

Filed 9/14/18 In re Christopher T. CA2/1

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re CHRISTOPHER T. et al.,
Persons Coming Under the
Juvenile Court Law.

B283795
(Los Angeles County
Super. Ct. No. DK17610)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

DANIELLE C.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of
Los Angeles County, Kristen Byrdsong, Commissioner. Affirmed
in part and reversed in part.

Marissa Coffey, under appointment by the Court of Appeal,
for Defendant and Appellant.

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

The question before us concerns exit orders issued by the
juvenile court when terminating its jurisdiction over four-year-
old Ava.

The Department of Children and Family Services (DCFS)
detained appellant Danielle C.'s (Mother) two children after an
incident on April 30, 2016 between Mother and her 17-year-old
son, Christopher, involving a shotgun in the family home.
On April 17, 2017, the juvenile court took jurisdiction over
Christopher and Ava, on the grounds that the environment of
Mother's home endangered the children and Mother
demonstrated a limited ability to provide appropriate parental
care. The juvenile court then terminated jurisdiction as to
Ava and granted sole physical custody of Ava to her father,
Joshua Z. (Father). In terminating jurisdiction over Ava, the
juvenile court issued exit orders to the family law court pursuant
to Welfare and Institutions Code section 362.4.¹

Mother appeals from those exit orders requiring monitored
visits with Ava and that Mother submit to a psychiatric
evaluation. She argues that the juvenile court abused its
discretion in making these orders because she no longer owned
the gun that the juvenile court found created a danger in her

¹ Further undesignated statutory references are to the
Welfare and Institutions Code.

home and there was no evidence that Mother ever abused or neglected Ava. Mother contends there was no evidence supporting submission to a psychiatric evaluation because she had already participated in a court-ordered psychological evaluation, which resulted in a finding that she exhibited no mood or psychotic disorder.

We conclude that the juvenile court did not abuse its discretion in ordering monitored visitation because there was evidence that Mother had repeatedly threatened suicide in the children's presence, including when she was pregnant with Ava, and had exhibited other disturbing behavior. We conclude, however, that the juvenile court abused its discretion in ordering a psychiatric evaluation given that Mother's visits with Ava will be monitored and there was not substantial evidence supporting the imposition of additional safeguards in the exit orders.

FACTUAL AND PROCEDURAL BACKGROUND

During the period relevant to these proceedings, Mother and Father, who had never married, lived separately. They shared physical custody of their child, Ava. Christopher, who was 17 years old, lived with Mother in a one-bedroom apartment and was on probation following an alleged assault on Mother. According to Mother, Christopher had met his presumed father, S.T., only twice, years earlier.

After receiving a report from a family services therapist about an April 30, 2016 incident with a shotgun at Mother's home, DCFS investigated and removed Christopher and Ava from the family homes on May 24, 2016. Christopher was placed with a nonrelated extended family member and Ava was placed with her paternal aunt.

1. The Juvenile Dependency Petition

On May 27, 2016, DCFS filed a petition seeking to have Christopher and Ava declared dependents of the court pursuant to section 300, subdivisions (a) and (b)(1). Subdivision (a) provides that a child comes within the court's jurisdiction when "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." (§ 300, subd. (a).) Subdivision (b)(1) applies when, among other circumstances, "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child." (§ 300, subd. (b)(1).)

The petition contained two allegations as to Mother.² First: "On prior occasions [Mother] established a detrimental and endangering home environment for the children, in that the mother possessed a firearm and ammunition in the children's home, within access of the children. On or about 4/30/16, the mother brandished a firearm in the children's home, during an argument with the child Christopher. In or around March of 2016 and 1/28/16, the child Christopher held and handled the mother's firearm. The child Christopher has a history of suicidal ideation."

Second: Mother "has demonstrated a limited ability to provide appropriate parental care and supervision for the child Christopher. The child Christopher has demonstrated special

² The counts pled against Father under section 300, subdivisions (a) and (b)(1) were dismissed prior to the jurisdictional hearing, leaving him nonoffending. We therefore do not discuss the facts related to those allegations.

and unique needs, including depression, suicidal ideation, self harming behaviors, and a diagnosis of ADHD.” The petition alleged that Mother’s limited ability to provide appropriate care placed Ava, as well as Christopher, “at risk of serious physical and emotional harm and damage.”

2. The Detention Report, Proceedings, and Investigation

At the May 27, 2016 detention proceeding at which Mother, Father, and Christopher were present,³ the juvenile court ordered that Christopher remain in his placement, Ava be released to Father’s custody, and Mother’s visits with both children be monitored. The Detention Report contained the following account of the investigation that followed the April 30, 2016 referral.

A. May 2, 2016

1. Report from Crittendon Services Partner Yesenia De Alba

On May 2, 2016, DCFS spoke with Yesenia De Alba, a “family partner” at Crittendon Services. The family had been receiving Crittendon “wraparound” family and individual therapy since January 2016. De Alba reportedly stated that Mother’s and Christopher’s versions of the April 30, 2016 incident were “two different stories.” According to De Alba, Mother reported that Christopher managed to get the gun and pointed it at her, while

³ Christopher’s father, S.T., was identified in DCFS’s initial petition, but had not been located at the time of the detention proceedings. He was represented by counsel at later hearings.

Christopher reported that Mother had the gun and pointed it first at herself, then at Christopher.

