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NO. 98825-1

SUPREME COURT OF WASHINGTON

IN RE DEPENDENCY OF B.S.,

A minor child

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

S.W., the mother of infant B.S., appeals from an order of dependency. Three months prior to this child's birth, following a four-day contested trial, the mother's parental rights as to three older children were terminated. Because the mother's severe deficiencies remained, the Department of Children, Youth, and Families filed a dependency petition and the court removed B.S. from the mother's care shortly after birth. The Department again attempted to offer the mother services to remediate the same parental deficiencies prior to trial, but was once more unsuccessful.

At a dependency trial regarding B.S., which occurred about one year after the prior termination trial, the Department presented the order from the recent termination of parental rights trial as evidence of the mother's parental deficiencies. The Department proved that those same deficiencies remained, and that the mother had engaged in no services to remediate them. The Department also presented evidence that because of those same deficiencies, S.W. could not care for her vulnerable infant. Because no due process violation or legal error occurred, and because substantial evidence supports the trial court's findings, this Court should deny the mother's petition for review.

II. STATEMENT OF THE ISSUES

1. Did the trial court's reliance on the findings of fact established in a previous termination trial, in combination with other evidence to find dependency in the present case, comport with due process?

2. Did the trial court properly apply the collateral estoppel doctrine to permit reliance on findings of fact from a previous termination of parental rights trial?

III. STATEMENT OF THE CASE

B.S. was born in April 2018, and was eight months old at the time of trial. CP 43 (Finding of Fact (FF) 2.2.5).¹ S.W. and A.S. are the parents of B.S.² CP 43 (FF 2.2.2, 2.2.3).

When this child was born, the Department had recently concluded attempts to remediate the mother's parental deficiencies related to her three older children in a dependency (K.R.-K.W., K.R.T.W., and S.R.P.W.).³ CP

¹ Unless otherwise noted, the mother has not assigned error to the findings of fact cited herein. Therefore, they are verities for purposes of this appeal. *In re Welfare of A.W.*, 182 Wn.2d 689, 711, 344 P.3d 1186 (2015).

² A.S. is the biological father of B.S. CP 43 (FF 2.2.3). On November 1, 2018, an order of dependency entered finding B.S. dependent as to the father pursuant to RCW 13.34.030(c). CP 43 (FF 2.2.4). The father was not a subject of the trial nor this appeal. CP 43 (FF 2.2.4).

³ The mother has a long history with the Department. CP 43 (FF 2.2.6-2.2.10). In addition to B.S., she has had four other children. Her first child was born when she was 17 years old. CP 43 (FF 2.2.6). Her parental rights were terminated, and that child was adopted. CP 43 (FF 2.2.6).

43 (FF 2.2.7-2.2.8). Those children had been out of home for over two years. Ex 16, at 3. During that dependency, the Department offered parenting classes and coaching, mental health counseling, a drug/alcohol evaluation, random urinalyses, and casework management. CP 43 (FF 2.2.10).

The mother also completed a psychological evaluation with a parenting component with Dr. Sierra Swing in September 2017. CP 43 (FF 2.2.11). Dr. Swing diagnosed the mother with posttraumatic stress disorder with dissociative symptoms, other specified personality disorder with mixed personality features, and borderline intellectual functioning. CP 43 (FF 2.2.11). The mother had complex trauma resulting from multiple traumas over the course of her life. CP 43 (FF 2.2.11). Dr. Swing recommended that the mother engage in counseling. CP 43 (FF 2.2.11). The mother needed to start to be able to identify emotions, form insight into her own emotions and difficulties, and recognize the impact that her behavior has on others. CP 43 (FF 2.2.11). Dr. Swing offered a poor prognosis for the mother being able to parent. RP 77-78; Ex 16, at 12.

