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#### IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

### SECOND APPELLATE DISTRICT

### **DIVISION FIVE**

In re Z.K., a Person Coming Under the Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Z.K.,

Real Party in Interest and Appellant;

F.K.,

Defendant and Appellant.

B276064

(Los Angeles County Super. Ct. No. DK15628)

APPEAL from orders of the Superior Court of Los Angeles County, Marguerite Downing, Judge. Affirmed.

Valerie N. Lankford, under appointment by the Court of Appeal, for Real Party in Interest and Appellant Z.K.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant F.K.

Office of the County Counsel, Mary C. Wickham, County Counsel, Keith Davis, Assistant County Counsel, and Julia Roberson, Deputy County Counsel, for Plaintiff and Respondent.

Fleeing to a foreign country to escape detection by law enforcement is risky business, especially for a two-year-old child whose parent is the fugitive. That conclusion is essentially dispositive of this dependency appeal, in which the juvenile court found the actions of F.K. (Mother) demonstrated her son Z.K. should be declared a dependent child and removed from her custody.

#### I. BACKGROUND

We will elaborate momentarily, but the basic facts are these. Z.K. was born to Mother and alleged father Chris M. in November 2013.¹ Mother also had two older sons, S.C. (born February 2001) and I.C. (born February 2007), from her earlier relationship with David C. (David). In 2013, Mother unsuccessfully attempted to abscond with S.C. and I.C. to Taiwan in violation of a Washington state court order; she was pregnant with Z.K. at the time. Then, two years later, she successfully kidnapped S.C. and I.C. and took them—with Z.K., then age two—to Mexico where they lived without being detected for six months until the Mexican authorities arrested Mother. This second kidnapping incident led to the filing of federal criminal charges against Mother, and to the dependency proceedings in this case.²

Chris M. did not express any interest in obtaining custody of Z.K. and he did not participate in the proceedings in the juvenile court.

No dependency proceedings were instituted for S.C. and I.C. because they were returned to the custody of their father, David.

## A. Mother's Kidnapping Attempt in 2013

Mother and David were married and lived together in Washington state with S.C. and I.C. In 2008, Mother and David divorced, and Mother initially became the children's primary custodial parent. In 2012, however, Mother moved out of the state and left the children in David's primary care. The children visited Mother on various occasions pursuant to a court-ordered parenting plan.

Mother then moved to Taiwan in May 2013, while pregnant with Z.K. Mother asked David to allow S.C. and I.C. to come to Taiwan and live with her over the summer, but he refused unless a new parenting plan was put in place.

A month later, Mother attempted to take the children to Taiwan without David's knowledge. She flew to Seattle, removed S.C. and I.C. from school, and purchased one-way tickets to Taiwan for her and the children. They were able to board the flight but the police apprehended Mother and removed her and the children from the plane before it departed. S.C. and I.C. were returned to David, and Mother was later allowed to travel back to Taiwan on a different flight. As a result of the incident, the Washington court issued an order requiring future visits between Mother and the children to be monitored.

# B. Mother Successfully Kidnaps S.C. and I.C. in 2015, Fleeing With Them and Z.K. to Mexico

Mother moved back to the United States in 2014, bringing Z.K. (who had since been born in Taiwan) with her. Mother and Z.K. lived in Los Angeles, and in August 2015, David sent S.C. and I.C. by plane to Los Angeles for what he believed would be a monitored visit with Mother. Unbeknownst to David, Mother

had been planning to again kidnap the children; she forged the signature of the person who was to serve as the visitation supervisor on a court document, emailed an unknown source about how to purchase fake identification documents, and withdrew approximately \$15,000 from her bank account (in multiple transactions).