De Alba also reported that there had been a previous incident with a gun when it was “locked and not loaded” and Mother was told at that time to secure the gun. De Alba stated that Mother did not accept Crittendon’s parenting advice and was “very restrictive towards Christopher.” De Alba believed Mother had “unresolved mental health issues.”

2. The initial interview with Mother

Child Social Worker (CSW) Forest went to Mother’s home on May 2, 2016. According to DCFS, at that time “Mother denied that she took her shotgun out and pointed it at herself [or Christopher] or that her son Christopher pointed it at her. Mother stated that she usually has her shotgun stored in the home closet. Mother stated that she took the gun out of the closet because she noticed the gun key was missing from her keychain. Mother stated that she opened up the bag that stores the gun and noticed there was a bullet in cartridge. Mother stated that her son tried to take the gun away from her but not to point it at her. Mother stated that she doesn’t know why Christopher put his hands on the gun. . . . Mother stated that she has taught her son how to load the gun but hasn’t taught him how to shoot it.”

Mother showed the CSW the gun case. “[M]other opened up the case and opened up a number lock that was attached to one of the zippers on the case. CSW observed ammunition and the gun disassembled in the case. There was no zip lock on the gun, mother struggled to put the zip lock on the gun while CSW was watching. Mother stated that the zip lock needs to be replaced because it doesn’t fit snugly without extra effort.

Mother denied that the child, Ava knows where the gun is in the home or how to access the gun.”

Mother further explained that Christopher was on probation and had just been returned to her care in July 2015 after assaulting her in January 2015. She noted that Christopher’s drug tests for his probation were clean, but claimed he was tested only for marijuana and she suspected he used other drugs. Mother stated that Christopher wanted to live with his grandparents, who were less restrictive, and he was “trying to do as much as he can to make her home unstable so he can live with his grandparents.” Mother acknowledged that the family had been receiving wraparound family and therapy services since January 2016, but “stated that she wants more to be done with her son because nothing is working so far.”

Mother denied any history of substance abuse, but stated that her family had a mental health history—her maternal grandmother with bipolar disorder and her maternal grandfather with posttraumatic stress disorder. She explained that she was a fulltime nurse who worked shifts from 6:00 p.m. to 6:00 a.m.

A CSW also interviewed Ava on May 2, 2016 and found her to be clean, well groomed, and well cared for. Ava stated that she eats and sleeps well and is not afraid of anyone in the home. She was affectionate with Mother and appeared to have a close bond with her.

B. May 2-May 6, 2016

A CSW attempted to meet with Christopher at his high school on May 2 and May 3, but he was not there. When the CSW telephoned Mother to ask about the absence, Mother said Christopher, who reportedly had asthma and a history of seizures, had been wheezing the night before. When CSW asked

Mother to bring Christopher to the office, she allegedly became “irate.”

1. The second interview with Mother

On May 6, 2016, Mother and Christopher appeared at the DCFS office without an appointment. Supervising CSW (SCSW) Erica Grey reported that Mother appeared angry and threatened to file a report against CSW Forest because Mother felt Forest was bullying her and accusing her of intentionally keeping Christopher from being interviewed. Mother asserted that DCFS could not interview her child at school without her permission. SCSW Grey advised her that DCFS could do so in “special situations, such as the allegations on this referral.” Grey read the following allegations in the referral to Mother: “gun in the home, mom and Christopher fighting, him making bongos in the home, all while little Ava lives in this environment.”

Mother reportedly became emotional and related her struggles with Christopher since age 11 or 12. She stated that Christopher had used all kinds of drugs, had run away, and she had located him filthy and drunk. Christopher had been put on probation after he assaulted her in the car on the way to school, and the school probation officer advised Mother to press charges.

Mother again provided her account of the incident on April 30: “[S]he and Chris were arguing about him making bongos, she found in his room—she says he smokes tobacco out of them. Mother says her mother was there watching the kids but didn’t see him doing this in his room, so mother addressed grandmother who got mad and left the home. Mom says that she noticed he was using her sockets out of her tool box and noticed that her shot gun shells were missing from the tool box and she asked Christopher, during their argument, so mother says she

went to get the shot gun to make sure it was not tampered with, she did check the gun for shells in the weapon, she says it was never pointed at her child or anyone, while she checks the gun, Christopher took the gun from her, she says that they discussed him taking the gun, and he told mom he was scared of what she was going to do with the gun, as in harm herself, he wasn't sure." Mother explained to Christopher that he could not take a gun out of anyone's hands or use her weapon.

Mother admitted that the trigger lock was "kind of messed up," said the locks were expensive so she had to save money to replace her lock and explained that the case was locked as well. She said she secured the gun after Christopher left the home and went to his grandparents. She also noted that during the whole incident, she was on the phone with a family friend Alex B. (Alex), whose telephone number she gave to DCFS.

Mother said that in addition to the wraparound family therapy, she had utilized her employee benefits for therapy.

2. The interview with Christopher

A SCSW interviewed Christopher on May 6, 2016. When the SCSW asked Christopher about the incident on April 30, "Chris relayed that he and his mother started arguing over him making bongs in his room he got mad, she got mad, he said that he can't recall all of the events that occurred, but that . . . his mother was mostly mad because Ava was home when he was making the bongs in his room. Chris says he saw his mom had the gun and took it from her, because he didn't know what was going to happen. Chris denies being scared of his mother, he denies that he believes that she was going to harm him, herself or anyone else at the time. Chris says he put the gun down and left." Christopher denied being depressed, suicidal, or homicidal.

