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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B257364  
(Los Angeles County  
Super. Ct. No. DK04358)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.G.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Rudolph A. Diaz, Judge. Affirmed.

Nicole Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn Harrison, Assistant County Counsel, Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

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C.G. (Mother) appeals from the dispositional order after the juvenile court found jurisdiction over her eight-year-old daughter, M.N., under Welfare and Institutions Code section 300, subdivisions (a) and (b). Mother does not challenge the sufficiency of the evidence to support jurisdiction. Rather, relying on our opinion in *In re A.G.* (2013) 220 Cal.App.4th 675, Mother contends that the court should have dismissed the petition and remanded the matter to the family law court because M.N. was already placed with her non-offending father who was capable of protecting and caring for her without the need for juvenile court jurisdiction.

We find *In re A.G.* inapposite and affirm the juvenile court's orders.

### **FACTS AND PROCEEDINGS BELOW**

Jurisdiction was based solely on the conduct of Mother; there were no allegations against M.N.'s father. The DCFS alleged under both subdivisions (a) and (b) that in March 2014 Mother abused M.N. "by repeatedly striking the child's back, buttocks, and arms with a belt, inflicting pain and bruises to the child's left arm and back. . . . On prior occasions, the mother struck the child with a wooden stick." The juvenile court found these allegations true and, as we have noted, Mother does not contest the findings on appeal.

In its disposition order the court ordered M.N. removed from Mother's physical custody and placed M.N. in father's. The court ordered family reunification services for Mother consisting of parenting classes, counseling with M.N.'s father, individual counseling to address appropriate parenting and discipline and that Mother continue her mental health counseling and take all her prescribed psychotropic medications. The court also ordered M.N.'s father to participate in counseling with Mother and ordered M.N. to participate in individual counseling and conjoint counseling with her parents when recommended by her therapist. Mother was granted monitored visits with M.N. Finally, the court ordered the case transferred to the Orange County juvenile court.

Mother filed a timely appeal. Father is not a party to the appeal.

## DISCUSSION

The court made its disposition order under Welfare and Institutions Code section 361.2, subdivisions (a) and (b)(3).<sup>1</sup>

Subdivision (a) of the statute provides in relevant part: “When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.”

Subdivision (b) states in relevant part: “If the court places the child with that parent it may do any of the following [three things]: . . . (3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case *the court may order* that reunification services be provided to the parent or guardian from whom the child is being removed, *or the court may order* that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, *or that services be provided to both parents*, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.” (Italics added.)

In *In re Austin P.* (2004) 118 Cal.App.4th 1124, 1131 the court explained that section 361.2 envisions a two-step process: “[U]nder subdivision (a), the court examines whether it would be detrimental to temporarily place a child with the nonoffending noncustodial parent; under subdivision (b), the court decides whether that placement should be permanent and whether the court's jurisdiction should be terminated.” The juvenile court has broad discretion when deciding between the three options in section 361.2, subdivision (b). (*In re Gabriel L.* (2009) 172 Cal.App.4th 644, 651-652.)

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

Here, the court chose the third option under subdivision (b)(3)—that services be provided to both parents. We review the court’s choice for abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.)

We see no abuse of discretion in selecting the third option under section 361.2, subdivision (b)(3). In deciding to retain jurisdiction over the matter and order services for both parents and M.N., the court noted that the beating Mother administered to M.N. in March 2014 was “serious” and “not an isolated situation.” The court also found that the ongoing struggle between M.N.’s parents in family court was causing M.N. “inappropriate and unreasonable anxieties” and “both parents have to recognize that and need to . . . work out the problems that they’re having for the sake of the child.” Under those circumstances the court could reasonably see a need for ongoing juvenile court jurisdiction with respect to Mother’s issues and that it would be in M.N.’s best interest to provide services to both parents and M.N.

The option urged by Mother—dismissal of the petition and remand to the family court is not mandated by the facts of this case.

Juvenile court and family court have separate purposes. “The family court is established to provide parents a forum in which to resolve, inter alia, private issues relating to the custody of and visitation with children. In that setting, parents are presumed to be fit and capable of raising their children. [Citation.] The juvenile court, by contrast, provides the state a forum to ‘restrict parental behavior regarding children, [and] to remove children from the custody of their parents or guardians.’ [Citation.] When, as in this matter, a juvenile court hears a dependency case under [section 300], the court deals with children who have been seriously abused, abandoned, or neglected. The juvenile court has a special responsibility to the child as *parens patriae* and must look to the totality of a child’s circumstances when making decisions regarding the child. Accordingly, although both courts focus on the best interests of the child, ‘[t]he presumption of parental fitness that underlies custody law in the family court . . . does not

apply to dependency cases’ decided in the juvenile court.” (*In re Chantal S.* (1996) 13 Cal.4th 196, 201.)

Furthermore, our opinion in *In re A.G.* is inapposite. There, a mother appealed from the judgment entered in her children’s dependency proceeding after the juvenile court had sustained a petition against her under section 300, subdivision (b) based on her mental health issues. (*In re A.G.*, *supra*, 220 Cal.App.4th at pp. 678-682.) Mother challenged the jurisdictional finding, contending that, because father was non-offending, resided with the children and always was capable for caring for them, no need existed for juvenile court jurisdiction. (*Id.* at p. 677.) We agreed, concluding that despite mother’s mental illness, DCFS was unable to show harm or a risk of harm based on her condition because “Father has shown remarkable dedication to the minors and that he is able to protect them from any harm from Mother’s mental illness. Father ensured that there was adult supervision, other than Mother, of the minors at all times. Father or the nanny was the minors’ primary caregiver, while Mother usually stayed in her room. . . . Mother had been left alone with the minors on one occasion, and no harm to them had been reported. Father slept in the bedroom with the minors and kept the door locked pursuant to the advice of the in-home counselor and temporarily moved out of the house with the minors to protect them from Mother.” (*Id.* at p. 684.) As a result, jurisdiction was not proper, and the matter belonged in family court, “where it ultimately ended up after the juvenile court determined the minors were not at risk in Father’s custody and awarded Father custody and Mother monitored visitation.” (*Id.* at p. 686.)

In our case, Mother did not contest the jurisdictional finding as to her and, given the circumstances that led to the dependency, Mother’s desire to resume custody over M.N. and the juvenile court’s determination that providing Mother the services to reunify was in the child’s best interest, we see no basis to upset the court’s discretionary decision to retain jurisdiction over the matter and order services for M.N. and both parents.

**DISPOSITION**

The orders are affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.