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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

E086407

(Super.Ct.No. J300331)

OPINION

APPEAL from the Superior Court of San Bernardino County. Steven A. Mapes, Judge. Affirmed.

Lelah S. Forrey-Baker, under appointment by the Court of Appeal, for Defendant and Appellant.

Tom Bunton, County Counsel, and Helena C. Rho, Deputy County Counsel, for Plaintiff and Respondent.

This is an appeal taken by Adriana C. (mother) from the order of the San Bernardino County juvenile court terminating her parental rights pursuant to Welfare and Institutions Code section 366.26 as to her child, B.M. (the child).¹ The child's half-siblings were also subjects of the juvenile dependency proceedings, but this appeal is limited to mother's challenge of the juvenile court's orders made with respect to the child.

The sole issue before us is whether the juvenile court erred when it found that the beneficial parent-child relationship exception to termination of parental rights did not apply. We will find that mother did not meet her burden to establish the applicability of that exception and affirm.

BACKGROUND

In March 2024, respondent San Bernardino County Children and Family Services (the Department) took the child, then seven years old, and the child's half siblings, 14-year-old J.H., and nine-month old O.B., into protective custody after receiving reports that O.B.'s father (Milo B.) had been sexually abusing the child for approximately two years, that is, since she was five years old. The Department placed her with a nonrelative extended family member, filed a petition alleging she came within section 300, and the juvenile court ordered her detained.

At the combined contested hearings on jurisdiction and disposition, the juvenile court sustained an amended juvenile dependency, finding true allegations that Milo B. had sexually abused the child between 2022 and 2024, that the sexual abuse was severe,

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

that mother continued to allow Milo B. to live in the home even though the child reported the abuse to mother, that mother has a history of alcohol abuse as evidenced by police reports describing domestic violence, physical abuse, and inappropriate behaviors with others, and that mother also has a history of engaging in domestic violence with the fathers of the children in the child's presence as well as with the half-sibling J.H.

The juvenile court adjudged the child a dependent of the court and ordered her removed from mother's custody.² It ordered bypass of family reunification services under section 361.5, subdivision (b)(6) upon findings by clear and convincing evidence that the child had suffered severe sexual abuse and that it was not in the child's best interests to offer mother family reunification services. The court granted mother's requests to continue her weekly two-hour visits with the child and for the child to be made available for a bonding study. The matter was set for a section 366.26 permanent plan selection hearing and the court advised mother of her right to seek review of its orders by a petition for an extraordinary writ and, if she intended to file a petition, she had to file a notice of intent to file a writ with the juvenile court clerk within seven days. Mother did not file a notice of intent.

In its report filed in anticipation of the section 366.26 hearing, the Department recommended termination of mother's parental rights and a plan of adoption of the child by her paternal grandfather, who was her caretaker. By then, the child had lived with mother for the first seven years of her life, but the last two of those years were

² The child's father (Marcos M.) died in 2021.

extraordinarily difficult for the child due to her mother's neglect, substance abuse, domestic violence in the home, and, most especially, the severe sexual abuse the child was subjected to by mother's boyfriend, Milo B., and mother's failure not only to protect the child from that abuse but mother's failure to believe that the abuse was taking place, a disbelief that continued during the juvenile dependency proceedings.

After the child was removed from home, she was happy to spend time with mother, O.B., and Mrs. L. during supervised visits at one of the Department's offices. But, the child never asked to live with mother, she did not express excitement when mother arrived for visits, and, though she appeared sad when visits were over, those feelings dissipated quickly. The child felt safe with her paternal grandfather, was attached to him, and did not want to move. She understood what adoption means and wanted the grandfather to adopt her. She did not express sadness or disappointment when told visits with mother would not continue after adoption by her grandfather, that it would depend on whether her grandfather decided to permit them.

