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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re LAUREN C., et al., Persons Coming  
Under the Juvenile Court Law.

B286150  
(Los Angeles County  
Super. Ct. No. DK14929)

LOS ANGELES COUNTY DEPARTMENT  
OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CHARLOTTE P.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court for Los Angeles County, Lisa R. Jaskol, Judge. Affirmed.

Law Offices of Vincent W. Davis & Associates and Stephanie M. Davis for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Kim Nemoy, Principal Deputy County Counsel, for Plaintiff and Respondent.

Charlotte P. (mother), mother of minors Lauren C. and Miles C., appeals from a judgment of the juvenile court terminating dependency jurisdiction with a family law order granting primary physical custody of the children to their father, Christopher C. (father), with monitored visitation for mother. Mother argues the juvenile court abused its discretion by ordering that her visitation be monitored, contending that the court failed to consider all of the evidence. Having reviewed the record, we conclude the juvenile court properly considered all the evidence and did not abuse its discretion. Accordingly, we affirm the judgment.

## **BACKGROUND**

### *A. Events Leading Up to the Filing of the Petition*

Mother and father were involved in a contentious divorce, which was finalized in October 2013. At the time of the divorce, Lauren was nine years old and Miles was almost seven. The divorce decree gave mother and father joint physical and legal custody of the children, and ordered that mother would have physical custody from Tuesdays at noon until Fridays at noon, and that father would have physical custody from Fridays at noon until Tuesdays at noon. According to therapist Megan Lazar, who began treating the children during the divorce proceedings and continued to treat them until September 2015, the children were placed in the middle of their parent's strife and conflict

during and after the divorce, and faced continuous pressure from both parents to say what each parent wanted to hear.<sup>1</sup>

On November 5, 2015, the Los Angeles County Department of Children and Family Services (the Department) received a referral stating that Lauren had disclosed to mother that in 2014 father showed her a picture of a man and a woman having sexual intercourse. The reporting party said that Lauren had issues regarding her loyalty towards father and was in therapy, and may have finally felt comfortable talking about the incident. The reporting party also stated that Lauren and Miles were afraid of father's temper, and that father had used intimidation toward Lauren and Miles to force them to tell lies about mother and others (including mother's current boyfriend).

The social worker (CSW) assigned to the case interviewed all four members of the family on November 5, 2015.

In an interview that took place at her school, Lauren told the CSW that father did not show her the picture, and that it was "Crazy Rob" (mother's boyfriend) who did it. She denied that father had a temper and that she was afraid of him; she said that, if anything, it was mother who had a temper. She told the CSW that she had lied to mother when she said that father had showed her the picture because mother kept asking her about it and she was tired of it. At that point, the CSW

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<sup>1</sup> Under the divorce decree, mother and father were ordered to have the children engage in therapy with Lazar "until the parties mutually agree in writing, with the consent of Ms. Lazar or order of the court, to terminate said therapy."

ended the interview because Lauren was crying and hyperventilating, and the CSW could not calm her down.

The CSW then interviewed Miles at his school. Miles said that he never saw the picture, but he knew that Lauren said that Rob showed it to her and he believed Lauren. He also said that mother was still seeing Rob even though he is not supposed to be around them, because he saw Rob's car at their house.

Mother went to the Department's Pasadena office for her interview; she brought the children with her, although they were not in the room while mother was being interviewed. In her interview, mother told the CSW that she did not know why Lauren did not tell the CSW the truth about father showing the picture to her or about her being afraid of father. She told the CSW that Lauren had loyalty issues with father and would not say anything bad about father to anyone. Mother also reported that there had been domestic violence between her and father, but she never reported it; she said she left father because of his anger issues and addiction to pain pills.

After speaking with mother, the CSW met with father. He denied showing Lauren any inappropriate picture. He said it was mother's boyfriend who showed the picture, and as a result there was a court order for him to not be around the children. He said that the children did not feel safe around the boyfriend. He told the CSW that mother had completely isolated herself from her family because of her boyfriend, and that he (father) was the one who took the children to see their maternal grandmother because mother did not talk to anyone in her family.

After interviewing mother and father, the CSW spoke with the children again. The CSW had the children sit in a room away from mother and told them not to look at her because they did not seem comfortable around her. The CSW asked both of them which parent they would want to live with if they could live with either parent, and both immediately said they wanted to live with father. When asked why, Lauren said that she did not feel like dealing with mother “grilling” her. The CSW then asked if they wanted to talk to mother by phone if father monitored the call. Miles said that that would not stop mother from yelling, and Lauren said she would rather not talk to mother until Tuesday, when it was time for her to return to mother’s home (under the existing family law order).

