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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re D. M., a Person Coming Under
the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

DANIEL M.,

Defendant and Appellant.

B272065

(Los Angeles County
Super. Ct. No. DK12680)

APPEAL from an order of the Superior Court of Los Angeles County, Marguerite Downing, Judge. Affirmed with directions.

Linda Rehm, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Rosa M. Figueroa-Versage for the Minor.

I. INTRODUCTION

The father, Daniel M., appeals from the jurisdictional findings and a custody order. The father argues the juvenile court lacked subject matter jurisdiction because it did not comply with the requirements of the Uniform Child Custody and Enforcement Act. (Fam. Code¹, § 3400 et seq.) The father also argues the juvenile court erred by failing to contact a Mexican court after obtaining temporary emergency jurisdiction.

We affirm the jurisdictional findings and custody orders. This includes the order denying the father visitation with the child. Upon remittitur issuance, the juvenile court is to contact and provide notice on an expedited basis to a Mexican court of these proceedings. If the Mexican court does not issue a custody order after contact and notice, the present jurisdictional findings and subsequent custody order will become the final child custody determination. (*In re Gino C.* (2014) 224 Cal.App.4th 959, 966-967 (*Gino C.*); *In re A.M.* (2014) 224 Cal.App.4th 593, 599-560 (*A.M.*); 10 Witkin, Summary of Cal. Law (2016 Supp.) Parent and Child, § 170, p. 150.) If the Mexican court issues a custody order, it is to be enforced if the order is issued in substantial conformity with the Uniform Child Custody and Enforcement Act

¹ Further statutory references are to the Family Code unless otherwise specified.

requirements. (§§ 3405, subd. (b), 3343, subd. (a); *In re Marriage of Fernandez-Abin & Sanchez* (2011) 191 Cal.App.4th 1015, 1039-1040.)

II. PROCEDURAL HISTORY

On July 31, 2015, the Los Angeles County Department of Children and Family Services (the department) filed a Welfare and Institutions Code section 300 petition. The petition was filed on behalf of the child, D.M. Count b-1 of the petition alleges: that in July 2015, the father was under the influence of illicit drugs; this occurred while the child was in the father's care and supervision; the father is a current methamphetamine and marijuana abuser; and this drug abuse renders the father unable to provide regular care of the child. Count b-2 of the petition alleges the father has mental and emotional problems. According to count b-2, this renders the father unable to provide regular care of the child. On July 28, 2015, the father was hospitalized for an evaluation of his psychiatric condition. The father displayed paranoia and irrational behavior. This was consistent with the father's conduct while caring for the child.

At the July 31, 2015 detention hearing, the child was detained with the department having discretion to release him to any appropriate relative. The juvenile court ordered a multidisciplinary assessment of the child and his family. The parents were granted monitored visits after they contacted the department.

On November 4, 2015, the juvenile court found the father to be the child's presumed father. On December 29, 2015, the juvenile court ordered a supplemental report to address the mother's situation in Mexico. At the January 27, 2016 jurisdiction hearing, the juvenile court sustained the allegations in counts b-1 and b-2.

At the April 4, 2016 disposition hearing, the juvenile court removed the child from the father's custody. (Welf. & Inst. Code, § 361, subd. (c).) The child was ordered placed with the mother. (For unexplained reasons, this placement order has never been obeyed.) The mother was granted sole legal and physical custody of the child. The juvenile court denied visitation for the father. The juvenile court found: the father physically and forcefully kidnapped the child; the father kept the child in hiding; the father failed to participate in services including random drug testing; the child experienced trauma as a result of the kidnapping; and the only way to ensure the child was not kidnapped again by the father was to deny visitation. The juvenile court terminated jurisdiction over the child but stayed the order pending receipt of a custody order. On April 12, 2016, the juvenile court issued a final judgment and custody order.

