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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B296028
(Los Angeles County
Super. Ct. No. 18CCJP01348)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.L.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Victor G. Viramontes, Judge. Affirmed.

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

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, Sarah Vesecky, Deputy County
Counsel, for Plaintiff and Respondent.

In these dependency proceedings C.L. (father), a nonoffending parent, appeals from a juvenile court order retaining jurisdiction over his infant daughter, contending the court erred in finding continuing supervision of the child was necessary even though all sides acknowledged there were no concerns about his ability to care for the child. We conclude the court acted within its discretion in retaining jurisdiction, and therefore affirm.

BACKGROUND

The family consists of father, D.L. (mother), who is not party to this appeal, and the infant A.L. As the circumstances giving rise to the court's jurisdiction have only tangential bearing on father's appeal, we relate them only briefly.

A.L. was born in June 2017 at 25 weeks gestation and resided with mother until February 2018, when mother was arrested for domestic violence against father. A.L. was detained and placed with father, who hitherto had had no contact with the child.

Mother had a history of severe mental health problems, and for the next year received mental health services, took prescribed medication, and enrolled in parenting classes. Her conduct during early monitored visitation was concerning. She presented with erratic and bizarre behaviors, spoke "very rapidly and all over the place," and was unable to focus or comprehend instruction. She would stare oddly around a room, look frequently behind her, display a glazed look, laugh loudly out of

nowhere, and obsessively question Department of Children and Family Services (DCFS) staff.

Mother would spend much of her time watching staff members rather than engaging with A.L. She would take an inordinate amount of time changing A.L.'s diapers, perching the child precariously on her lap despite the risk of falling. She constantly fed A.L. when the child did not appear hungry, visualized taking the child to Mexico with a "client" who would give her diamonds, and pretended to talk to father.

Mother improved somewhat in later visits, during which she tried to interact appropriately with A.L., but she appeared not to recognize the child's cues, often performing tasks such as changing a diaper and feeding and grooming the child because she believed that was what a parent should do—and what she should be seen as doing—rather than because A.L. needed it.

However, in its latest visitation report, filed in January 2019, DCFS stated that mother was consistent in her twice-a-week visits, which were "going well." She was "attentive to the child and engage[d] with her in an appropriate and caring way," and there were "no concerns regarding the mother's visits or her interaction with the child."

Nevertheless, on January 14, 2019, Dr. Sharon L. Guo, a forensic psychiatry fellow at the USC Institute of Psychiatry and Law, who had evaluated mother, reported that during the evaluation mother at times appeared highly anxious, "spoke loudly and quickly, appeared panicked and tense, and could not concentrate on questions asked and frequently digressed." Guo said mother's "limited coping skills and lack of insight thus may . . . negatively affect the minor," who would be "more likely to have low self-esteem, difficulties in friendships, problems

identifying and understanding emotions, and poor mental health outcomes.” In “times of stress, mother might not be readily attentive to A.L.,” and if mother “continue[d] to struggle with de-escalating and resolution of personal conflicts, [A.L.] would remain at risk of having inconsistent care and supervision, which can adversely impact the infant’s mental health.”

Guo concluded that mother met the diagnostic criteria for Unspecified Mood Disorder and Borderline Personality Disorder, but did not believe her presentation was consistent with bipolar or psychotic disorder, as had been previously diagnosed.

Guo recommended that “[a]t the discretion of DCFS and the Court, [mother] should continue with regular supervised visits by a DCFS-approved monitor. During visits, [mother] should be closely observed for any concerning behavior in order to identify areas that need to be further addressed.”

At the January 22, 2019 review hearing, father requested that he be given sole physical and joint legal custody of A.L., and that jurisdiction be terminated with an exit order granting mother reasonable visitation and referring future matters to family law court. The court, however, found that conditions continued to exist which justified the initial assumption of jurisdiction, or were likely to exist if supervision was withdrawn. The court therefore denied father’s request and ordered that mother’s visits continue to be monitored.

Father appealed.

DISCUSSION

Father contends the juvenile court erred in maintaining jurisdiction. He argues mother posed a risk to A.L. only if her contact with the minor was unmonitored, but a family law order granting physical custody to father and monitored visitation for

mother would afford the appropriate level of protection without juvenile court oversight. We disagree.

It is undisputed that mother demonstrated a present inability to care for A.L. and that father—originally the non-custodial parent—had the ability and inclination to provide a suitable home. The issue is whether the juvenile court should have divested itself of jurisdiction after placing the child in father’s custody.

Welfare and Institutions Code section 361.2¹ governs placement of a child who is removed from the home of a custodial parent and placed with a noncustodial parent. When a court orders such a removal, subdivision (b) of section 361.2 provides three alternatives for what to do next.

First, the court may grant legal and physical custody to the noncustodial parent and terminate its own jurisdiction, while providing reasonable visitation rights to the former custodial parent. (§ 361.2, subd. (b)(1).) This approach contemplates that any further proceedings will take place in the family court. (*Ibid.*; see § 362.4.) Alternatively, the court may retain jurisdiction while ordering the noncustodial parent to assume custody pending the provision of reunification services to the previous custodial parent, the new custodial parent, or both. (§ 361.2, subd. (b)(3).) This was the course taken here. Finally, the court may, in effect, postpone a choice between the other two options pending a home visit to determine the suitability of the former noncustodial parent’s home. (§ 361.2, subd. (b)(2).)

¹ Undesignated statutory references will be to the Welfare and Institutions Code.

A decision to place a child under court supervision with a previously noncustodial parent is reviewed periodically pursuant to section 366.21.

At each review hearing “the court shall determine whether supervision is still necessary.” (§ 366.21, subd. (e)(6).) If continuing supervision is not necessary, the court may terminate supervision and transfer permanent custody to the formerly noncustodial parent. (*In re Janee W.* (2006) 140 Cal.App.4th 1444, 1451.)

We review a juvenile court’s decision under this scheme for abuse of discretion, i.e., to determine whether the decision was arbitrary or capricious or exceeded the bounds of reason under the circumstances. (*In re Maya L.* (2014) 232 Cal.App.4th 81, 102.)

We conclude the court acted within its discretion by finding that continuing supervision was necessary. Dr. Guo, mother’s psychiatric evaluator, expressly recommended that mother “continue with regular supervised visits by a DCFS-approved monitor,” and stated that “[d]uring visits, [mother] should be closely observed for any concerning behavior in order to identify areas that need to be further addressed.” Dr. Guo’s recommendation that mother’s interaction with A.L. be closely supervised gave the court ample basis for its decision not to terminate jurisdiction.

Father argues that extending dependency jurisdiction afforded no additional level of protection to A.L. given that visits between her and mother would be monitored in any event, and any issues reviewed in family court. This may be so. But Dr. Guo’s recommendation—that visits “continue” and be “supervised,” and that mother be “closely observed for any

concerning behavior”—provided the court a reasonable foundation from which to conclude that the current visitation and supervision arrangement should continue.

DISPOSITION

The juvenile court’s order is affirmed.

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CHANEY, Acting P. J.

We concur:

BENDIX, J.

WEINGART, J.*

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