s] the court, in exceptional circumstances [citation], to choose an option other than the norm, which remains adoption.' [Citation.]'" (*Caden C., supra*, **11** Cal.5th at p. 631.)

The proponent of the parental-benefit exception must establish, by a preponderance of the evidence, three elements: "(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., supra*, **11** Cal.5th at p. 631, italics omitted.)

" 'The first element ... is straightforward. The question is ... whether "parents visit consistently," taking into account "the extent permitted by court orders."'" (*In re Katherine J* (2022) 75 Cal.App.5th 303, 316 (*Katherine J.*), quoting *Caden C., supra*, 11 Cal.5th at p. 632.)

"To establish the second element, ... the parent must show the child has a 'substantial, positive, emotional attachment to the parent-the kind of attachment implying that the child would benefit from continuing the relationship.'" (*M V, supra*, 109 Cal.App.5th at p. 507, quoting *Caden C., supra*, 11 Cal.5th at p. 636.) "The 'focus is the child,'" (*id* at p. 508), and the court considers "a slew of factors, such as '[t]he 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.'" (*Caden C., supra*, 11 Cal.5th at p. 632, quoting *In re Autumn H* (1994) 27 Cal.App.4th 567, 576.) In assessing this element, "courts often consider how children feel about, interact with, look to, or talk about their parents." (*Caden C., supra*, 11 Cal.5th at p. 632.) "The significant attachment from child to parent results from the adult's attention to the child's needs for physical care, nourishment, comfort, affection and stimulation." (*Autumn H., supra*, 27 Cal.App.4th at p. 575.) The relationship should be that of parent and child and not one of friends. (*Id.* at p. 576.)

Finally, "[c]oncerning the third element-whether 'termination would be detrimental to the child due to' the relationship-the court must decide whether it would be harmful to the child to sever the relationship and choose adoption." (*Caden C., supra*, 11 Cal.5th at p. 633; see *Katherine J., supra*, 75 Cal.App.5th at p. 317.) In other words, courts must determine "in effect, what life would be like for the child in an adoptive home without the parent in the child's life." (*Caden C., at p. 633.*) "That subtle, case-specific inquiry" asks whether "the benefit of placement in a new, adoptive home outweigh[s] 'the harm [the child] would experience from the loss of [a] significant, positive, emotional relationship'" with the parent. (*Ibid.*) "'When the relationship with a parent is so important to the child that the security and stability of a new home wouldn't outweigh its loss,'" the parental-benefit exception applies. (*M V, supra*, 109 Cal.App.5th at p. 508.) "When it weighs whether termination would be detrimental, the

court is not comparing the parent's attributes as custodial caregiver relative to those of any potential adoptive parent(s).... Accordingly, courts should not look to whether the parent can provide a home for the child." (*Caden C.*, at p. 634; see *Katherine J.*, at p. 317.)

A "substantial evidence standard of review applies to the first two elements. The determination that the parent has visited and maintained contact with the child 'consistently,' taking into account 'the extent permitted by the court's orders' [citation] is essentially a factual determination. It's likewise essentially a factual determination whether the relationship is such that the child would benefit from continuing it." (*Caden C., supra*, 11 Cal.5th at pp. 639-640; see *Katherine J., supra*, 75 Cal.App.5th at pp. 317-318.)

"The third element-whether termination of parental rights would be detrimental to the child-is somewhat different. As in assessing visitation and the relationship between parent and child, the court must make a series of factual determinations. [if] Yet the court must also engage in a delicate balancing of these determinations as part of assessing the likely course of a future situation that's inherently uncertain The court makes the assessment by weighing 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; see *Katherine J., supra*, 75 Cal.App.5th at p. 318.)

In this case, at the section 366.26 hearing, the juvenile court expressly conducted the analysis under *Caden C.* on the record before finding the exception inapplicable. As the parties note, the juvenile court found that Mother and Father RA. met the first and second prongs of the parental benefit exception. Mother and Father RA., however, disagree with the court's finding as to the third prong of the exception.

We conclude the juvenile court did not abuse its discretion in determining that adoption by committed caregivers outweighed any detriment the children might experience by losing their relationship with Mother as to her four children and Father RA. as to his two children. At the time of the contested section 366.26 hearing, J.R. and L.O. refused to visit with Mother and they did not have a "positive" relationship with her such that they could benefit from on-going contact. Mother did not demonstrate any type of loss, let alone great harm, that the children would experience. She described no specific harm that they would likely or potentially suffer from the termination of parental rights. Rather, Mother asserts on appeal that due to the "duration" and "strength of their attachment," reducing Mother to a stranger status for the rest of their lives would be "profoundly detrimental." The record does not support this contention, particularly since J.R. and L.O. wished to be freed for adoption.