On August 29, 2015, the day before S.C. and I.C. were scheduled to fly back to their father in Washington, Mother had a friend drive her and her three sons to the California/Mexico border (under the false pretense that they were going to Mexico to have dental work done). Mother left her cell phone, California driver's license, and the phone and computers S.C. and I.C. brought with them at her home in Los Angeles. She and the children carried only backpacks and a couple bags, and Mother's friend dropped them off close enough to the border to walk across.<sup>3</sup>

Significantly for purposes of this appeal, Mother also left at her home in Los Angeles several notes she composed to others, including David and her own parents. Her note to her parents stated: "I know it doesn't seem like it sometimes, but I do love you." The note to David was much longer. In it, Mother confirmed she had taken the children, and she warned David not to "send strangers who can only make life more dangerous for us." The next three sentences of the note referenced a news

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Subsequent investigation by a Federal Bureau of Investigation (FBI) Special Agent uncovered no record of Mother and the children entering Mexico using their official names. In the agent's opinion, they crossed the border illegally using false identities or with the assistance of a third party.

report about a son who was "shot dead" by police after his father called the police to stop the son from taking the father's car. Mother then made various references to movies where the "villian[s]" were the fathers of children, and she continued by writing: "If the children are ever in need or in want, they know how to find you. They are always a phone call and a flight away from you. If they do not call or fly to you, it is because you have created a situation that doesn't allow them to do so in a safe way. Their safety includes the safety of their mother and brother, can you understand that?" Mother concluded her note to David with the following: "Be well, take care of yourself and your wife, and the children will be back when they dare. We will ask our lawyer friends to check when it will be safe to return. It is your job now to make it as safe for us as possible, and we will be watching. If you continue down this path of destruction, it will only end in more tears for everyone, and something unforgiveable may happen."

There is only scant information in the record concerning what Mother and the children did over the next several months while in Mexico. But it is clear Mother never took Z.K. to the doctor while in Mexico; in fact, the record indicates Z.K. had never been to see a doctor (including for immunizations) even before he was taken to Mexico because Mother chose not to "expose" him to doctors. The record also establishes Mother went to a Taiwanese cultural office in Mexico to attempt to obtain Taiwanese passports for S.C. and I.C.

Using information gleaned from one of the passport applications, the FBI was able to locate Mother in Mexico. Mexican immigration authorities then apprehended Mother and took custody of the children; all were subsequently deported to

Los Angeles by plane on February 12, 2016. When they arrived, FBI agents arrested Mother. S.C. and I.C. were released to their father, and the Los Angeles County Department of Children and Family Services (DCFS) took Z.K. into protective custody.

## C. The Juvenile Court Proceedings

A DCFS social worker who took Z.K. into custody noted he appeared to be in good health and to have a good bond with Mother. Z.K. was taken to see a doctor the day after Mother's arrest, and the doctor similarly observed he was in good health with no apparent signs of physical abuse.

A social worker who was permitted to conduct a limited interview of Mother on the day she was arrested by the FBI asked her to provide information about the child's father. Mother refused, telling the social worker the father didn't play an active role in Z.K.'s life and his contact information was "not needed." Mother did provide contact information for her step-mother, who lived in Texas, and asked DCFS to consider placing Z.K. with her father (her step-mother's husband).

DCFS subsequently filed a two-count petition alleging Z.K. was a dependent child under Welfare and Institutions Code section 300, subdivision (b)(1).<sup>4</sup> Count b-1 of the petition alleged Mother placed Z.K. in a "detrimental and endangering situation in that the mother abducted the child's half siblings . . . , illegally removed the half siblings from the country, and secreted the half siblings out of the country, in violation of Court orders, while the child [i.e., Z.K.] was in [Mother's] care and supervision." Count b-

<sup>&</sup>lt;sup>4</sup> Undesignated statutory references that follow are to the Welfare and Institutions Code.

1 also noted Mother's prior kidnapping attempt and alleged Mother's conduct placed Z.K. at risk of serious physical harm. Count b-2 of the petition similarly alleged Mother had placed Z.K. at risk of serious physical harm, but this allegation was based on her purported failure to make an appropriate plan for Z.K.'s ongoing care and supervision while she was incarcerated.

The juvenile court ordered Z.K. detained at an initial detention hearing. The court ordered Z.K. placed temporarily in the custody of DCFS, with discretion granted to DCFS to release the child to any appropriate relative.