Mother submitted a bonding study prepared by a clinical psychologist, Dr. Elizabeth Stanton, who observed a three and one-half hour visit between mother and the child in an effort to determine the type of attachment pattern that existed between mother and the child. The child's aunt, and the child's half-brother O.B were also present during the visit. Dr. Stanton reported that “[t]he results of the observation conducted indicated that [the child] engages in healthy attachment behaviors toward [m]other.” The doctor noted that mother “initiate[d] affection,” that the child welcomed mother when playing, the child seemed relaxed and calm in mother's presence, “[t]heir laughter and

conversation were endless,” and that, “[o]verall, the interactions between [the child and mother] were positive, playful, reciprocal, and appropriate.”

The doctor concluded that the relationship was beneficial and “severing contact could be detrimental” because “[e]ven if not immediately destabilizing, there may be challenges related to negotiating the ambiguous loss that can result when there is a healthy parent-child relationship that is severed without significant reason (e.g., a continuously unhealthy or unsafe parent).”

Dr. Stanton testified at the section 366.26. hearing. The doctor noted that the child sat close to mother and the two of them easily engaged in conversation, and the doctor thought their relationship “seem[ed] to be something that’s beneficial and positive” as well as “affirming.” The doctor observed that the child “didn’t seem disinhibited in any way or resistant to her mother.” The child did not cry or express any negative emotions at the end of the visit.

Mother testified on her own behalf that she had been the child’s primary caregiver until the child was detained (incorrectly stating that the child was five, not seven, years old when removed). Mother said she consistently attended visits with the child and her half-brother O.B. every week, that the child was very affectionate, enjoyed the visits, and liked spending time with her half-sibling O.B. and O.B.’s paternal aunt, Mrs. L. (who monitors the visits).

Mother argued that parental rights should not be terminated because it would be detrimental to the child to sever her ties with mother and the child’s ties with the two half-siblings J.H. and O.B..

The juvenile court found by clear and convincing evidence that the child is adoptable and likely to be adopted, that the exceptions to terminating parental rights did not apply, and ordered termination of parental rights.

DISCUSSION

On appeal, mother argues that juvenile court's finding that the section 366.26, subdivision (c)(1)(B)(i) beneficial parent-child exception to termination of parental rights is inapplicable is not supported by substantial evidence.

In cases like the present one in which family reunification services have been bypassed and the court has found the child is likely to be adopted, the juvenile court is required to terminate parental rights unless the child comes within the exceptions to termination set forth in subdivision (c) of section 366.26. (*In re Caden C.* (2021) 11 Cal.5th 614, 630–631 (*Caden C.*)).

One of those exceptions is the beneficial parent-child relationship set forth in subdivision (c)(1)(B)(i) of section 366.26. That provision authorizes the juvenile court to select a permanent plan other than adoption if the parent has established three elements by a preponderance of evidence: (i) the parent maintained regular visitation and contact with the child; (ii) the child has, and would benefit from continuing, a substantial, positive, emotional attachment to the parent; and (iii) termination of that relationship would be detrimental to the child even when balanced against the benefits of an adoptive home. (§ 366.26, subd. (c)(1)(B)(i); *Caden C.*, *supra*, 11 Cal.5th at pp. 636–637.)

The first two elements are generally reviewed for substantial evidence and the third is reviewed for abuse of discretion. (*Caden C.*, *supra*, 11 Cal.5th at pp. 639–640.)

If, as in this case, the issue is one of a failure of proof, then the appropriate standard of review is not whether substantial evidence supports the juvenile court's finding, but rather whether as a matter of law the evidence compels a finding in favor of the parent.

(*In re Luis H.* (2017) 14 Cal.App.5th 1223, 1227; see *In re I.W.* (2009) 180 Cal.App.4th 1517, 1528, disapproved on other grounds as stated in *Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1010, fn. 7.)

A. The First Caden C. Element: Visits and Contact between Parent and Child

In this case, the Department does not dispute, and the record supports, the juvenile court's finding that the parents had maintained regular visits and contacts with the child over the course of the dependency proceedings.

