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California Supreme Court
350 McAllister St.
San Francisco, CA 94102

August 29, 2025

Re: **Letter Brief Regarding New Authority**
In re S.R., S285759

Honorable Presiding Justice Patricia Guerrero and Associate Justices:

This Court has calendared argument for September 8, 2025. Counsel for appellant S.F. (Mother) respectfully submits this letter brief to apprise this Court of new post-briefing authority, pursuant to California Rules of Court, Rule 8.520, subdivision (d).

***In re Jayden A.* (2025) 111 Cal.App.5th 1334**

Issued on June 13, 2025, the opinion in *In re Jayden A* is relevant as it interprets the holding of *In re D.P.* (2023) 14 Cal.5th 266 and further clarifies principles of mootness which have previously been discussed in briefing.

Relevant to the present appeal, in *In re Jayden A.*, the father challenged the sufficiency of the evidence supporting the court's jurisdictional findings against him. (*In re Jayden A.*, *supra*, 111 Cal.App.5th at p. 1337.) The San Bernardino County Children and Family Services (CFS) argued that the father's jurisdictional challenge was moot because of unchallenged allegations against the mother. (*Ibid.*) CFS argued that even though the jurisdictional allegations against Father were the basis for the removal order, appellate review was discretionary, not mandatory. (*Ibid.*) The *In re Jayden A.* court rejected this argument, holding that when a jurisdictional finding serves as the basis for a challenged dispositional order, appellate review is mandatory, not discretionary. (*Ibid.*, citing *In re D.P.*, *supra*, 14 Cal.5th at pp. 282-83.)

The opinion in *In re Jayden A.* is relevant to the present appeal because it affirms the principle that a jurisdictional appeal is not necessarily moot because reversal will not lead to the termination of jurisdiction. Instead, the

question is whether reversal will provide the parent effective relief. Further, as addressed in Appellant’s Reply Brief (ARB), the Department’s Answer Brief (AB) “confuses the difference between mandatory and discretionary review.” (ARB, p. 12, referencing AB, pp. 18-19.) The Department relied upon *In re Drake M.* (2012) 211 Cal.App.4th 754 for the proposition that if “the jurisdictional finding serves as the basis for dispositional orders that are also challenged on appeal” supports *discretionary*, opposed to mandatory review. (AB, pp. 18-19, citing *In re Drake M. supra*, at pp. 762-63.) However, as the *In re Jayden A.* court notes: “*Drake M.* was wrong on that point.” (*In re Jayden A.*, at p. 1345.) The *In re D.P.* “court expressly disapproved *Drake M.* to the extent that it suggests the additional challenge to the dispositional order ‘is insufficient to avoid mootness and supports only discretionary review.’” (*Ibid*, citing *In re D.P, supra*, 14 Cal.5th at p. 283.) Rather, “merits review is required.” (*Ibid.*)

Dated: August 29, 2025

/S/

Sean Burleigh
Attorney for Appellant, S.F.

Certificate of Word Count

I certify that the foregoing brief complies with California Rules of Court, Rule 8.520, subdivision (d) and contains 645 words, including footnotes, according to the word count feature of Microsoft Word Version 16.77.11, the computer program used to prepare this brief.

Dated: August 29, 2025

/S/

Sean Burleigh
Attorney for Appellant, S.F.

PROOF OF SERVICE
IN THE SECOND DISTRICT COURT OF APPEAL, DIVISION ONE

CASE NAME: *In re S.R., et al.*
TRIAL COURT CASE NO.: 22CCJP03750A/B
APPELLATE COURT CASE NO.: B326812

I, Sean Burleigh, declare and state:

That I am not a party to the within action; that I am an attorney admitted to practice law in the State of California appointed by this Court to represent appellant.

That on August 29, 2025, I served the following:

Letter Brief Regarding New Authority

Upon the persons or organizations listed below electronically. I utilized service through the true filing electronic system.

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Appellate Court, trough truefiling

Upon the persons or organizations listed below, by placing this document in the mail addressed to:

Appellant – address on file

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 29, 2025 at Tucson, Arizona.

/S/
Sean Burleigh

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **IN RE S.R.**
Case Number: **S285759**
Lower Court Case Number: **B326812**

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Date

/s/Sean Burleigh

Signature

Burleigh, Sean (305449)

Last Name, First Name (PNum)

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