III. FACTS

A. Detention Report

On July 28, 2015, children's social worker Milcah Aguilar received a referral alleging the father physically abused the child. The father and the child were found underneath a bus seat. The father said they were hiding from people that wanted to kill him. The father displayed symptoms of paranoia and possible schizophrenia. The child was taken into custody by Los Angeles County Sheriff's deputies after the father was placed on a psychiatric hold.

Ms. Aguilar interviewed the child at a sheriff's station. The child said he lived with his mother in Mexico until about three months ago. According to the detention report, "The child reported he used to live with his mother [C.L.] but approximately 3 months ago she 'tossed' him at the front door of the home of the father and since then he last saw his mother approximately 1 month ago.)" The child stated he lived in Guadalajara, Jalisco, Mexico. He did not know he was in the United States until Ms. Aguilar informed him of this information. The child did not know how they arrived in the United States but recalled the father driving. Later, the father and child walked for a long time. At one point, the father and the child hid under a bus seat because they were trying to get away from people who wanted to kill them. The child said he had nightmares of people chasing him so they could kill him. He did not know his mother's telephone number or address but insisted she lived in Guadalajara, Jalisco, Mexico.

The next day, Ms. Aguilar spoke with a case manager at the hospital. The case manager said the father tested positive for methamphetamine and Tetrahydrocannabinol. The father was released from the psychiatric hold because of his escalating and assaultive behavior. The father was escorted out of the facility before he could be assessed and stabilized.

Later that day, Ms. Aguilar interviewed the father at the hospital emergency room. The father confirmed the mother lived in Mexico but said she was secretive about her life. According to the detention report, “The father confirmed the mother dropped the child . . . off at his front door some time ago without asking him if he could car[e] for the child.”

B. August 28, 2015 Last Minute Information for the Court Report

A department social worker interviewed the child on August 26, 2015. Social worker Monique Comminey wrote, “The child stated, ‘I’ve lived with my Dad for about [five] months.’” Before that the child lived with his mother and sisters in Guadalajara, Mexico. Ms. Comminey quoted the child: “She sent me to live with my [D]ad to punish me. Then she wanted me back but my [Dad] didn’t want to give me back.” The child did not want to live with the mother because she would not give him any money, sent him hungry to school and hit him with a belt.

C. November 4, 2015 Supplemental Report

Dependency Investigator Gerson Salazar interviewed the mother by telephone on September 28, 2015. The mother moved to Mexico to escape domestic violence. She indicated the father was violent and carried a gun while in Mexico. Two years before the September 28, 2015 interview, the father came to Tijuana, Mexico to visit their three children but he never helped the family financially. In early 2015, the mother allowed the father to take the child shopping. The father did not return with the child. Two days later, the mother went to the Mexican police but they told her they could not do anything because the child was with the father. Two months later, the mother saw the child through a peep hole in the iron gate of the paternal grandmother's house. The child told the mother he wanted to come with her. The father came outside the house and argued with the mother. The father beat the mother in the street after she told him to calm down. The mother asked the Mexican police for help. The Mexican police asked the child if he wanted to go with the mother. But the child felt pressured by the father. The child felt pressured to say he was fine. The Mexican police told the mother they could not do anything and advised her to file a case with the court. The mother filed a complaint with the Mexican Consulate after the father disappeared with the child. The mother last saw the child on July 24, 2015.

The mother was unable to travel to the United States because she did not have documents or a travel visa. She requested the child be released to her custody. The department was working with the Mexican child protective services agency, Sistema para el Desarrollo Integral de la Familia, to determine

whether the child should be placed with the mother. The department was awaiting the results of an investigation and home study of the mother by the Sistema para el Desarrollo Integral de la Familia staff in Tijuana.

