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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re K.L. et al., Persons Coming
Under the Juvenile Court Law.

B287156
(Los Angeles County
Super. Ct. No. CK84019)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

SILVIA O.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County. Robert S. Wada, Juvenile Court Referee. Affirmed.

Megan Turkat Schirn, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, and Tracey M. Blount, Deputy County
Counsel, for Plaintiff and Respondent.

Silvia O. (mother) challenges the juvenile court's
dispositional orders that she participate in parenting classes and
individual counseling, and undergo a psychological/psychiatric
assessment.¹ She contends that she already completed these
programs and that the juvenile court did not order services
tailored to meet the family's needs, such as transportation.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

*The Family and History with the Department of Children and
Family Services (DCFS)*

On February 16, 2017, DCFS initiated dependency
proceedings on behalf of mother's three children: Byron L. (born
July 2000, Byron), K.L. (born July 2004, K.), and Madison O.
(born Jan. 2010, Madison).

The family came to DCFS's attention in 2010 when DCFS
filed a Welfare and Institutions Code section 300² petition
alleging that mother, who did not have a valid driver's license
because of a seizure disorder, was driving Byron, K., Madison,

¹ The children's father is not a party to this appeal.

² All further statutory references are to the Welfare and
Institutions Code unless otherwise indicated.

and an older sibling, Leonel L., Jr. (Leonel). While mother was driving, she suffered a seizure and struck a pole. Madison was in a car seat that was not properly secured, and Byron and K. were not wearing seatbelts. The children were injured in the accident. Mother reunified with her children in 2012.

In 2012, DCFS filed another section 300 petition on behalf of Leonel as a result of his contentious relationship with mother. Leonel allegedly spit at mother and called her names, and mother inappropriately disciplined him by slapping his face and pulling his ear, causing it to bleed. Mother never reunified with Leonel; jurisdiction was terminated in 2013 and he was placed in a legal guardianship with his paternal grandmother.

In 2016, DCFS submitted a request to remove the three children from mother; that request was denied.

In 2017, DCFS submitted another request to remove the children from mother. The request was based on the fact that on January 23, 2017, Madison's school principal contacted DCFS after mother was seen driving and picking Madison up from school on two occasions. That request was granted.

On February 16, 2017, DCFS filed a petition pursuant to section 300, subdivisions (b) and (j), on behalf of Byron and K., and a section 342 petition on behalf of Madison,³ alleging that mother inappropriately drove Madison, placing the children in a detrimental and endangering situation. The petition referenced the family's prior involvement with DCFS as a result of mother driving the children without a valid driver's license because of her seizure disorder.

³ In 2015, a section 300 petition was filed on behalf of Madison as a result of her father sexually abusing her. Madison was detained from her father and placed with mother.

Detention Report

DCFS reported that mother has a history of epilepsy and is not capable of driving the children. As a result of her history with epileptic seizures, she has been told that she cannot operate a vehicle. She signed a statement on September 27, 2016, agreeing that she would no longer operate a vehicle with her children in the car. Nevertheless, she was observed with at least one child and an adult in the car.

On January 25, 2017, the children's social worker (CSW) interviewed Madison, who said that she did not want the principal in the room during the interview because mother had told her that the principal was mean and told boys to hit Madison. Initially, Madison said that mother brought her to school by walking or that mother's friend gave them a ride. Madison then admitted that mother "picks me up in her car sometimes." Madison said that she would tell mother not to drive because she had "attacks," but mother would just "shoosh[]" her. When the CSW asked Madison if mother told her not to disclose information to the CSW, Madison did not want to talk anymore.

The CSW went to mother's home the following day and saw mother getting out of her car. The CSW entered the home and mother said that she felt stressed because she had issues with Madison's principal who yelled at her that she was "going to call CSW to inform her that mother was yelling and was being a bad mother." The CSW asked mother if she had been driving, and mother became upset, saying that she "drive[s] around [her] house only." When the CSW asked mother if she had gone to the Department of Motor Vehicles (DMV) to process her driver's license, mother replied that she had not. The CSW explained the

allegation that mother had been seen driving Madison. Mother responded that she did not agree with the allegation, did not want to speak with the CSW, and refused to sign any forms.