Mother asserts that the "children's current preference for adoption and recent refusal to attend visits cannot diminish the strength of the bond they established with

mother-for the vast majority of their lives." However, unfortunately, the history of abuse affected L.O. and J.R. such that they refused to participate in visits with Mother. They were only "open" to "eventually" seeing her "if she [could] get herself together." And despite Mother's contentions, L.O. and J.R. were happy with Ms. J. and they wanted her to adopt them so they could be a permanent part of her family. CFS observed that the family and the children developed mutual positive bonds. Section 366.26, subdivision (h)(l) provides that, "At all proceedings under [section 366.26], the court shall consider the wishes of the child and shall act in the best interests of the child." (§ 366.26, subd. (h)(l).) The juvenile court has a mandatory duty to determine the child's wishes, based upon the evidence. (*In re Christopher L.* (2006) 143 Cal.App.4th 1326, 1334; *In re Amanda D.* (1997) 55 Cal.App.4th 813, 820; *In re Leo M* (1993) 19 Cal.App.4th 1583, 1591.)

L.O. and J.R. expressly indicated that they wished to be adopted, and the record shows they had good reason to terminate their relationship with Mother. The record indicates Mother's relationship with J.R. and L.O. was riddled with extremely negative components. While in Mother's care and custody, they were extensively abused and neglected. Moreover, Mother repeatedly left them in the care of others, at times for about five years, while Mother led an unstable, chaotic life due to her fraught relationship with Father RA. and substance abuse issues. Mother had a long-standing substance abuse problem, which remained unresolved. Mother had an extensive CFS history related to substance abuse. Her history included 18 referrals from 2012 to 2023, and a prior

dependency case from 2017 to 2019. Mother's prior dependency case involved her substance abuse and domestic violence problems.

Mother consistently failed to demonstrate sobriety throughout the dependency case. She failed to drug test, and when she did, she tested positive for marijuana, methamphetamine and fentanyl. There were numerous attempts to enroll Mother in a drug program, but she had "made many excuses on why she could not attend [the] program." Nonetheless, Mother denied substance abuse and tried to convince CFS she had been sober since 2013. And although Mother tried to establish some period of sobriety at the time of the section 366.26 hearing, the court found Mother failed to establish a sufficient period of sobriety and she had missed a drug test on October 15, 2024.

As our Supreme Court explained, "A parent's struggles... could be directly relevant to a juvenile court's analysis in deciding whether termination would be detrimental." (*Caden C., supra*, 11 Cal.5th at p. 639.) Specifically, a parent's struggles in dealing with the issues that led to dependency "can be relevant in assessing whether the interaction between parent and child 'has a " 'negative effect' " on the child.' [Citation.]" (*In re DP* (2022) 76 Cal.App.5th 153, 165.) Mother's continued struggles with substance abuse demonstrated the negative effect on the children. The children deserved permanency and stability after many years of abuse and turmoil in Mother's care. Even when visits are consistent and positive, but the parent is destabilizing and demonstrates lack of parental concern, benefit of adoption outweighs parental bond.

(*Katherine J., supra*, 75 Cal.App.5th at p. 303 [parent's continued substance abuse and assaultive behavior enough].).

Notably, no credible evidence demonstrated any distress upon the conclusion of visits, "which tends to support the juvenile court's conclusion that the relationship was not so substantial that its severance would be detrimental to the child." (*In re IE.* (2023) 91 Cal.App.5th 683, 692.) The juvenile court aptly concluded that none of the children experienced "any emotional dysregulation at the conclusion of the visits." Nothing in the record showed the children asked to see Mother longer or more frequently. In sum, there was no evidence of "emotional instability and preoccupation leading to acting out, difficulties in school, insomnia, anxiety, or depression" due to her separation from Mother. (*Caden C., supra*, 11 Cal.5th at p. 633.)

Here, the juvenile court could reasonably find that any potential detriment caused to the children by the separation from Mother may well be alleviated by the source of stability offered by their prospective adoptive parents. Ms. J. was committed to meeting L.O. and J.R.'s needs and desired to adopt them. The children were bonded to her, and Ms. J. believed it was vital that she support them and have them "heard" out. She planned to instill good morals and values in the children. The court did not abuse its discretion in determining that adoption by committed caregivers outweighed any detriment L.O. and J.R. might experience by losing their relationship with Mother.

As to C.A. and A.A., the juvenile court found the evidence did not show that there would be substantial harm to the children that would outweigh the benefits of adoption.

