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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SEVEN

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

B277535  
B280849

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

KATRINA K.,

Defendant and Appellant.

(Los Angeles County  
Super. Ct. No. DK17620)

APPEAL from a judgment and orders of the Superior Court of Los Angeles County. Robert S. Draper, Judge. Affirmed.

Donna Balderston Kaiser, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Kimberly Roura, Deputy County Counsel for Plaintiff and Respondent.

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The juvenile court determined that M.F. (Minor) was described by Welfare and Institutions Code<sup>1</sup> section 300, subdivision (b) (failure to protect) and removed him from his mother, Katrina K. In Case No. B277535, Mother appeals the jurisdictional findings and dispositional orders of the juvenile court, including the removal order and the order that she undergo a DNA test to prove maternity; she also challenges the subsequent limitation of her visitation when she did not comply with the court's orders. In Case No. B280849, Mother appeals the denial of her guardianship petition. We conclude that the appeal of the visitation order is moot and otherwise affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **I. Initial Investigation and Detention**

Minor, age two, and Mother came to the attention of the Department of **Children** and Family Services in May 2016, when DCFS received information that a mother and baby were living in a tent community on Skid Row in an area with extensive drug activity. Minor was reported to be filthy and had been observed wandering away from his mother and not returning when his mother called for him.

For several weeks service providers and law enforcement worked to assist mother in obtaining stable housing. In early May the Los Angeles Police Department (LAPD) and representatives of the Los Angeles Homeless Services Authority and the Union Rescue Mission Center met with Mother and offered her a hotel voucher and permanent housing thereafter.

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<sup>1</sup> Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

Mother declined. On May 13, 2016, DCFS social worker Anahit Manukyan asked Mother why she was declining housing. Mother responded, “I don’t want help from anyone.” She claimed to have been ejected from the Union Rescue Mission shelter three times because she declined to vaccinate Minor as the shelter required. The Union Rescue Mission, she said, “never helped me.” She claimed they did not live in a tent but that they stayed with a friend; she refused to provide the friend’s name or address.

A different DCFS social worker, Crystal Hardiman, approached Mother about housing on May 18, 2016, expressing concern about a young child living on Skid Row. Mother said they did not sleep on the street every night. Hardiman asked if Mother would stay in a shelter. Mother refused. She said she had stayed in shelters in the past but she left because the staff “talked down” to residents. She said some shelters would not accept her because she had no income. She repeated her assertion that the Union Rescue Mission had refused to accept her because she had not vaccinated Minor. Mother said she would be willing to stay temporarily in a hotel if DCFS paid for it. She had used hotel vouchers in the past and then returned to her tent and to her friend’s house.

The following day, May 19, Hardiman smelled “a strong body odor” from both Mother and Minor when Mother appeared for an Up-Front Assessment. Both appeared dirty and unkempt. Minor initially wore no shoes, although Mother later put shoes and socks on him. When asked where they had spent the previous night, Mother said they had been at the home of a friend, but she refused to provide contact information for the friend.

The Up-Front Assessment was prepared by Oscar Sandoval. Mother told Sandoval, too, that she could not stay at the Union Rescue Mission because she refused to vaccinate Minor. Sandoval expressed concern about Mother's judgment because she rejected shelter and "expose[d] herself and child to weather conditions (homelessness)" because she considered the shelters' rules "unfair." Mother did not acknowledge the dangers of Skid Row and when told that multiple DCFS referrals had been made about Minor, she said it was "not their business." Sandoval concluded Mother "showed poor insight in recognizing 'child safety.'"

Mother accepted a hotel stay from DCFS from May 19 to May 22.

On May 24, 2016, Mother met with Manukyan. In addition to ensuring that Mother and Minor had adequate food and were receiving government assistance, Manukyan provided Mother with a list of shelters for homeless women and children, including the Good Shepherd Center, Dream Center, House of Ruth, Alexandria House, and Door of Hope. Mother declined housing services. Manukyan encouraged Mother to seek transitional housing, but Mother said she was "not interested because of her past unpleasant experiences."