Mother told the CSW that she would not resist if the CSW took her children away because she was “tired of everything.”

On January 27, 2017, the CSW received a message from Madison’s school principal who said that mother had asked for a meeting at the school with the principal and district personnel. During the meeting, mother had a seizure, an ambulance was called, and mother was transported to a hospital. The principal reported that mother had behaved strangely; the principal believed that mother’s behavior seemed to be related to a mental health issue and not a seizure.

That day, the CSW contacted Byron to inform him that mother was in the hospital. The CSW asked Byron if he knew of or had seen mother driving a car. He denied seeing mother drive, but said that he would not know because he left early in the morning and came home later in the evening.

Later that day, the CSW spoke to a nurse at the hospital. The nurse reported that mother was doing well and would be discharged to pick up Madison from school. The nurse confirmed that mother had suffered a seizure.

At some point that day, mother called the CSW and was upset, saying that the CSW and school principal were trying to hurt her. She said that the children felt the same way. Mother insisted that the allegations were the CSW’s fault.

Mother and the three children met with the CSW on February 1, 2017. At that time, mother signed a safety plan, agreeing not to drive the children. She said that she would ask a friend or family member to drive if needed.

The CSW then spoke with K., who denied all forms of abuse and neglect and said that whoever claimed that mother was driving was lying. But, she admitted that mother drove, just not with the children in the car.

She then interviewed Byron. He too denied all forms of abuse and neglect. He reiterated that he did not know whether mother drove, but he had not seen her drive on the weekend. He took the bus to and from school every day.

On February 6, 2017, the CSW spoke with Madison's school vice principal, who had witnessed mother driving. She remembered seeing mother pick Madison up, and there was another child and an adult in the car. The vice principal said that a campus police officer also saw mother driving and spoke to mother while she was in the car.

Also that day, the CSW spoke to Dr. Valentin Hernandez, who confirmed that mother had epilepsy. He informed the CSW that he had had "at least one million conversations with [mother] regarding her inability to drive due to her seizures." The CSW then spoke with another one of mother's treating physicians, Dr. Garnik Yegyan. Dr. Yegyan had only seen mother once, in October 2016. Despite ordering mother to complete a host of tests, she did not follow up on any of them.

That afternoon, the CSW went to mother's home to advise her that she would be seeking removal of the children. Mother told the CSW that Madison had lied about her driving. She asked if mother had followed up on enrolling in parenting and individual counseling; mother said that the program had informed her that she could begin the following day. Mother provided the CSW with the contact information for the program.

In light of mother's comment that Madison had lied, the CSW spoke with Madison again. Madison confirmed that she had lied about mother driving with the children in the car. But, on February 13, 2017, after Madison had been detained, she said, "I feel like socking my mom sometimes because she continues to drive."

On February 13, 2017, the CSW completed her assessment and determined that, due to mother driving a vehicle while under a medical diagnosis prohibiting her from obtaining a valid driver's license and because of mother's failure to admit, she was placing her children and others at risk by operating a vehicle. It was determined that the children were not safe in mother's care and needed to be detained from mother.

DCFS recommended that mother participate in individual counseling to address case issues and parenting because she would benefit from learning how not to involve her children in case issues; DCFS was concerned about mother asking the children to lie on her behalf. DCFS also recommended conjoint counseling and asked the juvenile court to inform mother not to discuss case issues with the children outside of a therapeutic setting so that the children had a safe place to speak and process information.

Detention Hearing

At the detention hearing, the juvenile court made findings and detained the children from mother. Mother was ordered to have monitored visits.

