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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re KIRA P., a Person Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

W.P.,

Defendant and Appellant.

B280072

(Los Angeles County
Super. Ct. No. DK19691)

APPEAL from orders of the Superior Court of Los Angeles County, Robert S. Wada, Referee. Affirmed.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephanie Jo Reagan, Principal Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

The juvenile court sustained allegations that W.P. (Father), the presumed father of two-year-old Kira P., suffered from an untreated mental illness that placed the child at risk of physical harm, and that Maria S. (Mother), Kira's mother, was unable to protect the child from Father. The court declared Kira a dependent child, released her to Mother's custody, and terminated its jurisdiction with an exit order granting Mother sole legal and physical custody and Father monitored visitation with Kira. Father challenges the court's jurisdictional findings and contends the court acted in excess of its authority when it terminated jurisdiction at the conclusion of the disposition hearing. We affirm.

FACTS AND PROCEDURAL BACKGROUND

Consistent with our standard of review, we state the record in the light most favorable to the juvenile court's findings, indulging all legitimate and reasonable inferences to uphold the challenged rulings. (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*.)

1. *Family History*

Mother was born and raised in Russia; Father was born in New Mexico. The parents met in 2012, when Mother visited a mutual friend in the United States. In 2013, Mother invited Father to visit her in Russia, where they began a romantic relationship. The parents married in October 2013, when Mother was six months pregnant with Kira. In January 2014, Kira was born in Russia.

Mother reported that, from the moment they met, Father had "always [been] interested in all sorts of conspiracy theories." He frequently told friends that the "US government [was] imposing population control by vaccination, GMO food and

chemical trials.” While in Russia, he expressed suspicions that the American and Russian governments were “following him” and “organizing . . . activities to drive him crazy.” Mother also reported that Father had been discharged from the military “due to psychological issues.”

Shortly after Kira’s birth, Father began to accuse Mother and others of harming the infant. In March 2015, he claimed to have observed an elderly woman “ ‘slip[] her tongue in Kira’s mouth” and touch the baby under her diaper while Mother stood and watched. Mother said the woman was merely playing with Kira. In May 2015, he accused Mother of strangling the baby, after claiming to see bruises on the infant’s neck. The parents took Kira to the hospital where two pediatricians examined her and determined there were no signs of strangulation. For the next three months, Father persisted in accusing Mother of digging her fingers into Kira’s body, twisting the baby’s arms, hitting her head, and depriving the infant of sleep.

In August 2015, while still living in Russia with Mother, Father posted a message to his Facebook page, in which he expressed hatred toward Mother and disclosed homicidal ideations about Mother and the baby. He wrote: “I know I’m going to be in for another marathon emotional abuse session tonight. I am tired and [I] feel [I] might [lose] it and beat the [expletive] out of this impossible [expletive reference to Mother]. . . . I could kill [Mother] and run with [Kira] but that would be temporary and end badly. The other alternatives are obviously equally bad. . . . I really hate her now and cannot stand her or this [expletive] country any more. It seems the only recourse for me is to abandon my little girl with these retarded [expletives]. I hate to think about that but at least everyone

would be alive. What is more selfish, killing myself and the baby or just leaving her with an emotionally and physically abusive mom who is emotionally unstable or just leaving and respecting life and hope that one day my daughter will forgive me[?]"

Mother confronted Father about the post and asked him to leave their apartment. Father refused, apologized, and agreed to see a psychotherapist. But after only one session, Father rejected further counseling. He continued to express paranoid beliefs about "Russians molest[ing] their children at the playground, in the store, [and] in public transportation." He also accused Mother of poisoning his food.

In January 2016, Father returned to the United States. Mother and Kira arrived in Los Angeles a month later. Father convinced Mother that he would have a good job with less pressure in America and, because he would be "generally happier," he would have no reason to "have another 'episode.'" The family moved in with Father's best friend, Mitchel O., and his wife, Kristen O. Shortly thereafter, Father's accusations against Mother resumed. Kristen O., who stayed at home with Mother and Kira throughout the day, never saw any indication of the abuse that Father alleged.

