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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re L.T., a Person Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

DESMOND T.,

Defendant and Appellant.

B282888

(Los Angeles County
Super. Ct. No. DK11171)

APPEAL from an order of the Superior Court of
Los Angeles County, Akemi Arakaki, Judge. Affirmed.

Daniel G. Rooney, under appointment by the Court of
Appeal, for Defendant and Appellant.

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

INTRODUCTION

Father, Desmond T., appeals from the juvenile court's exit order granting sole legal and physical custody of his son L.T. (L.) to the child's mother, Julie W.¹ and awarding father monitored visitation. (Welf. & Inst. Code, § 364.)² Father contends that the portion of the order requiring that his visits be supervised, either by a monitor approved by mother or by a paid professional, effectively and improperly gave mother veto power over father's visits. We conclude that father has not demonstrated that the visitation portion of the exit order was an abuse of discretion. Accordingly, we affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The dependency*

The juvenile court sustained a petition alleging that the parents have a history of engaging in violence in the children's presence.³ It also alleged that father physically abused mother's five-year-old daughter by striking her with an object, and was

¹ Mother is not a party to this appeal.

² All statutory references are to the Welfare and Institutions Code.

³ The petition also named mother's two daughters, L.'s half-siblings, who are not parties to this appeal.

violent with mother by, among other things, pushing her against a wall, striking, and scratching her. Father was arrested on charges of inflicting corporal injury to and battery of a spouse/cohabitant. (§ 300, subds. (a), (b) & (j).) The court ordered father to undergo a 52-week domestic violence program, attend trauma-focused parenting classes, and to enter counseling with a licensed therapist to address case issues, including anger management and child safety and protection.

At the six-month review hearing (§ 366.21, subd. (e)) in June 2016, the juvenile court found that mother had complied with her case plan and returned L. to mother's custody. Father was jailed shortly thereafter on charges of assaulting mother.

2. Visitation

Father had visits with L. at the jail. After father's release on February 2, 2017, the Department informed mother that the paternal grandparents would function as visitation monitors for father. Mother "felt uncomfortable" with that arrangement because she feared the paternal grandparents would "kidnap [L.]" if he were left alone with them. Disagreeing with that assessment of the paternal grandparents, the social worker assured mother that the Department would attend the first visit to assess their ability to monitor father's visits. Meanwhile, father reported to the social worker his concern that mother would not allow him to visit his son.

Father's first visit outside jail occurred on February 3, 2017, monitored by the paternal grandparents. The social worker informed mother that the visit had gone well and that the Department had approved the paternal grandparents as monitors. When the social worker texted mother about scheduling another visit, mother did not respond.

Mother moved for an order denying father all visitation. She argued that this dependency was based on father's domestic violence and he had not demonstrated completion of his court-ordered domestic violence or anger management programs. Mother believed father posed a significant physical danger to L. if the court allowed father to visit him after it terminated jurisdiction. Rather than to grant mother's motion, the juvenile court awarded father visits twice a week for two hours, to be supervised by a Departmentally approved monitor, but *not* by the paternal grandparents.

Father had a visit on March 2, 2017, at the Department's offices that went "very well." Four days later, father had another successful visit. However, in an ensuing conversation with the social worker, father switched from calm to yelling and cursing without provocation. This behavior created a "new concern about father's threatening behavior" and so the social worker "highly recommend[ed]" that father continue counseling. The Department requested that the court terminate its jurisdiction and issue a family law order granting mother sole physical custody and awarding father monitored visits by a professional monitoring agency because of his anger-management problems.

3. The exit order

At the section 364 hearing held in March 2017, father appeared with his spiritual advisor. Father testified he had "major concerns" about the recommendation that mother be given sole custody of L. because, he asserted, mother had an unaddressed "history of alcoholism." Father testified that he had attended group counseling, anger management, parenting, and nutrition classes "twice daily for 18 months" while in jail. However, he was unable to provide either the Department or the

juvenile court with proof of completion. The record contained a report from a deputy sheriff at the Men's Central Jail that father did not enroll in *any* classes at the jail, although he had attended some orientation meetings.

At the close of the hearing, the juvenile court terminated its jurisdiction with exit orders granting mother sole legal and physical custody of L. The court awarded father two visits per week to be overseen by a supervisor approved of by mother or a professional monitor paid for by father. Father appealed.

DISCUSSION

Father's appeal challenges only the portion of the exit order concerning the visitation supervisor.

When the juvenile court terminates jurisdiction in a dependency case, it may issue an order for custody and visitation. (*In re Chantal S.* (1996) 13 Cal.4th 196, 202-203, citing § 362.4.) This so-called "exit order" is transferred to the family court. (§ 362.4; *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712, citing *In re Roger S.* (1992) 4 Cal.App.4th 25, 30.) The exit order is enforceable in the family court (*In re Chantal S.*, at p. 209) and remains in effect until modified or terminated by that court (*In re John W.* (1996) 41 Cal.App.4th 961, 970; § 302, subd. (d)).

"The power to determine the right and extent of visitation by a noncustodial parent in a dependency case resides with the juvenile court and may not be delegated to nonjudicial officials or private parties, including the parents themselves." (*In re Armando L.* (2016) 1 Cal.App.5th 606, 616.) The court has broad discretion in fashioning visitation orders to determine what best serves the child's best interests. (See *In re Chantal S.*, *supra*, 13 Cal.4th at p. 201.) We review a court's exit orders for abuse of discretion. (*In re M.R.* (2017) 7 Cal.App.5th 886, 902.) An abuse

of discretion occurs when the court “ “ ‘mak[es] an arbitrary, capricious, or patently absurd determination [citations].’ ” ’ [Citations.]” (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300-301.)

Father contends that the visitation portion of the exit order was an abuse of juvenile court discretion. Father argues that a professional monitor is a prohibitive expense that he cannot afford. He posits that mother is unlikely ever to approve a visitation monitor, the alternative arrangement in the exit order. Thus, he contends, the court’s exit order effectively prevents him from having any visits with L.

Apart from whether father could bear the cost of a professional monitor, he has *not shown that mother would never approve of any monitor*.⁴ Father cites mother’s opposition to the paternal grandparents. However, the juvenile court has forbidden them from serving as monitors. The other evidence father cites is mother’s motion seeking to bar visitation between father and L. But, the juvenile court did not grant mother’s motion. Rather, the court exercised its discretion and awarded father supervised visits twice weekly for two hours each time. The juvenile court’s exit order – including its order awarding

⁴ Father contends that the juvenile court should have retained jurisdiction to ensure that father received his visitation. But, there is no evidence yet that *mother* will prevent visitation, and father has not demonstrated that the order terminating jurisdiction was otherwise erroneous. (§ 364, subd. (c) [“The court shall terminate its jurisdiction unless the . . . department establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.”].)

father visitation – is enforceable in the family court. If mother prevents father from seeing L. by disapproving monitors, father may seek enforcement of the visitation order there. Otherwise, father has not demonstrated abuse of juvenile court discretion.

DISPOSITION

The order appealed from is affirmed.

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DHANIDINA, J.*

We concur:

EDMON, P. J.

LAVIN, J.

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