Jurisdiction/Disposition Report (Apr. 13, 2017)

DCFS reported that on March 16, 2017, Byron had stated that mother never drove a car and always took public transportation. He said that mother stopped driving years prior;

mother had a car but did not drive. Sometimes her friends drove her around. He denied seeing mother have any seizures. While mother took K. and Madison to school, they did not report mother driving or having seizures. Byron also said that Madison says things that she does not mean, referring to mother driving. He did not know why mother would say she drove around the area.

According to Byron, mother's last seizure occurred in the middle or beginning of last year.

K. also reported that day that mother did not drive. Mother took her and Madison to school on the bus. Regarding Madison's statement that mother drove, K. said that Madison "says stuff she doesn't mean. Her therapist said she said things she doesn't mean. She has a problem, she lies a lot."

Madison stated that mother took her to school by taxi or bus. She said that mother does not drive. She even said that mother does not have a car.

Mother reportedly was upset about the false allegations. She said that she did not have a driver's license, denied signing any papers agreeing not to drive the children or being told not to drive the children. She said that she was going to sue the CSW and school principal because they made up the allegations. While she admitted to having a car, she said that she did not drive it.

Regarding mother's failure to follow up with medical appointments, mother again said that those were lies and that she did follow up.

Kathey Almenar, a medical assistant at Dr. Yegyan's office, told DCFS that mother had been harassing staff at Dr. Yegyan's office, repeatedly requesting a letter stating that she was doing well. Dr. Yegyan's office had contacted Dr. Hernandez's office and was advised that mother was not cleared to drive. Mother

was very upset and continued to call the office, saying, “you guys don’t want to help me.” Mother apparently said that she felt that the doctor was plotting against her and avoiding her.

DCFS then spoke with Dr. Hernandez, who confirmed that mother was not cleared to drive. In fact, mother would not “be able to drive for life due to” her diagnosis of “Complex Partial Seizure.”

DCFS recommended that the section 300 petition be sustained and that mother be ordered to participate in various services.

Last Minute Information for the Court (June 1, 2017)

DCFS reported that mother was compliant with participating in individual counseling, parenting, and visitation.

Last Minute Information for the Court and Testimony (July 20, 2017)

On July 20, 2017, DCFS provided the juvenile court with a last minute information report documenting that the CSW had provided mother with referrals for coparenting classes for her and the children’s father. Mother refused to participate. The CSW admonished mother that she is not to drive; mother agreed and represented that she did not drive at all.

The juvenile court then took testimony from the CSW, who had observed mother driving in February 2016. The vice principal from Madison’s school also testified that she had seen mother driving on two occasions; Madison and another child were in the car.

Mother testified that she did not recall having an automobile accident the prior year. She also said that she had not been driving; she just moved the car to avoid getting a

parking ticket. Regarding the time the vice principal allegedly saw her driving, her friend was actually driving, not mother.

Mother admitted that she had been told by the juvenile court not to drive. But, she said that her doctors never prohibited her from driving. When asked whether her primary doctor's report that he had told mother "literally millions of times not to drive," was correct, mother responded no; her doctor never told her that.

Adjudication Hearing (Aug. 8, 2017)

After entertaining oral argument, the juvenile court found by a preponderance of the evidence that the allegations contained in the section 300 and 342 petitions were true. It found that it had no reason to disbelieve the vice principal's testimony about seeing mother driving to pick up Madison from school. Mother has had seizures and having a seizure with the children in the car places not only the children at risk of harm, but also the general public, which was why the DMV had prevented her from driving. The juvenile court also found that the evidence had showed that mother had been involved in an accident and was not cleared to drive.

The juvenile court did not find mother's testimony credible. Rather, it found the evidence and statements from the CSW, vice principal, and the children credible and supporting the finding that mother was driving.

The juvenile court then proceeded to disposition. It ordered mother to participate in individual counseling to address case issues, conjoint therapy with the children when appropriate, parenting classes, a psychiatric/psychological assessment, and medication compliance. Mother's counsel represented that

mother agreed to participate in the services and signed the court-ordered case plan.