After a four-day termination trial, the court found that despite the Department offering all necessary services for three years, the mother had made no progress and remained unfit to parent her three children. Ex 16, at 12. The court found that even if the mother engaged in all the necessary services, she was unlikely to improve to the point where she could parent in

the next 18 months to two years. Ex 16, at 12. In an order containing over 220 findings of fact, the court terminated the mother's parental rights as to the three children. Ex 16. The mother appealed that order.⁴

Just two months after the order entered terminating the mother's parental rights to her three older children, this child B.S. was born. CP 44 (FF 2.2.17). Providence Hospital staff brought the family to the attention of Child Protective Services. CP 44 (FF 2.2.18); RP 74-75. The Department filed a dependency petition. CP 43 (FF 2.2.1).

At the shelter care hearing, the court ordered out of home placement but authorized unsupervised visitation. CP 46 (FF 2.2.55); CP 452-53. The Court ordered the parents to provide random UAs. CP 163, 385-86, 454; CP 45 (FF 2.2.27). Following the hearing, the mother provided one UA for the Department, which was positive for opiates. CP 45 (FF 2.2.30); RP 27. The mother reported that she was prescribed pain medication at the birth of B.S., but provided no documentation. CP 45 (FF 2.2.31-2.2.32); RP 27. Following that and possibly one other, the mother did not provide UAs as ordered by the court. CP 45 (FF 2.2.33); RP 27-28, 90.

⁴ See *In re Dependency of S.R.P.W.*, No. 78195-2-I, 2019 WL 181996 (Wash. Ct. App. Jan. 14, 2018) (unpublished) (affirming termination of parental rights). The mother's motion for reconsideration was denied on March 4, 2019. She sought discretionary review by this Court in No. 97034-3. Review was denied and the mandate was issued August 2, 2019.

The Department also attempted to offer the mother parenting education. CP 45 (FF 2.2.34); RP 85. The Department offered an educator who would work with the mother during her visitation, but the mother refused. CP 45 (FF 2.2.36); RP 25, 85, 91; Ex 18.

Trial commenced in January 2019, exactly one year after the mother's trial on termination of her parental rights as to her older children. CP 41. Department supervisor George Nelson testified and explained that the mother had made no progress since her rights were terminated as to her three older children one year prior. RP 79. The mother continued to have little to no insight into her own deficiencies, remained reluctant to cooperate with the Department or to engage in services, and her life continued to be characterized by underlying chaos. RP 77-80. The mother's impairments prevented her from being able to read cues and respond in a developmentally appropriate way to infant B.S. RP 83. He explained that the mother struggled to meet her own needs, let alone B.S.'s basic needs. RP 83. The visits with B.S. were going poorly, with B.S. crying uncontrollably and refusing a bottle. RP 80-82. The parents had at times failed to attend to basic needs such as changing diapers. RP 80-82.

The mother testified. RP 11. At the time of trial, the mother did not work. CP 46 (FF 2.2.52). The mother's sole sources of income were her Supplemental Security Income (SSI), public benefits, and the father's SSI.

CP 46 (FF 2.2.53); RP 14-15. The father handled the couple's money and bills. CP 46 (FF 2.2.53). The mother did not drive. RP 33-34. She revealed that she had moved into a new apartment with the father in December of 2018, but she was unable to provide the address or what she paid for rent. CP 46 (FF 2.2.51); RP 13-14.

Victoria Metcalf, a Department social worker, testified that she transported the child to and from unsupervised visits from June to November 2018. RP 55-57. Ms. Metcalf observed B.S. returning from the parents' visitation with his diaper and clothing wet due to his diaper not being changed. RP 62-64. Based on concerns arising in visitation, the court required that visitation be supervised in November 2018. CP 46 (FF 2.2.55).

The mother remained in a relationship with the father. CP 46 (FF 2.2.50); RP 12. They lived together and visited B.S. together. RP 13, 32. The father had already been determined to be an unsafe parent for B.S. and a dependency order had been entered. CP 197-209. At the time of trial, the court required that his visitation with B.S. be supervised. CP 154, 159. He had not engaged in any services. RP 79.