DCFS placed Z.K. in foster care. The foster parent reported he was "doing very good" and played well with other children. But the foster mother also complained she was having problems because Mother would "call the child all day long" and would ask questions that seemed to indicate she was attempting to find out where the foster mother lived (e.g., for the exact spelling of the foster mother's name and her daughter's name).

During the time Z.K. was in foster care, Mother's father and step-mother (hereafter, Grandparents) repeatedly informed DCFS they would like Z.K. to be placed in their care. Mother similarly indicated she wanted Z.K. placed with Grandparents. DCFS informed Grandparents, who lived in Texas, that the ICPC (Interstate Compact on the Placement of Children) process would need to be completed before such a placement could be approved, and that the ICPC process could not start until the juvenile court made a disposition order following a hearing.

In advance of Z.K.'s jurisdiction and disposition hearing, DCFS submitted reports to the juvenile court describing the status of Mother's criminal case in federal court. The DCFS jurisdiction report, submitted in March 2016, stated Mother

remained in pre-trial detention and was in the "beginning stages" of her court proceedings. DCFS also spoke with an FBI Special Agent who explained mother could petition to be released on bail pending trial (although she was a flight risk), and that her sentencing exposure ranged from probation to three years in prison "per child." DCFS's jurisdiction report accordingly noted "[Mother's] criminal trial is pending and it is unknown what her length of incarceration will be if convicted." In a last minute information report submitted almost a week later, DCFS related its understanding that a trial date in Mother's case had been set, but the trial date was likely to be continued because the government was still producing significant discovery to the defense.

The juvenile court held a combined jurisdiction and disposition hearing in May 2016. Mother was still in custody, but she was represented by counsel at the hearing and participated herself by telephone. The juvenile court received the various DCFS reports in evidence and heard argument from counsel. Both counsel for Mother and counsel for Z.K. urged the court to dismiss both counts of the petition, arguing DCFS had not proven Z.K. suffered or was at substantial risk of suffering physical harm. Both Mother and Z.K. also argued the court should order Z.K. placed "home of parent, mother" even if it found it had jurisdiction over the child, which would permit Mother to give Grandparents custody of Z.K. for as long as she was incarcerated.

The juvenile court disagreed on both counts. The court found both counts of the petition true by a preponderance of the evidence, but noted during its subsequent remarks that DCFS "really misfiled this case" because it "should have been a [section 300 subdivision] j count." The court additionally noted that its

review of the DCFS reports suggested Mother may have mental health issues, and the court expressed its concern that Mother was a flight risk and had never taken Z.K. to see a doctor. As to disposition, the court found there existed a substantial danger to Z.K. if he were returned to Mother's custody and there were no reasonable means to protect Z.K. without removing him from her custody. Having made a dispositional determination, the court also ordered DCFS to begin the ICPC process forthwith, with a view to placing Z.K. with Grandparents.

#### II. DISCUSSION

Mother concedes the evidence before the juvenile court established she "kidnapped her sons [S.C.] and [I.C.] in violation of a family law custody order and disappeared for several months in Mexico." Thus, the outcome of this appeal essentially comes down to two questions: (1) whether absconding to another country and living as a fugitive for six months exposes a child, particularly a young child like Z.K., to a risk of serious physical harm; and (2) whether there was sufficient evidence for the juvenile court to conclude there was a substantial risk Mother would again expose Z.K. to such a danger. Answering both questions in the affirmative, we uphold the juvenile court's jurisdiction finding without need to assess the adequacy of the evidence to support the court's conclusion that Mother endangered Z.K. by failing to make an adequate plan for his care during her incarceration. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We additionally hold the juvenile court did not err in ordering Z.K. removed from Mother's custody.

## A. Standard of Review: Substantial Evidence

We review the juvenile court's jurisdiction finding to determine whether it is supported by substantial evidence. (In re I.J., supra, 56 Cal.4th at p. 773; see also In re Angelia P. (1981) 28 Cal.3d 908, 924 [appellate court reviews the whole record to determine whether it discloses substantial evidence, that is, evidence that is reasonable, credible, and of solid value].) Mother and Z.K., as the parties challenging the juvenile court's finding, bear the burden to show there was no evidence of a sufficiently substantial nature. (*In re D.C.* (2015) 243 Cal.App.4th 41, 52.) We draw all reasonable inferences from the evidence to support the court's jurisdiction finding and review the record in the light most favorable to the court's determination; we do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the trial court's finding. (Id. at pp. 51-52; In re F.S. (2016) 243 Cal.App.4th 799, 813.)