That evening, LAPD officers patrolling the Skid Row area saw Mother sitting inside her tent, speaking with a man standing outside. Mother and the man became nervous when they saw the police, leading the police to investigate further due to the heavy presence of narcotics use and sales around the tents. As they stopped, they saw Minor exit Mother's tent. Mother "shoved" him back into the tent in what the police perceived as an attempt to conceal him.

The police could hear Mother's conversation with the man, who was irate. He said to Mother, "Why are you here[,] bitch?" The man said, "I told you to leave . . . take your kid out of here or I'll catch you on the flip side." He yelled, "I told you not to have that kid here," used profanity, and reiterated, "[B]itch . . . get the fuck out." It was obvious to the police that the man was upset with her for having the child living with her in the tent. Although the man was threatening her, Mother "stood there trying to talk with him."

The police observed that the area in which the tent was erected was extremely dirty with human waste, chemicals in the streets, rats, broken glass, and drug paraphernalia lying on the street and in the sidewalk. Mother's tent was "cluttered with old and spoiled food due to the lack of electricity and refrigeration." The police could see dry crackers, an apple pie, bread, eggs, milk, and water, and all items appeared to be old. "Clothes, blankets and miscellaneous items/trash were stacked haphazardly inside of the tent creating a safety hazard for a sleeping child." Minor was wearing only a t-shirt and a diaper, with no shoes, although the evening was cold. He "had a runny nose, a cough, and was unke[m]pt and dirty."

The area in which the tent was placed was "plagued by [a] high occurrence of violent crime (including murder/attempted murder/assaults with deadly weapons/rape/robberies), [and] narcotics sales . . . ." The police had made numerous arrests for these crimes in the immediate vicinity of Mother's tent. Many residents of the area used and/or abused narcotics and alcohol, and mental illness was common.

While the police spoke with Mother, several people who lived in neighboring tents approached and expressed concern about Minor living in the tent.

Mother told the police that she kept the tent to store her belongings, but that they slept at night at the home of a friend whose contact information she would not divulge. The police offered to take Mother and Minor to her friend's residence, but she refused. They offered to take Mother and Minor to a shelter, and she declined. She told the police she did not want assistance with housing. She told them that shelters were dangerous and that children in the shelters pulled Minor's hair. The police took Minor into protective custody and transported Mother and Minor to a police station.

Emergency Clinical Social Worker Sylvia Lopez interviewed Mother at the police station. Mother and Minor were unkempt and smelled bad, and Minor's stroller was dirty and smelled bad as well. Minor was playful and physically healthy. He appeared to be developing in an age-appropriate way. He had no visible marks or bruises. Mother did not believe that she was neglecting Minor and denied physical and sexual abuse.

Mother said she was homeless, unemployed, and without funds. She denied living in the tent. Mother said she stayed with different friends and came to downtown Los Angeles for food and clothing services. She refused to provide information about her friends because they did not want police to come to their homes.

Lopez asked Mother if she understood why the police took Minor into protective custody, and she said, "[Y]es . . . I know it's not safe," but she also said, "[I]t's not safe anywhere." Lopez asked if she and the police could help her move her tent

elsewhere, but Mother refused. Mother also refused Lopez's offer to take her to a shelter, saying that shelters were dirty and the people there smoked, treated her badly, pushed her around, and hit her on the ankles. Guards walked around at shelters while people were showering. Mother claimed she had been "escorted out" of the Union Rescue Mission three times because she would not vaccinate Minor.

Mother would not leave the area of the tent, saying that she needed to be there because she was waiting for a call from a person about housing. Mother was unable to provide contact information for this man. Later, she said that she had been staying with two people from the Salvation Army, but they did not return Lopez's calls. Mother said that she was working with "some organizations" that were working to secure housing for her, but she also said that "no one wants to help her."

Mother acknowledged that a man had been screaming at her as the police reported, but said he was actually watching out for her and advising her of boundaries she needed to respect. Mother attributed the multiple DCFS referrals to jealousy, saying that "[P]eople are jealous because I have my child" when their children had been taken away.