After meeting with everyone, the CSW was concerned for the children’s safety. A safety plan was put in place under which the children would stay with father until the CSW could talk to the children’s therapist and conduct a further investigation.

The CSW spoke with Megan Lazar, the therapist, later that same day. With regard to Lauren viewing the inappropriate picture, Lazar stated that she believed that Lauren “was ‘messing around on Robert’s phone and saw the picture.” Lauren told her that she lied to mother about father showing her the picture only because mother was grilling her and would not stop.

Lazar said that when mother wanted to know something she was “like a dog with a bone and will grill Lauren.” Lazar also noted that the children believed that mother’s boyfriend Robert was a “creepy guy,”

and Lazar agreed with father that Robert was isolating mother from her family.

Regarding father, Lazar believed that father needed the children to be on his side, and that he had a temper when he did not hear what he wanted. She also believed that father had taught the children to be clingy towards him in front of mother. She said that the children's statements that they were not afraid of father were not entirely true; they were afraid of him when he got mad, but father "gets over things quicker than mother does."

Lazar told the CSW that she did not think the children were being physically abused by either parent, but believed the children were being grilled by both parents. When asked about removing the children from either parent, Lazar stated that both parents were emotionally abusive to the children, but father was calmer than mother.

The CSW met with both parents several days later, on November 10, 2015. After meeting with each of them, and explaining to them what their conduct was doing to their children, the CSW decided it was safe to keep the children in the custody of both parents under the existing family law order, with instructions that the children were to be enrolled in counseling and the parents were to enroll in "parents beyond conflict" or a similar program.

A few weeks later, on December 3, 2015, the CSW spoke to mother by phone to arrange to meet with the children. During that conversation, the CSW asked mother about enrolling in classes. Mother said that she looked into classes, but she could not be in the same class

as father because of their prior domestic violence; the CSW told her that she could take a class separate from father.

When the CSW met with the children on December 14, 2015, Lauren told her that mother had been telling her that she (Lauren) had mental problems, that no one believed her, and that Lauren's claim that Robert showed her the picture did not happen. Lauren said that when she got home from school mother would not let her do her homework until mother finished yelling at her for 30 minutes to an hour. She told the CSW that mother would yell at her about how great Robert was, how father used to hit mother, and how Lauren had mental problems. Lauren said that she did not want to live with mother until mother proved she had the children's best interests in mind, was normal, stopped lying about abuse by father, and ended her relationship with Robert. Miles told the CSW that he believed that Robert was hiding in mother's house because when they went out to walk the dog, Robert's car was in the driveway but when they returned it was gone. Miles said that he did not like being at mother's house because mother and Lauren fought a lot, and Lauren was always getting yelled at.

The CSW spoke to therapist Lazar the next day. Lazar said that she had seen the family only one time in November. She explained that she was waiting for mother to return a document she had asked both parents to sign; father signed it right away, but mother wanted Lazar to remove a sentence stating that Lazar would not testify in court. Lazar told the CSW that she thought the children were more comfortable with father, and she had no concerns about their safety with father; she was not comfortable with the children residing solely with mother.

On December 22, 2015, Clinical Psychologist Noemi Urgiles conducted forensic interviews of Lauren and Miles. The CSW observed the forensic interviews through a one-way mirror. In her report on her interview of Lauren, Urgiles stated that she was “highly concerned about Lauren’s psychological state as she seems to have experienced emotional abuse by [mother].”

B. *The Petition and Detention Hearing*

The next day, on December 23, 2015, the Department filed a petition under Welfare and Institutions Code<sup>2</sup> section 300. The first count (count b-1), under section 300, subdivision (b), alleged that mother and father, on an ongoing basis, placed the children in a detrimental and endangering situation by engaging in a child custody dispute and consistently placing the children in the middle of their strife and conflict. The second count (count c-1), under section 300, subdivision (c), alleged that mother emotionally abused Lauren by frequently yelling at her and telling her that she had mental problems and that she was a liar, causing both children to exhibit emotional distress.

A detention hearing was held, at which the juvenile court found a prima facie case that the children were persons described under section 300. The court found that continued custody by mother was contrary to the welfare of the children, and it released the children to father’s

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<sup>2</sup> Further undesignated statutory references are to the Welfare and Institutions Code.



custody. The court ordered individual counseling for the children, family counseling for the children with mother and father, parenting classes for mother and father, and individual counseling for mother and father to discuss parenting and conflict issues and how to co-parent. Finally, the court ordered that visits for mother be monitored.

