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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re CHRISTOPHER C., a Person  
Coming Under the Juvenile Court Law.

B280051  
(Los Angeles County  
Super. Ct. No. DK19791)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CRYSTAL C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles  
County, Steff R. Padilla, Commissioner. Affirmed.

Takin Khorram, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant  
County Counsel, and Julia Roberson, Deputy County Counsel, for Plaintiff  
and Respondent.

Appellant Crystal C. (mother) challenges the juvenile court's December 14, 2016 dispositional order removing her infant son, Christopher C. (born September 8, 2016), from her care and denying her request to be permitted to reside in the home of the maternal aunt with whom Christopher is placed. Mother argues the court erred by refusing to allow her to reside with Christopher in the maternal aunt's home as a reasonable alternative to the child's removal, and that the dispositional order effectively rendered her homeless and precluded her ability to reunify with her son. Finding no error, we affirm.

## **BACKGROUND**

On September 25, 2016,<sup>1</sup> respondent Department of Children and Family Services (DCFS) received a call from Vera A., the wife of Christopher's maternal uncle (MU). Vera alleged that mother, then living in Vera's and MU's home, was addicted to and currently using methamphetamine and marijuana. Vera said mother often "passed out" as a result of her drug use and was unable to care for the newborn. Further, mother had announced her intention to move into (what Vera described as) a known "crack house." Vera and MU later informed a DCFS children's social worker (CSW) that mother and Christopher's maternal grandmother (MGM) had argued on September 26 after mother tried to leave with the infant. They informed DCFS that mother had used

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<sup>1</sup> Unless otherwise noted, date references are to 2016.

methamphetamine, marijuana and alcohol in the past, that they believed she suffered from mental health problems, and that they no longer wanted mother to live in their home. MGM also suspected that mother used methamphetamine and had a drinking problem. MGM said mother had been living with her, but had lived with the baby in the homes of three different family members since early September. In mid-2015, the probate court appointed MGM as legal guardian to E.Q., mother's first child, after mother began leaving MGM's home for up to two weeks at a time without informing anyone where she was. MGM believed mother was now homeless. She and Christopher's maternal grandfather (MGF) told DCFS they wanted to care for mother, and she was welcome to live with them.

Mother met with a CSW on September 26. She said she had suffered from seizures (which she believed were caused by family arguments, crying, anxiety and post-traumatic stress) for 10 years, had a stuttering problem and was being tested for ovarian cancer. She claimed to have tried to get medical examinations to have her issues diagnosed properly and get medication.<sup>2</sup> She also said she had not sought medical treatment because she believed in organic therapy, and used medicinal

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<sup>2</sup> Mother had contacted Didi Hirsh, an agency that provides services for adults suffering from mental illness and substance use disorders once in the previous six months in order to obtain treatment for anxiety and depression. She did not receive a return call from a therapist.

marijuana to treat her problems.<sup>3</sup> Mother said she was amenable to receiving services, including participating in a parenting class. She had stopped living with Christopher's father because he was physically abusive.<sup>4</sup> Mother wanted a restraining order against MGM, who she believed had stolen E.Q. and was now working with Christopher's father to keep the baby from her.

Julie M., Christopher's maternal aunt (MA) believed that mother needed help. MA worked nights as a pediatric nurse and said mother used her bed when MA was at work.

On October 3, DCFS informed mother it planned to seek an order detaining Christopher. In response, mother said she "realize[d] that she [was] unable to care for her child," and wanted him placed with MA.

On October 6, DCFS filed a petition alleging that mother's substance abuse and mental health issues endangered Christopher. (Welf. & Inst. Code, § 300, subd. (b).)<sup>5</sup> Mother attended the detention hearing. Christopher was detained with MA. The court denied a request by mother's and Christopher's counsel that mother be allowed to reside in

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<sup>3</sup> Mother missed a scheduled drug test on September 27, and tested positive for marijuana on September 28.

<sup>4</sup> Neither of two men mother identified as Christopher's possible father has been involved in this action, and neither is a party to this appeal.

<sup>5</sup> Unspecified statutory references are to the Welfare and Institutions Code.

MA's home. Mother was given unlimited monitored visitation in MA's home (subject to MA's availability).<sup>6</sup> DCFS was ordered to provide mother referrals for no- and/or low-cost housing, drug testing and counseling, individual counseling and a psychiatric evaluation. Twice during the hearing the court ordered mother to return on December 1 and 14 without further notice or subpoena, and reminded her of the importance of keeping DCFS apprised of her whereabouts and address at all times.

DCFS's report for the December 1 Jurisdiction and Disposition hearing stated that mother's whereabouts were unknown. DCFS had initiated a due diligence investigation in mid-November. The agency sent notice to mother at 11 potential addresses in an unsuccessful effort to contact mother, but had no verified contact information for mother. Mother did not visit Christopher or contact MGM or MA after the October 6 detention hearing. MGM and MA had no way to reach mother.