2. Domestic Violence Incident

In June 2016, a domestic violence incident occurred when Mother and Father were house sitting for a friend. Father had laid Kira on an elevated bed in a room where the residents kept a cat litter box. According to Mother, when she attempted to move the baby from the bed, Father grabbed her by the neck and "held it really tight until [she] started gasping for breath." He later apologized and said he was "protecting the baby." Father acknowledged there had been an altercation, but claimed that his

“hand slipped from the original position (on [Mother’s] chest) and went up to the front of her neck.” He denied that he had attempted to choke Mother and claimed he had intervened to protect the baby. Kira was not harmed. Mother did not report the incident to the police because she was a foreign national and did not believe it would help.

After the incident, Mother started to save money in preparation for leaving Father. She consulted two attorneys who told her she could not take Kira out of the country without Father’s consent. She decided she could not leave Father because she feared he would accuse her of kidnapping.

3. *Detention*

In August 2016, the family came to the attention of the Los Angeles County Department of Children and Family Services (the Department). Father had brought Kira to the emergency room, claiming Mother choked and sexually molested the child. Medical staff examined Kira and found no indication of physical abuse. The hospital contacted the police to investigate the allegations.

Father told the police officers that he brought Kira to the emergency room because he observed an unusual mark on the child’s vagina and believed Mother was responsible. He reported that he and Mother were in the midst of a divorce and that he had petitioned the court for custody of Kira. He claimed Mother “‘smothers’ ” the child and physically abuses her by “pushing her fingers into [Kira’s] nails.” He told the officers he brought Kira to the hospital to “get ‘proof’ . . . so that he could gain custody of [Kira]” and so “the courts would ‘give [him] what [he] asks for.’” When asked why Mother would abuse Kira, Father said “it was because of her ‘Russian culture,’ and because she did not receive

‘sex education’ in Russia while growing up.” According to the police report, Kira was crying and “emotionally upset” throughout the encounter.

The officers asked one of the doctors to visually inspect Kira’s vagina for signs of abuse. The doctor found no signs of sexual abuse and reported that, during the examination, Father “said he no longer saw the injury and was embarrassed he wasted [everyone’s time] because there was no visible injury.” When the officers questioned him, Father conceded “there was ‘no injury today’ and that ‘maybe [he] wanted to see it.’” He said he had been “waiting for ‘physical evidence’ so that he [could] be successful in court” and admitted he “thought he ‘saw something’ that wasn’t there in order to have ‘evidence for a restraining order’” against Mother. However, Father denied that he had fabricated the incident and proceeded to allege that Mother had strangled Kira. The officers inspected Kira’s neck and found no signs of bruising. Father then showed them a video of Kira’s neck, which the officers also determined showed no signs of physical abuse. Father conceded his actions had caused Kira emotional distress and that Mother had been “‘vindicated’” by the examination.

Mother called the police the same day to report that Father had left the residence with their two-year-old daughter and not returned. She confirmed she and Father were going through a divorce, and said she worried Father would intentionally harm Kira and blame her in an attempt to gain custody. Mother disclosed Father’s past allegations against her, and reported the Facebook post in which he contemplated killing her and the baby. She also told the officers about the domestic violence incident in March 2016. She said in recent days Father had been “acting

weird: staring at me, not letting me touch . . . Kira when she woke up, pushing me away from her every time I tried to come to her bed to calm her down.” The officers reported the incident to the Department for further investigation and intervention.

In an interview with the Department, Father persisted in accusing Mother of sexually abusing Kira and attempting to smother the baby. He claimed that when Kira was four months old he observed mother stick her finger in the baby’s vagina, which he said looked like “ ‘[a] [c]ave you can see straight through.’ ” Father denied any mental health problems, but said he had an appointment to determine whether he was “suffering from PTSD due to what [was] going on with [Kira].” Mother claimed Father refused to allow Kira to be vaccinated because he believed “vaccines are another way the government tries to control us.” Father confirmed the report, but said his refusal stemmed from a belief that his older son had contracted ADHD from a childhood vaccination.

Father said Mother’s “attacks [on Kira] increased in intensity and frequency on the full and new moons along with her PMS symptoms.” He said, “[t]he baby tells me what happens to her when I have to go and work.” He described the alleged abuse and claimed Kira “covers my mouth and nose, chokes me, and acts out all the stuff that is done to her.” He also accused Mother of “putting glass in a sandwich she served [him],” poisoning him with “dish washing liquid in [his] food and coffee,” and poisoning Kira “with some kind of liquid cleaner.” He maintained the “motivation for [Mother’s] attacks seems to be mostly centered around [a] selfish desire for affection and to manipulate [him] and the baby,” explaining Mother “hurts the baby so the baby will cuddle up with her and pay more attention to her.”