DCFS "determined that [the] child [should] be detained from his mother not for being homeless but because she has failed to provide for the basic needs of the child as evidenced by the child being [] observed barefooted, no socks, dirty, unkempt, and having strong bad odor; further, mother constantly is putting her child at serious risk of harm and danger when she hangs around or lives in Skid Row, which is known for violent crimes, narcotic use and sales, and it is an unsanitary living environment, in that police has observed violent offenders

threatening the mother and her child and drug paraphernalia accessible to the child. Furthermore, DCFS has made reasonable efforts to assist mother obtaining shelters and services, and mother failed to follow through and keep a stable residency.”

DCFS filed a dependency petition under section 300, subdivision (b), alleging that Mother “exposed the child to a detrimental and endangering situation in that [] the mother had the child in an unsanitary and unsafe tent. The tent was filled with old and spoiled food, clothing, blankets and trash stacked haphazardly. The area surrounding the tent was extremely dirty and dangerous. On 5/24/2016 and on prior occasions, the mother failed to maintain the child’s hygiene in that the child frequently wore dirty clothes and had a dirty body and emitted a foul odor. On 5/24/2016, the child was observed to [be] wearing a lightweight t-shirt, diaper, and barefoot [*sic*] when the weather outside was cold. The child had a runny nose. Such a detrimental and endangering situation established for the child by the mother and the mother’s failure to maintain the child’s hygiene endanger the child’s physical health and safety and place the child at risk of serious physical harm, damage and danger.”

## II. Events Leading up to Jurisdiction Hearing

DCFS interviewed Mother prior to the June 24, 2016 jurisdiction hearing. Mother said that she had been living on Skid Row for two months and that she planned to leave her tent where it was, as it was what she could afford on government assistance. She said the people on Skid Row were her friends and they loved Minor because he danced when they played music. Mother said that the people on Skid Row “will not do anything to hurt” Minor. She denied that Skid Row was unsafe: “I feel safe



in my tent because there are good people and police walking around all the time.” Mother claimed the man the police saw swearing at and threatening her was just talking to her because she was depressed; she denied he had used profanity. She described her tent as secure, stating, “People respect what’s inside the tent and they don’t come and touch anything inside the tent.” When asked about the conditions around her tent, Mother responded, “I cannot control what happens outside the tent,” she said. “If there are rats, urination, or drugs the city has to clean that up, it is not my responsibility.”

Mother claimed that her tent was not dirty and that there was food inside because Minor had thrown it around, as two-year-olds are prone to doing. The police had arrived before she could clean it up. When the police appeared, Mother said, she was outside the tent preparing food she had just bought. She acknowledged that milk did spoil because she did not have a cooler; she did not like cold things. She bought new food every day. Mother said the officers had seen old food she was about to throw away; it was at the inside edge of the tent. Mother reported she kept sealed containers of baby food, crackers, cereals, and canned goods in the tent.

Mother acknowledged her dirty laundry was in bags inside the tent but said there was plenty of open space. Mother said that they did smell bad after walking and playing all day; they were about to change their clothes. Minor was barefoot so his dirty shoes would not soil the tent.

Mother agreed that Minor had a runny nose but attributed it to the change in the weather. She said he was not in any danger and she had given him medicine.

Mother told DCFS that she came to Los Angeles while she was pregnant, after she and Minor's father separated. Minor was born at home with the assistance of a midwife, then taken to a hospital for examination. Mother told DCFS that Minor had no birth certificate because "if I get it before he turns two he will be bonded to the United States debt. He can ask for his citizenship or green card before the age of sixteen."

DCFS's assessment of the family's situation was that Minor was living in an "unsanitary living environment" with ready access to dangerous drug paraphernalia. DCFS noted that Mother had engaged in verbal altercations with men in the area who had threatened her well-being. DCFS concluded that Mother lacked the insight to appreciate the impact of her decisions on Minor's health and safety, had no tangible plan to mitigate her situation, failed to recognize that Skid Row was not an appropriate place for Minor because of the prevalence of drugs and violence; and was under the impression that the people around her tent "are family friends who are not capable of harming her or her child." DCFS found Mother to have an "inability to identify the child's needs."