The court did not abuse its discretion in making this finding. Nothing in the record suggests the children would be detrimentally affected by having the parents' rights terminated and being adopted by their caregivers. Rather, the record indicates it would be detrimental for the children to be returned to the parents' care as evidenced by the parents' failure to benefit from the services, their repeated neglect of the children, and the children's strong bond with their caregivers. C.A. and A.A. were bonded to their caregivers, who had been providing them with ongoing care and love since very young ages, and had strong, positive attachments to them. Indeed, due to their caregivers' commitment, the children were thriving in their home. The stability, security, and sense of belonging the children felt in their caregivers' home was evidenced by their emotional attachments to their caregivers. The evidence in the record is clear that the children will not suffer any detriment from the termination of parental rights.

Father RA. contends that he "presented uncontradicted evidence of a close bond with the children and emotional instability tied to ending parental visits." We disagree with this characterization of the evidence. While it appeared that Father RA. was appropriate during his visits and his children were excited to see him and Mother, credible evidence did not corroborate his testimony that the children were in extreme distress at the conclusion of the visits such that A.A. would "freak out" at the end of every visit. While CFS reported the visits generally went well, the evidence showed that there was no mention of A.A. becoming so distressed such that she "freaked out" at every

visit with Father RA. As such, the court could reasonably conclude that Father RA. 's testimony was self-serving, and he overstated the children's emotional bond to him.

Father RA. further contends that it was "unreasonable" for the juvenile court to assume that Father RA. 's "version" of his visits would have appeared in the CFS reporting if it was true. Father RA. could have called the visitation monitors, or any other collaterals to support his claim that these very young toddlers were as greatly attached to him as he claimed. He did not do so. He neither called any witnesses nor call Mother to testify to corroborate his claims. The juvenile court could reasonably conclude nothing in the evidence corroborated Father RA. 's claim that A.A. "freaked out" at the end of every visit.

Father RA. also claims that CFS's "reporting was obviously deficient" as to the visits with his children. We disagree. CFS reported very favorable details about Father RA. 's visits with his children, such as he could redirect them and that he was always prepared, and that there were no concerns. Father RA. 's assertion that CFS's reporting lacked detail information about visitation and the parental relationship is waived. Father RA. did not object to CFS's reporting of his visits with his children or regarding the section 366.26 permanency issues to the juvenile court. Consequently, Father RA. has waived this issue of the adoption assessment by failing to raise it below. (*In re Aaron B.* (1996) 46 Cal.App.4th 843, 846.) Even if Father RA. did not waive the issue, the record amply supports the court's finding adoption by their committed caregivers outweighed

any detriment C.A. and A.A. might experience by losing their relationship with Father RA.

Mother's and Father RA.'s arguments to the contrary ask this court to reweigh the evidence and redetermine credibility issues. However, "[i]ssues of fact and credibility are questions for the trial court." [Citations.]" (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 200.) "In reviewing factual determinations for substantial evidence, a reviewing court should 'not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts.' [Citation.]" (*Caden C., supra*, 11 Cal.5th at p. 640.)

Given C.A.'s and A.A.'s young ages and L.O.'s and J.R's preference of adoption, their need for permanency and stability was paramount. And their respective caregivers were willing and able to provide permanency. Although Mother and Father RA., with respect to C.A. and A.A., were able to maintain some parental relationship through their visitation with these children, we cannot say this presents an extraordinary case where preservation of parental rights outweighs the preference for adoption. (See *In re G.B.* (2014) 227 Cal.App.4th 1147, 1166 ["it is only in an extraordinary case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement"].)

We express no doubt that Mother and Father RA. love their children, or that the parents' visits with their children were generally positive and enjoyable for everyone. However, "[a] 'showing [that] the child would derive some benefit from continuing a relationship maintained during periods of visitation'" is not a sufficient ground to depart

from the statutory preference for adoption." (*In re Andrew M* (2024) 102 Cal.App.5th 803, 818, quoting *In re G.H.* (2022) 84 Cal.App.5th 15, 25.)

In sum, the court reasonably concluded that maintaining the children's relationship with Mother, and C.A.' and A.A.'s relationship with Father RA., did not outweigh "the security and the sense of belonging a new family would confer.' " (*Caden C.*, *supra*, 11 Cal.5th at p. 633.) We therefore cannot find that the juvenile court abused its discretion in declining to apply the beneficial parent-child relationship exception in connection with J.R, L.O., C.A., and A.A.

IV

DISPOSITION

The orders of the juvenile court terminating parental rights as to Mother and Fathers RA. and J.O. are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON

J.

We concur:

RAMIREZ
P. J.

RAPHAEL
J.