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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re M.C., a Person Coming Under  
the Juvenile Court Law.

B294033

(Los Angeles County  
Super. Ct. No. 18CCJP04364A)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.C. et al.

Defendants and Appellants.

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

Paul A. Swiller, under appointment by the Court of Appeal,  
for Defendant and Appellant R.C.

Richard L. Knight, under appointment by the Court of  
Appeal, for Defendant and Appellant V.C.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

V.C. (Mother) and R.C. (Father) are the parents of infant M.C. The juvenile court assumed dependency jurisdiction over M.C., finding the very young child at substantial risk of harm from Mother's longstanding mental and emotional problems that had gone untreated. Mother and Father now challenge various aspects of the juvenile court's rulings, but the principal issue we consider is whether there is substantial evidence Mother suffers from mental problems that placed her newborn infant at the requisite risk of harm.

## I. BACKGROUND

### A. *Prior Pertinent Dependency History*

Mother had five children before M.C., and these older children were the subject of proceedings instituted by the San Bernardino County Department of Children and Family Services (San Bernardino DCFS). Although much of that dependency history is immaterial for our purposes, we briefly summarize the facts involved in the prior proceedings that have some bearing on the issues we consider in this appeal.

In 2007, a San Bernardino juvenile court removed the five older children from Mother's care, and she was convicted of a misdemeanor violation of Penal Code section 273a, subdivision (b), willfully harming or endangering a child. Mother reunified with the children at some point before 2009, but the children were once again removed from her custody when Mother used methamphetamine while the children were in her care.

In September 2012, San Bernardino DCFS filed a dependency petition as to the three youngest of the five children. The petition alleged, among other things, that Mother suffered

from mental health problems that prevented her from adequately caring for the children. Reunification services as to the two oldest of the five, who remained in dependency proceedings, had been terminated because Mother had not complied with orders to undergo a psychological evaluation, to drug test, and to participate in an aftercare program. The San Bernardino juvenile court eventually ordered a permanent plan of legal guardianship with the maternal grandparents for Mother's two oldest children; the three younger children were placed with their father.

*B. The Department's Investigation of M.C.'s Welfare*

Mother and Father married sometime in 2016 and their first child together, M.C., was born on July 3, 2018. Mother did not receive regular prenatal care, but she claimed she sought checkups in various emergency rooms while pregnant.

Just over six hours after M.C. was born, Mother and Father left the hospital with their newborn against medical advice. Hospital personnel made a referral to the Los Angeles County Department of Children and Family Services (the Department) and advised "doctors recommended a TDAP vaccine for [M]other and . . . although [M.C.] was given all needed vaccines, hospital staff did not complete the designated 'Newborn Screening Task,'" which involved assessing "heart beat and hearing, genetic testing, etc." Hospital personnel also reported that, while in the hospital, Mother admitted she was supposed to be on psychiatric medication (Trazodone) for depression, which was apparently brought on by the recent death of Mother's mother.

A Department social worker visited the family at a motel the same day they left the hospital. Mother explained they were

homeless but had paid for a room through the following week. Mother told the social worker she took M.C. out of the hospital early because she was tired and in pain, because she thought she was “medically cleared to leave,” and because she believed it was her right to do so. The social worker referred Mother to a nearby free clinic where she could obtain follow-up care for M.C. The social worker found M.C. to be “awake, alert, and lively.”

During this motel room visit with the social worker, Mother said she received supplemental security income (SSI) for depression but was not currently receiving mental health services or taking any medication. Mother declined, however, to discuss her mental health in detail. Father told the social worker he suffers from post-traumatic stress disorder (PTSD) as a result of having been shot while working in a grocery store. He was previously prescribed a sleep medication, but was not then receiving any services or taking any medication. Father was willing to discuss his mental health with the social worker, but Mother interrupted and said the questions were inappropriate. The interviewing social worker opined Father “appeared to be dependent on [M]other as he would only speak if [M]other did not interfere.”