Mother then stated that she had reviewed the court-ordered case plan with her attorney and that she was told that she needed to repeat the programs she had already finished; she was committed to participating in parenting and individual counseling again.

Appeal

Mother's timely appeal ensued.

DISCUSSION

Mother challenges "the dispositional orders requiring her to complete a parenting class and individual therapy, both of which she had just completed. [Citation.] This duplicative requirement, along with ordered mental health services when she was not alleged to have mental health issues, was not tailored to fit the family's circumstances."

I. The Law

Once jurisdiction is established, section 358 requires that the juvenile court determine the appropriate disposition for the child. When rendering its orders at the disposition hearing, the juvenile court is not limited to the contents of the sustained petition. (*In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1183.) Additional social study reports, special evaluations, and "other relevant and material evidence" may be considered. (§ 358, subd. (b).)

Section 362 gives the juvenile court broad authority to "make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child." (§ 362, subd. (a).) Specifically, section 362 authorizes the juvenile court to "direct any [and all] reasonable orders to the parents . . . as the

court deems necessary That order may include a direction to participate in a counseling or education program.” (§ 362, subd. (c).) Orders that a parent participate in programs are designed to eliminate the conditions that led to the child’s dependency status. (§ 362, subd. (c).)

“The juvenile court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order [in accord with this discretion]. On appeal, this determination cannot be reversed absent a clear abuse of discretion.” (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.)

II. *Analysis*

A. Forfeiture

Principally, we point out that mother’s arguments on appeal have been forfeited. It is well-established that “a reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court. [Citation.] The purpose of this rule is to encourage parties to bring errors to the attention of the trial court so that they may be corrected. [Citation.] [¶] Dependency matters are not exempt from this rule.” (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. omitted.)

As set forth above, mother failed to object to the juvenile court’s intended case plan. Instead, she stated that she was told that she would have to repeat classes and that she was committed to taking the classes again. Thus, she has forfeited any objection on appeal.

In her reply brief, mother claims that any objection would have been futile. But she does not explain why her objection would have been futile. Thus, we conclude that mother could

have, and should have, objected to the juvenile court's case plan before seeking appellate review.

B. The juvenile court did not abuse its discretion

For the sake of completeness, we turn to the merits and hold that the juvenile court did not abuse its discretion in fashioning its dispositional orders. DCFS has been involved with this family for years. Despite years of services, mother still has not made progress in her programs. She suffers from a seizure disorder and has been told repeatedly by various professionals that she is not allowed to drive, let alone drive with her children in the car. Despite those clear instructions, she has continued to drive, putting her children at substantial risk of harm. It follows that the juvenile court acted well within its discretion in ordering mother back into services such as counseling, parenting, and a mental health assessment. As these services will address mother's failure to grasp the issues of risk, they will hopefully aid mother in her efforts to reunify with her children.

Mother argues that the juvenile court erred in ordering a mental health assessment when there is no evidence that mother suffers from any mental health issues. In support, she relies upon *In re Basilio T.* (1992) 4 Cal.App.4th 155. *In re Basilio T.* is readily distinguishable. In that case, the appellate court found that the juvenile court had erred in including a substance abuse program in the parents' case plan when there was nothing in the record indicating that either parent had a substance abuse problem. (*Id.* at p. 172.) In this case, the juvenile court considered all of the evidence presented, including mother's lack of credibility and refusal to take responsibility for her actions, and found a mental health assessment appropriate. Under the circumstances presented, we see no abuse of discretion.

Finally, mother suggests that the wrong services were provided—the juvenile court should have provided the family with “alternative transportation to ensure mother did not drive and had no motive to ever drive.” Given mother’s continued driving, despite having suffered at least one seizure while driving with the children in the car, we do not think that alternative transportation would necessarily keep mother from driving.

DISPOSITION

The juvenile court’s orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
LUI

_____, J.
CHAVEZ