B. The Second Caden C. Element: A Child's Relationship with the Parent and the Benefit to the Child To Continue It

With respect to the second *Caden C.* element, the court found, “[t]here is clearly a relationship of some sort that is positive” and that, “[t]here’s a substantial emotional attachment” between mother and the child. It did not, however, make an express finding whether the child would benefit from continuing that relationship. The court noted only that, “[mother] might enjoy the title of being called ‘Mom,’ but that’s not her understood capacity by the child in that limited role during visitation.” It found mother’s visit as “basically, a very positive family-charged experience that [m]other was participating in.”

In her opening brief, mother argues that the court should have found the second *Caden C.* element was met but instead essentially found mother was simply a friendly visitor because she did not occupy a parental role. In its responsive brief, the Department

posits that the court found mother had satisfied the second element, but then set forth facts to support a finding that the relationship was not beneficial. There is no need for us to address the parties' claims on this issue because, as we explain *infra*, there is abundant support for the juvenile court's finding that mother did not meet her burden as to the third *Caden C.* element. (See *In re M.V.* (2025) 109 Cal.App.5th 486, 514 (*M.V.*) [the failure to establish one element of the *Caden C.* test made it unnecessary to evaluate another of the three elements].)

C. The Third Caden C. Element: Whether Termination of the Relationship with the Parent Would be Detrimental to a Child even when Balanced Against the Benefits of an Adoptive Home

Mother argues that the juvenile court abused its discretion when it found it would not be detrimental to the child to sever her relationship with mother. It is well settled that, to justify withholding the security, stability, and sense of belonging that an adoptive home would confer, a parent has the burden of showing that severing the child's relationship with the parent will 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 (*Angel B.*).) Mother has not met that burden here.

To support her claim of detriment to the child, mother points to the facts that (i) the juvenile court found there was some sort of relationship and a substantial emotional attachment between her and the child; (ii) that the child "likely did not understand the

reality that her relationship with mother would be entirely severed; and (iii) that Dr. Stanton concluded that severing contact “could be detrimental.” We are not persuaded.

(i) *The Juvenile Court's Emotional Attachment Finding*

Mother is correct that the juvenile court found there was a substantial emotional attachment between her and the child. That finding standing alone does not compel a finding that it would be detrimental to the child to terminate the relationship. What mother must establish is that the child will be greatly harmed if she is deprived of her relationship with mother. (*Angel B., supra*, 97 Cal.App.4th at p. 466.)

(ii) *The Child's Understanding of Adoption*

Mother suggests that the child will suffer detriment because the child asked the social worker if she would be able visit mother and posits that it’s “likely” the child did not understand that adoption meant that her relationship with her mother would be severed. Neither the asking of the question about visits nor the record support that conclusion. The child understood she would be living with her grandfather and that he would have the same role and responsibilities as a birth parent and, long after the conversation mother cites, the child again made clear that she wants to be adopted by her grandfather, that she feels safe and does not want to move.

(iii) *Dr. Stanton's Bonding Study*

Even if mother was correct that the child does not now fully grasp the “reality” that adoption totally severs her relationship with mother, the only evidence that mother offers to establish the possibility of the child suffering harm at some later point is Dr.

Stanton's bonding study, a study that the juvenile court found to be biased and not well-vetted or well-balanced. Mother contends that the juvenile court abused its discretion in discarding Dr. Stanton's opinion about the value of the child's relationship with mother. We do not agree.