The family was not present when a social worker returned to the motel room with a public health nurse a few days later. Mother explained she was absent because she was at the welfare office attempting to reinstate her health insurance. When the social worker urged Mother to take M.C. to the clinic for an examination, Mother said the social worker was “demanding too much.” Mother agreed, however, to meet with the social worker and a public health nurse a few days later.

When the social worker and public health nurse returned, Mother provided a form verifying she had taken M.C. to the clinic that the social worker recommended. When the social worker asked if Mother would be willing to drug test, however, Mother “became enraged” and “refused to listen.” Social workers served a removal warrant and placed M.C. in foster care the same day.

Nine days after M.C. was born, the Department filed a petition alleging he came within the dependency jurisdiction of the juvenile court. Count b-1 of the three-count petition alleged M.C. was at substantial risk of serious physical harm because Mother “suffers from mental and emotional problems including depression, which renders the mother incapable of providing the child with regular care and supervision.” Count b-1 referenced Mother’s failure to seek mental health treatment and the San Bernardino juvenile court’s declaration that three of Mother’s older children were dependent children due partly to Mother’s mental and emotional problems. The Department’s dependency petition further alleged, in count b-2, that M.C. was at risk from Father’s untreated PTSD (Welf. & Inst. Code,<sup>1</sup> § 300, subd. (b)(1)), and in count j-1, that M.C.’s half siblings (the three youngest of the five older children) were prior dependents of the juvenile court and M.C. was also at risk (§ 300, subd. (j)).

Mother participated in an “Upfront” assessment at the end of July 2018.<sup>2</sup> The assessor opined Mother needed “immediate

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

<sup>2</sup> At the later jurisdiction and disposition hearing, the juvenile court asked what training the individual who conducted this assessment possesses. The Department’s attorney explained that although these assessments are “usually” conducted by

mental health services” and found her “limited, hostile and unable to concentrate.” In other interviews, social workers similarly found it difficult to speak with Mother because she “frequently interrupts and is unwilling to respond to questions.” Mother said she was depressed when her children were taken away before, but she had no diagnosis and viewed the allegations concerning her mental health as “bogus.” She revealed she had been admitted to a psychiatric hospital “a couple times” for “a couple days,” but she claimed she had only gone to the hospital because she had nowhere else to go. As for mental health medication, Mother stated she had never been prescribed anything other than Trazadone (she said, for insomnia) and she claimed a doctor later told her she “didn’t need to take [the Trazadone] anymore.”

Although Mother and Father behaved appropriately toward M.C. during visits ordered by the juvenile court at the initial detention hearing, Mother exhibited erratic behavior and made troubling comments to social workers and others. Several visits were canceled or ended early because Mother was hostile to monitors. M.C.’s foster parent reported Mother told her that she “is in the process of suing the Pentagon because they injected her with medication,” that people from the Pentagon sometimes followed her, and that “someone from the Pentagon approached her outside the [Department] office and asked if she had had enough.” M.C.’s foster parent also revealed she had learned Mother attempted to give M.C. stage two baby food and granola even though the child was just a newborn—and when confronted

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therapists, she could not comment on the credentials of the assessor in this case.

about giving M.C. food inappropriate for his age, Mother said “she wanted the child to be full.”

When a Department investigator read Mother the dependency petition, she responded by claiming “this whole thing started” because she was suing the school district; Mother also mentioned she was “forced to work at the dog pound” where “[t]hey killed dogs and [she] had to clean up the blood.” In various conversations with social workers, Mother also said she believed “Hispanic [social] workers are working against her,” suggested a nurse in the room during M.C.’s birth wasn’t a “real nurse” but instead a government special agent, and characterized her departure from the hospital as an “escape[ ].” Mother also suggested her mother’s death a year earlier “was foul play” and asserted she “could have been murdered due to eye surgery.”