Mother reported that Father continued to make unfounded and disturbing allegations, even after the hospital medical staff and a Department social worker confirmed there had been no abuse. She described an incident in early September 2016, when Father confronted her, stating: “‘You know you do it. . . . You are a monster. You are beyond help. You have a split personality. I don’t care what doctors, child services and police say. They are also zombies just like you. . . . And our daughter is starting to get split personality too. I will do whatever it takes to prove you are a monster.’”

On September 29, 2016, the Department filed a dependency petition on Kira’s behalf, alleging under Welfare and Institutions Code¹ section 300, subdivisions (a) and (b), that (1) the parents engaged in a violent altercation in the child’s presence that endangered Kira’s physical health and safety; (2) Father had a history of mental and emotional problems including “paranoia, delusions, homicidal and suicidal ideation” that rendered him incapable of safely caring for the child; (3) Mother’s “inability” to protect the child from Father’s mental and emotional problems endangered the child; and (4) Father endangered the child by making numerous allegations of sexual and physical abuse that subjected her to multiple unnecessary and invasive medical examinations.

The juvenile court detained Kira and ordered her to be placed with a nonrelated extended family member. Mother was granted permission to reside with the family member, provided she was not left alone with Kira. The court also entered a

¹ Statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

temporary restraining order prohibiting Father from coming within 100 yards of Mother.

4. *Post-Detention Investigation*

Following Kira's detention, the Department interviewed the parents and people close to the family regarding the petition's allegations. The parents largely repeated their prior statements regarding Father's alleged mental instability and the domestic violence incident.

Kristen O., with whom the family had been staying since returning to America, told the Department she had known Father for 17 years and that he "seemed paranoid even before he met [Mother]." She said Father believed a variety of unfounded conspiracy theories and that he had been taking medication to deal with paranoia before visiting Russia. In addition to the numerous allegations against Mother, Kristen O. said Father had accused her son of touching Kira inappropriately when her son had only been tickling the baby. She spent most of the day with Mother and Kira and never witnessed any signs of abuse. She said Mother was "a good mom."

Christina W. had known Father for 30 years and Mother for 20 years. She said Father was not violent by nature, but he had a "mental disability" that made him paranoid and led him to believe in conspiracy theories. Father had told her he was discharged from the military because he had a "psychotic episode." She also reported that Father had been on medication to address his mental illness before visiting Russia. She said Father "thinks he is in a movie when he is going through these mental breaks" and disclosed that she was "concerned [about] what he is capable of doing when he believes he needs to rescue his baby."

Father produced a brief letter from Dr. Philip Kanof, an attending physician at the West Los Angeles Veterans Affairs Medical Center. Dr. Kanof said he saw Father for a psychiatric evaluation on September 13, 2016, and determined Father “does not meet diagnostic criteria for paranoid schizophrenia.” When the Department contacted Dr. Kanof, he would confirm only that he had met with Father for a single one-hour session. Although Father signed a release of information to allow Dr. Kanof to speak with the Department, the doctor said he “did not feel comfortable discussing the matter” and he had nothing else to say.

The Department recommended the juvenile court sustain the dependency petition as to Father, release Kira to Mother, and terminate jurisdiction with an exit order granting Mother sole legal and physical custody of the child, with monitored visits for Father by a professional monitor.

5. *Jurisdiction and Disposition*

On December 14, 2016, the juvenile court held an initial hearing on jurisdiction. Mother pled no contest to the allegations regarding her conduct.

The Department argued the court should sustain the allegations against Father, citing Mother’s report about the domestic violence incident, Father’s disturbing Facebook post, and the reports by Father’s longtime friends about his mental instability and false allegations of physical and sexual abuse. The Department argued Father’s delusions about Kira being abused had caused him to act out violently against Mother in the child’s presence, to subject the child to invasive physical examinations, and presented a risk of harm to the child if she were left alone in his care. Minor’s counsel agreed with the

Department's assessment regarding the risk of harm posed by Father's mental health issues.

Father argued the allegations against him should be dismissed. He maintained his explanation regarding the alleged domestic violence incident was more credible than Mother's and that Dr. Kanof's assessment of his mental health should be given more weight than the opinions expressed by lay witnesses. He argued the abuse allegations merely showed he was "hypervigilant" about protecting his young child and did not pose a risk of harm.