DCFS had attempted to stabilize the family's housing situation but Mother refused shelters and transitional housing, leading DCFS to conclude that Mother placed more importance on her desires and beliefs than on her son's needs. She chose to live in "a tent in skid row fully aware of the dangers that exist in that particular area. By doing so, mother exposed her child to drugs, criminal activity, inclement weather and diseases, especially due to his lack of immunizations. Though mother states that she cannot control the outside environment, if [she] wanted, she could control her child's exposure to environments

that are not conducive to her child's safety." DCFS found Minor to be in serious physical and emotional danger, and concluded that Mother's "inability to properly assess and understand how her current situation has affected her child requires the Department's continued intervention."

### III. June 24, 2016 Hearing

On the date set for the jurisdiction hearing, Mother advised the juvenile court that she now lived with a friend, Stephen Court, in Torrance. The court ordered DCFS to assess the home and to provide a supplemental report, but declined to order a full prerelease investigation because "[t]he issues in this case go a little bit—quite a bit beyond homelessness." The matter was continued to July 6, 2016.

### IV. July 6, 2016 Jurisdiction Hearing

Prior to the jurisdiction hearing DCFS evaluated Mother's new residence in Torrance, interviewed Mother, and spoke with Minor's paternal aunt. DCFS also contacted the Union Rescue Mission and learned that it did not turn away families that declined to vaccinate their children.

Court's home, which belonged to the Salvation Army, was clean and well-kept. Court, a Salvation Army employee from Canada with a two-year visa, had met Mother while praying with residents on Skid Row. He wanted to help Mother and Minor reunify, but when DCFS told him it could take an extended period of time, he "indicated that he would not feel comfortable making a 'contract' with the Department for the mother and child to stay in the home" and that he would need to observe the dynamics in the home before committing to a long-term stay.

Between the June 29 home assessment and the July 6 hearing, Mother slept at Court's home only twice. She was unwilling to commit to staying there, stating that it took too long to travel downtown from Torrance for services. When DCFS expressed concern that Mother could be using the Courts' address to regain custody of Minor without a plan for keeping him safe, Mother defended keeping Minor on Skid Row. Mother said, "There are other children in Skid row. My tent is in a place where it is safe and cleaner than other places in the area."

Mother told DCFS that she wanted to get a job and become independent, but when asked what steps she had taken toward that goal, she said, "I can't predict what's going to happen tomorrow. Only [G]od knows what will happen." She again declined transitional housing or shelters, stating that she had no job and no income, and she had to take care of her son. She told DCFS that she would go to a free shelter but "there is nothing out there."

Mother had told DCFS that Minor's father was Mi.F., but a woman identifying herself as Minor's paternal aunt reported that a DNA test had shown that Minor's father was Matthew C., who had passed away in March 2015. The paternal aunt told DCFS that Mother had said that the Torrance residence was temporary and that she would return to Los Angeles once she regained custody of her son. The paternal family offered to help Mother when Minor was detained, and the paternal aunt offered to care for Minor while Mother got back on her feet. Mother refused, telling them to mind their own business. She began threatening the paternal aunt when she learned she had contacted DCFS.

The paternal aunt was willing to care for Minor temporarily while Mother stabilized her housing and financial

situation, and, if Mother failed to reunify with Minor, she was willing to provide Minor with a permanent home. Because the paternal aunt lived in Northern California, DCFS expressed concern that such a placement would “create a barrier that will hinder mother’s reunification services because of the distance of this relative’s location,” and recommended placement with the paternal aunt only if Mother failed to comply with the case plan and continued to refuse services.

DCFS was concerned that if Minor was released to Mother, she would return to the conditions that led to his detention. Mother had provided an address that she did not intend to be permanent, and she had said she planned to return with Minor to Skid Row. She had not been telling the truth when she said that the Union Rescue Mission would not accept her because Minor was not vaccinated, and she had withheld Minor’s father’s identity and the existence of a paternal family that had offered to help her and Minor. Mother did not accept that her tent was in a dangerous location and considered the tent to be placed in the cleanest and safest area for her child. She had rejected several housing options that would have addressed her living situation “because they are not to her standards.” Her perspective, DCFS wrote, “clearly demonstrates that her issues are beyond her homelessness,” and her “continued disregard of [Minor’s] needs calls into question whether mother’s parenting ability is affected by her mental health or substance abuse.”<sup>2</sup>