Following testimony and closing arguments, the trial court determined that the Department had met its burden to prove that B.S. was a dependent child pursuant to RCW 13.34.060(6)(c). The trial court evaluated whether it could rely on the findings of fact and conclusions of law from the

termination trial regarding the mother's older children. It concluded that the findings were not hearsay, and that the findings resulted from a contested hearing where the mother was represented by counsel and had the full opportunity to defend. RP 140; CP 44. The court thus concluded that it was bound by the findings from the termination trial under the theory of collateral estoppel. RP 140; CP 44. The court cautioned the Department that "but for the fact that you have some findings from this termination case," the trial court may not have found that sufficient evidence existed to grant the petition. RP 139. However, those findings, combined with evidence presented regarding the mother's current functioning, supported a determination that B.S. was a dependent child. CP 41-47. The court entered findings of fact, conclusions of law, and an order of dependency on February 11, 2019. CP 41-62. The mother appealed. CP 17-40.

On December 30, 2019, Commissioner Mary Neel entered a ruling affirming the order of dependency. The mother now seeks review.

IV. ARGUMENT

The mother seeks discretionary review under RAP 13.4(b)(1), which permits review if the decision of the Court of Appeals is in conflict with a published decision of the Supreme Court. Petition at 1. The mother has failed to show an adequate basis for this Court to accept review under RAP 13.4(b) and her petition for review should be denied.

In this case, the record supports the trial court's dependency findings because the evidence established that the mother was not capable of parenting B.S. at the time of his birth or at the time of trial. The mother has not identified any case law supporting her contentions that a trial court's consideration of a previous termination finding violates a parent's due process rights—in fact, courts have come to the opposite conclusion—or that the trial court improperly applied the doctrine of collateral estoppel.

A. The Mother Fails to Show Any Violation of Due Process Arising from the Trial Court's Consideration of the Termination Findings, Among Other Evidence, in Support of Dependency

The mother's contention that the trial court's reliance on findings from the prior termination trial violated due process fails for three reasons. Petition at 1, 7. First, the mother waived her objection to the admission of those findings by failing to object—and, in fact, affirmatively agreeing—to their admission below. Second, the mother has failed to cite any case law from this Court or the Court of Appeal to support her argument that the trial court's consideration of the termination findings violated her due process rights. To the contrary, case law establishes that the findings were admissible, relevant, and highly reliable, and the trial court did not abuse its discretion in considering them as substantive evidence in conjunction with current information regarding the mother's ability to parent B.S. The mother

has not shown any violation of due process or conflict with this Court's precedent or the precedent of the Court of Appeals.

1. The mother waived her challenge to the trial court's consideration of the termination findings by failing to object before the trial court

For the first time on appeal, the mother challenges the admissibility of findings she agreed could be considered at trial. At trial, her attorney objected only to the findings contained within dependency review orders (such as permanency planning review orders), and agreed that findings that were either agreed to or resulted from a contested hearing were admissible and could be considered by the trial court. RP 8. The general rule is that an appellant may not raise an argument for the first time on appeal. RAP 2.5(a); *Brundridge v. Fluor Fed. Servs., Inc.*, 164 Wn.2d 432, 441, 191 P.3d 879 (2008). Because the mother raises her argument for this first time on appeal without a basis for doing so, this Court should decline to consider it.

2. The trial court's proper consideration of the termination findings, in conjunction with other evidence, did not violate due process

Even if this Court were to consider the mother's due process claim for the first time on appeal, the mother has not presented an adequate basis for review under RAP 13.4(b)(1) because she has not identified any decision of this Court or the Court of Appeals to support her contention that the trial court's consideration of the prior termination findings violated her due

process rights. To the contrary, the petition does not include any substantive or procedural due process analysis.