C. *Jurisdiction/Disposition Report and Hearing*

In the jurisdiction/disposition report, the Department reported on interviews conducted with both children, the parents, therapist Lazar, and mother's boyfriend Robert.

Lauren told the CSW that mother and father did not get along, and had not gotten along for about three or four years. She said that mother "is like this crazyish person" and that mother denies that Robert also is "a crazy person." Lauren said that mother was always yelling at her and telling her she had "mental problems." She explained that mother yelled to try to convince her that it was father who showed her the inappropriate picture. She said that this happened every night when she got home from school, and she would not be able to start her homework until 6:00 p.m. She told the CSW that she wanted to live with father and did not really want to see mother, even occasionally.

Miles told the CSW that after his parents got divorced, mother "found a new guy that stinks." He said that Robert was hiding upstairs in mother's house, and mother lied about it. He reported that mother was nice to him, but not to Lauren. He believed, however, that mother did not really care about him and would rather be with Robert. He told

the CSW that he did not want to go to the monitored visits with mother, and that he did not want to see her.

Mother told the CSW that the issues with father had been going on for four years. She believed that father was angry that she left him and he was trying to make good on his threat to take the children from her and end her career as a teacher. She said that it was father who pulled the children into their legal issues, despite her efforts to prevent discord with him. She showed the CSW a series of angry (undated) text messages to her from father, and said that father had been banned from her place of employment due to his inappropriate conduct. Mother denied yelling at Lauren, although she admitted she spoke to her “sternly” at times, and denied calling Lauren any bad names, including a liar, or telling her she had mental problems. She told the CSW she thought that father placed Lauren in the middle of their conflict and was emotionally abusing Lauren.

Father told the CSW that he did not know how he got caught up in this case. He said that the only conflict he and mother had was with the inappropriate picture. He admitted, however, that he had made a video of the children about four or five years ago, during his and mother’s separation, in which he encouraged the children to say they did not trust mother and they preferred to be with him; he acknowledged that it was an error in judgment and said he never did it again. He told the CSW that he believed that mother’s yelling at Lauren and calling her names had been going on since the beginning of September.

Robert told the CSW that he lives in Minnesota, but has family in Los Angeles. He is an airline pilot, and stays with mother when he is in Los Angeles if the children are not there; otherwise, he stays with his own mother. He denied ever being in mother's house without the children being aware he was there. He said he last saw the children in 2013. He told the CSW that the situation with the children started deteriorating in the summer of 2013. He was involved in a custody dispute with his ex-girlfriend, who had become friends with father; father was trying to help the ex-girlfriend in the dispute. He said father and Lauren both made false accusations against him. With regard to showing an inappropriate picture to Lauren, he stated that he first heard that accusation in August 2013, when Lauren went into the judge's chambers (during her parents' divorce proceedings) and made an allegation that he had shown her a picture on his phone. He said that Lauren's story changed several times (i.e., changing whether the picture was on a phone, tablet, or magazine), but he denied ever showing Lauren a picture on any device or anything else; he believed the accusation came from father, who wanted him "out of the picture."

Therapist Lazar told the CSW that Lauren and Miles attended therapy sessions with her regularly from July 2013 until mid-September 2015, when mother stopped bringing them.<sup>3</sup> Apparently, mother found out that father had not paid Lazar as much in co-pays as

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<sup>3</sup> Lazar reported that after the Department got involved, mother brought the children in for therapy one time in November 2015, and father brought them once in December 2015.

mother had, and had not reimbursed mother; mother wanted father to catch up financially. Father called Lazar when he found out that mother was not bringing the children to therapy. Father told Lazar that he thought the children probably would not benefit much more from therapy without mother and father going to co-parenting therapy, and Lazar agreed. Lazar had told both parents that co-parenting therapy was essential. She told the CSW that father was receptive; she gave him referrals, and he contacted one fairly promptly. Mother looked at one of the referrals, saw it was the same one as father's, and did not follow through with it or any other referral.

When asked by the CSW if she ever felt the children had been influenced to say certain things in therapy, Lazar responded in the affirmative, and said she believed that both parents were doing it. With regard to father's effect on the children, Lazar reported that sometimes when the children were withdrawn and reticent she would talk to father about it; he would admit he had done something to make them not trust him, but he would then make peace with them and the children would bounce back. With regard to mother's effect on the children, Lazar stated that Lauren sometimes lied to mother and told her what she wanted to hear because mother would pressure Lauren to say or recant things.

Finally, Lazar told the CSW that while she was providing services to the children, neither child expressed a preference as to which parent they wanted to live with, and Lauren never gave any indication that she did not want any contact with mother.

