

STANDING IN DEPENDENCY CASES

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Catherine P. v. Ngoc P. (In re Anthony P.) (2000) 84 Cal.App.4th 1112, 1117. On her appeal from order terminating her parental rights, mother has no standing to raise father's lack of due process in an attempt to defeat the termination of her parental rights.

In re DeJohn B. (2000) 84 Cal.App.4th 100, 110. If the judgment terminating mother's parental rights is reversed, the judgment terminating father's parental rights will be reversed as well, despite the absence of independent error pertaining to him, depending upon whether there are impediments to reversal.

In re Joseph G. (2000) 83 Cal.App.4th 712. An alleged biological father who is not a party of record in the dependency court has no standing to appeal an order terminating parental rights. (Id., at p. 716.)

As a general rule, a parent may appeal from termination of parental rights. However, only parties of record may appeal. A party of record is a person named as a party to the proceedings or one who takes appropriate steps to become a party of record in the proceedings. A person does not become a party of record merely because his or her name and interest appear in documents filed with the court or are referenced in the judgment. (Id., at p. 715.)

Notice of the dependency proceedings and alleged father status simply give a person an opportunity to seek to become a party of record to the dependency proceedings. Nor does fact that person is referenced by name in termination order establish party status where identification of person is a result of statutory notice, not person's status as party of record. (Id., at pp. 715-716.)

In re Frank L. (2000) 81 Cal.App.4th 700, 702-704. Generally, parents can appeal judgments or orders in juvenile dependency matters. However, a parent must also establish she is a "party aggrieved" to obtain a review of a ruling on the merits. Therefore, a parent cannot raise issues on appeal from a dependency matter that do not affect her own rights. Standing to appeal is jurisdictional.

The interest of siblings or other relatives in their relationship with the minor is separate from that of the parent. Therefore, a parent has no standing to raise an

issue related to the minor's right to visit his siblings. Likewise, the parent has no standing to raise issues related to the minor's right to see his grandparents.

Parent's argument that the court's order does not serve minor's best interest based on the potential change in minor's relationship with his siblings or his grandmother is an issue not related to parent's interest and parent lacks standing to raise that issue on appeal.

Likewise, parent does not have standing to raise the issue of whether minor's counsel was ineffective as a result of his counsel's representation of him and his siblings. Fact that mother's parental rights are still intact and that mother claims her interests are intertwined with siblings' interests, who oppose minor's out-of-state placement, do not give mother standing.

The mere fact a parent takes a position on a matter at issue in a juvenile dependency case which affects his or her child does not alone constitute a sufficient reason to establish standing to challenge an adverse ruling on it. To have standing, parent must show how the alleged conflict of interest affects her. Parent's citation to adverse impact of joint representation of siblings is insufficient. Without some showing that her personal rights were affected, parent has no standing.

Nor does the fact parent's interest may be intertwined with siblings create standing. Even if the fact that siblings' interests conflicted with minor's would give them standing to raise that issue on appeal, mother cannot do so on their behalf. Also, parents' rights are not directly at issue after permanent plan has been selected. (Compare In re Patricia E. (1985) 174 Cal.App.3d 1, 5.)

In re Clifton B. (2000) 81 Cal.App.4th 415. Parent has no standing to raise issues regarding siblings' interest in each other, since his own rights are not affected thereby. A parent is not aggrieved by sibling visitation order because parent's interest in dependency proceedings is reunification. (Id., at p. 425.)

Parent does have standing to raise ineffective assistance of counsel on behalf of his children, even on appeal from order terminating parental rights. Independent representation of the child's interest impact upon the parent's interest in the parent-child relationship. (Id., at pp. 427-428.)

In re Jasmine D. (2000) 78 Cal.App.4th 1339, 1343, fn. 3. On appeal from orders terminating parental rights, standing of father who files no brief of his own to join in mother's brief and complain about termination of her parental rights is questionable, to say the least.

In re Caitlin B. (2000) 78 Cal.App.4th 1190, 1193-1194. Parent has no standing to contend the juvenile court erred in terminating her parental rights because neither alleged father had proper notice of the section 366.26 hearing. A parent's interest is limited to the continuation or termination of his or her own parental rights. A mother's interests do not interweave with those of a natural father whom she cannot identify and with whom she has no continuing relationship. A parent's statutory right to a particular form of notice or a more generalized due process right to be heard are personal. Finally, the compulsory joinder provision of rule 1463 does not confer on a mother the right to urge an appeal that an error in terminating a father's parental rights redounds to her benefit so as to make into error an errorless termination of her parental rights.

In re Margarita D. (1999) 72 Cal.App.4th 1288, 1298. Where a valid and final judgment of paternity is in place as to a presumed father, a mere biological father has no standing to pursue a section 388 petition.