A juvenile court “has broad discretion in dependency and termination proceedings to receive and evaluate evidence in light of a child’s best interest.” *In re Interest of J.F.*, 109 Wn. App. 718, 728, 37 P.3d 1227 (2001) (citing *In re Dependency of C.B.*, 61 Wn. App. 280, 287, 810 P.2d 518 (1991)). In evaluating risk of harm sufficient to establish dependency, the trial court has considerable discretion. *Schermer*, 161 Wn.2d at 951. An appellate court will affirm an order of dependency as long as substantial evidence supports the trial court’s findings and conclusions of law. *In re Dependency of M.S.D.*, 144 Wn. App. 468, 478, 182 P.3d 978 (2008).

Here, the trial court appropriately exercised its broad discretion in considering the prior termination findings where that evidence was highly reliable, relevant to the issue the trial court was asked to decide, and considered alongside other relevant evidence showing the mother’s present parental deficiencies at the time of the dependency proceeding.

First, as a court record, the termination findings are assumed to be admissible under statutory law. *See* RCW 5.44.010 (“[t]he records and proceedings of any court ... are admissible in evidence in all cases in this state”). As further indicia of reliability, the termination court made the

findings under the high burden of clear, cogent, and convincing evidence, after a contested hearing, *see* Ex 16, at 14—a higher burden than the preponderance of the evidence standard applicable to a dependency proceeding. RCW 13.34.110; *In re Dependency of M.P.*, 76 Wn. App. 87, 90, 882 P.2d 1180 (1994).

Second, the termination findings were relevant to the central question underlying a dependency proceeding: whether the parent is “capable of adequately caring for the child, such that the child is in danger of substantial damage to the child’s psychological or physical development,” RCW 13.34.030(6)(c), which involves a consideration of the parent’s overall ability to meet their parenting obligations, *In re Dependency of J.B.S.*, 123 Wn.2d 1, 12, 863 P.2d 1344 (1993).⁵ Past parenting history is relevant to the finding of dependency; the danger to the child may be based on past history of the parent’s interaction with other

⁵ In any dependency proceeding initiated by the Department, the State must prove, by a preponderance of the evidence, that the child meets the statutory definition of a dependent child. RCW 13.34.110; *In re Dependency of M.P.*, 76 Wn. App. 87, 90, 882 P.2d 1180 (1994). In this case, the Department alleged that B.S. was dependent as defined in RCW 13.34.030(6)(c). CP 580; RP 129. RCW 13.34.030(6)(c) defines a dependent child as one who “[h]as no parent, guardian or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child’s psychological or physical development.” While there are no required factors the court must consider when determining whether a parent is capable of parenting under RCW 13.34.030(6)(c), the juvenile court must examine a parent’s overall ability to meet their parenting obligations. *See In re Dependency of J.B.S.*, 123 Wn.2d 1, 12, 863 P.2d 1344 (1993). The dominant consideration is the safety and welfare of the child. RCW 13.34.020. The Department does not need to wait until a child suffers actual harm, but may act when the petitioner shows there is a danger of harm. *In re Dependency of Schermer*, 161 Wn.2d 927, 951, 169 P.3d 452 (2007).

children. *See In re Welfare of Frederiksen*, 25 Wn. App. 726, 610 P.2d 371 (1979) (evidence of parental deficiencies that resulted in harm to siblings and of remedial services offered relevant at fact-finding trial regarding child removed at birth). Parenting history has also long been considered relevant in the comparable context of a termination of parental rights proceeding. *See, e.g., In re Welfare of Ross*, 45 Wn.2d 654, 657, 277 P.2d 335 (1954) (entire record of parenthood is open to investigation and inquiry in termination of parental rights fact-finding); *In re Dependency of P.A.D.*, 58 Wn. App. 18, 27-28, 792 P.2d 159 (1990) (evidence of a prior termination of parental rights is admissible). Courts' consideration of parenting history in termination cases confirms that it is both relevant to and persuasive of a determination that children born immediately after prior terminations lack a capable parent and are dependent. And crucially, here, the termination findings were entered just two months prior to the initiation of the dependency proceeding regarding B.S.