At the jurisdiction hearing, the juvenile court received into evidence the various reports prepared by DCFS. Mother testified that on the day that Minor was detained, she was keeping her

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<sup>2</sup> Mother tested negative on a drug test given on May 24, 2016.

tent neat and clean, with a comfortable place for her son. They had just come from the playground and the grocery store, and she was packing and separating her food. Dry food could stay at the tent but not the perishables. Mother had just changed Minor's diaper, so he was wearing his shirt and a diaper. He was not wearing shoes because his shoes would bring dirt inside the tent. Minor was inside the tent playing with toys Mother had set out for him. The weather that day had been 71 degrees, with a low of 56 degrees.

Mother testified that Minor received regular medical care. She understood that because Minor was learning more than one language he might need language assistance. The doctor had said to return in two months for further speech assessments.

Mother testified that she did not deal drugs and had never been arrested for possession or sale of drugs.

Mother testified that shelters turned her away because of Minor and because she was not a citizen. The social worker had given her resources, but they were places she already knew and used. She explained her opposition to vaccination and said she could not stay in a shelter because she did not vaccinate Minor.

Mother said she was willing to stay at a shelter that did not require vaccination, "if you have a place where I can be alone with my child." She did not like the Union Rescue Mission Center and other shelters because she did not want to interact with others too much. She explained, "Because they can come, as mostly they do, they can come pull the hair of my child or pushing me around and if you have to interact or try to defend yourself, be sure that the workers will not come and rescue you, and that will be dangerous for my child because otherwise they will call the police, so what will happen to my child? They will

not defend me or something else.” The people she interacted with when she was living in her tent were “Christian people, they are people who don’t do drugs.”

Mother testified that she was living in Torrance with the Court family and that she could stay with them as long as she wanted. She would stay with the Courts until she found somewhere permanent. Mother admitted she had only stayed at the house twice since the assessment, but said that she was staying with friends on other nights. She initially refused to provide an address for these friends, but eventually she provided one first name and an address.

Mother testified she was looking for a place where she could have a job and be independent, somewhere near services because she did not have a car. She wanted a job she could do with Minor at her side, such as staying at a house in exchange for providing babysitting or cleaning services.

Court testified that Mother and Minor were welcome to stay with him as long as they needed. He had told the social worker that he was willing to be a foster parent to Minor but that he was not sure he would be eligible because he was in the United States on a two-year visa. He did not recall saying that Mother and Minor were not welcome to stay for an extended period of time; this was either a miscommunication on his part or a misinterpretation by the social worker.

Counsel for Minor and for DCFS argued in favor of dependency jurisdiction and removal. Minor’s counsel argued, “It’s one thing to refuse to live in a shelter because it opposes . . . your beliefs on vaccinations, but not wanting to interact with others in a shelter but interacting with them on the street to me is contradictory.” Mother’s counsel argued the

petition should be dismissed; in the alternative, she sought release of Minor to Mother's custody in the Court home.

The juvenile court sustained the allegations of the petition. It explained, "I think it's clear that if Mother was living in a stable home at this point we would not have this petition, but that does not mean that homelessness is the only issue. I think that Mother has made choices." The court noted that Mother had rejected help from the paternal family and shelter at the Union Rescue Mission. "The problem," the juvenile court said, "is not that she was just living in a tent, page 4 of the detention report talks about the police officer's observations that there was dirt and trash all over the floor, rats carrying disease, antifreeze liquid coolant on the floor, other types of chemicals in the potholes, urine and feces on the floor, drug paraphernalia, like pipes, razors, hypodermic needles accessible to the child, broken glass on the sidewalk. [¶] So I think that in terms of jurisdiction, there's more than enough to sustain the petition."

The court expressed an inclination to release Minor to Mother's custody on the condition that she live in Court's home, and it set the disposition hearing for July 26, 2016 so that DCFS could assess the residence for placement.

