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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re DELILAH G. et al.,

Persons Coming Under the Juvenile  
Court Law.

B237743

(Los Angeles County  
Super. Ct. No. CK76203)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JENNIFER G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Marilyn H. Mackel, Juvenile Court Referee. Affirmed.

Lee Gulliver, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel, and Jeanette Cauble, Senior Deputy County Counsel, for Plaintiff and Respondent.

## INTRODUCTION

Jennifer G. (Mother) appeals from an order denying her second and third petitions under Welfare and Institutions Code section 388,<sup>1</sup> by which she sought to have her three-year-old twin daughters, Delilah and Denise, returned to her custody and to receive family maintenance services. We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

A detailed discussion of the factual and procedural background of this case is set forth in our decision in *In re Delilah G.* (Dec. 7, 2011, B231675) [nonpub. opn.], which followed the denial of her first section 388 petition. Briefly summarized, the facts leading up to our previous opinion are as follows:

The twins were detained in February 2009, when they were a few months old. Mother, who was then 16 years old, had mental health problems and was unable to care properly for the twins. The twins were declared dependents of the court under section 300, subdivision (b), and they were placed with paternal relatives.<sup>2</sup>

Mother received 18 months of reunification services. During that time, she visited with the twins, participated in therapy and parenting classes, and obtained a full-time job. Ultimately, however, she stopped therapy, her participation in parenting classes was sporadic, and her work interfered with visitation. The juvenile court found Mother was not in compliance with her case plan. It terminated her reunification services and set a section 366.26 permanency planning hearing.

Mother filed her first section 388 petition on February 17, 2011, seeking to have the twins returned to her custody. She explained that since the juvenile court terminated

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<sup>1</sup> Unless otherwise stated, all further section references are to the Welfare and Institutions Code.

<sup>2</sup> The twins' father is not a party to the appeal.

reunification services and set a permanency planning hearing, “Mother has been in individual counseling . . . since November 22, 2010. Mother continues to attend Young Moms Program . . . . Mother continues to enjoy regular unmonitored visits with the [twins]. Mother continues to have steady employment.” She believed it would be in the twins’ best interests to be returned to her because they were “strongly bonded with the Mother and . . . continue to have a strong relationship with the maternal grandmother. Mother is a young parent but has made efforts to comply with the case plan to ensure a safe home for the [twins].”

On March 8, 2011, the juvenile court denied Mother’s petition without a hearing. It explained that the petition did not state new evidence or a change of circumstances, and the proposed change would not promote the twins’ best interests. Mother filed her notice of appeal from the court’s order.<sup>3</sup>

Mother filed a second section 388 petition on July 26, 2011. The juvenile court granted a hearing on that petition. Before the hearing could be completed, Mother filed her third section 388 petition on September 16, 2011. Again, the court granted a hearing on the petition.

As changed circumstances, Mother stated that she “continues to regularly attend the Young Moms Program (2 year program) and consistently attends weekly therapy at San Fernando Valley Community Mental Health Center. Further, Mother is compliant with prescribed medication and had a recent [Evidence Code section] 730 Evaluation done by Dr. Nadim Karim who indicates the Mother’s history of depression appears to be stabilized. Mother continues [with] visits unmonitored weekly.” Mother felt the proposed change would be in the twins’ best interests because they “are strongly bonded to the Mother with whom they have maintained a loving parent-child relationship.”

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<sup>3</sup> We affirmed the order, finding no abuse of discretion in denying the petition and, in any event, the appeal was moot because Mother had filed the two petitions at issue in the instant appeal, and the court had granted a contested hearing on the petitions.

Evidence showed Mother had been attending the Young Moms Program two to four times a month since January 2011. She had been receiving mental health services since May 2011.

According to Dr. Karim, Mother's "history of depression appears to be stabilized." However, he was concerned about her "on-going issues with anger" and recommended an anger management program. He also believed conjoint therapy with the maternal grandmother, who helped with childcare, would be beneficial due to the potential for a strained relationship.

Dr. Karim did not believe Mother posed a danger to the twins. However, he noted that "[h]er clinical presentation suggests that she is continuing to improve, although she seems a bit overwhelmed with the demands of work and therapy. Therefore, [he suggested] a gradual transition in relation to reunification with her children. More specifically, a transition plan should be put into place whereby the demands of work, therapy, and caregiving can be made smoothly . . . ."

According to the Children's Social Worker (CSW), Mother had completed over half of her parenting classes. She had been in therapy consistently since May 2011 and on medication since August 2011.

The CSW noted that there had been some problems with visitation. Mother had allowed both her boyfriend and the twins' father to visit the children in her home during visitation with the twins in violation of court orders. The CSW also noted questionable parenting techniques during unannounced visits, which mother categorized as "not a big deal."