The child was assessed by department social worker Bianca Mercado for the multidisciplinary assessment team report. Ms. Mercado wrote that the child suffered from several severe traumas. The child said he saw several dead bodies in an unknown location and was exposed to guns and constant violence in his community. He experienced nightmares, poor sleep and crying spells. The child talked back and did not follow basic house rules. The child claimed to have had an imaginary friend. According to the department's assessment, "[The] imaginary friend . . . keeps him up at night as the imaginary friend threatens to hurt him." At school, the child struggled to keep up in class. He had difficulty following directions, had poor concentration and was physically aggressive towards other students. Also, the child crawled on the floor during class. The teacher had to constantly redirect the child to be seated.

The department could not assess the father's ability to care or supervise the child. This was because the father's whereabouts were unknown. However, Ms. Mercado was concerned with the child's regressive behavior and exposure to violence while in the father's care. The father failed to contact any department social worker and visit the child.

D. Two Last Minute Information for the Court Reports

1. December 29, 2015 last minute report

The December 29, 2015 last minute information for the court report indicated the father still had not availed himself of services or visitation. Mr. Salazar spoke with the father by the telephone on December 15, 2015. The father was born in Los Angeles but resided in Tijuana, Mexico. The telephone reception was poor so Mr. Salazar arranged to meet the father in Chula Vista. The father failed to meet with Mr. Salazar at the scheduled place and time.

Sistema para el Desarrollo Integral de la Familia, the Mexican child protective services agency, completed the mother's home assessment but the report was not yet available to the department. According to Mr. Salazar, the home assessment outcome was favorable towards the mother. The Sistema para el Desarrollo Integral de la Familia report described the mother as hard-working, honest and interested in having the child returned to her care. The mother said the father was threatening to kill her and kidnap their daughter, Daniela. The father's murder and kidnapping threats would be carried out if the mother secured custody of the child. Concerning visitation, Mr. Salazar reported the mother and child were scheduled to have a visit at the Mexican Consulate in San Ysidro, California in January 2016.

2. January 27, 2016 last minute report

The January 27, 2016 last minute information for the court report indicated the father had not cooperated with the department. On January 5, 2016, a social worker contacted the father about drug testing. The father said he wanted to begin drug testing immediately. However, the father failed to appear for a scheduled drug test on January 7, 2015.

On January 6, 2015, the mother visited the child in San Ysidro. The mother brought Daniela to the visit. At first, the family was emotionally overwhelmed by the visit and cried during the initial part of the visit. During the visit, the family laughed, hugged and took pictures. The mother was appropriate and happy to be with the child. The child played and laughed with his sister.

On January 8, 2015, the mother telephoned Mr. Salazar regarding the father's threats. The mother stated she had received death threats from the father and reported them to the Mexican authorities. But, there was little that Mexican law enforcement would do to help her. Furthermore, the mother said there was no restraining order process available to her.

E. April 4, 2016 Supplemental Report

The April 4, 2016 supplemental report was prepared by Mr. Salazar. Attached to Mr. Salazar's supplemental report was the Sistema para el Desarrollo Integral de la Familia home study. The home study was authored by Sistema para el Desarrollo Integral de la Familia social worker Dulce Bueno.

Mr. Salazar wrote the father had four monitored telephone calls with the child. But the father had not called in several months, which made the child resentful. The father was encouraged to visit the child but never contacted a social worker to schedule visitation. In addition, the father had not enrolled in the recommended programs and services. Further, the father did not *fully* participate in random drug testing. The father tested negative for drugs on three occasions between January and March 2016. But he missed three drug tests in January and February 2016.

Mr. Salazar described the relationship of the mother and her children. According to a social worker who was present at the visits in the San Ysidro Mexican consular facility, “[The child] is strongly bonded [with] the mother and his siblings as evidenced by the heart wrenching farewells that occur [at the end of] the visits.” The mother and Daniela visited the child on January 6, 2016. The mother visited the child a second time on February 17, 2016. The mother brought the child’s siblings, Daniela and Keisha, and a maternal uncle to the visit. The child was happy playing and laughing with his family. The mother was appropriate, playing with and talking to the child. At the end of both visits, the family cried when they said goodbye. The mother said the father continued make threats that he would physically harm her and have their children forcibly kidnapped. The mother requested sole physical and legal custody of the child with a no visitation order for the father. The mother indicated once the child was returned to her care, she was planning to move to prevent the father from harming the family. Mr. Salazar had spoken with the staff at the Mexican Consulate. The staff indicated the Mexican authorities would view the visitation order

as a custody order under Mexican family law. The visitation order would not prevent the father from having contact or taking custody of the child.

