

LESLIE A. BARRY

Certified Child Welfare Law Specialist

Attorney at Law • SBN 212303

650 Park Rd. • Mays Landing, NJ 08330

(714) 206-3372 • LeslieBarryLaw@gmail.com

California Supreme Court
350 McAllister St.
San Francisco, CA 91402

Re: **Letter Brief Regarding New Authority**
In re Caden C.; San Francisco HSA v. Christine C.
Supreme Court No. S255839

Chief Justice Tani Cantil-Sakauye and Associate Justices:

This Court has calendared argument for March 2, 2021. Counsel for respondent Christine C. (Mother) respectfully submits this letter brief to apprise the Court of new post-briefing authorities, pursuant to California Rules of Court, rule 8.520(d).

In re A.G. (2020) 58 Cal.App.5th 973

Issued on December 18, 2020, the opinion in *In re A.G.*, *supra*, 58 Cal.App.4th at p. 973, is instructive as to both issues pending before this Court.

In that case, the mother challenged the juvenile court's finding the her offer of proof, made as a condition precedent to setting a contested Welfare and Institutions Code section 366.26 hearing, was insufficient. The Sixth District Court of Appeal reversed. In doing so, the Court of Appeal reaffirmed its prior

holding from *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315, regarding the proper standard of review to be applied to the beneficial parent-child relationship exception to adoption. The Court of Appeal also conducted a thorough analysis of the beneficial parent-child relationship exception to adoption and reiterated that the exception involves “three “ ‘component determinations” ’ [to be] made by the juvenile court, i.e., that the exception involves a three prong test. The Court of Appeal went on to explain that the first two prongs, namely whether there was regular visitation and contact and whether a beneficial parent-child relationship exists, are evidentiary questions, where the parent bears the burden of presenting evidence to satisfy each prong in order for the exception to apply. The Court of Appeal further explained that the third prong, whether there is a compelling reason to forgo the legislative preference for adoption, is strictly a balancing test conducted by the juvenile court wherein it must determine whether the benefits of maintaining the beneficial relationship it has already found to exist outweighs the benefits the child would receive from adoption. Ultimately, the Court of Appeal held that a parent need only identify evidence bearing on the first two prongs of the beneficial parent-child relationship exception to adoption when making an offer of proof to obtain a contested hearing and need not proffer evidence as to the third prong.

The opinion in *In re A.G., supra*, 58 Cal.App.4th at p. 973 reaffirms the consistent position taken by all parties in this

pending case, that the proper standard of review to be applied to issues involving the beneficial parent-child relationship exception to adoption is the hybrid substantial evidence and abuse of discretion standard. The opinion also provides guidance as to whether or not the juvenile court and the Courts of Appeal should consider evidence bearing on the parent's efforts at rehabilitation during its assessment of the exception and, if it may do so, when during that assessment such evidence may be considered. Finally, the opinion makes clear that, consistent with Mother's position in this pending case, it is error to consider evidence regarding the parent's efforts at rehabilitation in reference to the third, discretionary prong of the exception.


Dated: February 19, 2021 Respectfully submitted,



LESLIE A. BARRY
Attorney for Respondent, Christine C.

Certificate Of Word Count

I certify that the foregoing brief complies with California Rules of Court, rule 8.520(d) and contains 828 words, including footnotes, according to the word count feature of Corel Word Perfect X8, the computer program used to prepare this brief.



LESLIE A. BARRY
Attorney for Respondent, Christine C.

LESLIE A. BARRY, SBN 212303
650 Park Rd.
Mays Landing, NJ 08330
Attorney for Respondent Christine C.

In re Caden C.
Supreme Court No. S255839

DECLARATION OF SERVICE

I, the undersigned, declare that I am over 18 years of age and not a party to the instant action. My business address is listed above and my e-service address is barry212303@gmail.com. On February 19, 2021, I served the attached **Letter Brief Regarding New Authority** by placing true copies in a sealed envelope, with the correct postage, and depositing them in the United States Postal Service, to each addressee as follows:

Hon. Monica Wiley – San Francisco Juvenile Court
400 McAllister St., San Francisco, CA 94102
Christine C. – address on record

On February 19, 2021, I also transmitted a PDF version of this document, via email, to each of the following using the email address(es) indicated:

First District Appellate Project – eservice@fdap.org
Gordon-Creed, Kelley Holl et al. – sugerman@gkhs.com
Mark Wasacz, Esq. – markwasacz@icloud.com
Deborah Dentler, Esq. – ddentler@gmail.com
Michelle Danley, Esq. – michelle@danleylawpllc.com
Mariko Nakanishi, Esq. – mnakanishilaw@gmail.com
Nicole Williams, Esq. – williams203006@gmail.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 19, 2021, at Mays Landing, New Jersey.


LESLIE A. BARRY

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **IN RE CADEN C.**
Case Number: **S255839**
Lower Court Case Number: **A153925**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **barry212303@gmail.com**
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Jeremy Sugerman Gordon-Creed, Kelley, Holl & Sugerman, LLP 146315	sugerman@gkhs.com	e-Serve	2/19/2021 10:24:05 AM
Michelle Danley Danley Law, PLLC 238318	michelle@danleylawpllc.com	e-Serve	2/19/2021 10:24:05 AM
Leslie Barry Court Added 212303	barry212303@gmail.com	e-Serve	2/19/2021 10:24:05 AM
Deborah Dentler Court Added 92957	ddentler@gmail.com	e-Serve	2/19/2021 10:24:05 AM
Linda Halperin Gordon-Creed, Kelley, Holl & Sugerman, LLP	linda@gkhs.com	e-Serve	2/19/2021 10:24:05 AM
Mariko Nakanishi 236131	mnakanishilaw@gmail.com	e-Serve	2/19/2021 10:24:05 AM
FDAP	eservice@fdap.org	e-Serve	2/19/2021 10:24:05 AM
Mark Wasacz 157351	markwasacz@icloud.com	e-Serve	2/19/2021 10:24:05 AM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

2/19/2021

Date

/s/Leslie Barry

Signature

Barry, Leslie (212303)

Last Name, First Name (PNum)

Leslie A Barry

Law Firm