C. May 10, 2016

1. The phone call to DCFS from Christopher's therapist

On May 10, 2016, DCFS received a call from a Crittendon wraparound therapist, Jesus Ocana, who said that in a one-on-one session, "Christopher disclosed that last week mother pointed a shotgun to her head and had her toe on the trigger of the gun and the barrel of the gun pointed towards her head. Christopher stated that he tried to get the gun away from mother and they struggled for control of the gun. Christopher told the therapist that he is not afraid of mother." At this point, the CSW suggested that CSW and the wraparound team meet at Mother's home that day to discuss the inconsistencies in the family's story about the gun incident. Ocana called back shortly thereafter to say Mother was irate and refused to meet with the therapist or wraparound team.

2. The interview with Father

A CSW also spoke by phone with Father on May 10, 2016. Father described his relationship with Mother as " 'rocky' " and mentioned domestic violence between them, which he described as "mutual combat." Father stated that he did not believe that Mother had a substance abuse or mental health history. He explained that Mother had a problem communicating with Christopher and "won't let Christopher do anything because she's afraid he's going to get back in trouble and be taken away from her again." Father also stated: " 'I don't believe the children are at risk in her care.' " Father also described an altercation when Mother, Father, Christopher, and Ava were in bed watching television in which Christopher used racial epithets and pushed

his Mother onto the floor after she “ ‘flicked him with her wrist in the mouth.’ ”

D. May 11, 2016: Mother’s Third Interview with DCFS

On May 11, 2016, Mother returned a call from DCFS. SCSW Grey advised Mother that Christopher had told somebody on May 6, 2016 that “the reason he took the gun from his mother was because she was pointing the shotgun at her head and had her toe on the trigger.” Mother denied that Christopher had made such a statement to the wraparound team or his therapist. SCSW Grey asked Mother if she was accusing Christopher of lying and Mother denied doing so. SCSW Grey cautioned Mother it “appears that she and Chris worked on making up a story” and advised that Mother and Christopher presented with “mental health issues.”

According to DCFS, Mother “maintained the same story at least 5 times Mother then says that she recalls when she put the gun in her lap he took it from her because he didn’t know if she was going to shoot him or herself. . . . SCSW asked mother why Christopher thought she was going to shoot him or herself, she said she doesn’t know.” She denied putting the gun to her head with her toe on the trigger and maintained that Christopher had not told the wraparound team or his therapist that she had. SCSW Grey then “advised that isn’t even close to what she reported on 05/06/16,”⁴ said that both Mother and Christopher were being “dishonest,” and that any such dishonesty could cause

⁴ We observe that a comparison of DCFS’s reports of Mother’s May 6, 2016 and May 11, 2016 accounts reveals little, if any, difference in Mother’s description of the event.

DCFS to file a warrant and remove her children. Mother then told the SCSW, as she had earlier, that she had a witness on the phone during the incident, but SCSW Grey responded that the witness would simply tell DCFS whatever Mother asked the witness to say.

DCFS advised Mother that she should permit an Up Front Assessment. Mother repeatedly complained of being bullied and was repeatedly told the conversation could simply end. SCSW told Mother “that her parenting skills are the reason Christopher is in the state he is in now, if she doesn’t want Ava to be the same way she would benefit from services now.” The SCSW further accused Mother of “going through the motions with WRAP, thinking that whatever she says is the last word and that all the services providers are buying her story.” “Mother then state[d] for the record, that she wants it clarified that she doesn’t think she needs any services but if DCFS wants her to be assessed then she will agree.” The SCSW “advised mother that her playing with words doesn’t change her thinking and again this speaks volumes about her behavior and her possible mental health issues.” Mother repeatedly expressed concern that DCFS would retaliate against her for making a complaint by removing her children.

E. May 23, 2016: Mother’s Phone Call with DCFS

DCFS telephoned Mother to inform her that DCFS had filed its concerns for the children’s safety and Mother’s termination of wraparound services with the juvenile court. Mother explained that she did not terminate the wraparound services, but had merely asked for a new team. Mother acknowledged that her family needed therapy services, but felt

that DCFS violated her privacy when it suggested coming to confidential family therapy sessions.

F. Collateral Interviews and Additional Information

CSW Forest also spoke with the family babysitter, who reported that she had known the family for 14 years and had no concerns about Mother's care. Mother "protects like a momma bear."

Christopher's probation officer, Officer Mosby, who met with Christopher once or twice a month, reported on May 3, 2016 that Mother's relationship with Christopher was "volatile," but the two had made "up and down progress" with the wraparound services in place. Officer Mosby reported that Christopher's drug tests were negative, but his school performance was poor. He said that "he doesn't believe that mother is a threat to the children's safety." Several days later, on May 11, 2016, Officer Mosby reported that he had heard, possibly just the day before, that during the April 30th incident, Christopher was scared Mother was going to shoot him or herself and that when Mother put the gun on her lap, Christopher took it from her.

Mother's mother (Maternal Grandmother) stated regarding the referral: "I don't know who to believe." She further explained that when Mother was a teenager, her boyfriend committed suicide and mother had a hard time dealing with it. Maternal Grandmother stated that Mother was under the supervision of a psychiatrist for depression from age 16 to her early 20's, took medication for depression at this time, and "was in and out of the psych hospitals for assessments." She claimed Mother would not stay in therapy and stopped taking medication

when she became pregnant with Christopher. She also described a family history of depression and bipolar disorder.