Neither MA nor MGM had seen mother use drugs, but both women believed mother had a serious, ongoing problem with alcohol abuse dating back four years. MGM thought mother might be using methamphetamine. MA told DCFS that mother had used marijuana regularly for as long as MA could recall. Both women also believed

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<sup>6</sup> In connection with its order that mother receive unlimited visitation, subject to MA's availability, the court also informed mother she could not "be left alone [with Christopher] for one minute, one second." The court twice admonished mother that she was not permitted to "spend the night [at MA's home] and [she couldn't] move in."

mother suffered from mental health problems. MA did not believe mother was capable of caring for Christopher.

DCFS recommended the court sustain the petition, place Christopher with MA, and give mother reunification services and monitored visitation. On December 1, the juvenile court found DCFS had properly completed its due diligence investigation to locate and contact mother. The matter was continued to December 14 for adjudication.

Mother did not appear for the December 14 hearing, at which the court admitted DCFS's reports into evidence. Mother's attorney informed the court he had spoken extensively with mother on December 1, understood her wishes and was ready to proceed. Addressing the issue of disposition, mother's attorney stated: "At this time just for [the court's] own knowledge, . . . mother is not seeking release of [Christopher who was] currently with [MA]. [Mother] believes that's an appropriate location [but] would ask to be allowed discretion to live in the home should [MA] allow her to," and submitted on the matter. Christopher's counsel also joined the request that mother be permitted to live with MA.

After sustaining the petition, the court denied mother's request to be permitted to live with MA. The court noted mother had not visited Christopher, and her mental state and whereabouts remained unknown, all of which posed too great a risk to Christopher. Christopher was declared a dependent and removed from mother's custody. Reunification services and unlimited monitored visits were ordered for mother.

## DISCUSSION

Mother does not challenge the propriety of the court's jurisdictional findings that Christopher's physical health and safety were endangered and that the infant was at risk of suffering serious physical harm and damage as a result of mother's history of and current substance abuse, coupled with a history of mental and emotional problems. Nor does she take issue with the dispositional finding that, because of the many unknowns regarding her unresolved problems, she posed a "substantial danger" to Christopher. (§ 361, subd. (c)(1).) Mother's appellate challenge is limited to her assertion that reversal is required because the court abused its discretion by refusing to permit her to live in MA's home as a reasonable alternative to removal and, by that order, effectively rendered her homeless and prevented her from reunifying with her son.

1. *Mother's failure to object at trial to the order removing Christopher from her custody constitutes forfeiture of her challenge to that order on appeal*

Mother did not appear for the adjudication hearing on December 14. Her attorney said he had spoken "extensively" with mother after the December 1 hearing, understood her wishes, and was prepared to proceed. With respect to the appropriate disposition, counsel submitted after informing the court: "[M]other *is not seeking release* of the child. *The child's currently with [MA]. [Mother] believes that's an appropriate location.* [Mother] would, however, . . . ask to be allowed discretion to live in the home should [MA] allow her to." (Italics added.)

The court rejected this request. It observed that mother had “not even visit[ed]” Christopher since his detention, and that neither the court nor anyone else had any “idea where mother [was].” In addition, there was no information as to what mother was “doing,” or what her “her mental state” was. Accordingly, the juvenile court concluded that to “allow [mother] to move into the [MA’s] home without that kind of solid information” would “place[] this child at risk. I’m not going to do it.” Mother specifically did not seek return of Christopher to herself, only permission to also live (with Christopher) in MA’s home, if MA agreed.

We agree with the agency that mother has forfeited the issue on appeal. In dependency proceedings, “[a] party forfeits the right to claim error as grounds for reversal on appeal when he or she fails to raise the objection in the trial court. [Citations.]” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 221–222.) Appellate courts will ordinarily not consider erroneous rulings in connection with relief sought where an objection could have been, but was not, presented to the lower court. (See *In re A.A.* (2012) 203 Cal.App.4th 597, 605 [parent’s failure to object to placement forfeits the issue]; see also *In re John M.* (2013) 217 Cal.App.4th 410, 419–420, abrogated on another ground by *In re R.T.* (2017) 3 Cal.5th 622, 628; *In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1338 [failure to request bonding study]; *In re Richard K.* (1994) 25 Cal.App.4th 580, 589–590 [submitting to child protective services agency’s recommendation for removal of child, without introducing any evidence or offering any argument, constitutes forfeiture of issue of sufficiency of evidence to



support removal order on appeal]; *In re Daniel D.* (1994) 24 Cal.App.4th 1823, 1830–1831 [failure to request alternative placement].)

The purpose of the forfeiture rule is to encourage parties to bring errors to the trial court’s attention so they may be corrected. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293.) This rule is particularly apt where, as here, the parent raises a fact–based issue on appeal, after having failed to develop a sufficient record to provide a meaningful basis for review. To conclude otherwise would permit a party to play fast and loose with the administration of justice by deliberately standing by without raising an objection of which the parent is aware. (*In re Richard K., supra*, 25 Cal.App.4th at p. 590.) Had mother properly raised any issue as to placement, the court could have made express, appropriate findings so the matter could receive consideration on appeal. Having failed to do so, mother forfeited the ability to raise the issue on appeal.