The juvenile court took the arguments under submission and continued the matter for a contested hearing on disposition. The court also extended the temporary restraining order against Father.

Following the hearing, Father filed documents certifying that he had completed a parenting class.

On December 29, 2016, the court held the continued hearing on jurisdiction and disposition. The court sustained the allegations against Father. It found Mother's report regarding the domestic violence incident was more credible and that the incident placed Kira at risk of physical abuse. The court likewise credited the accounts by Father's longtime friends regarding his unstable mental condition and the risk of harm it posed to Kira.² And the court found Father's persistent false allegations of abuse posed an ongoing risk of harm to the child.

² The court said it "did not give a lot of weight" to Dr. Kanof's letter, given his refusal to provide further information to the Department. The court nevertheless struck a portion of the petition that alleged Father was previously diagnosed with schizophrenia.

With respect to disposition, the Department renewed its request that the court terminate jurisdiction and enter an exit order granting sole legal and physical custody to Mother. Minor's counsel joined in the recommendation. Father objected to the Department's request, arguing his completion of a parenting class and pledge to engage in individual counseling were sufficient to warrant continuing supervision with reunification services. Alternatively, he argued he should be awarded joint legal and physical custody, if the court decided to terminate its jurisdiction.

The juvenile court agreed with the Department and minor's counsel. It ordered Kira removed from Father's physical custody and placed with Mother. The court then terminated its jurisdiction and entered an exit order granting Mother sole legal and physical custody, with monitored visitation for Father. Father appealed.

DISCUSSION

1. *Substantial Evidence Supports the Jurisdictional Finding Regarding the Danger Posed by Father's Mental Illness*

Father contends the evidence was insufficient to support dependency jurisdiction under any of the statutory bases alleged in the petition.³ "In reviewing the sufficiency of the evidence on

³ Father acknowledges that the unchallenged jurisdictional findings against Mother were sufficient to sustain dependency jurisdiction over Kira, and he concedes that this court may decline to address his evidentiary challenges to the findings against him. (See *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Father also acknowledges the general rule that an order terminating dependency jurisdiction will render an appeal from a previous order in the dependency proceeding moot. (See *In re*

appeal, we consider the entire record to determine whether substantial evidence supports the juvenile court's findings. . . . We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order, and affirm the order even if other evidence supports a contrary finding. [Citations.] The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order." (*In re T.V.* (2013) 217 Cal.App.4th 126, 133 (*T.V.*).

Here, because the finding regarding father's mental illness was central to the juvenile court's subsequent custody ruling, we focus principally on that finding. (See *I.J.*, *supra*, 56 Cal.4th at p. 773 ["'When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction . . . if any one of the statutory bases for jurisdiction . . . is supported by substantial evidence'"].)

Section 300, subdivision (b)(1) authorizes dependency jurisdiction where "there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure

C.C. (2009) 172 Cal.App.4th 1481, 1488.) Nonetheless, Father contends we should address the merits of his challenge to the jurisdictional findings because the findings affected the juvenile court's subsequent custody rulings and could affect future family law proceedings. (See *In re Dylan T.* (1998) 65 Cal.App.4th 765, 769-770; *In re Daisy H.* (2011) 192 Cal.App.4th 713, 716 (*Daisy H.*)). The Department does not dispute this contention. We will exercise our discretion to address the merits of Father's challenge to the jurisdictional findings.

or inability of his or her parent . . . to adequately supervise or protect the child . . . [or] to provide regular care for the child due to the parent's . . . mental illness.” When mental health is a factor, “harm may not be presumed from the mere fact of mental illness of a parent.” (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318 (*Matthew S.*); *In re A.G.* (2013) 220 Cal.App.4th 675, 684.) Nonetheless, the focus of the dependency proceeding is averting harm to the child, and the juvenile court “need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.” (*In re R.V.* (2012) 208 Cal.App.4th 837, 843; *T.V., supra*, 217 Cal.App.4th at p. 133.) Further, the facts supporting dependency jurisdiction are cumulative; thus, “the court ‘must consider all the circumstances affecting the child, wherever they occur.’ ” (*T.V.*, at p. 133.)