While it is true that an expert psychologist who has observed a parent and child and synthesizes the observations of others can often be a significant source of information about the psychological importance of the relationship for a child (*Caden C.*, *supra*, 11 Cal.5th at pp. 632–633), an expert's opinion on that subject is not better than the reasons upon which it is based, that is, its value depends on the material from which the opinion is fashioned and the reasoning by which the expert progresses from their material to their conclusion (*M.V.*, *supra*, 109 Cal.App.5th at p. 511). A juvenile court is free to reject an expert's opinion if it does not do so arbitrarily. (*Id.* at p. 509.) To establish an abuse of discretion, mother must demonstrate that juvenile court's rejection of Dr. Stanton's opinion was so erroneous that it falls outside the bounds of reason. (*Ibid.*)

In *M.V.*, the reviewing court found the juvenile court did not abuse its discretion when it rejected a bonding study that was based upon observations made during a single visit between that child and her father. (*M.V.*, *supra*, 109 Cal.App.5th at p. 510.) *M.V.* described the psychologist's report and testimony as “heavy on conclusions that may reasonably be perceived as ticking off a psychological checklist based on observing specific behaviors [seeking comfort and support, confidence to explore, and staying

within close proximity to the parent] rather than reaching an individualized conclusion taking into account the full range of evidence relevant to whether M.V. had substantial, positive emotional attachments to her parents.” (*Ibid.*)

The bonding study here is very similar to the one in *M.V.* and we, like the reviewing court in that case, find that the juvenile court did not abuse its discretion when it rejected the psychologist’s bonding study. Dr. Stanton observed a single visit between mother and the child. Her report and testimony were conclusory and can reasonably be viewed as working off of a psychological checklist of specific behaviors to look for during a visit (the child’s staying in close proximity to mother and engaging in dialog, mother’s “initiat[ion] [of] affection and responds to her overtures”), rather than taking into account a full range of evidence to permit an individualized conclusion.

For example, Dr. Stanton’s bonding study, like the study in *M.V.*, did not include any descriptive specifics of the child’s relationship with mother, their history, the child’s emotions, mother’s role in the child’s life with the exception of Dr. Stanton’s testimony one might expect the child to exhibit negative or aggressive behaviors towards mother “considering her previous experience,” but the child did not seem disinhibited in any way or resistant to mother. (*M.V., supra*, 109 Cal.App.5th at p. 510.) Nor did Dr. Stanton identify or discuss any benefits, meaning, value, or importance to the child of her relationship to mother. (*Ibid.*) Like the psychologist in *M.V.*, Dr. Stanton made clear that seeing the specific behaviors of the child (in this case, close proximity to mother, their dialog, and the absence of acting in any negative or resistant manner against mother)

during a single visit was all she needed to find there was a bond; that only if elements of a secure attachment were absent, would further investigation be needed. (*Ibid.*)

We note, too, that Dr. Stanton's report states that mother responded supportively when needing help or direction but gave no specific instance in which the child needed help or direction. And, when asked about her statement that mother used disciplinary measures appropriate to the child's developmental age, Dr. Stanton testified that she "want[ed] to say it wasn't a misbehavior disciplinary measure. It would be more of a sense of[,] 'Oh, be careful.' 'Watch that,' and [the child] respond[ing] to her prompting."

Moreover, even if the court had not rejected the bonding study, we would not find that Dr. Stanton had established that the child would suffer great harm from the severance of her ties to mother. The bonding study simply assumed without supporting facts that the relationship between mother and the child was beneficial. Based on that faulty premise and on an assumption that contacts were being severed without a significant reason (such as a continuously unhealthy or unsafe parent), Dr. Stanton made the generic observations that discontinuing contacts between mother and the child "could be detrimental," and that, even if stopping contacts did not immediately destabilize the child, there "may be challenges related to negotiating the ambiguous loss."

CONCLUSION

In view of the foregoing, we do not find the record compels a finding that the mother met her burden of establishing that the child had such a substantial, positive emotional attachment to mother that it would be beneficial to the child for those

relationships to continue, or that the juvenile court abused its discretion when it found the benefit to the child of adoption outweighed any potential detriment to her of severing her relationship with mother.

DISPOSITION

The order terminating parental rights is affirmed.

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RAMIREZ

P. J.

We concur:

FIELDS _____
J.
RAPHAEL _____
J.