In re Carissa G. (1999) 72 Cal.App.4th 731. Generally, a parent can appeal the judgment in a juvenile dependency matter. But as in any appeal the parent must also establish he or she is a "party aggrieved" to obtain a review of a ruling on its merits. To be aggrieved, a party must have a legally cognizable immediate and substantial interest which is injuriously affected by the court's decision. A nominal interest or remote consequence of the ruling does not satisfy this requirement. (Id., at p. 734.)

A conflict currently exists in the case law concerning whether a parent has standing to appeal an order dismissing a juvenile dependency petition after a contested jurisdictional hearing. Siding with the authority that holds that a parent lacks standing to challenge that ruling, a mother has no standing to challenge the juvenile court's dismissal of a petition alleging father's sexual abuse of the minor after a contested hearing. Where (1) dismissal of the petition did not alter the minor's custody status; (2) a sustained petition would have altered that status only slightly by limiting father's visits; (3) dismissal eliminated necessity for mother's participation in any programs; and (4) dismissal did not leave mother without a remedy in family court, dismissal of petition did not impact mother's fundamental right to parent and mother is not an aggrieved party entitled to appeal. (Id., at pp. 734-736.)

While parents are entitled to appear and participate in a juvenile dependency action, the proceeding is initiated by the state, under the theory of *parens patriae*, to protect a minor from abuse or neglect as defined by section 300. Thus, the mere fact a parent takes a position on a matter at issue in a juvenile dependency case which affects his or her child does not alone constitute a sufficient reason to

establish standing to challenge an adverse ruling on it. Further, a parent has no statutory right to present evidence in support of a dependency petition if the juvenile court grants the motion to dismiss upon receiving evidence from the petitioner and the minor. (*Id.*, at pp. 736-738.)

Los Angeles County Department of Children and Family Services v. Superior Court (1998) 62 Cal.App.4th 1, 11. Upon termination of parental rights, mother's standing to participate in dependency proceedings is eliminated.

In re Devin M. (1997) 58 Cal.App.4th 1538, 1540-1542. On appeal from order terminating her parental rights, mother has no standing to challenge that order on the ground that the order results in the severance of her child's relationship with his foster family. A parent cannot raise issues on appeal which do not affect his or her own rights. A parent's interest is in reunification. Regardless of whether the argument is phrased as an assertion of third-party or first-party rights, parent lacks standing to raise the issue of the severance of the relationship between the minor and his or her foster family.

In re Jessie G. (1997) 58 Cal.App.4th 1, 9, fn. 3. On appeal from order terminating her parental rights, parent does not have standing to raise absence of sibling visitation.

In re Joshua M. (1997) 56 Cal.App.4th 801, 807. One parent cannot claim ineffective assistance of the other parent's counsel when the other parent has not appealed. (Compare, In re James S. (1991) 227 Cal.App.3d 930, 933, fn. 6.)

Janice J. v. Superior Court (1997) 55 Cal.App.4th 690, 691-692. A rule 39.1B petition may be summarily dismissed in the absence of a showing that the parent consented to, or authorized the filing of, the petition. Where the record indicates the attorney signed the notice of intent because the parent had disappeared, the burden of proof must shift to the parent to show he or she consented to or authorized the petition. An attorney representing one of these parents has no professional duty to file a rule 39.1B writ petition in the absence of the client's authorization. If the client has disappeared by the time the section 366.26 hearing is set, fails to stay in contact with the attorney, and has not signed a document indicating his or her personal authorization of the writ petition, then the attorney is absolved from any professional responsibility to file a notice of intent or a petition.

In re Elizabeth M. (1997) 52 Cal.App.4th 318, 324. Parent has standing to challenge cognizable order denying his/her section 388 petition on appeal from orders terminating parental rights even though petition raised issues of minor's prospective adoptive placement and not parent's interest in custody or

reunification.

In re Jasmine J. (1996) 46 Cal.App.4th 1802, 1806-1808. On appeal, parent may not oppose order terminating his parental rights on grounds that he was refused a contested 366.26 hearing at which he offered to prove that termination of parental rights would not be in the best interest of minor who would thereby be separated from her sibling. Under these circumstances, parent's argument for reversal of order terminating parental rights is essentially an argument advancing siblings' interests, not his own. Parent has no standing to raise issues regarding siblings' interests.

In re Lauren P. (1996) 44 Cal.App.4th 763, 770. A public agency is not the only party whose interest is affected by the dismissal of a dependency petition. Any parent who takes the position that dependency jurisdiction is warranted is aggrieved by dismissal of the petition. Just as a parent must be permitted to present evidence and to argue in opposition to dismissal below, so such a parent must be allowed to appeal from a dismissal of the petition on the merits.