The Detention Report included four Special Incident Reports from Crittendon Services from January and February 2016. In three instances, Mother sought help when Christopher became verbally aggressive and/or refused to take medication prescribed for attention deficit/hyperactivity disorder (ADHD). The fourth incident involved the gun. On January 25, 2016, Mother called Christopher's therapist and reported that she feared Christopher was suicidal. She had come home to find Christopher in possession of her shotgun, which she later found was not loaded. Christopher said that he heard a sound outside and got the shotgun out for protection. Mother had found a piece of paper in Christopher's room that referred to cutting his wrists, which later turned out to be the lyrics to a song. The therapist, Jesus Ocana, talked to Christopher and deemed him not suicidal.

The Detention Report also included 10 prior DCFS referrals related to the family dating back to Christopher's infancy, none of which involved any suicide threats. DCFS determined that none was well-founded. For example, a 2000 referral reported "an unhealthy home environment," but the investigator reported that the child appeared to be "healthy, well cared and happy under the care of mother," with whom he was positively bonded.

3. The Jurisdiction and Disposition Report

We summarize below DCFS's Jurisdiction/ Disposition Report for an August 1, 2016 hearing.⁵

⁵ The Jurisdiction/Disposition Report appears to supplement the original petition by requesting that Ava be declared a dependent of the court under Welfare and Institutions

A. Interviews and Statements

The Jurisdiction/Disposition Report included further interviews with family members and other involved parties. In a July 22, 2016 interview, Christopher offered this account of the April 30, 2016 incident: “My mother has threatened to kill herself before. This time she pointed the shot gun at herself, so I snatched it from her. She was trying to do something with her feet. . . . My mom said she was trying to clean it, but why was she loading it and cocking it. At the time, I thought that she was going to kill herself. . . . When she was pregnant with Ava, she wanted [Father] to stay with her so she told him that she was going to take some pills and kill herself if he left. I was at school.’” Christopher also said, “I’m tired of worrying about my mom killing herself if I do what I want to do and not what she wants me to do.’”

Mother was also interviewed on July 22, 2016. She reported that she had sold the gun and provided paperwork related to the sale, showing that she took steps to sell the gun on May 31, 2016—three days after the detention hearing. She offered an account of the April 30, 2016 incident similar to what she had said previously. At this point, she accused Christopher

Code section 300, subdivision (j). Subdivision (j) permits the juvenile court to take jurisdiction over a child when the child’s sibling has been “abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions.” (§ 300, subd. (j).) The petition’s allegations under subdivision (j) were the same as those under subdivisions (a) and (b). In sustaining the petition at the jurisdiction/disposition hearing, the juvenile court did not expressly address subdivision (j) and the written order does not expressly do so either.

of lying: “ ‘Christopher said that I was pointing the end of the barrel to my head and the trigger I was trying to fire with my toes. All lies, if you look at the gun and measure the length of my arms and legs, you would see that to pull a trigger with my toes, and have the gun pointed to my head is impossible. This was a big shotgun, I have short legs and arms, impossible, and he lied.’ ”

Christopher’s caregiver, Ericka Collins, recounted that Christopher had told her that Mother had put the handle of the gun on the ground and pointed the barrel at her head, telling him that if he did not do as she asked, she would kill herself. The caregiver repeated that Mother had threatened to kill herself three times.

Maternal Grandmother was re-interviewed on July 26, 2016. She claimed that she had called Christopher’s probation officer after Christopher told her “his mother had a gun and she was trying to kill herself” because as a nurse she is a mandated reporter. Maternal Grandmother additionally stated: “ ‘Danielle is losing it, her father had PTSD and was just recently diagnosed with Dementia. Danielle can’t handle all this coming at her, she is losing it.’ ” At this point, Maternal Grandmother claimed that Mother had taken medication for both bipolar disorder and depression and then stopped taking it.

A CSW interviewed Ava on July 22, 2016 as well. Ava was at Father’s home and the CSW described Ava as happy and “giggling.” The CSW recounted that Ava said that “she loves living with her dad, and she loves having her own room. [Ava] said that she likes to visit her mom, but likes to come home to her daddy’s home.”

The Jurisdiction/Disposition Report included an email from Alex to Mother, dated May 27, 2016, stating under “Penalty of Perjury” that he received a phone call from Mother on April 30, 2016, the date of the incident with the shotgun, and overheard a conversation between Mother and Christopher. “The conversation was about how shot gun shells came up missing from the designated storing area. At no point during the conversation did I hear anything about a gun being pointed at anyone’s head, nor did I hear anything [a]bout anybody stating they wanting to kill themselves.” Alex also wrote: “The way the incident was described is false based on the fact of the shotgun is a pistol grip and wouldn’t sit flush against the ground.” He noted that no one from protective services had contacted him.

The Jurisdiction/Disposition Report included statements from Memorial Care Health System, College Medical Center, and Del Amo Behavioral Health System of Southern California to the effect that these health care facilities had no psychiatric records regarding Mother. Christopher’s probation records and letters from his high school attested to Mother’s advocacy and intense involvement in Christopher’s wellbeing.

