

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re ABEL M. et al., Persons Coming  
Under the Juvenile Court Law.

B279306  
(Los Angeles County  
Super. Ct. No. DK07017)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

CAROLINE M.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Kristen Byrdsong, Juvenile Court Referee. Affirmed as modified.

Nancy Rabin Brucker, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County  
Counsel, Jacklyn K. Louie, Deputy County Counsel, for Plaintiff and  
Respondent.

Caroline M. (Mother) appeals the dependency court's orders that she attend sexual abuse awareness counseling, submit to a psychological/psychiatric assessment, and complete an anger management program. The Los Angeles County Department of Children and Family Services (DCFS) concedes the record does not support the anger management provision of the final order. We conclude the court did not abuse its discretion in ordering Mother to undergo sexual abuse awareness counseling and a psychological assessment. Acknowledging the parties' views with respect to the anger management provision, we delete that provision and otherwise affirm.

### **STATEMENT OF THE CASE**

On May 9, 2016, DCFS filed a Welfare and Institutions Code section 300 petition<sup>1</sup> alleging Mother was a methamphetamine abuser and "Baby Boy M." had been born to Mother with methamphetamine in his system. A newborn on the filing date; the child later was named Kevin M.<sup>2</sup> DCFS also alleged Mother had sexually abused Kevin M.'s father, Jose O., who was 17 years old when they became involved.<sup>3</sup>

Mother is the mother of five other children, all of whom DCFS also alleged had suffered or were at risk of suffering serious harm: Abel M., Jr., (born April 2000), Kimberly M. (born June 2002), Alex M. (born April 2004), Maribel M. (born February 2006), and Anthony M. (born August 2013). The

---

<sup>1</sup> All further undesignated statutory references are to the Welfare and Institutions Code.

<sup>2</sup> We refer to Kevin M. only by that name. When we state a fact relating to all of Mother's children, who are listed in the text in the next paragraph, we refer to that group as "the Children."

<sup>3</sup> Jose O. is not a party to this appeal.

father of these children is Abel M., Sr.<sup>4</sup> DCFS alleged Abel M., Sr., had a history of convictions for possession of drugs, cruelty to a child, and spousal battery. These allegations related to a prior dependency case involving Mother and Abel M., Sr. That case resulted from a June 6, 2014 incident (substantiated) in which Abel M., Sr., hit Kimberly M., then hit Mother while she was holding Anthony M., and struck Anthony M. When called, the police also determined that Father was in possession of drugs.

On May 9, 2016, neither Mother nor the Children's fathers appeared at the detention hearing. The court made emergency findings that the Children should be detained and placed with a non-related family member. The detention hearing was held on May 12, 2016; Mother and Jose O. appeared. Jose O. was found to be Kevin M.'s presumed father and the court ordered Mother's visits with the Children to be monitored.

On August 16, 2016, the dependency court held the adjudication hearing. DCFS's prior reports and statements of information were admitted in evidence. The court found it possessed jurisdiction and sustained all counts in the petition alleging harm or the risk of harm arising from Mother's drug use and Kevin M.'s birth with methamphetamine in his system. The court amended the allegations relating to Abel M., Sr.'s criminal history by interlineation. The court dismissed the allegations that Mother had sexually abused Jose O.

On September 27, 2016 the court held a disposition hearing at which it declared the Children to be dependents of the court, removed the Children from Mother's custody (§ 361, subd. (c)) and ordered that she receive family reunification services.

---

<sup>4</sup> Abel M., Sr., is not a party to this appeal.

The court accepted DCFS' Jurisdiction/Disposition Report recommendations with the exception of its recommendation that Mother undergo domestic violence counseling and, over objection by Mother's counsel, ordered Mother to participate in a substance abuse treatment program, parenting classes, individual counseling, sexual abuse awareness counseling, a full psychological assessment, comply with medication recommendations, and attend anger management classes.

Mother filed a timely appeal.

### **CONTENTION AND DISCUSSION**

Mother contends the dependency court wrongfully ordered her to attend sexual abuse awareness counseling, submit to a psychological and psychiatric assessment, and complete an anger management program.<sup>5</sup> We conclude that the court did not abuse its discretion in ordering the first two services, and modify the order to strike the anger management program conceded by DCFS.