#### V. July 26, 2016 Report and Hearing

Before the July 26 hearing DCFS assessed Court's home for placement and discussed foster parenting with him; he was unwilling to become a foster parent. DCFS's report said nothing about the suitability of Court's home for placement or whether Mother could stay there with Minor.

DCFS reported that Mother had not enrolled in services and said she had no interest in them. She said she had



exhausted her resources for transitional housing. Mother also told DCFS that she did not regularly stay with Court because she had “business” in downtown Los Angeles. She refused to provide contact information for the friend with whom she was staying.

Mother had refused to register Minor’s birth, even though it could lead to more government assistance and was necessary for him to receive services. She explained that she wanted Minor to choose whether he wanted to be an American citizen when he was 16 years old. Mother believed that since she and Minor were not registered, they had no obligation to stay in the United States. When asked about her plans if Minor were released to her, Mother replied that she did not know because everything depended on her son’s health. DCFS believed that Mother intended to continue residing on Skid Row with her son, and it was concerned that Mother might flee with Minor based on her comment that they were not tied to the United States.

On July 26, the court continued the disposition hearing to permit DCFS to ascertain whether Court was willing to allow Mother and Minor to reside with him. In the meantime the court ordered Mother to sign consent forms to enroll Minor in Regional Center services and to sign any papers necessary to obtain a birth certificate for him.

## VI. August 12, 2016 Report and Hearing

At the August 12, 2016 disposition hearing, DCFS advised the court that despite the court’s order, Mother had refused to sign the Regional Center forms unless Minor was returned to her. Mother claimed that because she was an immigrant she could not register Minor and obtain his birth certificate. DCFS gave her documents and instructions for obtaining Minor’s birth

certificate. DCFS believed that Mother's consistent refusal to comply with court orders indicated that she failed to understand the severity of her situation.

Mother testified that she had not been given documents to sign concerning Regional Center services. She claimed she had been investigating those services and was told she had to "check things" and "get intake" for him. She said she would not refuse to sign a consent for services but that she had to "go through the papers and determine what is suitable," as the Regional Center offered many services she did not need. She testified she was unable to get a birth certificate for Minor as long as the dependency case was pending. When asked if she would sign documents to get a birth certificate for Minor, she said, "I have to read. I have to search, and I know the process and the process is long."

Mother was asked how often she had stayed with Court since the previous court hearing. Mother responded that when she was searching for work or for services she stayed in Los Angeles with her friends, but if she did not have an appointment or need services, she stayed with him. She said she would stay at Court's home if she had her son.

Court testified that Mother and Minor could stay in his home for as long as he lived there. He was not willing for Minor to live there without Mother. Court had no way to ensure that Mother would continue to live in his home, and if she chose to leave he would respect her decision. Court would, however, call DCFS if Mother did not spend the night at his home.

DCFS recommended suitable placement for Minor and monitored visits, random drug testing, a mental health evaluation, an individual counseling assessment, and parenting

education for Mother. If the court wished to assign educational and developmental services decision-making rights, DCFS advocated assigning them to the foster parent. Mother argued there was no clear and convincing evidence that Minor would be at risk in her care and requested his release to her in Court's home. Mother's counsel observed that she had not attempted to abscond with Minor and advocated unannounced visits to ensure his continued residence at Court's home. Mother opposed a mental health assessment and drug testing but said she would take parenting classes.

Minor's counsel recommended that Minor stay in a suitable placement; that Mother be ordered to complete a parenting program and a mental health evaluation; that educational and developmental services rights be transferred temporarily; and that supervised overnight visits in Court's home be instituted in the near future once Mother completed parenting education and submitted to a mental health evaluation.

The court said, "Well, I'll start with what brought the case to us. The child is found in a tent on Skid Row, one of the worst parts of Skid Row, razor blades, drugs, not appropriately dressed and next to her is a gentleman saying, 'I told you not to bring that kid here.' That is severe, severe risk to this child. I hope that we could find some way to cooperate with Mother. Mother will not sign anything asking the Regional Center to do an analysis until she decides whether the analysis is correct. I don't take from her testimony evidence that she is willing to help us with the birth certificate. The problem is . . . without any birth certificate, we don't know if she's the mother of this child. I think the child is in severe risk if not detained."