Third, the mother inaccurately asserts that the trial court found that the mother lacked capacity to parent "as a matter of law," on the sole basis of the prior termination order. Petition at 1. Not so. The Department presented the termination findings coupled with substantial other evidence. The court received 21 exhibits and heard from five witnesses. RP 8, 54, 66, 98, 110; Ex 1-20, 24. The court additionally considered the report of the

guardian ad litem as to B.S. specifically. CP 119-125. Through that evidence, the Department proved that the mother had protracted parental deficiencies, determined by a court just two months prior to this child's birth, which remained unremediated and continued to present a barrier to her safely parenting B.S.

This evidence includes the following. First, at the shelter care hearing regarding B.S. shortly after his birth, the court granted the parents unsupervised visitation pending trial. CP 46 (FF 2.2.56); CP 453, 385. The parents were unable to safely parent B.S., even during brief unsupervised visitation, and the court ordered supervised visitation in November 2018. CP 46 (FF 2.2.56); CP 162-63. During visits, the parents failed to complete even the most basic of childcare skills such as changing diapers. RP 62-64. The mother intended to co-parent with the father A.S., who had already been determined to be incapable of safely parenting B.S. CP 43 (FF 2.2.4).

Supervisor George Nelson testified for the Department. CP 66. Mr. Nelson had supervised the social workers assigned to the mother's cases for two and a half years. RP 71. He attended court hearings, attended family meetings, interacted directly with the mother, briefly encountered her with her children, and reviewed the mother's cases at least monthly with the assigned social workers. RP 71-73.

Mr. Nelson explained that the Department assessed that B.S. would be at imminent risk of harm in the mother's care due to her prior deficiencies, which had not been remediated. RP 76-77. Mr. Nelson testified that, shortly before B.S.'s birth, the mother had completed a psychological evaluation with a parenting component that offered a poor prognosis for her capacity to safely parent without intensive intervention. RP 77-78. The mother's diagnoses included posttraumatic stress disorder with dissociative symptoms, other specified personality disorder with mixed personality features, and borderline intellectual functioning. CP 43 (FF 2.2.11). The mother has complex trauma resulting from multiple traumas over the course of her life. CP 43 (FF 2.2.11); RP 78. The mother never engaged in the recommended services to remediate her mental health. RP 77-78. The mother never completed a court-ordered drug/alcohol evaluation or random urinalyses. RP 78. Mr. Nelson explained that the mother struggled to meet her own basic needs and presented with difficulties in reading cues and responding to a child in a developmentally appropriate way. RP 83. He explained that the mother's life was characterized by underlying chaos and that the mother had little insight into her deficiencies. RP 78, 80.

The mother also testified in the Department's case, and demonstrated in her own testimony that these deficiencies remained present. The mother was unable to testify as to why her rights were terminated as to

her older children, why B.S. was removed from her care, or why her visitation was moved from unsupervised to supervised while B.S. was in shelter care status. At the time of the dependency trial, the mother could not demonstrate competency in basic life functions such as maintaining a job or paying bills. RP 14. The mother testified that visits with B.S. were going well, and that B.S. “doesn’t really cry.” RP 41-43. But, the mother’s testimony failed to grapple with the testimony of George Nelson, who testified that supervised visits were going poorly as the child cried a lot and was very difficult to soothe. RP 81.