We understand that application of the forfeiture rule is not automatic, and it is within this court’s discretion to consider the merits of a forfeited issue in some circumstances. (*In re S.B., supra*, 32 Cal.4th at p. 1293.) Cases appropriate for such consideration include those involving an “important legal issue.” (*Ibid.*; *In re Charles T.* (2002) 102 Cal.App.4th 869, 873 [a question of constitutional violation]; e.g., *In re T.G.* (2013) 215 Cal.App.4th 1, 13–14; see *In re Sheena K.* (2007) 40 Cal.4th 875, 886–887.) The Supreme Court has emphasized that appellate courts should exercise discretion to excuse forfeiture sparingly, particularly in dependency appeals where “considerations such as permanency and stability are of paramount importance.” (*In re S.B., supra*, 32 Cal.4th at p. 1293)

["discretion to excuse forfeiture should be exercised rarely and only in cases presenting an important legal issue"].)

Mother did not object to Christopher's removal from her custody in proceedings below, and the record reflects no reason for her failure to do so.<sup>7</sup> Where, as here, a party had an opportunity to bring an issue to the court's attention, the party has deprived the juvenile court of the opportunity to correct the mistake, and the issue will be deemed forfeited on appeal. (*In re A.A.*, *supra*, 203 Cal.App.4th at p. 605.)

Mother failed to address the forfeiture issue, and has made no showing that this case presents an important legal issue, constitutional violation or a pure question of law. (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293; *In re T.G.*, *supra*, 215 Cal.App.4th at pp. 13–14; *In re Sheena K.*, *supra*, 40 Cal.4th at p. 887.) On the contrary, mother's claim of error requires a fact-based analysis to determine whether the court's refusal to allow mother to live with Christopher in MA's home (assuming MA agreed to that arrangement) constituted a reasonable alternative to removal. Courts of appeal, ill-suited for resolving such fact-driven inquiries, "routinely refuse to exercise their limited discretion to consider" such matters on appeal. (*In re Wilford J.* (2005) 131 Cal.App.4th 742, 754.)<sup>8</sup>

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<sup>7</sup> Indeed, mother embraced the notion that MA's home was an appropriate placement.

<sup>8</sup> Even if we construe counsel's statement as an objection, general objections are legally insufficient. An objection must include the legal basis or specific reason why an objection is made in order to preserve an issue for appeal. (See *In re E.A.* (2012) 209 Cal.App.4th 787, 791.)

Further, assuming that mother's objection to Christopher's placement (without her) in MA's home was not forfeited, there are several reasons why mother nevertheless failed to show either a lack of sufficient evidence<sup>9</sup> to support the conclusion that allowing her to live in MA's home was not a reasonable alternative to removal, or that the order was an abuse of judicial discretion because it effectively rendered her homeless and unable to reunify with her son.

First, contrary to mother's representation, the court did specifically consider her request to live with Christopher in MA's home. The request was rejected after the court observed that mother had not visited Christopher during the two months since his detention, had failed to maintain contact with DCFS, and both her whereabouts and mental state remained unknown. The court found that allowing mother to move into MA's home without such "solid information" would simply pose too great a risk for the baby and refused "to do it."

Second, the removal order was supported by evidence of mother's general refusal to cooperate with the agency after Christopher's detention. Although the court advised mother at the detention hearing of the importance and necessity of keeping DCFS apprised of her whereabouts, she did not comply and effectively avoided DCFS's efforts to contact or work with her. (See *In re A.K.* (2016) 246 Cal.App.4th 281, 285–286

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<sup>9</sup> We review a dispositional order removing a child from his parent under the substantial evidence standard. (*In re Noe F.* (2013) 213 Cal.App.4th 358, 367.)

[parent's failure to cooperate with DCFS's investigation or dependency proceedings bars parent's challenge to removal order].)

Third, apart from a single attempt to contact Didi Hirsh sometime in 2016, there is no evidence mother made any effort to address the mental health or substance abuse issues that precipitated this proceeding. (Cf., *In re J.C.* (2014) 233 Cal.App.4th 1, 6-7 [finding no reasonable means to protect a child short of removal, notwithstanding the fact that parent had completed drug and parenting programs and was able to live with child's grandparents, given parent's long-standing substance abuse problems].)

Fourth, mother does not dispute the bases for the juvenile court's order requiring that she have only monitored contact with Christopher, a condition that could not be satisfied 24 hours a day if she lived in MA's home. "The very concept of monitored visitation is fundamentally incompatible with around-the-clock in-home contact that necessarily includes periods when the designated monitor will be unavailable to perform his or her protective function." (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2006) 145 Cal.App.4th 692, 694.)

Finally, there is no evidentiary support for mother's claim that the court's refusal to allow her to live in MA's home (assuming MA agreed) effectively rendered her homeless and unable to reunify with Christopher. On the contrary, the record reflects that at a minimum, MGM and MGF were able and willing to care for mother and provide her a home.

For the foregoing reasons, mother has failed to establish a valid basis to justify reversal of the dispositional order.

**DISPOSITION**

The order is affirmed.

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WILLHITE, Acting P. J.

We concur:

MANELLA, J.

COLLINS, J.