In addition to summarizing the CSW's interviews with the various parties, the jurisdiction/disposition report also reported that father enrolled the children in therapy with Elizabeth E. Carr on January 7, 2016. The Department also noted that mother had participated consistently in monitored visitation. It reported that mother's behavior during the visits had been "appropriate and considerate of the children's animosity towards her," but that the children's responses to mother "have been extreme and concerning at times." In summarizing the situation with the family, the Department placed the blame on father for the children's alienation from mother, citing his text messages and video recordings. Nevertheless, the Department recommended that the children remain in father's home "under strict conditions, including that father be admonished by the Court not to discuss the case or the children's mother with the children under any circumstances unless in the presence of a [Department] approved mental health or social work professional." The Department also noted that the aim of the court-ordered therapy and services should be a return to the original family law arrangement of joint physical custody, but that a return to joint custody could not be recommended at that point because of the children's "extreme hostility to mother."

The March 11, 2016 jurisdiction hearing was continued, and the juvenile court set a mandatory settlement conference, along with the continued hearing, on May 9, 2016.

On April 7, 2016, the Department filed an amended petition, adding two counts under section 300, subdivision (b), and two counts under subdivision (c). Count b-2 was identical to the original count c-1,

and count c-2 was identical to the original count b-1. Counts b-3 and c-3 alleged that father emotionally abused the children by engaging in a pattern of behavior that included encouraging the children to make negative statements about mother.

In an interim review report filed for the May 9, 2016 hearing, the Department reported that father was consistently participating in individual counseling, but that mother “participates infrequently” in her individual counseling. The Department also reported that mother and father had agreed on a co-parenting therapist, but mother said that she did not feel comfortable participating in sessions with father because of their domestic violence history. The co-parenting therapist reported that at the time of the report she had only just met with father and was scheduled to meet with mother. The therapist stated that in her meeting with father, father appeared to have a somewhat balanced perspective about mother, was concerned for her, and took some responsibility for his past actions. Finally, the Department reported on a domestic violence incident between mother and her boyfriend Robert that occurred on October 25, 2015, and noted that mother reported there also had been a previous domestic violence incident between them.

On the date set for the mandatory settlement conference and continued jurisdiction hearing, the Department filed a last minute information for the court stating that it had tried to schedule a Child and Family Teaming (CFT) meeting with mother and father, but when mother said she was going to bring Robert to the meeting, father said he would not participate in any meeting at which Robert was present.

The Department noted that although mother's judgment in inviting Robert to participate was poor, father was unable to look past his animosity toward Robert and participate in the meeting. The Department also noted that mother's refusal to participate in co-parenting counseling with father undermined the purpose of the counseling, and concluded: "Both parents remain intransigent and more focused on their ongoing conflict than what might be in the best interests of the children."

At the mandatory settlement conference, mother and father agreed to plead no contest to the petition, which the parties agreed to amend to state a single claim under section 300, subdivision (c), that states: "There is an ongoing child custody conflict between [mother] and [father] which places the minors Lauren and Miles at risk of emotional harm." At the jurisdiction hearing, the juvenile court accepted mother's and father's no contest pleas, dismissed the remaining counts, and found that Lauren and Miles were persons described by section 300, subdivision (c). The court ordered counseling for the children, including conjoint counseling with mother, family counseling with the children and both parents, individual counseling and a parenting class for father, individual counseling for mother and an anger management program for mother, and co-parenting therapy for both parents. The court also ordered mother and father to participate in CFT, and ordered that no significant others were to attend the CFT meeting. Finally, the court ordered monitored visits for mother.

D. *Events Leading Up To Section 364 Hearing*

Six days after the jurisdiction hearing, a CFT meeting was held. The Department reported that both parents participated appropriately at the meeting and were able to reach some agreements regarding the children. Less than a week later, mother filed a section 388 petition seeking a change of order regarding visitation, and asking that her visits be unmonitored. The juvenile court denied the petition, finding there was no new evidence or change of circumstances. A month later, mother filed another section 388 petition in which she asked that her visits be unmonitored. The court ordered a hearing on the petition, and scheduled it for September 20, 2016.

The Department filed an interim review report for the September 20 hearing. The Department reported that the anger management course that mother took to satisfy the juvenile court's order was a four-hour online course, which was insufficient. The Department also reported that both children told the CSW that they did not want their visits with mother to be unmonitored because having a monitor was "the only reason why she's not yelling at us."

The Department also summarized the reports it received from the family's therapists.