Father contends the evidence was insufficient to find his mental and emotional problems placed Kira at substantial risk of physical harm. We disagree. The evidence showed Father’s untreated mental illness caused him to harbor the pervasive and persistent delusion that Mother had harmed Kira and would continue to harm her without his intervention. Father frequently spoke of his disgust with Mother and expressed homicidal ideations about her and the child. On Facebook, he wrote about beating Mother, about “kill[ing] her and run[ning] with the girl,” and he contemplated killing his own child, writing, “What is more selfish, *killing myself and the baby* or just leaving her with an emotionally and physically abusive mom.” (Italics added.) Critically, Father’s delusion manifested itself in more than just his disturbing thoughts and accusations. He subjected Kira to multiple unnecessary medical examinations, pushed Mother

away when she tried to comfort the baby at night, and was so convinced of the need to protect Kira from the imagined abuse that on one occasion he violently assaulted Mother when she tried to pick up the child.

Contrary to Father's contention, the evidence established an identifiable nexus between his untreated mental health problems and a risk of serious physical harm to Kira. Kira was involved in the parents' struggle that led to Father choking Mother, and easily could have been inadvertently harmed. (See *In re Heather A.* (1996) 52 Cal.App.4th 183, 194 ["domestic violence in the same household where children are living . . . is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it"]; *In re E.B.* (2010) 184 Cal.App.4th 568, 576.) Further, there was a substantial risk that Father could intentionally harm Kira while in a delusional state. Father admitted he brought Kira to the emergency room to "get 'proof' " of Mother's abuse "so that he could gain custody." When the examining physician confirmed there were no signs of abuse, Father disclosed that " 'maybe [he] wanted to see it' " and said he had been "waiting for 'physical evidence' so that he [could] be successful in court" against Mother. Father told Mother he would do " 'whatever it takes to prove you are a monster,' " and Mother worried he would intentionally harm Kira in order to gain custody. Father's friend of 30 years echoed that worry, stating she was " 'concerned [about] what he [was] capable of doing' " when under the sway of his irrational beliefs. Taken together with the persistent abuse accusations, Father's alarming Facebook post, and the domestic violence against Mother, the evidence was sufficient to support an inference that Father might

act on his delusion to prove the abuse against Kira was real. The juvenile court did not err in finding Father's untreated mental illness posed a risk of substantial physical harm to Kira.⁴ (Cf. *Matthew S.*, *supra*, 41 Cal.App.4th at p. 1319 [reversing jurisdictional finding where juvenile court had struck allegation that mother might act out her violent delusion, and other evidence showed mother adequately cared for child].)

2. *The Juvenile Court Was Authorized to Terminate Jurisdiction after Ruling on Disposition*

Father contends the juvenile court acted in excess of its statutory authority when it terminated its jurisdiction at the

⁴ The evidence of Father's recent homicidal ideations, his persistent and disturbing accusations of abuse, the domestic violence against Mother, and Mother's admitted inability to protect the child from Father's potential abuse distinguishes this case from those upon which Father relies to argue the evidence was insufficient to establish a current risk of physical harm to Kira. (Cf. *In re David M.* (2005) 134 Cal.App.4th 822, 831 [no current evidence of parental mental illness; social services agency relied upon two year old investigation in sibling's dependency case]; *In re James R.* (2009) 176 Cal.App.4th 129, 137 [uncontradicted evidence showed minors were safe in father's care, notwithstanding mother's history of mental instability]; *Daisy H.*, *supra*, 192 Cal.App.4th at p. 717 [seven-year-old domestic violence incident did not establish risk of current physical harm]; *In re A.G.*, *supra*, 220 Cal.App.4th at p. 684 [father had never left children alone with mother and had shown he was "able to protect them from any harm from Mother's mental illness"]; *In re Isabella F.* (2014) 226 Cal.App.4th 128, 140 [father's suicidal conduct occurred "*more than two years* before the filing of dependency proceedings," there was no evidence that child was in father's care at the time and no evidence that father was likely to be involved in her life in the future].)

conclusion of the disposition hearing. “The question whether a court is authorized to perform a certain act under a statutory scheme is a purely legal question subject to de novo review.” (*In re Destiny D.* (2017) 15 Cal.App.5th 197, 205 (*Destiny D.*).