Contrary to the mother’s contention, the Department did not ask the court to find B.S. dependent “as a matter of law,” *see* Petition at 1, or based exclusively on prior court findings. Rather, the Department showed at trial that the mother still had many, if not all, of the same deficiencies that she had in January of 2018, just two months prior to the birth of B.S. The mother had not yet addressed her mental health issues or her lack of parenting skills. Substantial evidence supports the trial court’s findings that B.S. has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to his psychological or physical development.⁶ The

⁶ Mother’s argument that the Court of Appeals decision conflicts with *In re Walker*, 43 Wn.2d 710, 715, 263 P.2d 956 (1953) fails. This Court there reached a conclusion entirely consistent with this case and with the current Title 13 RCW and

mother fails to demonstrate a due process violation that would conflict with this Court's prior precedent, and her petition for review should be denied.

B. The Mother Fails to Demonstrate that Application of the Collateral Estoppel Doctrine Constituted Error or Conflicts with this Court's Precedent

The mother also argues that the trial court erred by applying the doctrine of collateral estoppel to the findings of fact rendered in the prior termination order. Petition at 7. Because each of the elements of the doctrine were met, the trial court properly applied the doctrine and considered the prior findings of fact as evidence in this dependency fact-finding.

Collateral estoppel bars relitigation of any issue that was actually litigated in a prior lawsuit. *In re Dependency of H.S.*, 188 Wn. App. 654, 660, 356 P.3d 202 (2015). Collateral estoppel applies only where a prior proceeding: 1) involved an identical issue; 2) involved the same parties; 3) resulted in a final judgment on the merits; and 4) will not work an injustice as applied. *Christensen v. Grant Cty. Hosp. Dist. No. 1*, 152 Wn.2d 299, 307, 96 P.3d 957 (2004).

First, although the statutory elements required differ for a finding of termination and a finding of dependency, many of the factual issues remain the same, and the application of collateral estoppel to those *specific* issues

Chapter 13.34 RCW; dependency is a status that turns on current parental deficiencies. Substantial evidence showed such deficiencies here.

is appropriate. Specifically, collateral estoppel is appropriate with regard to the issue of whether the mother had any parenting deficiencies as of the date of the termination findings, how those deficiencies impaired her ability to parent, and what services were offered to remediate those deficiencies. *See* RCW 13.34.060(6)(c); 13.34.065(5)(a)(i); 13.34.180(1); *Schermer*, 161 Wn.2d at 943 (Although parental unfitness is not necessary for a dependency, “a dependency determination requires a showing of parental deficiency.”). In applying the doctrine of collateral estoppel to these narrow issues, the trial court left open the central question of a dependency proceeding: whether the mother *currently* poses a danger to parent the child in question. The termination finding was highly relevant, but not dispositive, to that ultimate question, and thus both parties appropriately presented new evidence.

Second, both proceedings involved the same parties: the mother and the Department. The fact that each proceeding involved different children does not impact the application of this doctrine to the prior findings: rather, the Department simply must prove that the mother’s parental deficiencies (established by collateral estoppel) also impact her ability to parent this child (proven by separate evidence at trial).

Third, the mother contends that the prior findings were not final due to her pending appeal. Br. at 12. Finality is normally “conclusively

established by a judgment on the merits by affirmation on appeal.” *H.S.*, 188 Wn. App. at 661 (quoting *Chau v. City of Seattle*, 60 Wn. App. 115, 120, 802 P.2d 822 (1991)). But absolute finality is not required for collateral estoppel. *Id.* A final judgment “includes any prior adjudication of an issue in another action that is determined to be sufficiently firm to be accorded conclusive effect.” *H.S.*, 188 Wn. App. at 661 (internal punctuation omitted).