#### **I. Additional Facts**

In 1999, Mother, then age 15, was a victim of sexual abuse as a minor at the hands of Abel M., Sr., which generated a DCFS referral. She gave birth to their first child, Abel M., Jr., in April 2000 after she turned 16 years old. As recently as June 2016, Abel M., Sr., "continues to have a need to control [Mother]." That is true despite the fact they have been separated since June 2014.

When Mother started a relationship with Jose O., he looked so young "she asked him his age." Jose O. was just turning 17 at the approximate time of Kevin M.'s conception, (Mother was approximately 31 years old.) At the

---

<sup>5</sup> Mother appealed the "Disposition Case Plan." In this appeal Mother does not challenge the orders that she complete a drug treatment program, receive individual counseling, and take a parenting class.

time of the referral Mother's oldest child, Abel M., Jr., was in the 10th grade and was 16 years old, slightly younger than Jose O. Abel M., Jr., was upset by what transpired between Mother and Jose O., particularly because Mother and Abel M., Sr., had never officially divorced.

Father Jose O. suffers from diagnosed developmental delays. He told the case social worker (CSW) he lied to Mother and showed her a fake "identification card" and that his own mother was "shocked" when she found out he would be a father, saying "he was just a baby." Mother attended at least one of Jose O.s' counseling sessions and refused to leave when asked; Jose O. also refused to tell her to leave.

During Mother's DCFS referral interview on April 28, 2016, she had an "odd" demeanor and "a very detached and flat affect." At a May 17, 2016 interview she had "a flat affect [for] the entire interview" and showed "little to no reaction to questions and answers;" also, "issues of regional center and methamphetamine use" had to be explained to her "in a slow and simple manner."

DCFS noted that at the time Mother became pregnant with Kevin M. by Jose O., and used methamphetamine during pregnancy, she was already under the supervision of DCFS and the dependency court as a result of the prior domestic violence referral involving Abel M., Sr. DCFS was concerned Mother "does not fully comprehend the potential outcomes of her decisions" because the events leading to this case occurred after she had taken part in services as part of the "prior open [dependency] case."

Mother attempted to explain the presence of methamphetamine in her system and in Kevin M.'s at his birth by stating variously: "contact" with a boyfriend of her niece who uses it may have gotten the drug into her system; someone at a "rowdy" "baptismal party" she attended shortly before the

birth “could have drugged her”; and a week earlier she drank a soda at a party “and maybe that was ‘spiked’ too.” The CSW described Mother’s explanations as “sophomoric.” After Mother enrolled in a drug-treatment program, she tested positive for methamphetamine multiple times and was ultimately kicked out.

Prior to entry of the dispositional order, Mother refused suggested “free parenting and counseling services.” The CSW opined that Mother has an “unresolved and undiagnosed cognitive delay.” DCFS was concerned about Mother’s lack of maturity, and was also concerned about how her “poor decisions have adversely affected her children.” DCFS documented the fact that Mother had allowed her 13-year-old daughter, Kimberly M., to miss a significant amount of school and had simply “not taken Kimberly [M.] to school to enroll her.”

## **II. Applicable Legal Authorities**

“If a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, . . . .” (§ 362, subd. (a).) “At the dispositional hearing, the juvenile court must order child welfare services for the minor and the minor’s parents to facilitate reunification of the family. [Citations.]” (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.) The purpose of reunification services “is ‘to facilitate the return of a dependent child to parental custody.’ [Citations.]” (*In re Jaden E.* (2014) 229 Cal.App.4th 1277, 1281.)

“The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition. (See *In re Christopher H.* [supra], 50 Cal.App.4th [at pp.] 1006-1008.)” (*In re Brianna V.* (2015) 236

Cal.App.4th 297, 311.) “[T]he juvenile court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children. (*In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1183; *In re Christopher H.*, *supra*, 50 Cal.App.4th at pp. 1006-1008.)” (*In re Brianna V.*, *supra*, at p. 311.)

“The juvenile court has broad discretion to determine what would best serve and protect the child’s interests and to fashion a dispositional order accordingly. On appeal, this determination cannot be reversed absent a clear abuse of discretion. [Citation.]” (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 474.)” (*In re Brianna V.*, *supra*, 236 Cal.App.4th at p. 311.)