Additionally, Mother had only recently enrolled in anger management classes. The CSW believed that "[w]ith Mother's history of explosive behavior this class is instrumental in decreasing mother's symptoms in regards to communicating with her mother, [the twins'] caregivers, and CSW."

Overall, the CSW acknowledged that Mother "has made some progress" but felt that Mother "is not fully equipped to manage the care of her children when she has not successfully completed her programs and does not present as fully understanding the

importance of following Court orders by allowing father to visit the children in her home. Her mental instability remains of concern and [M]other relies heavily on maternal grandmother to care for her children thus giving grandmother more responsibility than she should have.”

At the hearing on the section 388 petitions, Mother’s therapist, Anthony Sykes, testified as to Mother’s progress in therapy. He believed she behaved appropriately with the twins. Sykes stated that Mother “is a very determined person and very motivated and I think that when she really wants something she goes after it and I think that her desire . . . is to be the best mother that she can.” He wanted to see her continue with parenting classes, therapy and anger management, “but just judging from her behavior since she has been in our program, it seems like she will do well if she continues what she is doing now.”

The maternal grandmother testified that Mother interacted well with the twins. She stated that the twins love Mother very much; they follow her around and do not want to return to their caregivers. The maternal grandmother had no concerns regarding Mother’s ability to parent the twins.

Mother testified as to her participation in parenting classes, therapy and anger management and what she had learned in these programs. She testified as to her plans for the twins’ care while she was at work. Mother believed she had the ability to parent the twins if they were returned to her custody. She explained: “I have matured a lot since I first started on this. I have learned the parenting skills. I have practiced my parenting skills with them and, by the way, I do it for three days. [¶] I know it’s not a lot. I know I don’t have them all day, but I know that I am capable of taking good care of them.”

The juvenile court acknowledged the growth that had taken place since Mother was first before it. It commended Mother that “[y]ou came to this court on this petition extremely young and you are still young, but you have grown significantly.” It added, “I would submit at this time that your significant level of growth was this year. You got a great start towards what was really necessary to stabilize you this year, the spring of this year.

“And more significantly sometime during the summer when you began taking the medication that really is necessary given your diagnosis. [¶] Persons with depression as you have been diagnosed do have issues with anger management. It’s a major issue for depressive syndrome, depressive diagnosis. [¶] You are two months into the medication, I would submit that you are really about four weeks because it takes about a month for it to kick in.”

The court recognized that Mother’s visitation with the twins “has been consistently good . . . over this pretty significant amount of time Friday, Saturday and Sunday with them.” However, the court ordered her again not to allow her boyfriend to be present during the visits.” The court also cautioned Mother about the way she dealt with the twins’ caregivers and about returning the twins on time after visitation.

Despite the progress, the court found that Mother’s section 388 petitions were premature. It explained: “We need you to continue to show the stability that you have been showing fairly recently in this whole process continuing with your counseling and continue to have good visits with your children . . . .” The court therefore denied the petitions.

## **DISCUSSION**

Section 388 permits a party to petition the juvenile court to change its prior orders based upon a change of circumstances. (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685; *In re Casey D.* (1999) 70 Cal.App.4th 38, 47.) The party seeking a change must demonstrate both that a change of circumstances exists and that the proposed change of court order is in the child’s best interests. (*Casey D.*, *supra*, at p. 47.) We review the court’s ruling on a petition for abuse of discretion. (*Amber M.*, *supra*, at p. 685; *Casey D.*, *supra*, at p. 47.) Discretion is abused when the court’s ruling is arbitrary or capricious or exceeds the bounds of reason. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) Rarely does the denial of a section 388 petition require reversal. (*Amber M.*, *supra*, at pp. 685-686.)

As we pointed out in our previous opinion, section 388 requires *changed* circumstances, not merely *changing* circumstances. (*In re Casey D.*, *supra*, 70 Cal.App.4th at p. 49.) That Mother was participating in her programs and taking her medication did not demonstrate that circumstances had changed to the extent that it was in the twins' best interests to be returned to Mother's custody. (*In re Angel B.* (2002) 97 Cal.App.4th 454, 464-465.) Given Mother's history of mental health issues and the relatively short period of time she had been compliant with her programs, the juvenile court acted well within its discretion in requiring Mother to demonstrate compliance and stability for a more significant period of time. (See, e.g., *In re Clifton B.* (2000) 81 Cal.App.4th 415, 423-424.)

### **DISPOSITION**

The order is affirmed.

JACKSON, J.

We concur:

PERLUSS, P. J.

WOODS, J.