Once the juvenile court finds a basis to assume jurisdiction over a child, it is then required to hear evidence on the question of the child’s proper disposition. (§ 358, subd. (a); *Destiny D.*, *supra*, 15 Cal.App.5th at p. 205; see Cal. Rules of Court, rules 5.684(g), 5.690.)⁵ Typically, this involves a determination of what services the child and family need in order to be reunited and free from court supervision. (*Destiny D.*, at p. 205; *In re Carl H.* (2017) 7 Cal.App.5th 1019, 1037 (*Carl H.*); *In re Anthony Q.* (2016) 5 Cal.App.5th 336, 346; *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 302-303.) “The court then sets a review hearing, which must be held within six months, to evaluate the family’s circumstances and decide whether continued dependency jurisdiction is necessary.” (*Destiny D.*, at p. 206; §§ 366.21, subd. (e) [review hearing if child removed from physical custody of his or her parent]; 364 [review hearing if child remains in the custody of one or both parents].)

Here, the juvenile court did not order services or set the matter for a review hearing as the statutory scheme contemplates for the typical case. Instead, it declared Kira a dependent child, ordered Kira returned to Mother’s custody, and terminated dependency jurisdiction with an exit order awarding Mother sole legal and physical custody. Father maintains the court’s order effectively dismissed the dependency petition, and thus required a finding under section 390 “that the interests of

⁵ Rule references are to the California Rules of Court.

justice and the welfare of the minor require the dismissal, and that the parent or guardian of the minor is not in need of treatment or rehabilitation.” (§ 390; see *Carl H.*, *supra*, 7 Cal.App.5th at p. 1038.) Absent this finding (which the court did not make), Father argues the court’s order was not authorized by any specific statutory language or rule 5.695, which governs findings and orders of the juvenile court at disposition.⁶ On this basis, he contends the court exceeded its discretion in terminating jurisdiction. We disagree.

⁶ Rule 5.695(a) provides, “At the disposition hearing, the court may: [¶] (1) Dismiss the petition with specific reasons stated in the minutes; [¶] (2) Place the child under a program of supervision for a time period consistent with section 301 and order that services be provided; [¶] (3) Appoint a legal guardian for the child . . . ; [¶] (4) Declare dependency and appoint a legal guardian for the child . . . ; [¶] (5) Declare dependency, permit the child to remain at home, and order that services be provided; [¶] (6) Declare dependency, permit the child to remain at home, limit the control to be exercised by the parent or guardian, and order that services be provided; or [¶] (7) Declare dependency, remove physical custody from the parent or guardian, and: [¶] (A) After stating on the record or in writing the factual basis for the order, order custody to a noncustodial parent, terminating jurisdiction, and direct that *Custody Order—Juvenile—Final Judgment* (form JV-200) be prepared and filed . . . ; [¶] (B) After stating on the record or in writing the factual basis for the order, order custody to a noncustodial parent with services to one or both parents; or [¶] (C) Make a placement order and consider granting specific visitation rights to the child’s grandparents.”

Father's narrow characterization of the juvenile court's discretion at disposition is "contrary to the statutes that grant the juvenile court broad authority to enter orders to protect a dependent child and to reunite the family and terminate jurisdiction as quickly as possible." (*Destiny D.*, *supra*, 15 Cal.App.5th at p. 207.) As the *Destiny D.* court recently explained in rejecting an identical contention, "[a]part from the statutory limitation on its authority to remove a child from a custodial parent with whom the child was residing at the time the dependency petition was filed (see § 361, subd. (c)), the juvenile court enjoys *wide discretion* to make any orders necessary to protect the dependent child (§ 361, subd. (a)), including 'all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child' (§ 362, subd. (a)) and those orders directed to the parents of a dependent child that it 'deems necessary and proper for the best interests of or for the rehabilitation of the minor' (§ 245.5). *That authority necessarily includes, in an appropriate circumstance, discretion to terminate dependency jurisdiction when the child is in parental custody and no protective issue remains.*" (*Destiny D.*, at p. 207, italics added; see § 361, subd. (a)(1) [limitations on parental rights "may not exceed those necessary to protect the child"]; *In re Ethan C.* (2012) 54 Cal.4th 610, 625 "[e]ven after a dependency finding has been made, the statutory scheme is designed . . . to return full custody and control to the parents or guardians if, and *as soon as*, the circumstances warrant," italics added]; cf. § 364, subd. (c) [absent evidence the conditions still exist that would justify the initial assumption of jurisdiction or that those conditions are likely to exist if supervision is withdrawn, "[t]he court shall terminate its jurisdiction"].)