As noted, the Sistema para el Desarrollo Integral de la Familia home study report was prepared by Ms. Bueno. The mother had four children with the father. The mother stated the child and Daniela were born during the three years they lived in the United States. The family returned to Mexico to care for the paternal grandfather after he became sick. When the child's younger twin sisters were seven months old, the mother separated from the father. The separation occurred because the father was physically abusive towards her. The mother did not receive any financial assistance from the father. The mother and child's siblings resided in Tijuana, Baja California, Mexico. The maternal grandmother cared for the two youngest children while the mother was at work. The mother had stable employment and adequate space and services in her residence to care for the children. According to Ms. Bueno, the mother was "a stable person, responsible, honest, hardworking," who was willing to comply with any process to regain custody of the child.

IV. DISCUSSION

A. The Father's Jurisdictional Attack on the Custody Order

The father challenges the juvenile court's jurisdictional findings and custody order. He contends the juvenile court erred by failing to contact the Mexico courts thereby giving it an opportunity to take jurisdiction over the child. The father asserts the juvenile court lacked subject matter jurisdiction and erred when it took permanent jurisdiction.

Subject matter jurisdiction either exists or it does not exist at the beginning of the dependency case. (*In re R.L.* (2016) 4 Cal.App.5th 125, 136 (*R.L.*); *A.M.*, *supra*, 224 Cal.App.4th at p. 598.) Subject matter jurisdiction cannot be conferred by stipulation, consent, waiver or estoppel. (*Ibid*; *A.M.*, *supra*, 224 Cal.App.4th at p. 598.) We review de novo and independently reweigh the jurisdictional facts. (*R.L.*, *supra*, 4 Cal.App.4th at p. 136; *A.M.*, *supra*, 224 Cal.App.4th at p. 598.)

This case is subject to the Uniform Child Custody Jurisdiction and Enforcement Act. (§§ 3400-3465; *Ocegueda v. Pereira* (2015), 232 Cal.App.4th 1079, 1084 [“It is well settled in California that the [Uniform Child Custody Jurisdiction and Enforcement Act] is the exclusive method of determining subject matter jurisdiction in custody disputes involving other jurisdictions.”].) Its provisions apply in dependency proceedings. (§ 3402, subd. (d); *In re Cristian I.* (2014) 224 Cal.App.4th 1088, 1096; *A.M.*, *supra*, 224 Cal.App.4th at p. 597.) The purposes of the Uniform Child Custody Jurisdiction and Enforcement Act include: avoiding jurisdictional conflict between states; promoting interstate cooperation; litigating custody where the

child and family have the closest connections; avoiding relitigation of another state's custody decisions; and facilitating enforcement of another's custody decrees. (*R.L.*, *supra*, 4 Cal.App.5th at p. 136; *In re Cristian I.*, *supra*, 224 Cal.App.4th 1088, 1099.) Foreign countries are treated as states when determining jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act. (§ 3405, subd. (a); *R.L.*, *supra*, 4 Cal.App.5th at p. 136; *In re M.M.* (2015) 240 Cal.App.4th 703, 715.)

B. Sections 3421 and 3424

In this case, there are two relevant jurisdictional provisions. First, section 3421 defines this state's court's jurisdictional authority to make in an initial child custody determination. Second, section 3424 defines the parameters of this state's court's temporary emergency jurisdiction.