In this case, the Court of Appeals issued an unpublished opinion affirming the order of termination on January 14, 2019. *See In re Dependency of S.R.P.W.*, No. 78195-2-I, 2019 WL 181996 (Wash. Ct. App. Jan. 14, 2018) (unpublished). The Department relied on the findings at trial on January 23, 2019. CR 41. The trial court determined the findings to be sufficiently final that they could be relied upon. Such reliance is appropriate, because a trial judgment is considered final on the merits, and will remain so until it is overturned in a higher court. *See Nielson v. Spanaway Gen. Med. Clinic, Inc.*, 135 Wn.2d 255, 263-64, 956 P.2d 312 (1998) (judgment awarding damages was a final judgment on the merits for collateral estoppel purposes even though a compromise settlement was reached during the pendency of an appeal). This is analogous to a court considering evidence of a final judgment and sentence under ER 803(a)(22), as the conviction may be considered and “[t]he pendency of an appeal may be shown but does

not affect admissibility.” ER 803(a)(22). This is also consistent with the purpose of collateral estoppel, which is to encourage respect for judicial decisions by ensuring finality. *H.S.*, 188 Wn. App. at 660-61.

Fourth, applying collateral estoppel does not work an injustice or offend due process. The mother previously had a full and fair opportunity, complete with all the hallmarks of due process, to defend against the Department’s termination petition. *See Christensen*, 152 Wn.2d at 317 (“A full and fair opportunity to litigate is required.”). At the conclusion of that proceeding, findings of fact and conclusions of law were rendered under an evidentiary standard of clear, cogent, and convincing evidence. The Department is now entitled to rely on those findings with regard to the same issue as it may be relevant to subsequent proceedings, especially in proceedings where the Department must meet a lower burden of proof.

Finally, the mother was not “estopped” from litigating the central question in the dependency proceeding; she was not prevented from putting on any evidence of her own regarding her present ability to parent B.S., including any rebuttal of the evidence produced by the Department in the form of the termination findings. If she had in fact remedied her parental deficiencies such that she was a safe parent for B.S. at the time of trial, she could have presented that evidence. She did, in fact, present some evidence of that nature. For example, she testified that she had engaged in ongoing

mental health counseling and that she had acquired an apartment with the father. CP 46 (FF 2.2.41, FF 2.2.51); RP 13, 19. The mother also presented the testimony of Felicia Harris, who testified regarding observations of the mother parenting regarding her three older children. RP 110-11. The trial court simply was not persuaded. The mother was not barred from presenting any evidence based on the doctrine of collateral estoppel.

The application of the doctrine of collateral estoppel in this context promotes judicial efficiency and prevents relitigation of identical issues. The trial court did not err in applying the doctrine to accept the termination findings with regard to the mother's deficiencies as they existed two months prior to the initiation of this dependency proceeding. The evidence presented at the dependency proceeding—including the termination findings—established dependency.

V. CONCLUSION

The mother fails to show a basis for review under RAP 13.4(b)(1), and her petition for review should be denied.

RESPECTFULLY SUBMITTED this 26th day of August.

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NO. 98825-1
**SUPREME COURT
OF THE STATE OF WASHINGTON**

In re Dependency of B.S.,

A minor child.

DECLARATION OF
SERVICE

I affirm under penalty of perjury of the laws of the State of Washington that the following is true and correct to my best knowledge and belief:

1. My name is Dawn R. Perala and I am employed as a paralegal for counsel for respondent.
2. On August 26, 2020, I filed State of Washington's Answer to Petition for Review electronically with the Supreme Court, through the Court's online filing system.
3. With the permission of the recipient(s), an electronic version of the Response was delivered using the Court's filing portal to all parties of record.

DATED this 26th day of August, 2020, at Everett, Washington.

Dawn R. Perala
Dawn R. Perala, Paralegal

ATTORNEY GENERAL'S OFFICE - EVERETT

August 26, 2020 - 8:32 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98825-1
Appellate Court Case Title: In re the Dependency of B.S.
Superior Court Case Number: 18-7-00490-6

The following documents have been uploaded:

- 988251_Answer_Reply_20200826083106SC398872_2617.pdf
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- jan@washapp.org
- leslie.e.gilbertson@gmail.com
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Filing on Behalf of: Rachel Brehm King - Email: rachel.king@atg.wa.gov (Alternate Email: evefax@atg.wa.gov)

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