In re Nachelle S. (1996) 41 Cal.App.4th 1557. On appeal following order terminating her parental rights, mother does not have standing to raise minor's right to a court order concerning visitation with her siblings. In civil cases, such as dependency actions, only an aggrieved party may appeal. (Code Civ. Proc., § 902.) (Id., at p. 1560.) A mother is not aggrieved by a court's determination regarding sibling visits. Mother's interest in proceedings is her reunification with minor. Siblings' connections with proceedings is their interest and relationship with the mother. Orders concerning siblings do not impinge mother's discrete interest. (Id., at pp. 1560-1562.)

In re Gary P. (1995) 40 Cal.App.4th 875, 876-877. An appellant cannot urge errors which affect only another party who does not appeal. On appeal from order terminating her parental rights, mother does not have standing to contend that order is not in minors' best interest because adoption would sever ties with their maternal grandmother. That issue does not concern mother's rights. Nor is mother aggrieved by fact termination order may sever grandmother's ties with minors. Thus, mother can not challenge termination order on either siblings' or grandmother's behalf.

Clifford S. v. Superior Court (1995) 38 Cal.App.4th 747, 751-752. A de facto parent has a right to appeal certain issues. However, a de facto parent, like a stepparent, has no right to reunification services and, therefore, does not have standing to challenge the denial of reunification services or contest the reasonableness of service offered.

In re Vanessa Z. (1994) 23 Cal.App.4th 258, 261. A parent is not aggrieved by an order denying relative de facto parent status and, hence, has no standing to appeal that order.

In re Joel H. (1993) 19 Cal.App.4th 1185. De facto parents have standing to appeal. That standing is not limited to the "core de facto parent status rights" to be present, to be represented by counsel, and to present evidence; de facto parents may raise other appellate issues as long as they are an aggrieved party. For example, a de facto parent is aggrieved by an order removing a minor from his or her physical custody. Also, de facto parent status does not depend on the existence of judicial proceedings. Therefore, the termination of dependency jurisdiction does not terminate de facto parent status and quit the de facto parent of standing to appeal. (Id., at pp. 1194-1196.) However, de facto parents are not entitled as a matter of law to court-appointed counsel in the trial court or on appeal. (Id., at p. 1199.)

Allen M. v. Superior Court (1992) 6 Cal.App.4th 1069, 1074. Public agency is not the only party whose interest is affected by the dismissal of a dependency petition. When the agency wishes to dismiss a petition it must notify all interested persons in order to afford each the opportunity to object and be heard. If a parent or minor does object, resolution of the matter is properly by an order to show cause hearing requiring the agency to establish why the petition should be dismissed. Although the court may accord great deference to the agency's expertise, the primary focus of the court is the determination of whether dismissal is in the interests of justice and the welfare of the minor. On that basis the court may either grant the dismissal or order the agency to proceed with the petition.

In re Rachael C. (1991) 235 Cal.App.3d 1445 [disapproved on a different ground in In re Kieshia E. (1993) 6 Cal.4th 68, 80]. Party denied de facto parent status in dependency proceedings has standing to appeal from that denial. (Id., at p. 1454.) Insofar as it may be interpreted to preclude such an appeal, rule 1435(b) is, to that extent, void. (Id., at p. 1455.) (Accord, In re Hirenia C. (1993) 18 Cal.App.4th 504, 510 fn. 2.)

In re Sarah M. (1991) 233 Cal.App.3d 1486, 1503 [disapproved on another point in In re Chantal S. (1996) 13 Cal.4th 196, 204]. An appellant cannot urge errors which affect only another party who does not appeal.

In re Elizabeth M. (1991) 232 Cal.App.3d 553, 565. On appeal, parent has right to assert child's right to independent counsel in dependency proceedings.

In re Tomi C. (1990) 218 Cal.App.3d 694. A parent is not aggrieved by order

dismissing dependency petition without adjudication where even if the parent could have successfully defended against petition allegations, parent could not thereby have regained custody of children because custody issue had already been decided by family court. To the extent the noncustodial parent believes that the custodial parent is unfit, he can make formal application for initiation of section 300 proceedings under section 329 and rule 1405(e).

In re Jenelle C. (1987) 197 Cal.App.3d 813, 818. On appeal from order terminating parental rights, birth mother does not have standing to argue that the service of notice to the birth father was defective because birth mother is not injured by the alleged error.

In re Patricia E. (1985) 174 Cal.App.3d 1, 6. On appeal following review hearing continuing child a dependent of the juvenile court, parent has standing to raise the issue of child's right to self-representation. Independent representation of child's interest impacts upon parent's interest in parent-child relationship. Where the interests of two parties interweave, such as in a dependency proceeding where the child's welfare and parent-child relationship are intertwined considerations, either party has first party standing to litigate issues that impact the related interests.

In re Riva M. (1991) 235 Cal.App.3d 403, 411, fn. 6. Under Indian Child Welfare Act, a non-Indian parent of an Indian child has standing to petition to invalidate a termination of parental rights in proceedings which do not comply with the Act's provisions.