B. DCFS Recommendations

DCFS reported that Mother was willing to share custody of Ava with Father, but would not discuss any other arrangement, including Ava living with Father fulltime. She wanted Christopher returned to her care. Father was willing to have either full or shared custody of Ava.

DCFS asked that the children be declared dependents of the court and that Mother be ordered to enroll in, and complete a parenting class, receive individual counseling to address case issues, and “take all prescribed psychotropic medication.” DCFS

also requested that the court order a “psychiatric/psychological” evaluation for Mother.

4. The August 1, 2016 Hearing and the Psychological Evaluations of Mother

On August 1, 2016, the jurisdictional hearing was continued. Pursuant to Evidence Code section 730, the court ordered Sara Hough to conduct psychological testing of Mother for “[p]ossible mental illness including any suicidal/homicidal ideation,” to make recommendations regarding visitation and therapy, and to assess risks.

A. Dr. Hough’s Report⁶

In a report dated August 22, 2016, Dr. Hough concluded that Mother “was very guarded regarding any mental health symptoms and no medical records were available for review; therefore a definitive clinical diagnosis could not be made. However, in the present evaluation, she did not present with a mood or psychotic disorder. She vehemently denied current suicidal ideations or intent and any symptoms of depression. She was hopeful and positive about the future. She also vehemently denied past or present homicidal ideations or intent.”

Dr. Hough reported that she administered the Personality Assessment Inventory, but Mother’s profile could not be interpreted due to her “response style” on the Positive Impression

⁶ On March 1, 2017, Mother filed a motion in limine to exclude Dr. Hough’s report or, in the alternative, to consider it only for disposition and not jurisdiction. The report was not admitted for jurisdiction, but was admitted for determining disposition.

Scale. Mother's "high T score . . . suggests that she attempted to portray herself as exceptionally free of common shortcomings to which most individuals will admit. Her elevated scores on the Positive Impression Scale is expected in the presence of defensiveness or denial, in individuals who are repressed, or in individuals who have little insight into their personal shortcomings."

Dr. Hough stated that Mother "reports wanting to reunite with her children, however she lacks insight into how her behavior contradicts her goal. Furthermore, she accepts no responsibility for her children being removed from her custody." According to Dr. Hough, Mother "blamed the system for lying and indicated that her son's mental and behavioral problems created the current situation." She claimed Christopher "made up the story about her threatening to kill herself." She also lacked insight into her own behavior and its negative impact on her children.

Dr. Hough reported that Mother acknowledged participating in counseling at age 16 after the suicide of her friend and being prescribed Paxil, an antidepressant. Mother claimed that she only took the medication for three days but told everyone she was still taking it and they said she was doing better. Mother denied experiencing depression and claimed therapy helped her.

Dr. Hough recommended that Mother not have full custody of the children and visitation remain supervised and monitored. She also recommended that Mother complete a court-approved parenting class and participate in individual therapy, with a report to the court "regarding her parental capability and insight." She further recommended that the court receive

feedback from Mother's individual therapist regarding her progress before liberalizing visitation.

B. Dr. Sequeira's Report

Mother's individual therapist prepared a report dated October 14, 2016. Dr. Sequeira reported that Mother had attended six therapy sessions. After listening to Mother's accounts of the shotgun episode, Dr. Sequeira concluded that "[h]er intelligence is above normal and her judgments and insight are normal." He described Mother as "very assertive (and this may be interpreted as aggressive). She is very assertive and demands for her rights. She knows HIPPA and other laws and when they are not followed she is upset and wants to know why."

Dr. Sequeira criticized Dr. Hough's evaluation because Dr. Hough employed only one test, rather than the battery of tests required for a proper evaluation. He claimed that Mother "does not have any psychiatric history. She does not have hallucinations nor delusions. She does not suffer from any mood disorders. She denies any suicidal or homicidal ideations." Dr. Sequeira did not see any reason why Mother could not be reunited with her children.

5. Last Minute Information

CSW Greenhill reported in a September 13, 2016 Last Information for the Court that, among other issues, Christopher's doctor, Laura Petrovich of Children's Hospital of Orange County, informed the CSW that Mother was so "loud and argumentative" when Dr. Petrovich was with Christopher to evaluate a cyst that Dr. Petrovich had to change rooms "due to [M]other's uncontrollable behavior."

In another Last Minute Information for the Court dated November 1, 2016, the CSW reported that Mother became “irate” and demanded documents when she went to Christopher’s school and he was not immediately available. “Mother was yelling at a student and recorded it on her phone.” She then posted the event on social media “boasting” that the school and others now “‘learned who she was today.’” This embarrassed Christopher.

6. Mother’s Education Rights and Visitation With Christopher

On September 13, 2016, the juvenile court limited Mother’s and S.T.’s educational rights over Christopher and designated Christopher’s caregiver as the educational rights holder. At a hearing on November 1, 2016, the court suspended Mother’s visitation with Christopher after learning about the above-described incident at Christopher’s school.

In advance of a January 31, 2017 hearing, Christopher reported to a CSW that he did not wish to reunify with Mother and did not want mandated visits. He also claimed that Mother said things to Ava that were “not right. The first thing is that she tells her that her daddy doesn’t love her. Then she told her that my friend’s [sic] don’t like my mom.”

On January 31, 2017, the court ordered that Mother have monitored visits with Christopher.

7. Contested Jurisdiction/Disposition Proceedings

After a number of continuances, the jurisdiction/disposition proceedings took place on April 17, 2016.⁷ The court heard testimony from Christopher, Mother, and Alex.