Department personnel also discussed Mother’s mental health with extended family members. The maternal step-grandmother reported Mother “struggled and displayed bizarre behaviors as a teen,” including refusing to bathe. According to the maternal step-grandmother, Mother became increasingly paranoid when she began using drugs and engaging in prostitution.<sup>3</sup> The maternal step-grandmother remarked that maternal family members would describe Mother by saying “the lights are on but no one is home,” and the maternal step-grandmother believed “only an intervention from God[ ] could keep [M.C.] safe because [Mother would not].” M.C.’s paternal

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<sup>3</sup> The maternal step-grandmother said the police had come to her door at 2:00 a.m. on one occasion because Mother reported the maternal grandparents had stolen her children.



grandfather agreed that when Mother “gets agitated,” she “gets in a mood and gets distressed. She can’t communicate. You can’t talk to her.” But the paternal grandfather believed she was capable of taking care of M.C.

At a post-detention (but pre-adjudication) hearing, the juvenile court ordered Mother referred to the Department of Mental Health to be assessed for full service partnership (FSP) services. The Department learned Mother was ineligible for FSP services due to a diagnosis that could not be disclosed to the Department. Mother was eligible, however, for services under “[t]he SB 82 program[, which] provides the following services: vouchers for temporary housing, mental health services, vouchers for permanent housing and linkage to Section 8 housing.” But Mother told the Department “she [did] not plan to enroll in any additional services[ ] unless instructed to do so by her counsel.”

Father was “limited, hostile and unable to concentrate” during his mental health assessment, and was only able to respond “when [Mother] encouraged him to answer.” He echoed Mother’s view that the dependency proceedings were “all part of a conspiracy” and, this, according to the assessor, “made it very difficult . . . to determine a diagnosis.” The assessor’s treatment recommendations included “weekly intensive outpatient treatment” and parenting classes.

The Department assessed the possibility of releasing M.C. to Father if he lived apart from Mother. Father was not amenable to this arrangement. More generally, he appeared to be “unconcerned” about Mother’s mental health.

*C. Jurisdiction and Disposition Hearing*

The juvenile court held a contested jurisdiction and disposition hearing in October 2018, roughly three months after M.C.'s birth.

Mother testified during the hearing. She claimed she left the hospital before the newborn health screening could be completed because it was “against [her] religious beliefs.” She also claimed she chose not to “get that test” because it caused one of her sons’ hair to fall out, could be painful, and “could cause minor brain damage to a child.”<sup>4</sup> Mother admitted having suffered depression when her other children were removed from her care and having seen a counselor as a result, but Mother said she never received a diagnosis from the counselor.

After hearing argument from counsel, the juvenile court sustained the b-1 petition count regarding Mother’s mental and emotional problems (amended to strike the specific reference to a diagnosis of depression) because “the record has significant evidence, including [Mother] making delusional statements.” The court also sustained the j-1 count regarding Mother’s unresolved history of mental and emotional problems (again striking the reference to depression), finding “the Department established . . . [Mother] had previous case plans that required her to address her mental problems and . . . she has not done so at this point.” As to the b-2 count, regarding Father’s PTSD, the court found Father suffered from either PTSD or “some kind of sensitivity to loud

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<sup>4</sup> While Mother at first testified she left the hospital against medical advice because of her religious objections to the newborn screening and her belief it could cause M.C. pain and brain damage, she went on to testify she took M.C. to a medical clinic to have the screening done when suggested by a social worker.

noises or . . . things along that line,” but the court did not assert jurisdiction on this ground because the Department did not establish “a nexus here as [Father] was properly caring for the minor.”

The juvenile court declared M.C. a dependent of the court and ordered him removed from Mother. The court found it had “no ability” to return M.C. to Father “if the condition of return to [Father] is that I release to [Mother].” The court found there were no reasonable means by which M.C. could be protected short of removal “based on the facts found true in the sustained petition.” The court further found the Department made “reasonable efforts to prevent or eliminate the need for removal and no services [were] available to prevent removal.”

The juvenile court initially ordered monitored visitation for Mother and unmonitored visitation for Father. Both the Department and M.C.’s attorney objected to unmonitored visits for Father based on their concern he would allow Mother access to M.C. during these unmonitored visits. The court agreed and changed its order to permit only monitored visitation by both parents. Both parents were also ordered to complete parenting classes, and Mother was ordered to undergo a psychological evaluation and follow treatment recommendations.