C. Section 3421

Section 3421 identifies four criteria for establishing jurisdiction to enter a custody order. Section 3421 is subject though to the authority of a juvenile court to exercise "temporary emergency jurisdiction" in compliance with section 3424 which we will discuss later. (§ 3421, subd. (a) ["Except as otherwise provided in Section 3424, . . ."]; *Gino C.*, *supra*, 224 Cal.App.4th at p. 965 ["Nonetheless, [as otherwise provided in Section 3424,] a court without jurisdiction under section 3421, subdivision (a), may exercise 'temporary emergency jurisdiction . . .'.") The first jurisdictional test involves the presence of the child in the

California within a specified time frame or that of one of the parents. Section 3421, subdivision (a)(1) describes the first jurisdictional test as follows, “This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.” The second test, in section 3421, subdivision (a)(2) applies to scenarios where no other state has jurisdiction or has declined to exercise it: “A court of another state does not have jurisdiction under paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the grounds that this state is the more appropriate forum under Section 3427 or 3428, and both of the following are true: [¶] (A) The child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence. [¶] (B) Substantial evidence is available in this state concerning the child’s care, protection, training, and personal relationships.” The third jurisdictional test arises when other courts with jurisdiction under section 3421, subdivision (a)(1) and (2) have declined to exercise jurisdiction on the ground California is the more appropriate forum to litigate the dispute, “All courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 3427 or 3428.” (§ 3421, subd. (a)(3).) Section 3427 allows a court to decline jurisdiction on inconvenient forum grounds. And section 3428 permits a court to decline jurisdiction when a litigant has engaged in specified unjustifiable conduct. The

fourth jurisdictional test arises when no court of another state has jurisdiction under section 3421, subdivisions (a)(1) through (a)(3), “No court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).” (§ 3421, subd. (a)(4).) Section 3421, subdivision (a) is the exclusive jurisdictional test for making a child custody determination in this state. (§ 3421, subd. (b)) [“Subdivision (a) is the exclusive jurisdictional basis for making a child custody determination by a court of this state.”]; *Gino C.*, *supra*, 224 Cal.App.4th at p. 965; *A.M.*, *supra*, 224 Cal.App.4th at p. 598.)

Section 3402, subdivision (g) provides: “‘Home state’ means the state in which a child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. . . . A period of temporary absence of any of the mentioned persons is part of the period.” (*R.L.*, *supra*, 4 Cal.App.5th at p. 137; *In re Jaheim B.* (2008) 169 Cal.App.4th 1343, 1348-1349.) Here, the parties agree Mexico is the home state. The child said he lived with the mother in Mexico three months prior to his detention on July 28, 2015. The child told the social worker, Ms. Aguilar, that he lived in Guadalajara, Jalisco, Mexico. The child did not know he was in the United States until Ms. Aguilar told him so. Further, the mother last saw the child at the paternal grandmother’s home in Mexico on July 24, 2015, a week prior to the petition filing date. Because the child lived with a parent in Mexico for six consecutive months before commencement of the petition, Mexico is the home state.

D. Section 3424--Temporary Emergency Jurisdiction

As noted, section 3424 provides an exception to the otherwise exclusive jurisdictional bases for making a child custody determination or modifying another state's custody order. (*In re Cristian I.*, *supra*, 224 Cal.App.4th at p. 1097; *A.M.*, *supra*, 224 Cal.App.4th at p. 599.) Section 3424, subdivision (a) states, "A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child . . . is subjected to, or threatened with mistreatment or abuse." Emergency jurisdiction is intended to be short-term and limited. (*In re Cristian I.*, *supra*, 224 Cal.App.4th at p. 1097; *A.M.*, *supra*, 224 Cal.App.4th at p. 599.) However, the juvenile court may continue to exercise its authority as long as the reasons underlying the dependency exist. (*Ibid.* ["[T]he juvenile court may continue to exercise its authority as long as the reasons underlying the dependency exist."])

