

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re CADEN C.,) No. S255839
A Person Coming Under the)
Juvenile Court Law.) Court of Appeal Nos.
_____) A153925
) consolidated with
SAN FRANCISCO HUMAN) A154042
SERVICES AGENCY,)
Plaintiff and Appellant,) San Francisco County
) No. JD15-3034
v.)
)
CHRISTINE C. et al,)
Defendants and Respondents;)
)
CADEN C., a Minor,)
Appellant.)
_____)

SUPREME COURT
FILED
SEP 05 2019
Jorge Navarrete Clerk

Deputy

BRIAN C.'s OPENING BRIEF ON THE MERITS

After the Published Decision by the Court of Appeal
First District, Division One
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By appointment of the Court of Appeal
under the First District Appellate Project,
Independent Case System

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CADEN C., a Minor,)	
Appellant.)	
_____)	

**OPENING BRIEF ON THE MERITS
FOR RESPONDENT FATHER BRIAN C.**

QUESTIONS PRESENTED

- (1) What standard of review governs appellate review of the beneficial parental relationship exception to adoption?
- (2) Is a showing that a parent has made progress in addressing the issues that led to dependency necessary to meet the beneficial parental relationship exception?

INTRODUCTION

Respondent Brian C., father of Caden C., remains “aligned in his position with the mother” (3 ART 405) and both parents retain an interest in their parental rights. (*In re A.L.* (2010) 190 Cal.App.4th 75, 80, citing to Cal. Rules of Court, rule 5.725 (a) and (g) [a court may not terminate the parental rights of only one parent].) All parents, unless and until their parental rights are terminated have an interest in their children’s companionship, care, custody, and management. (*In re K.C.* (2011) 52 Cal.4th 231, 236; citing to *In re Marilyn H.* (1993) 5 Cal.4th 295, 306.)

In the Court of Appeal, Brian C. joined in the arguments of Christine C. in support of the findings and orders of the juvenile court pursuant to California Rules of Court, rule 8.200(a)(5). (Respondent Father’s Brief in Consolidated Cases A153925 and A154042 at p. 6.) In this Supreme Court, Brian C. joined and/or incorporated by reference all parts of the petition for review filed by Christine C. (See Cal. Rules of Court, rule 8.504(e)(3).) In his opening brief, Brian C. hereby adopts the arguments of Christine C. as made in her opening brief on the merits.

STATEMENT OF THE CASE AND FACTS

For purposes of this brief on the merits, respondent, Brian C., adopts the statement of facts and procedural history set forth in the opening brief filed by Christine C.

ARGUMENT

I.

THE HYBRID STANDARD OF REVIEW IS THE MOST APPROPRIATE STANDARD.

Respondent Brian C. hereby adopts Christine C.'s argument from her opening brief on this issue.

II.

A DETERMINATION OF WHETHER THE PARENT HAS MADE PROGRESS IN ADDRESSING THE ISSUES THAT LED TO DEPENDENCY IS NOT STATUTORILY REQUIRED FOR ASSESSING WHETHER THAT PARENT HAS ESTABLISHED THAT THE BENEFICIAL PARENT-CHILD RELATIONSHIP EXCEPTION TO ADOPTION APPLIES, IS INCONSISTENT WITH PUBLIC POLICY, AND RENDERS THE BENEFICIAL PARENT-CHILD EXCEPTION TO ADOPTION MEANINGLESS.

Respondent Brian C. hereby adopts Christine C.'s argument from her opening brief on this issue.

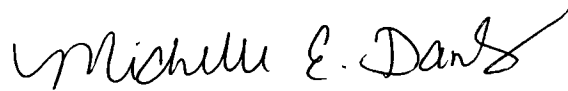
CONCLUSION

Father Brian C. joins the request of Christine C. that this Court find that the appropriate standard of review as to the beneficial parent-child relationship exception to adoption is the hybrid substantial evidence and abuse of discretion standard, that application of the beneficial parent-child relationship exception to adoption does not require a showing that the parent has made progress in addressing the issues leading to the child's dependency, and that the Court of Appeal in Caden

C. improperly applied the standard of review and imposed an inappropriate requirement on application of the beneficial parent-child relationship exception to adoption.

Dated: September 3, 2019

Respectfully submitted,



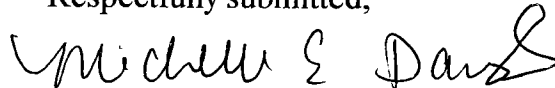
Michelle E. Danley
Attorney for Father, Brian C.

CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court, rule 8.520(c), I certify that the foregoing brief, filed on behalf of Brian C., is proportionally spaced, has a typeface of 13 points and contains 468 words, excluding tables, as counted by the word count feature of Microsoft Word for Mac.

Dated: September 3, 2019

Respectfully submitted,



Michelle E. Danley
Attorney for Father, Brian C.

In re Caden C.; Case No. S255839; Court of Appeal Nos. A153925, A154042

DECLARATION OF SERVICE BY MAIL AND ELECTRONIC SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party within the action; my business address is 6947 Coal Creek Pkwy SE, #175, Newcastle, WA 98059. My electronic service address is michelledanley@gmail.com.

On September 3, 2019, I served the attached:

FATHER'S OPENING BRIEF ON THE MERITS

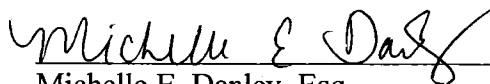
on the parties listed below by placing true copies enclosed in sealed envelopes with postage fully prepaid in a United States Post Office box. I am familiar with this office's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice each envelope would be deposited with the United States Postal Service in BELLEVUE, WA, on that same day in the ordinary course of business.

San Francisco Superior Court Hon. Monica Wiley 400 McAllister Street San Francisco, CA 94102	Petitioner Brian C. c/o Julia TenEyck, Esq. 459 Fulton St., Ste. 209 San Francisco, CA 94102
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On September 3, 2019, I transmitted a PDF version of this document by electronic mail to each of the following using the email address(es) indicated:

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I declare under penalty of perjury under the laws of the state of California that the above is true and correct and that this declaration was executed at Bellevue, WA on September 3, 2019


Michelle E. Danley, Esq.