A. The Testimony

When asked about the April 30, 2016 incident, Christopher testified that he and Mother argued, then he went to his bedroom. He heard Mother crying and “the slide of a shotgun,” went into the living room, and witnessed Mother with the shotgun. She was leaning over and the shotgun was at her mouth or chin. Christopher testified that he grabbed the gun from Mother, asked “Why would you do that?”, unloaded the gun, put it on the top closet shelf so Mother could not reach it, and left for his grandparents’ home. At his grandparents’ house, Christopher called his probation officer to tell him what had happened because touching a shotgun was a violation of his

⁷ On May 27, 2016, Mother signed a Parental Notification of Indian Status stating that she may have Cherokee and Algonquin heritage; Father signed a Parental Notification on the same day stating that he did not have Indian ancestry. On August 1, 2016, S.T. signed a Parental Notification of Indian Status stating that he may have Indian ancestry. DCFS sent notices pursuant to the Indian Child Welfare Act (ICWA) on July 28, 2016, January 27, 2017, and February 2, 2017. The Bureau of Indian Affairs responded with a letter dated February 10, 2017 stating that DCFS’s letter of inquiry was returned due to insufficient information to determine tribal affiliation. On April 6, 2017, the juvenile court found that Ava and Christopher were not Indian children under the ICWA. Mother does not contest this ruling.

probation. He testified that Mother had called Alex only after Christopher took the gun away from her.

Christopher also testified that Mother did not keep the shotgun “in a locked case,” and that several months before the April 30th incident, he had gotten the gun while alone in the home with his grandmother after they had heard a noise. He said that the ammunition was kept in the unlocked cardboard box in which it was sold.

Christopher said that Mother had threatened to kill herself twice before. On one occasion, after an argument with Father, she locked herself in the bathroom and threatened to take pills; Christopher learned about this incident from Mother, Father, and the police. Later, while pregnant with Ava, Mother was driving with Christopher in the car and threatened “she was going to drive to a train track and just park it for a train to run [them] over.”⁸

Mother testified that she kept the gun with a trigger lock, accessible with a key, in a locked gun case that was accessible with a combination. She did not give Christopher the key or the combination. She kept the ammunition in “a clear plastic locked box,” but she could not explain the lock other than to say “it’s supposed to be childproof.” She testified that the only time she knew that Christopher had had her gun was when she taught him “how to tell when the safety was on the gun.”

Mother testified that she came home from work on the morning of April 30, 2016, smelled something burning, and woke up her mother, who had spent the night. In Christopher’s

⁸ At the hearing, Christopher testified that the incident with the pills occurred before Mother was pregnant. He had previously stated the incident occurred while she was pregnant.

bedroom, where he was sleeping, she saw a bong that employed sockets from her tool box. After Maternal Grandmother left for home, Mother tried to talk with Christopher, who only yelled and cursed at her. Mother then called Alex and asked him to calm Christopher.

While Christopher was on the telephone, Mother noticed her shotgun shells were missing, and then went to the closet to make sure Christopher “had not gotten into the shotgun or loaded it.” She then checked that the zipper on the case was locked, checked the pockets of the case for ammunition and found none, pulled the shotgun out of the case to check it was not loaded or tampered with, checked that “the slide could still be pulled back and the safety was on,” then secured the shotgun in its case, “locked it completely,” and placed it back in the closet. Mother testified that when she had the gun across her lap, Christopher took it from her. She took the gun back from him and told him, “You never take a gun from anybody. Ever. And, son, you’re on probation, you should not even be touching this.” Mother testified that she never put her toe on the pistol grip, pointed the gun at her head, or pointed it at Christopher.

According to Mother, Alex had remained on the telephone while the gun was out of the case. Christopher left the home, without Mother’s permission, about 30 minutes after Mother replaced the gun in the closet. Mother eventually located the ammunition in a bookcase with drawers. About 40 minutes after Christopher left, Mother called the police and a wraparound therapist, and then located Christopher at the grandparents’ home.

Mother denied threatening to kill herself despite Christopher’s testimony to the contrary. She also denied that in

May 2016 she had refused to meet with a wraparound therapist and had ended wraparound services. She testified that she objected to DCFS attending family therapy because it was supposed to be confidential. She denied ever having been diagnosed with a “mental disorder” or having taken “psychotropic medication.” She acknowledged having seen a psychiatrist when she was 16, after three people she knew had committed suicide in one year. She denied that she had refused a request by Crittendon Services to have Christopher evaluated by a psychiatrist.

Alex testified that he had known Mother for five years and Christopher for four years. He did not have a romantic relationship with Mother, but had received “hundreds” of phone calls from Mother over four or five years asking him to talk with or calm Christopher. On April 30, 2016, Mother called and recounted to him an argument about Christopher smoking in the house, Alex talked with Christopher for about 10 minutes, then Christopher hung up “because he was upset to the point where he wouldn’t listen to” Alex. About 20 minutes later, Alex received another call and heard Mother telling Christopher he had to follow the rules of house and asking, “[W]here are my shotgun shells?” She asked this question “numerous times,” but Alex did not hear Christopher answer. During the 20 minutes he spent on the phone, Alex did not hear anything else about the shotgun, or any statement from Christopher that he was afraid Mother was going to hurt herself or him.