## II. DISCUSSION

Mother and Father challenge the removal warrant and detention order issued by the juvenile court early on in the proceedings, as well as the jurisdiction findings and disposition order the court later made.<sup>5</sup> Because the removal and detention

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<sup>5</sup> We disregard the perfunctory joinders included in each of the parents’ briefs. (*People v. Bryant, Smith and Wheeler* (2014))

orders were superseded by the disposition order, and because the affidavit in support of the removal warrant went unchallenged below in any event, we will only address the parents' jurisdiction and disposition arguments. (*In re Julien H.* (2016) 3 Cal.App.5th 1084, 1088, fn. 7 ["To the extent Father challenges the court's predetention removal and detention orders that challenge is moot because those orders were superseded by the disposition orders and there is no effectual relief that may be provided by this court"]; see also *In re S.B.* (2004) 32 Cal.4th 1287, 1293 ["[A] reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court"].)

Regarding jurisdiction, there is ample evidence Mother suffered from mental and emotional problems. That is established by the findings in the San Bernardino dependency proceedings, Mother's own admissions and bizarre statements, and the statements made to the Department by the maternal step-grandmother. There is also substantial evidence on which the juvenile court could conclude Mother's longstanding mental health issues posed a substantial risk of serious physical harm to M.C. The very young child could easily suffer serious harm from a moment's neglect, and Mother showed herself to be resistant to seeking medical care for the child, prone to fits of anger, detached from reality, and susceptible to making poor and unsafe decisions—like trying to feed solid food to a newborn.

Both parents also contend there is no substantial evidence supporting the juvenile court's determination there were no

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60 Cal.4th 335, 363; *People v. Nero* (2010) 181 Cal.App.4th 504, 510, fn. 11.)

reasonable alternatives to removing M.C. from their custody. Mother's reluctance to accept mental health services, however, supports the juvenile court's conclusion that M.C. needed to be removed from her custody pending a psychological evaluation. And because Father refused to consider custody of M.C. apart from Mother, there was no reasonable alternative to removing M.C. from his care either.

Finally, both parents challenge the juvenile court's order requiring their visits with M.C. to be monitored. Mother's challenge is forfeited and Father's is unmeritorious. Until Mother undergoes a psychological evaluation and the juvenile court has more information about her mental health, the order for monitored visits was an appropriate exercise of the court's discretion.

A. *Substantial Evidence Supports the Jurisdiction Findings*

Section 300, subdivision (b)(1) authorizes a juvenile court to assume dependency jurisdiction over a child when "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child . . . ." Subdivision (j) authorizes a juvenile court to assume dependency jurisdiction over a child when "[t]he child's sibling has been abused or neglected, as defined in subdivision [(b) or other subdivisions], and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions." Here, the juvenile court sustained allegations under section 300, subdivisions (b)(1) and (j) that included

identical language concerning Mother's past and present mental and emotional problems.

Where it is not alleged the child or children have already suffered serious physical harm or illness, the juvenile court must determine whether a substantial risk exists at the time of the jurisdiction hearing. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133 (*T.V.*)). The court may, however, "nevertheless consider past events when determining whether a child presently needs the juvenile court's protection" because "[a] parent's past conduct is a good predictor of future behavior." (*Ibid.*) "In reviewing the jurisdictional findings . . . , we look to see if substantial evidence, contradicted or uncontradicted, supports them." (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Both parents contend there is no substantial evidence Mother suffers from mental or emotional problems because the record does not include a formal diagnosis. But a medical diagnosis is not required for the juvenile court to take jurisdiction of a child under section 300, subdivision (b). (See *In re Rebecca C.* (2014) 228 Cal.App.4th 720, 726 [holding that "a diagnosis of a substance abuse problem is [not] a required element of proof to find a substance abuse problem" under section 300, subdivision (b)].) Moreover, the lack of a diagnosis is not a point in Mother's favor when she declined to undergo a psychological evaluation and refused to disclose the nature of a diagnosis that made her ineligible for FSP services.