Here, there is neither a child custody order nor existing child custody proceeding in the home state, Mexico. A child custody determination made by a court exercising temporary emergency jurisdiction remains in effect until an order is obtained from the home state. (§ 3424, subd. (b); *Gino C.*, *supra*, 224 Cal.App.4th at p. 966.) If no child custody proceeding is initiated in Mexico, the juvenile court order can become final if the order so provides and California becomes the child's home state. (§ 3424, subd. (b); *Gino C.*, *supra*, 224 Cal.App.4th at p. 966.) However, the juvenile court's temporary emergency jurisdiction does not automatically convert to permanent

jurisdiction because no child custody proceedings were commenced in Mexico. (*Ibid.*)

A court exercising emergency jurisdiction under section 3424, subdivision (a) is required to contact and provide notice to another state's court. This is done so as to determine whether the other state, in our case Mexico, wishes to assert jurisdiction. (*R.L.*, *supra*, 4 Cal.App.5th at pp. 142-143; *A.M.*, *supra*, 224 Cal.App.4th at p. 598; see §§ 3421, subd. (a), 3424, subd. (b).) A juvenile court's temporary emergency jurisdiction cannot ripen to permanent jurisdiction unless the home state has been contacted and given an opportunity to decline jurisdiction over the child. (*Gino C.*, *supra*, 224 Cal.App.4th at p. 966.) The juvenile court's failure to comply with the forgoing procedural requirements is subject to harmless error analysis. (*R.L.*, *supra*, 4 Cal.App.5th at p. 143; *In re Cristian I.*, *supra*, 224 Cal.App.4th at p. 1098.) Here the father must show it is reasonably probable that a more favorable result would have been reached in the absence of the error. (*People v. Watson* (1956) 46 Cal.2d 818, 836; *R.L.*, *supra*, 4 Cal.App.5th at p. 143; *In re Cristian I.*, *supra*, 224 Cal.App.4th at pp. 1098.)

E. Application of Sections 3421 and 3424 to the Present Appeal

The father does not challenge the juvenile court's emergency jurisdiction under section 3424, subdivision (a). His sole contention is that the juvenile court erred by failing to contact Mexico before assuming permanent jurisdiction. The department concedes the child's home state is Mexico. Further, the department acknowledges the juvenile court should have contacted a Mexican court but failed to do so. However, the

department contends the juvenile court's failure to communicate with a Mexican court was harmless error. We agree.

The father fails to show it is reasonably probable that a result more favorable to him would have been reached in the absence of error. (*R.L.*, *supra*, 4 Cal.App.5th at p. 143; *In re Cristian I.*, *supra*, 224 Cal.App.4th at pp. 1098.) He asserts a Mexican court would have made a more favorable child custody determination than the juvenile court. The father relies on the social worker's communication with the Mexican Consulate indicating a visitation order would be viewed as a custody order by Mexican authorities. It may be the case that Mexican authorities view a visitation order as a custody order. But there is no evidence a Mexican court would order visitation or award custody to the father.

There is no basis for concluding a Mexican court would have granted the father custody of the child if it had been contacted by the juvenile court. To begin with, it is entirely speculative as to whether the Mexican courts would even assume jurisdiction; maybe they would but perhaps they would not. Further, even if the Mexican courts chose to act, the father has unresolved mental and emotional problems, a history of domestic violence and abused methamphetamine and marijuana. In early 2015, the father abducted the child from Mexico. The father hid the child from the mother. The child was detained after the father was placed on a psychiatric hold. The father tested positive for methamphetamine and Tetrahydrocannabinol at the hospital. Later, the father was discharged from the hospital because of his assaultive behavior.

Also, the child experienced severe trauma while in the father's custody. The child reported viewing dead bodies in a unknown location and being exposed to guns and constant violence. He had nightmares, poor sleep and crying spells. The child talked back to his foster mother and did not follow basic house rules. At school, the child: had difficulty following directions; displayed poor concentration; and was physically aggressive towards other students. The department staff expressed concern with the child's regressive behavior and exposure to violence while in the father's care.