### **III. Analysis**

#### **A. The Record Supports Sexual Abuse Awareness Counseling**

Mother contends the order that she participate in a sexual abuse awareness counseling program was unnecessary because: Jose O. lied about his age and took responsibility for lying to Mother; there was no evidence any of Mother’s Children were sexually abused; and the dependency court dismissed all petition counts relating to sexual abuse of Jose O. by Mother. We disagree.

Mother had been a victim of sexual abuse as a minor and gave birth to Abel M., Jr., when she was only 16 years old. As a 31-year-old adult she had a sexual relationship with a minor. While Jose O. says he lied to Mother and showed her a fake “identification card,” Mother’s apparently casual acceptance of his lie (and given Jose’s presence in court, the court’s ability to assess Jose O.’s apparent age from observing him), could rationally have been an important factor in the order of the dependency court.

Also, at the time of the referral to DCFS Mother's oldest child, also a boy, was himself 16 years old, very close to Jose O.'s age. And, Mother engaged in intercourse with Jose O when he was only 16 and 17.

Mother points out that the dependency court dismissed the allegations that she sexually abused Jose O. (See section 300, subdivision (d).) However, "[a]t disposition, the [dependency] court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children. [Citations.]" The court in *In re Brianna V.*, *supra*, 236 Cal.App.4th at page 311, found no abuse of discretion in its review of a dependency court order for sexual abuse counseling even though "there was no evidence that the children came under the provisions of section 300, subdivision (d) (sexual abuse)."

The dependency court's order was for "awareness" counseling. There is no requirement that the court make a finding that a person ordered to engage in such counseling must first be determined to be a sexual offender. Given the facts in the record in this case, including Mother's age and her history and the ages of Jose O. and of her children, the dependency court did not abuse its discretion.

## **B. The Record Supports the Order for Psychological Assessment**

Mother contends the CSW's assessment that Mother had an "unresolved and undiagnosed cognitive delay" was purely a "speculative opinion" to which "nothing in the record [] gives credence," and thus the psychological assessment order is unsupportable. We disagree.

On multiple occasions, DCFS noted Mother's "odd" demeanor and "very detached and flat affect." "[I]ssues of regional center and methamphetamine use" had to be explained to her "in a slow and simple manner." Her



explanations for Kevin M.'s exposure to methamphetamine in utero "were sophomoric." That impression was confirmed when, after it was made, Mother submitted multiple positive methamphetamine tests even after enrolling in a drug treatment program. Also, Mother had allowed her 13-year-old daughter, Kimberly M., to miss a significant amount of school; nor had Mother taken Kimberly [M.] to school to enroll her. Such evidence supports a rational concern by DCFS and by the court that Mother might have an undiagnosed cognitive delay.

In addition, Mother had already taken part in services during the prior dependency case, but without apparent positive impact on her behavior. She had received counseling, yet she was using methamphetamine and continued to use it after becoming pregnant by Jose O. and while under the supervision of the court and DCFS. Mother had also ignored the CSW's suggestion that she participate in parenting and counseling services.

It was not an abuse of discretion (*In re Brianna V.*, *supra*, 236 Cal.App.4th at p. 311) for the dependency court to be concerned about Mother's cognitive and related issues and to tailor its dispositional order by ordering a psychological assessment and compliance with any therapeutic recommendations.

### **C. Anger Management Services Are Deleted From the Order**

Mother contends, and DCFS concedes, that the record does not support the order for anger management services.

A court of appeal has the power to modify a judgment. (Cal. Code Civ. Proc., § 43; *American Enterprise v. Van Winkle* (1952) 39 Cal.2d 210, 219; 9 Witkin, Cal. Procedure (5th ed. 2008 & 2017 supp.) Appeal, §§ 855-856; *In re Daniel K.* (1998) 61 Cal.App.4th 661, 667 [a dispositional order in a section 300 proceeding is a final judgment].) In the interest of avoiding expense,

delay, and hardship, we modify the dispositional order to delete the order that Mother complete an anger management program.

**DISPOSITION**

The September 27, 2016 order is modified to delete the provision that Mother complete an anger management program. As so modified, the order is affirmed.

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

GOODMAN, J.\*

We concur:

ASHMANN-GERST, Acting P.J.

CHAVEZ, J.

---

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