The issue of formal diagnosis aside, there was more than enough evidence for the juvenile court to find Mother suffers from significant mental and emotional problems. Six years earlier, the San Bernardino juvenile court sustained an allegation that Mother had mental and emotional problems that prevented her

from adequately caring for her children. More recently, Mother told hospital staff she should have been taking prescribed medication for depression, admitted to a social worker she received SSI benefits for depression, told a Department investigator she had previously been admitted to a psychiatric hospital more than once, made bizarre statements suggesting she was somewhat detached from reality (e.g., the nurse in the delivery room was a government agent and she was being followed by someone from the Pentagon), and testified during the adjudication hearing she had previously suffered from depression. In the face of all this, Mother is therefore wrong to suggest, as she does in this appeal, that “there was no evidence she had a mental illness.” The record shows quite the opposite.

Mother and Father counter, however, that even if Mother does suffer from mental and emotional problems, those problems did not put M.C. at risk of serious physical harm. They maintain the parents bought sufficient baby supplies and M.C. was healthy in the short time (one week) between his birth and the date he was removed from the parents’ custody pursuant to the juvenile court’s warrant.

It is true that “[t]he existence of a mental illness is not itself a justification for exercising dependency jurisdiction over a child. [Citation.]” (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 563.) Unlike the mother in *In re Joaquin C.*, however, whose mental illness did not present the requisite risk that she would “fail[ ] to provide [her child] with adequate food, clothing, shelter, or medical treatment” (*id.* at p. 562), there was substantial evidence here on which the juvenile court could rely to find just such a risk.

The juvenile court could reasonably infer various problematic aspects of Mother's behavior were manifestations of mental health problems. Mother repeatedly showed herself to be resistant to seeking medical care for her children: she distrusted medical providers (e.g., the nurse who was not a real nurse) and medicine more generally (e.g., the newborn health screening that could cause brain damage), which helps explain her decision to check M.C. out of the hospital against medical advice. And before M.C. was born, Mother neglected the medical needs of her older children too: San Bernardino DCFS records include allegations Mother failed to obtain treatment for one child's broken finger and for another's asthma.

In addition to being resistant to obtaining medical treatment—a trait that can easily lead to serious physical harm for a newborn—Mother also repeatedly made delusional statements and the juvenile court could infer these statements were probative of a reduced capacity to make rational decisions involving M.C.'s safety and care. This manifested most prominently in Mother's attempt to feed M.C. granola and stage two baby food because she wanted him to be "full"; if carried out, this irrational judgment would pose an obvious choking hazard.

Mother's interactions with Department personnel also indicated she was prone to fits of anger and unwilling to seek mental health treatment even in response to court orders, either of which present a substantial risk of harm to a very young child. And finally, among these other record facts, the juvenile court could also consider the opinion of the maternal step-grandmother, who told the Department that if M.C. were left in Mother's care "only an intervention from God[ ] could keep the baby safe because [Mother] won't." Taken together, this is



substantial evidence that a child of “tender years” like M.C. (see *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1219) was at substantial risk of serious physical harm from Mother’s mental and emotional problems.

Father nonetheless insists the jurisdiction findings still should be reversed because he could protect M.C. from any harm arising from Mother’s issues. In so arguing, Father compares this case to *In re A.G.* (2013) 220 Cal.App.4th 675, where the Court of Appeal reversed a jurisdiction finding based on the mother’s mental illness when the father took steps to protect his children from the mother. (*Id.* at p. 687.) The father was the primary caregiver “while [the mother] usually stayed in her room,” he slept in the children’s room with the door locked, and he “temporarily moved out of the house with the minors to protect them from [their mother].” (*Id.* at p. 684.) In this case, by contrast, Father did not overrule Mother’s decision to leave the hospital before the newborn health screening could be completed, he allowed Mother to dictate the terms of his interactions with the Department, and he refused to consider a placement conditioned on his living apart from Mother. Because he has demonstrated an inability to resist Mother, Father’s presence in the home does not ameliorate the risk of harm to M.C. that the juvenile court found on substantial evidence.