B. The Juvenile Court’s Orders

The juvenile court found Christopher to be “very forthcoming” and “credible.” By contrast, the juvenile court found that Mother “lacked credibility” and was “defensive,” especially

when questioned by DCFS counsel. The juvenile court cited three examples from the Jurisdiction/Disposition Report of what it characterized as Mother's "irrational behavior."

The first citation refers to Christopher's statement that Mother had tried to manipulate others by threatening suicide. The second example refers to Maternal Grandmother's statement that Mother was "losing it" in the face of all the family problems and illnesses. The third citation refers to an incident at Christopher's school in which Mother timed the distance between her son's third and fourth period classes after Christopher was repeatedly tardy. According to Father, Mother determined that the distance between the classes was too long to enable Christopher to be on time to class, and the school would not let Mother on campus after the incident only because DCFS told the school not to let her bother Christopher.

The juvenile court sustained the petition, finding the children to be persons described by section 300, subdivision (b).

Regarding disposition, Mother stated that if the petition were sustained, she agreed with terminating jurisdiction over Ava and asked that the family revert back to the joint custody arrangements for Ava in the family law order that Mother and Father had in place prior to the children being detained. She also asked that if monitored visitation for Ava were ordered, Father be allowed to approve any monitor and that he be allowed to monitor the visits himself. Mother objected to DCFS's proposed case plan insofar as it called for her to undergo a psychiatric assessment and take any prescribed psychotropic medication.

Father did not object to reinstating the family law order. If it were not reinstated and joint legal custody of Ava were granted, he asked to be given the last word in the event of

disagreement, which is what he had under the family law order. Counsel for Ava supported Father having primary custody and was disinclined to terminate jurisdiction, given that Mother and Father desired to return to the custody arrangement in place before the petition was filed. Ava's counsel did not otherwise address the case plan for Ava.

The juvenile court ordered Christopher to remain placed with the nonrelated extended family member. It ordered family reunification services, including Mother's participation in developmentally-appropriate parenting education, and mental health counseling. The juvenile court further ordered that Mother's visitation with Christopher be monitored by a DCFS-approved monitor.

As part of Christopher's case plan, the juvenile court ordered Mother to submit to a psychiatric evaluation and take "all prescribed psychotropic medications."

In its April 19, 2017 final judgment regarding custody, the juvenile court terminated jurisdiction over Ava, with a family law order granting Father sole physical custody and joint legal custody with Father having the last word in the event of disagreement. The juvenile court ordered visitation by Mother monitored by a mutually agreed upon monitor. As part of the latter judgment, the juvenile court attached the case plan for Christopher—including its order that Mother participate in a psychiatric evaluation and take all prescribed psychotropic medication—"so that family law court can have some indication of what services Mother needs to participate in before modifying the custody order." The juvenile court based its adoption of the case plan on Dr. Hough's report, "the lack of credibility the court observed . . . in Mother's testimony," and "the testimony which

the court did find credible in which Mother threatened to kill herself in three different ways on three different times.”

The juvenile court filed its judgment and family law orders on April 19, 2017, at which time it terminated jurisdiction over Ava. On May 3, 2017, the juvenile court recalled the protective warrant for Christopher and terminated jurisdiction as to Christopher because he had turned 18 and had gone “A.W.O.L,” continued to miss school, and was refusing to participate in therapy.

Mother timely appealed.

DISCUSSION

Mother appeals only two aspects of the juvenile court’s orders: (1) the requirement that her visits with Ava be monitored, and (2) the order that she submit to psychiatric evaluation. She does not appeal the juvenile court’s jurisdictional findings.

I. LEGAL STANDARDS

When the juvenile court terminates jurisdiction in a dependency case, it may issue orders for custody and visitation, known as “exit orders.” (§ 362.4; *In re Chantal S.* (1996) 13 Cal.4th 196, 202-203; see *In re John W.* (1996) 41 Cal.App.4th 961, 970.) Section 362.4, subdivision (b) provides that upon terminating dependency, an order determining visitation with a child “shall be filed in the [existing family law proceeding], at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.” (§ 362.4, subd. (b).) The California Supreme Court has held that section 362.4 also “‘implicitly authorizes the court to make collateral orders, such

as counseling orders, that are reasonably related to the custody and visitation.’ ” (*In re Chantal S.*, *supra*, 13 Cal.4th at p. 204.)

In making exit orders, the juvenile court focuses on the best interests of the child in the particular circumstances of the case. (See *In re Chantal S.*, *supra*, 13 Cal.4th at p. 206.) We review the juvenile court’s decision to issue exit orders for abuse of discretion. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.) A custody determination in a dependency proceeding will not be disturbed unless the juvenile court “ ‘ “exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].” ’ ” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

We review the juvenile court’s findings of fact underlying the order for substantial evidence. (*In re C.B.* (2010) 190 Cal.App.4th 102, 123.) “We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or evaluate the weight of the evidence. Rather, we draw all reasonable inferences in support of the findings, view the record most favorably to the juvenile court’s order, and affirm the order even if other evidence supports a contrary conclusion.” (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.)