Mother's therapist, Cathy Terry, reported that mother did not see her regularly, but she (Terry) believed that the children would be safe with mother if her visits were unmonitored.<sup>4</sup>

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<sup>4</sup> Erin Takeughi, the monitor for mother's visits, also stated that she believed the children would be safe with mother if the visits were



The co-parenting therapist for mother and father, Mary Ann Aronsohn, reported that mother was “becoming less reasonable” in their sessions and was “continu[ing] to insist that [father is] alienating the kids.” Aronsohn stated that the therapy “doesn’t go that well,” and that mother “is always throwing some kind of issue.” When asked whether she believed mother’s visits should be unmonitored, Aronsohn stated that “Dr. Carr [the children’s therapist] said that she does not advise unmonitored visits and I think I agree.”

Dr. Elizabeth Carr, who provided individual therapy for each of the children, as well as conjoint therapy with the children and mother and family counseling with both parents and the children, reported that both children strongly opposed having unmonitored visits with mother, and that Lauren did not trust being with mother unless someone else was present. Dr. Carr noted that in conjoint therapy, mother continued to talk in an argumentative manner and seemed to be using conjoint therapy “as data gathering for her own legal purposes rather than having empathy for the kids.” She stated that the children “have explicitly and consistently stated fear, dread, and lack of trust at the prospect of visiting with mother alone and I cannot recommend unmonitored visits at this time.”

The hearing on mother’s section 388 petition was continued to November 7, 2016, to be heard in conjunction with the section 364 hearing. In a status review report for that hearing, the Department

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unmonitored. She noted that during the visits she monitored, Lauren would not interact with mother if father was nearby.

reported that Aronsohn, the co-parenting therapist, wrote to mother, father, and the CSW on September 27, 2016, stating that their co-parenting therapy sessions were no longer productive. She told them they would meet one more time, and “if that’s more productive, i.e., we arrive at some agreements together over important parenting issues, and the tone is more cooperative and less adversarial, then [she would] be willing to continue on a meeting-by-meeting basis.” Aronsohn reported to the Department that she had “repeatedly asked [mother] to stop accusing and blaming [father], setting an adversarial tone that prevents progress. So far she has not been able to comply.” She reported that mother honestly believes that father continues to alienate the children against her, but Aronsohn has told her that she did not see that happening. Aronsohn also reported that father “is certainly not blameless,” but that “he has been consistently coachable and even catches himself at times. He has been able to correct his statements and his non-verbal responses, and to apologize for them.”

In a last minute information for the court filed on the day of the scheduled hearing, the Department noted that Terry (mother’s therapist) reported that mother appeared to love both children, and that mother continually reported that father was trying to brainwash them. Terry stated that mother was not a threat to the children and that, in her opinion, it was unnecessary for mother’s visits to be monitored. The Department also noted that father’s therapist, Joyce Lauterback, reported that father continued to maintain consistency with his scheduled counseling sessions, and was very dedicated and compliant. Finally, the Department reported that mother continued to disagree

with the Department that her four-hour online anger management course was insufficient.

On November 7, 2016, the combined section 364 and section 388 hearing was continued to January 17, 2017.

E. *Report for the Section 364 Hearing*

The Department filed another interim review report for the January 17, 2017 hearing. The Department reported that the parents continued to struggle to co-parent the children. It recounted the tremendous amount of conflict that occurred regarding the children's Christmas and New Year's Day holiday visits, in which both mother and father caused significant issues. The Department expressed concern that father appeared to have been disruptive with mother's visits. It noted that father denied being disruptive, but his denial appeared to be contrary to the accounts given by others, including the maternal grandmother.<sup>5</sup>

The Department also reported that co-parenting therapist Aronsohn resigned from the case on December 8, 2016, when "[i]t became increasingly obvious to [her] that [her] work with this family would no longer be productive." Aronsohn stated she found that father was "responsive and reasonable, and able to negotiate agreements with

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<sup>5</sup> The maternal grandmother told the CSW that the problem with the family situation was not due to mother, but was due to Robert. She said that "[h]e controls [mother]. The kids don't like her because of him. . . . We don't feel safe for the kids if they go back to the house. He has a key. She needs to move out."

[mother],” but mother was “becoming more and more adversarial and blaming.” Aronsohn concluded that it “seem[ed] abundantly clear . . . that [mother] is currently not able and/or willing to take a reasoned and self-controlled approach to co-parenting.”