Father contends there is an inherent conflict between the jurisdictional finding that Mother's failure to protect Kira posed a substantial risk of harm to the child, and the court's order terminating jurisdiction after releasing Kira to Mother's custody. However, when considered in connection with the court's concurrent permanent restraining order and custody order, the order terminating jurisdiction is fully reconcilable with the failure to protect finding. (See *Destiny D.*, *supra*, 15 Cal.App.5th at p. 209 ["whether the custodial parent to whom a child is released is 'offending' or 'nonoffending' is, of course, relevant to the appropriate disposition orders, [including whether to terminate jurisdiction,] but not necessarily outcome determinative"].) The record shows the only threat of harm to Kira stemmed from Father's persistent delusion that the child had been or would be physically and sexually abused, and Mother's inability to protect Kira from the harm posed by that delusion, as exemplified by Father's violent assault on Mother when she tried to care for the child. The juvenile court's concurrent orders—which authorized Mother to have sole legal and physical custody, required Father's visits to be monitored by a professional monitor, and included a protective restraining order—were sufficient to resolve those safety issues with no need for ongoing dependency court supervision.⁷ (See *id.* at p. 208 [to

⁷ Father relies upon *Carl H.* to argue section 390 supplies the only statutory basis for terminating jurisdiction if at disposition the child is permitted to remain in the home of a custodial parent. (See *Carl H.*, *supra*, 7 Cal.App.5th at p. 1019.) We do not believe the case should be read so expansively. Although *Carl H.* considered the statutory requirements of section 390, and rejected the proposition that section 361.2 could be invoked when the child remained with a custodial parent (*Carl*

“conclude that court supervision must be continued, even absent a continuing risk of harm, simply because the protective and custody orders that eliminated the risk were made at the conclusion of a disposition hearing, rather than a subsequent review hearing, would be wholly at odds with the fundamental goal of the dependency system to return the child to his or her custodial parent and terminate dependency jurisdiction as soon as circumstances permit”].)

The juvenile court’s statutory authority necessarily included the discretion to terminate jurisdiction at the conclusion of the disposition hearing and, in view of the custody and protective orders, the court reasonably concluded continued supervision was no longer necessary to protect the child.

H., at pp. 1037–1038), it did not give full consideration to the broader statutory scheme, which seeks to “return the child to his or her custodial parent and terminate dependency jurisdiction as soon as circumstances permit.” (*Destiny D.*, *supra*, 15 Cal.App.5th at p. 208.) Moreover, we agree with the *Destiny D.* court that section 361.2, by analogy, strengthens the conclusion that the juvenile court retains the discretion in an appropriate case to terminate its jurisdiction at the close of a disposition hearing when it finds services and continued court supervision are not necessary to protect the child. (*Destiny D.*, at p. 208.) As the court explained, “[i]t simply makes no sense to conclude . . . that the Legislature intended to authorize the juvenile court to terminate its jurisdiction at disposition after placement of a child with a noncustodial parent when there is no longer a reason for court supervision and not afford the juvenile court the same discretion when the child has been released to a custodial parent and orders made at disposition have fully resolved any issue of continuing risk of harm.” (*Id.* at p. 209.)

3. *The Juvenile Court Reasonably Exercised Its Discretion to Award Mother Sole Legal and Physical Custody*

When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes the court to make custody and visitation orders that remain in effect until modified or terminated by the family court. (*In re Roger S.* (1992) 4 Cal.App.4th 25, 30 (*Roger S.*); see also *In re Chantal S.* (1996) 13 Cal.4th 196, 206 (*Chantal S.*)) The order is subject to modification only upon a finding that there has been a significant change of circumstances and that modification is in the best interests of the child. (§ 302, subd. (d).) A custody and visitation order issued under section 362.4 is commonly referred to as an “‘exit order.’” (See, e.g., *In re John W.* (1996) 41 Cal.App.4th 961, 970, fn. 13 (*John W.*)).

“When making a custody determination in any dependency case, the court’s focus and primary consideration must always be the best interests of the child.” (*In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268 (*Nicholas H.*); *Chantal S.*, *supra*, 13 Cal.4th at p. 206.) In determining the child’s best interests, the juvenile court’s assessment is not constrained by the preferences or presumptions that underlie custody law in the family courts. (*Nicholas H.*, at p. 268; *Chantal S.*, at p. 206.) “Although both the family court and the juvenile court focus on the best interests of the child, the juvenile court has a special responsibility to the child as *parens patriae* and must look at the totality of the child’s circumstances.” (*Roger S.*, *supra*, 4 Cal.App.4th at pp. 30–31; *Chantal S.*, at p. 206.) “This purpose would obviously be frustrated if a juvenile court, on termination of dependency jurisdiction pursuant to section 362.4, were

required to presume that joint legal and physical custody was in the best interest of a minor.”⁸ (*Chantal S.*, at p. 206.)