Furthermore, the father failed to cooperate with the department. Other than several monitored telephone calls and drug testing, he did not participate in any services. Even then, the father missed three of the six drug tests. The father was encouraged to visit the child but never contacted any social worker to schedule visitation.

By contrast, the mother was cooperative with the department and the Sistema para el Desarrollo Integral de la Familia staff. At the department's request, Ms. Bueno, a Sistema para el Desarrollo Integral de la Familia social worker, conducted a home study of the mother. According to the Sistema para el Desarrollo Integral de la Familia report, the mother had stable employment and adequate services in her residence to care for all the children. The mother was "a stable person, responsible, honest, hardworking," who was willing to comply with any process to regain custody of the child. In addition, a department social worker reported the child was strongly bonded to his mother and siblings as evidenced by "the heart wrenching farewells" as their visits ended.

Furthermore, substantial evidence supports the juvenile court's denial of visitation order. The mother stated she left the father because of domestic violence. She said the father was violent and carried a gun while in Mexico. There is uncontradicted evidence of mental illness and drug abuse. And, the father threatened to harm the mother and forcibly kidnap the children if she regained custody of the child. Thus, the orders under review must be affirmed.

However, the juvenile court erred by failing to contact the Baja California, Mexico courts at any time. (*R.L.*, *supra*, 4 Cal.App.5th at p. 143; *In re Cristian I.*, *supra*, 224 Cal.App.4th at pp. 1098; *Gino C.*, *supra*, 224 Cal.App.4th at p. 966.) But, as to the father, the error is harmless. The father fails to show it is reasonably probable that a more favorable result would have been reached had a Mexican court been contacted by the juvenile court.

At present, the orders under review is violative of the jurisdictional requirements of section 3421, subdivision (a). And if the orders are deemed to arise from the juvenile court's temporary emergency jurisdiction, they violate the duty to contact the Baja Mexico courts. Thus, upon remittitur issuance, the juvenile court is to promptly contact the courts in Tijuana, Baja California, Mexico. The purpose of the communication is to determine whether the Mexican courts wish to assume jurisdiction. (*A.M.*, *supra*, 224 Cal.App.4th at p. 599.) If the Mexican court does not take action after contact and notice, the jurisdictional findings and subsequent custody order will become the final child custody determination. (*Ibid.*) If the Mexican court commences proceedings and issues a custody order, then the juvenile court is to proceed in conformity with sections 3443,

subdivision (a) which states, “A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this part or the determination was made under factual circumstances meeting the jurisdictional standards of this part and the determination has not been modified in accordance with this part” (See § 3405, subd. (b).) The fact that Mexico has not adopted the Uniform Child Custody Jurisdiction and Enforcement Act is irrelevant. (*In re Marriage of Fernandez-Abin & Sanchez, supra*, 191 Cal.App.4th at pp. 1039-1040; *In re Marriage of Zierenberg* (1992) 11 Cal.App.4th 1436, 1443-1444.) So long as the Mexican custody order is issued “in substantial conformity” with the provision of the Uniform Child Custody and Enforcement Act, it must be enforced. (§§ 3405, subd. (b), 3443, subd. (a); *In re Marriage of Fernandez-Abin & Sanchez, supra*, 191 Cal.App.4th at pp. 1039-1040.) We expect *full* and *prompt* compliance by the juvenile court with our orders once the remittitur issues.

V. DISPOSITION

The jurisdictional findings and custody orders including the prohibition against visitation for the father are affirmed. If the Baja California courts issue a custody order, then the juvenile court is to enforce that order. If the Mexican courts take no action within a reasonable time after contact and notice, the jurisdictional findings and custody order will become the final child custody determination.

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TURNER, P. J.

We concur:

BAKER, J.

KIN, J. *

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.