In reporting on everyone’s progress in their other counseling, the Department noted that mother had an additional therapist, Walter Taylor, with whom she had been working since November on anger management issues. The Department also noted that mother continued to see her other therapist, Cathy Terry, and that Terry was aware that mother was also seeing Taylor. The Department reported that in December 2016, Taylor sent an email to the CSW, asking if he could observe the interactions between mother and the children during one of mother’s monitored visits, so that he could “assess for treatment.” The CSW told Taylor that the children and mother are seen by Dr. Carr for conjoint therapy, so he would need to coordinate his request with Dr. Carr.

The Department summarized the report it received from Dr. Carr on January 4, 2017. Dr. Carr reported that she continued to regularly meet with the children for individual therapy and with the children and mother for conjoint therapy. She said that mother recently introduced the name of two other therapists, Taylor and Dr. Craig Childress, both of whom Dr. Carr spoke to. Dr. Carr asked whether father had been informed of Taylor’s potential involvement, and stated that “if mother wants to introduce another therapist with the children, then it seems to me that this is a co-parenting decision, best made with both parents and the co-parenting therapist.” She said that if the parents agree to

introduce a new therapist to interact with the children, she was “willing to step aside.”

The Department recommended that the juvenile court terminate jurisdiction under section 361.2 and issue a family law order granting father full physical custody of the children and joint legal custody with mother, and ordering that mother’s visits with the children be monitored and outside the presence of her boyfriend Robert.

F. *Section 364 Hearing*

The section 364 hearing took place on January 17, 2017.<sup>6</sup> The Department put into evidence (without objection) all of the reports (with their attachments) submitted following the jurisdiction hearing, and asked the juvenile court to take judicial notice of all prior findings and orders, including the sustained petition.

1. *Testimony*

a. *Dr. Carr*

Dr. Carr was called by the minors’ counsel. She testified that she had been working with the family for just over a year, and has had around 33 sessions with each child. Mother joined them in conjoint therapy in April 2016, and they have been meeting weekly. During the conjoint sessions, the children sometimes seemed relaxed and open, and at other times they did not. When asked whether mother was open

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<sup>6</sup> At the start of the hearing counsel for mother withdrew her section 388 petition.

during those sessions, Dr. Carr testified that mother was “open in her way.” She explained that mother tended to focus on happy memories with the children and their conversations about what they might do during mother’s next visits, but oftentimes the children wanted to deal with more difficult and painful memories. She also said that mother called Lauren a liar or said she was not telling the truth multiple times in front of Lauren during conjoint sessions; Dr. Carr noted that that “has kind of been a theme . . . that has run through the conversations.” Dr. Carr also noted that mother’s response to the children expressing fear of Robert during sessions has been to say that “he is the sweetest man in the world and she hopes that everyone can get along.”

Dr. Carr testified that, based on her sessions with the children individually and on the conjoint sessions, she would not want to take the risk of unmonitored visits for mother. She noted that both Lauren and Miles have been consistent in telling her that they did not want unmonitored visits.

b. *Aronsohn*

Aronsohn was called to testify by father. She testified that she started working with mother and father on co-parenting issues in the spring, and had eight one-and-a-half hour sessions with them. She also attended the CFT meeting with them and Department workers, and had email and telephone interactions with mother and father.

When asked why she resigned from working with mother and father, Aronsohn explained that although the first four or five sessions went fairly well and progress was being made, after that it became

much more difficult for them to reach any agreements. She repeatedly had to ask mother to refrain from making accusations and placing blame, because it prevented them from working on specific issues regarding the children.

Aronsohn was asked if she would be willing to see the parents again for co-parenting counseling; she said that she would not. She stated that she did not think that continued counseling with her or with another therapist would be helpful. Instead, she believed that what might be most helpful would be a child custody evaluation, because she thought that having mother and father make decisions together was not going well.

c. *Erin Takeughi*

Takeughi was called to testify by mother. She testified that she has known mother for 17 years (and father for around 14 years), and acted as a monitor for mother's visits. She said that the children seemed to enjoy their visits—they seemed happy and excited, and showed affection toward mother—although she admitted there were some visits during which the children seemed upset about having to be with mother.

d. *Taylor*

Mother's witness Taylor testified that he is mother's anger management therapist, and has had nine sessions with her. He opined that mother did not have any anger issues. On cross-examination, Taylor admitted that he does not list anger management as one of his

specialties, although he does have a specialty in therapy related to domestic violence, and he considers anger management to be a subdivision of that specialty. He also admitted that he never took a separate course on anger management.

e. *Tamara Daniels*

Daniels, who was called by mother, is a professional visitation monitor who monitored about 13 visits for mother, every Saturday since October. She testified that the first three visits she monitored were difficult emotionally for mother and the children, but since then they have had a 180-degree turn, and are normal. She said that the children seem to enjoy their visits, and are affectionate and playful with mother.