The same substantial evidence standard of review applies to our review of the juvenile court's disposition order. While a juvenile court must find that removal of a child from his or her parent is supported by clear and convincing evidence (see, e.g., *In re Abram L.* (2013) 219 Cal.App.4th 452, 461), that standard "is for the edification and guidance of the trial court and [is] not a standard for appellate review." (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880 (*Sheila S.*), citing *Crail v. Blakely* (1973) 8 Cal.3d 744, 750.) "[O]n appeal from a judgment required to be based upon clear and convincing evidence, 'the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence,

however strong.' (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 365, p. 415.)" (*Sheila S., supra*, at p. 881; accord, *In re F.S., supra*, 243 Cal.App.4th at p. 812.)

# B. Substantial Evidence Supports the Juvenile Court's Jurisdiction Finding and Disposition Order

#### 1. Jurisdiction

We think it obvious Mother exposed Z.K. to a substantial risk of serious physical harm by taking him along when kidnapping S.C. and I.C. and fleeing to Mexico. Being only two years old, Z.K. was dependent on Mother and could in no way fend for himself. Mother and the children had only a couple bags with them, a large amount of cash, and no apparent means of calling for help if they encountered trouble; they also either used false identity documents or the services of a third party to make their way into Mexico by other than official channels. Under the circumstances, one very real risk is that Mother and the children would encounter unsavory characters who could cause them harm.<sup>5</sup> Another risk, of course, is that the children would be exposed to physical harm as a result of attempting to avoid detection by the authorities or, once discovered by law enforcement, in the course of being forcibly apprehended (even if such harm were to come to pass inadvertently). Mother's conduct, which exposed Z.K. and her other children to these risks, constitutes parental neglect. (See In re Trebor UU (N.Y. App.

Mother and the children were in an especially vulnerable position. Being a fugitive, Mother would naturally be reluctant to seek aid from the police or other emergency personnel if she found herself in a dangerous situation.

Div. 2001) 279 A.D.2d 735, 737 ["Respondent's choice to take flight with her two children to a foreign country in an effort to evade legal process instead of attending to such matters and, if necessary, immediately seeking out governmental officials to arrange for the proper placement of her children in foster care, cannot be said to be 'reasonable' or proper parental supervision or guardianship"].)

Indeed, even mother herself understood she was subjecting her children to a risk of serious harm by carrying out her international kidnapping scheme. The statements she made in her note to David make this plain—especially the ominous reference to the news report of a fatal shooting of a child by police who responded to a father's call, as well as Mother's declaration that "something unforgivable" might happen if David were to "send strangers who can only make life more dangerous for us" (the key word there being "more"). Thus, this is not a case where a parent engages in neglectful conduct while somehow oblivious to the risks that conduct creates. Rather, Mother was well aware of the serious risks Z.K. and her other children would face in becoming fugitives in a foreign country, yet she proceeded with her plan anyway. This evinces a mental state that prioritized her own desires over her children's well-being, which is precisely the situation in which section 300 envisions a juvenile court will intervene to protect the children.

Counsel for Mother and Z.K. (each of whom join in arguments made by the other) counter that no harm in fact came to any of the children and Mother was apprehended apparently without incident. Section 300, however, does not limit juvenile court jurisdiction to situations where a child actually suffers harm. (§ 300, subd. (b)(1) [authorizing a court to assume

jurisdiction over a child where the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness" (emphasis added).) It is instead well settled that a "court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child." (In re Christopher R. (2014) 225 Cal.App.4th 1210, 1216; see also In re I.J., supra, 56 Cal.4th at p. 773 ["[S]ection 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. The subdivisions at issue here require only a 'substantial risk' that the child will be abused or neglected"]; In re T.V. (2013) 217 Cal.App.4th 126, 133.) This rule makes good sense, especially in a case like this where we have very few details about what transpired while Mother and the children were in Mexico, including the circumstances of their apprehension. In our view, jurisdiction under section 300 cannot be defeated by all's well that ends well arguments. We remain convinced Mother placed Z.K. at risk of serious harm even though he was found physically unscathed, which for all we know was attributable merely to dumb luck.