II. MOTHER’S SUICIDE THREATS, AMONG OTHER EVIDENCE, SUPPORTED REQUIRING MONITORED VISITATION WITH AVA

Mother argues that there was no basis for restricting her to monitored visitation with Ava because the circumstances giving rise to the DCFS petition—Mother’s unsafe storage and use of the shotgun—were fully addressed when Mother sold the shotgun. Mother points to evidence that Ava was well-cared for in Mother’s home. Ava reported that she enjoyed visiting with

Mother, and Father told DCFS that he did not believe Ava was at risk in Mother's care. Similarly, Ava's primary physician and the family babysitter did not report any concerns about Mother's care of Ava. Mother notes that she participated in a parenting course and individual therapy. Dr. Hough recommended that before Mother's visitation be liberalized, the juvenile court receive feedback from Mother's individual therapist. Dr. Sequeira provided such feedback and found no reason Ava should not be returned to Mother's custody. Mother further argues that Christopher presented parenting challenges not existing with Ava.

Respondent counters that there was substantial evidence that Mother had threatened suicide at least three times, including when she was pregnant with Ava, and the juvenile court credited that evidence. Specifically, the juvenile court expressly found Mother's denials of these suicide threats not credible, which respondent argues demonstrates Mother's lack of insight as to the danger her threats posed to Ava. Respondent also argued that the evidence demonstrated that Mother used these suicide threats to manipulate Christopher, who was already emotionally damaged as he described when he testified he was tired of having to worry that his Mother might actually carry out those suicide threats. There was evidence that Mother said emotionally damaging things directly to Ava, for example, that Father did not love her. Respondent further argues that these threats and manipulation led to Dr. Hough's recommendation that Mother's visits with Ava be monitored.

We conclude that substantial evidence supported the juvenile court's determination that Ava's best interests would be served by monitored visitation and that the trial court did not

abuse its discretion in requiring monitored visitation in its exit orders.

The juvenile court found Christopher's account of the April 30, 2016 incident and Mother's prior suicide threats credible. We do not second-guess the trial court's credibility assessments. (*In re Megan S.*, *supra*, 104 Cal.App.4th at p. 251.) As Christopher described the April 30, 2016 episode, it constituted a suicide threat *and* a reckless deployment of a firearm in his presence when he was already angry and agitated.

As detailed above, Christopher testified that several years earlier, while pregnant with Ava and driving with Christopher, Mother had threatened to kill herself by parking on the railroad tracks. Christopher also recounted an incident during which Mother threatened to take pills after an argument with Father. Although Christopher was not present, he learned of that event from Mother among other sources. While being interviewed by DCFS, Christopher acknowledged his emotional distress and the burden he carried as a consequence of Mother's actions. " 'I'm tired of worrying about my mom killing herself if I do what I want to do and not what she wants me to do.' " The events recounted by Christopher amount to substantial evidence of risk to Ava, even though she was not present during the suicide threats except when Mother was pregnant with her during one of those threats.

The court-appointed psychologist recommended that "[v]isitation should remain supervised and monitored." Given the testimony that the juvenile court credited and that Dr. Hough also considered, the juvenile court did not act arbitrarily or capriciously in following Dr. Hough's recommendation.

In concluding that the juvenile court's exit order requiring monitored visitation was not an abuse of discretion, we recognize that exit orders are just that. They provide safeguards to protect children after the termination of juvenile court jurisdiction. Exit orders, however, are not immutable. They are subject to change should the family court determine that the safeguards are no longer necessary.⁹

**III. SUBSTANTIAL EVIDENCE DID NOT SUPPORT
REQUIRING MOTHER TO SUBMIT TO FURTHER
PSYCHOLOGICAL EVALUATION WHERE THE
MOTHER'S VISITS WITH AVA WILL BE
MONITORED**

Mother also appeals the juvenile court's exit order that she submit to a psychiatric evaluation and take any prescribed psychotropic medication. We conclude that the juvenile court abused its discretion in ordering Mother to submit to additional evaluation.

Mother argues that she complied with the juvenile court's earlier requirement that she have a psychological evaluation and Dr. Hough, the court-ordered expert, concluded in that evaluation that Mother did not exhibit a mood or psychotic disorder. Mother also cites Dr. Sequeira's finding as Mother's individual therapist that Mother did not suffer from any mood disorder. Mother cites Father's report to DCFS that he also did not believe she had

⁹ The family court may modify an exit order if "the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child." (§ 302, subd. (d).)

mental health problems.¹⁰ Mother notes that the sustained petition did not include any finding that Mother suffered from mental health issues.

In contrast, respondent focuses on Mother's repeated threatened suicides, inappropriate behavior in Christopher's school, and disruptive behavior in the Orange County Children's Hospital as indicative of a mental disorder meriting further evaluation. Respondent argued in the juvenile court that Dr. Hough was hampered in her evaluation because Dr. Hough did not have any medical records and Mother was "guarded" during her interview with Dr. Hough.

We recognize that Mother's behavior in Christopher's school and when he was being treated by Dr. Petrovich was disturbing. The juvenile court, however, ordered monitored visitation in response to this behavior, as well as Mother's suicide threats in the children's presence. As noted above, substantial evidence supported adding this safeguard in the juvenile court's exit orders. Given that Mother's visits with Ava will be monitored, we conclude requiring Mother to submit in addition to a psychiatric evaluation was an abuse of discretion.

¹⁰ The file before the juvenile court also contained letters commenting on Mother's caring and selfless qualities and involvement with Christopher's well-being.

DISPOSITION

The juvenile court's April 19, 2017 custody order and final judgment are affirmed except as to the exit order requiring Mother to submit to a psychiatric evaluation and take any prescribed medication, which exit order is reversed.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.