2. *Arguments*

The Department's counsel argued that there no longer was a safety risk requiring dependency jurisdiction, and asked the court to terminate jurisdiction with exit orders granting sole physical custody to father and monitored visitation for mother. In recommending that mother's visitation be monitored, the Department's counsel pointed primarily to the testimony of Dr. Carr, particularly to her testimony that the children have trust issues with mother and have repeatedly stated their desire to have monitored visits.

Counsel for the children joined in the Department's request to terminate dependency jurisdiction with a custody order giving father full physical custody with monitored visits for mother. Counsel also asked that the parents maintain joint legal custody, with father having



the final say if they cannot reach an agreement on any issue. In support of her argument that mother's visits should be monitored, counsel cited to Dr. Carr's testimony and her reports to the Department, actions taken by mother that reinforce the children's feelings of lack of trust of mother (such as mother having Taylor observe their visit without their knowledge), mother's conduct in conjoint and co-parenting therapy that showed a lack of empathy for the children and caused Aronsohn to terminate the co-parenting therapy, and the children's consistent statements that they did not want unmonitored visits.

Father's counsel argued that, in light of mother's failure to make progress in co-parenting or conjoint counseling after 15 months of services, it was appropriate for the court to terminate dependency jurisdiction and order physical custody to father. In arguing for monitored visits for mother, counsel noted that although the court cannot delegate to the children what form of visitation there should be, the court can rely upon the opinions of the conjoint and co-parenting therapists, both of whom recommended that the visits be monitored. With regard to legal custody, counsel argued that if the court awarded pure joint legal custody it would create numerous problems, given the parents' apparent inability to reach agreements on issues regarding the children. Therefore, counsel argued that the court should either award sole legal custody to father, or award joint legal custody and (1) grant father final decision-making authority, or (2) order mother and father to meet with a co-parenting therapist if they need to make a decision about the children, or (3) order that the children continue in therapy

with Dr. Carr, continue at their same schools, and continue their extracurricular activities.

Mother's counsel argued that dependency jurisdiction should not be terminated. Counsel noted that the testimony of the two monitors—who testified that the children enjoyed their visits with mother—was diametrically opposed to Dr. Carr's testimony that the children do not want to visit with mother unless the visits are unmonitored. Counsel contended that the only explanation for this difference was that father was influencing the children, which counsel noted was supported by statements in two reports, by two different social workers, that they believed that father was alienating the children against mother. Finally, counsel argued that whatever the outcome, the reasons Dr. Carr gave for recommending that mother's visits be monitored do not justify monitored visitation.

### 3. *Ruling*

The juvenile court found that dependency jurisdiction was no longer necessary and terminated jurisdiction. The court stayed its order, however, until a family law order was entered granting father primary physical custody; granting mother and father joint legal custody, with father having final decision-making authority after conferring with mother; ordering mother and father to continue to participate in co-parenting therapy; and ordering monitored visitation for mother. The court also ordered the parents to participate in mediation to work out details such as the duration, frequency, and schedule for the visits, to be included in the family law order.

#### 4. *Post-Ruling Events and Final Judgment*

The parties attended a mediation session on February 9, 2017, but no agreement was reached. The juvenile court held a hearing on March 21, 2017 to finalize the family law order. At that hearing, father's counsel told the court that although the parties could not agree on the regular visitation plan or the holiday visitation plan, they did reach agreement on the wording of the family law order regarding the other issues. After discussions with counsel, the court determined the visitation plans, and entered the family law order/final judgment, thus lifting the stay and terminating dependency jurisdiction.

Mother filed a notice of appeal from the termination of jurisdiction and custody orders on May 18, 2017.

### **DISCUSSION**

On appeal, mother contends that the juvenile court abused its discretion in ordering that her visits be monitored because the court failed to consider all of the evidence in making its decision. The Department contends that this court does not have jurisdiction to consider mother's appeal because her notice of appeal was not timely filed; it also contends that if we determine the notice was timely, we should affirm the judgment because the juvenile court acted within its discretion.

A. *Timeliness of the Notice of Appeal*

A notice of appeal “must be filed within 60 days after the rendition of the judgment or the making of the order being appealed.” (Cal. Rules of Court, rule 8.406(a)(1).) “[T]he filing of a timely notice of appeal is a jurisdictional prerequisite. ‘Unless the notice is actually or constructively filed within the appropriate filing period, an appellate court is without jurisdiction to determine the merits of the appeal and must dismiss the appeal.’” (*Silverbrand v. County of Los Angeles* (2009) 46 Cal.4th 106, 113.)