Mother and Z.K. also seize on the juvenile court's comment that DCFS "misfiled" the case and should have pled the allegations in the petition under Section 300, subdivision (j), which allows a juvenile court to take jurisdiction over a child in certain circumstances when the parent has abused a sibling of that child. They argue the petition must be dismissed because only S.C. and I.C. were abused by the kidnapping attempt and, under section 300, subdivision (b)(1), the juvenile court could not rely on the abuse of S.C. and I.C. to find Z.K. was a dependent child. If Mother had not brought Z.K. along when absconding to Mexico with the other children, the argument would have greater

force. But on the facts as they are, the argument fails. Z.K. was exposed to the substantial risk of harm created by the fugitive journey just like the other children—in fact, he was at even greater risk as a much younger child whose welfare depended almost entirely on Mother's care.

In a similar vein, counsel for Mother and Z.K. argue the juvenile court's jurisdiction finding must be reversed "to the extent" the court relied on conduct not pled in DCFS's petition to find jurisdiction. They highlight the juvenile court's statements during the jurisdiction hearing that Mother was a flight risk, appeared to be suffering from unresolved mental health issues, and failed to take Z.K. to the doctor for immunizations. We do not read the juvenile court's comments—made only after the court expressly found the counts alleged in the petition true—to be the basis of its jurisdictional finding. Nor do the court's comments betray a decision by the court to rest its jurisdictional ruling on factual findings divorced from the allegations presented in the petition. Rather, the comments strike us as at most observations or inferences the juvenile court drew in the course of considering the facts of the kidnapping episodes that DCFS alleged in its petition and detailed in its reports to the court. (In re S.C. (2006) 138 Cal.App.4th 396, 410 [an adequately pled dependency petition need not regurgitate the contents of the social worker's report; the pleading of essential facts establishing at least one ground of juvenile court jurisdiction is all that is necessary].) Those facts provided ample evidence of a substantial risk of harm to Z.K., and that is true no matter whether the

observations about mental health issues, the lack of doctor visits, or a risk of flight are correct.<sup>6</sup>

Citing *In re A.G.* (2013) 220 Cal.App.4th 675 and other cases, counsel for Mother and Z.K. also argue that even if Z.K. was at risk of serious harm from Mother's conduct at the time of the kidnapping in Mexico, he was no longer at such a risk at the time of the jurisdiction hearing. That is, counsel for Mother and Z.K. contend he could no longer be at risk of harm because Mother was incarcerated on federal criminal charges and because she would have no reason to kidnap Z.K. in the future because his alleged father had no desire to seek custody of the child.

Both points are unpersuasive. As to the first point regarding Mother's incarceration, it was uncertain at the time of the jurisdiction hearing how long Mother would be in custody. She had not yet been tried or convicted, and it was unclear whether, even if convicted, she would be sentenced to probation or to additional time in custody. In light of this uncertainty, the mere fact she was then incarcerated did not undercut the risk of harm to Z.K. (*In re Carlos T.* (2009) 174 Cal.App.4th 795, 806 [children still at substantial risk of harm, even though their father who abused them was then incarcerated, because the father had not yet been sentenced and still had the right to appeal his convictions].) As to the second point regarding

That is not to say, however, that the juvenile court's observations were entirely irrelevant. The observation that Mother might have undiagnosed mental health issues does have some relevance, for example, to whether she would again attempt to kidnap S.C. or I.C. in the future regardless of having been arrested and charged this time.