We have concluded that substantial evidence supports the juvenile court’s true finding on count b-1 of the dependency petition and assumption of jurisdiction over M.C. due to Mother’s mental and emotional problems. This resolves the parents’ appellate challenge to the court’s jurisdiction findings and we need not discuss other allegations in the dependency petition. (*In*

*re I.J.* (2013) 56 Cal.4th 766, 773; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.)

*B. Substantial Evidence Supports the Removal Order*

A child may not be removed from a parent or guardian with whom the child resides at the time the petition was initiated unless there is clear and convincing evidence of a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child and there are no reasonable means to protect the child other than by removing the child from his or her parent's custody. (§ 361, subd. (c)(1); *In re R.V.* (2012) 208 Cal.App.4th 837, 849.)

“The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.’ [Citation.] The court may consider a parent’s past conduct as well as present circumstances. [Citation.]” (*In re N.M.* (2011) 197 Cal.App.4th 159, 169-170.) We review a challenge to a removal order for substantial evidence. (*In re F.S.* (2016) 243 Cal.App.4th 799, 812.)

Mother and Father contend there was no evidence of any danger to M.C. and, in any event, there were reasonable alternatives to removal to protect M.C. As we have already discussed, there is substantial evidence Mother’s mental and emotional problems present a risk M.C. would suffer serious physical harm. Whether this risk warranted removal or a less drastic remedy, however, requires further discussion.

The juvenile court explained, albeit very briefly, the reasons for its removal and reasonable efforts findings under section 361, subdivision (e). More significant for our purposes,

evidence in the record supports the juvenile court's ultimate determination that removal was warranted. The Department's reports of Mother's hostility to social workers and resistance to treatment ruled out alternatives to removal. In addition, the Department's discussions with Mother and Father were limited by Mother's refusal to discuss (or to allow Father to discuss) certain topics, she believed certain social workers were working against her, and the Department had difficulty finding monitors for the parents' visits due to Mother's behavior. Mother did not disclose a diagnosis that made her ineligible for FSP services and she refused to participate in the SB 82 services when the Department offered them. Mother also refused to comply with an order to submit to a psychological evaluation in a prior dependency case, which justifies skepticism about her willingness to accept services and comply with alternatives short of removal in this case. And as to Father, placement with him was precluded by his refusal to separate from Mother and, as we have already discussed, his apparent inability to question Mother's decisions.

*C. Reversal of the Monitored Visitation Order Is Unwarranted*

A disposition order granting reunification services must provide for visitation “[i]n order to maintain ties between the parent . . . and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent . . . .” (§ 362.1, subd. (a); *In re T.M.* (2016) 4 Cal.App.5th 1214, 1218.) “One of the dependency court’s responsibilities is to define the rights of the parties to visitation by balancing the rights of the parent with the best interests of

the child. [Citation.] We review an order setting visitation for abuse of discretion. [Citation.]” (*In re R.R.* (2010) 187 Cal.App.4th 1264, 1284.)

Mother argues we should reverse the juvenile court’s order allowing only monitored visitation. She did not object to the monitored visitation order below, however—a request that a court make a home-of-parent order is not an objection to a visitation ruling. Her challenge to the visitation order is therefore forfeited on appeal (*In re Valerie A.* (2007) 152 Cal.App.4th 987, 1001), and we see no reason to exercise our discretion to reach the issue.

Father, on the other hand, did ask the juvenile court to order unmonitored visitation for him and his appellate challenge to the denial of that request is therefore properly preserved. But considering the risk to M.C. posed by Mother’s mental and emotional problems—plus the evidence that Father was quite deferential to Mother, perhaps partly due to some lingering effects of post-traumatic stress—the juvenile court’s order for monitored visitation, with discretion to the Department to liberalize that visitation to unmonitored, was not an abuse of discretion.

DISPOSITION

The jurisdiction findings and disposition order are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

RUBIN, P. J.

KIM, J.