The Department contends that mother’s notice of appeal, filed on May 18, 2017, was not timely because the order terminating dependency jurisdiction, with a family law order that ordered monitored visitation for mother, was originally made at the section 364 hearing on January 17, 2017. Although the Department acknowledges that the juvenile court stayed the order terminating dependency jurisdiction, it contends that the stay was only “for mediation on the visitation schedule and receipt of the family law order,” and therefore it did not affect the finality of the monitored visitation order. The Department is mistaken.

It is true that at the January 17, 2017 hearing, the juvenile court ruled that mother’s visitation should be monitored, but the court specifically ordered counsel to submit a proposed family law order that included this ruling (along with other rulings), and asked the parties to work out at mediation as many of the details regarding visitation as possible in order to come up with a clear family law order. It then “stay[ed] the order terminating jurisdiction until [it] receive[d] a family

law order that gives primary physical custody of the children to the father and joint legal custody of the children to the mother and father and provides that the father ha[s] final decision-making authority, giving the mother monitored visits and provides that the parents will continue to work on their co-parenting through therapy.” In other words, although the court ruled on January 17, 2017 that mother’s visits would be monitored, it contemplated there would be a written, final order that included that ruling, as well as its other rulings on custody that would be entered at the time the stay was lifted and dependency jurisdiction was terminated.<sup>7</sup> That final order, or judgment, was entered on March 21, 2017. Therefore, mother’s appeal from that judgment filed on May 18, 2017 was timely.

B. *The Juvenile Court Did Not Abuse Its Discretion*

“When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes it to make custody and visitation orders that will be transferred to an existing family court file and remain in effect until modified or terminated by the superior court.” (*In re Chantal S.* (1996) 13 Cal.4th 196, 203.) When making those orders, “the court is not restrained by “any preferences or presumptions.”” (*In re Maya L.* (2014) 232 Cal.App.4th 81, 103.)

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<sup>7</sup> Indeed, it appears that this is what is required under section 362.4, which provides that a juvenile court may, when it terminates dependency jurisdiction, enter “an order determining the custody of, or visitation with, the child” (§ 362.4, subd. (a)), and that the order “shall be filed in the [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), italics added).

Rather, “the court’s focus and primary consideration must always be the best interests of the child.” (*Id.* at pp. 102-103.) The juvenile court has broad discretion to make custody and visitation orders, and they will not be disturbed unless an abuse of discretion is clearly established. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

Mother contends that the juvenile court abused its discretion in ordering that mother’s visitation be monitored because the court “failed to consider all the evidence” in reaching its decision. According to mother, “[t]he record is clear” that “the evidence overwhelmingly showed the father was negatively influencing the children against their mother” both before and throughout the pendency of the case. She notes that the children did not say that they did not want to live with mother until they were placed in father’s sole custody, and that the Department had concluded that father had alienated the children from mother and coached the children about their responses in the forensic examination. Mother argues there was evidence to suggest that father continued to coach the children about what to say to their therapist, pointing to the “glaring contradiction” between what the children told Dr. Carr about their visits with mother (i.e., that they feared unmonitored visits) and what the monitors described about those visits (the children were happy, affectionate, and playful with mother during recent visits). She concludes that “[h]ad the trial court considered the totality of the circumstances and evidence, it would have . . . come to a different conclusion about whether it was in the children’s best interests to have unmonitored visits with [mother].”

Mother's argument ignores the Supreme Court's repeated warning that "[t]he appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court." (*In re Stephanie M., supra*, 7 Cal.4th at pp. 318-319.)

There is no question that there was evidence that father had engaged in conduct to alienate the children from mother; nor is there any question that the juvenile court was aware of this evidence, since mother's counsel repeatedly brought it to the court's attention before, during, and after the section 364 hearing. Indeed, there was overwhelming evidence that *both* mother and father emotionally abused the children, both in the past and during the pendency of the dependency proceedings. But the evidence also showed that, when confronted about that behavior by therapists, father would correct his behavior while mother would not. Thus, Dr. Carr, the one therapist who worked with all of the parties—mother, father, and both children—testified that she would not want to take the risk of unmonitored visits with mother.

Based on this evidence we cannot say that the juvenile court "exceeded the bounds of reason" in ordering that mother's visits be monitored. (*In re Stephanie M., supra*, 7 Cal.4th at pp. 318-319.) Accordingly, we must affirm the judgment.

## **DISPOSITION**

The judgment is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

WILLHITE, J.

We concur:

MANELLA, P. J.

MICON, J.\*

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