Mother's supposed lack of motivation to kidnap Z.K., we believe it too narrowly understands Mother's demonstrated motives. Mother was obviously quite determined to obtain custody of S.C. and I.C., having gone to great—and at least allegedly criminal—lengths to do so. The juvenile court had ample reason to believe this behavior would continue when Mother was released from prison, and there was no reason to believe Mother would leave Z.K. behind if she were to again mount an attempt to kidnap her other sons. (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 993 ["[E]vidence of past conduct may be probative of current conditions"].) To the contrary, all the evidence suggested Mother would ensure Z.K. was with her, just as she did in both of her prior kidnapping attempts (if we include the occasion in 2013 when Mother was pregnant with Z.K.).

# 2. Disposition

Section 361, subdivision (c)(1) governs a juvenile court's decision on whether to remove a child from the custody of his or her parents. The statutory provision states removal is only justified where a juvenile court finds, by clear and convincing evidence, that "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-

The facts here stand in stark contrast to the facts of *In re J.N.* (2010) 181 Cal.App.4th 1010 and other authorities cited by Mother and Z.K. to argue there was no current or future risk to Z.K. at the time of the jurisdiction and disposition hearing. The behavior of the parents in these cases was held to reflect isolated instances of poor judgment, which is of course to be distinguished from the deliberate, repeated conduct by Mother at issue in this case.

being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody." (§ 361, subd. (c)(1).) "A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent." (*In* re T.W. (2013) 214 Cal.App.4th 1154, 1163 [focus of the statute is on averting harm to the child].)

Mother and Z.K. argue that even if the juvenile court were correct to find it had jurisdiction over Z.K. there was still insufficient evidence to justify removing him from Mother's custody. They maintain the juvenile court should have made a home of parent order, which would have allowed Mother to arrange for Z.K. to be cared for by Grandparents during her incarceration without need to first place Z.K. in foster care and complete the ICPC process. Mother and Z.K. additionally argue that Grandparents' express willingness to care for Z.K. is evidence there were reasonable alternatives to removal.

Much of what we have already written applies equally to Mother and Z.K.'s challenge to the juvenile court's disposition order—a challenge we reject. There is more than adequate evidence that placing Z.K. in Mother's direct care would be potentially detrimental and endanger his physical or emotional well-being: given her prior conduct (and absent counseling or other services to address the cause of her behavior), there was a substantial risk Mother would again attempt to kidnap her two sons in David's custody and bring Z.K. with her during such an attempt. Because it was unclear at the time of the jurisdiction hearing how long Mother would remain in federal custody,

making a home of parent order would be unacceptably risky. Even if Mother placed Z.K. with Grandparents, Mother would have immediate access to Z.K. upon her release from prison. Mother and Z.K. counter that the court could have coupled a home of parent order with "stringent conditions," but the juvenile court would have no basis to believe any such conditions would be effective in light of Mother's history of repeatedly violating the orders issued by the Washington state court. (See *In re F.S.*, supra, 243 Cal.App.4th at p. 813 [substantial evidence established an alternative short of removal from the mother's custody would not have sufficed to protect the child given, among other things, the mother's noncompliance with court orders].)

Moreover, even if we assume there was *no* likelihood Mother would have soon been released from federal custody, we still would not hold Grandparents' willingness to care for Z.K. meant there were reasonable alternatives to removal. While the juvenile court had information before it to indicate Grandparents had "live-scanned" and did not have a criminal record, the juvenile court could reasonably think it unwise to rely on Mother to decide the appropriate care arrangement for Z.K. and instead insist that Grandparents go through the full ICPC process before making any decision about where Z.K. should be placed.

Counsel for Z.K. and Mother respond, however, that a home of parent order would have "avoided the unnecessary trauma of placing 2-year-old [Z.K.] in foster care." We think the point fails on the record. We see no indication that Z.K. was subjected to any "trauma" in foster care; to the contrary, the foster mother reported Z.K. was doing well while in her temporary custody.

Substantial evidence supports the juvenile court's decision to remove Z.K. from Mother's custody.

# DISPOSITION

The juvenile court's orders are affirmed.

# NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

KRIEGLER, J., Acting P.J.

KIN, J.\*

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