We review the terms of an exit order under the abuse of discretion standard. (*In re T.H.* (2010) 190 Cal.App.4th 1119, 1124; *In re Marriage of Burgess* (1996) 13 Cal.4th 25, 32.) “ ‘The 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.* (1994) 7 Cal.4th 295, 318–319.) “The reviewing court should interfere only ‘ “if we find that under all

⁸ In connection with offering argument on the exit order at the disposition hearing, the Department requested that the juvenile court condition modification of the order on Father completing a domestic violence class. In support of the request, the Department cited Family Code section 3044, which creates a presumption against awarding legal or physical custody to a parent who has been found to have committed domestic violence against the other parent. Based on the discussions that followed, Father contends the court might have improperly considered the presumption in ruling on custody. The juvenile court made no reference to the presumption when it issued the exit order and we cannot presume error where the record does not establish on its face that the juvenile court misunderstood the scope of its discretion. (See *People v. White Eagle* (1996) 48 Cal.App.4th 1511, 1521–1523.) In any event, there was ample evidence to support the court’s custody ruling under the applicable best interests of the child standard without invoking the family law presumption. (Cf. *John W.*, *supra*, 41 Cal.App.4th at p. 974 [finding prejudicial error where there were “substantial grounds to believe the outcome might have been different” had court employed a strict best interest standard].)

the evidence, viewed most favorably in support of the trial court's action, no judge could reasonably have made the order that he did." ' ' ' (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.)

Father argues the court's physical custody and visitation exit orders were contrary to Kira's best interests. He relies exclusively upon statements by Kristen O. and Christina W., who acknowledged he could be a "loving father" and "good guy." But these longtime friends also reported that Father made numerous false accusations about physical and sexual abuse against Kira, he was paranoid and out of touch with reality, and Christina W., Father's friend of 30 years, expressed concern about what he was "capable of doing when he believes he needs to rescue his baby." Coupled with the domestic violence incident and other evidence supporting the jurisdictional finding regarding Father's mental illness, the court plainly had a sufficient basis to find joint physical custody and unmonitored visitation with Father were not in Kira's best interests.

The evidence likewise supported the court's legal custody ruling. To be workable, joint legal custody requires the parents' willingness to cooperate in making medical, educational, and psychological decisions. (See *In re Marriage of McLoren* (1988) 202 Cal.App.3d 108, 115–116 [observing, in most circumstances, children's best interests are served by joint legal custody, but where there is acrimony "the reality of their parents' conflicts unavoidably hampers the realization of that goal"].) At the disposition hearing, the parties' arguments focused principally upon Father's unwillingness to allow Kira to be vaccinated. Mother's main concern was that Kira would not be allowed to enroll in school without receiving the state mandated vaccinations. Whatever the basis for Father's misgivings about

vaccinations, it is clear on this record that joint legal custody was not going to be workable, especially while Father continued to make false accusations about Mother abusing the child. The juvenile court did not abuse its discretion.

Lastly, Father contends the juvenile court improperly restricted the family court's discretion to modify the monitored visitation order until Father completed a psychiatric assessment and a domestic violence program. The court's exit order did no such thing. The order states that the court restricted Father to monitored visitation because he had not completed individual counseling or a psychiatric assessment. The order then states that "[c]ompletion of one of the programs above *might*, but need not, constitute a significant change of circumstances for purposes of modifying this final custody order." Nothing in the court's exit order runs afoul of the controlling statute. (§ 302, subd. (d) ["Any custody or visitation order issued by the juvenile court at the time the juvenile court terminates its jurisdiction pursuant to Section 362.4 regarding a child who has been previously adjudged to be a dependent child of the juvenile court shall be a final judgment and shall remain in effect after that jurisdiction is terminated. The order shall not be modified in a proceeding or action described in Section 3021 of the Family Code unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child."].)

DISPOSITION

The orders terminating jurisdiction and determining custody and visitation are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

STONE, J.*

We concur:

EDMON, P. J.

LAVIN, J.

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