The court declared Minor to be a dependent child of the juvenile court and removed him from Mother's custody. The court's dispositional orders included the requirements that Mother undergo a mental health examination and a DNA test to establish that she was Minor's mother. The court set a hearing in 60 days to review the DNA test results, the mental health assessment, and Mother's compliance with the court-ordered case plan, "so we can evaluate whether it is possible to release the child to either overnight visits with Mr. Court and Mother or some other appropriate remedy."

At the close of the hearing, Mother told the court, "The child that you are putting so much for the birth certificate, the child have different identification. He has a baptized certificate. He have the medical card that I have already done." The court said those documents had not been produced and that she should consult her lawyer about them.

Mother appealed from the court's jurisdictional findings and dispositional orders.

## VII. Relevant Post-Disposition Events

On the same day as the disposition hearing, Mother filed a section 388 petition asking the court to return Minor to her custody because she had a baptismal certificate, Social Security card, and medical benefits card for him. She attached photocopies of a California Benefits Identification card and Social Security card. The court denied the petition without a hearing.

In September 2016, at a hearing concerning Mother's medical decision-making rights, Mother's counsel told the court that Mother believed all actions in the case should stop because she had filed an appeal. The court advised Mother that without a

stay an appeal did not suspend the court's orders. The court told Mother that she was ordered to undergo a DNA test and comply with its other orders, and that her failure to do so could be contempt of court. The court set a 30-day progress hearing and advised Mother that it would hold her in contempt if she failed to comply with its orders.

Mother did not comply. In a last minute report prepared for the court for the October 11, 2016 progress hearing, DCFS detailed Mother's failure to obtain a birth certificate for Minor and her refusal to participate in the DNA testing. Without further discussion, DCFS referred the court to two attached documents, an emergency medical services report and a newborn screening report from the date of Minor's birth. The medical services report reflected that the Los Angeles County Fire Department had responded to a woman in labor on April 24, 2014, delivered the baby boy described as "Baby Boy [Mother's last name]," and transported Mother and baby to the hospital. The newborn screening report for "Baby Boy [Mother's last name]" showed that the baby had been admitted on the day of his birth to St. Francis Hospital Medical Center. Mother was listed as the baby's mother.

These birth reports were not discussed at the October 11 hearing, and Mother did not request the court reconsider its order for the DNA test on the basis of the new evidence about Minor's birth. Instead, Mother's counsel informed the court that she knew about the DNA testing order but "does not want to pursue" it.

The court told Mother's counsel, "The case plan is an order by the Court. I made that order in Mother's presence. She knew what it is. She knows what it is now. I don't know at this point

in time—and I think [counsel for DCFS] shares this question. I don't know if this is the mother. I've never made a maternity finding here. I can't understand why Mother if she is the mother would not want to clear that up right away. So at this point I don't know that Mother is the mother."

The court warned Mother the time period for reunification services was dwindling, and if she continued to refuse to comply with court orders it was likely that her reunification services would soon be terminated, a permanent plan identified, and a selection and implementation hearing set. The court continued, "I need you to understand these things because I've bent over backwards trying to help you understand these things[,] trying to explain to you why I've made the orders that I made, and all I get every time you come back in is you're in contempt because you're just refusing to obey my order. I'm not finding you in contempt of court because I don't think there would be any purpose in that, but I am limiting Mother's visits to one time a week, one hour . . . ."

Mother's counsel and Minor's counsel objected to the limitation on Mother's visits. The court said, "[T]he point is that Mother is not going to follow the Court's orders. Now I have—and particularly in a situation where I have no assurance that Mother is the mother. I think that's an appropriate order."

Mother filed a notice of appeal.

#### VIII. Guardianship Petition

On February 8, 2017, the date of the review hearing pursuant to section 366.21, subdivision (e), Mother petitioned the court to name her friend as Minor's guardian until Mother regained physical custody of him.

At the time Mother no longer lived with the Courts, and her residence was unknown. She had not complied at all with the case plan. She told DCFS, “I don’t feel it is dangerous to live on the street.”

The court denied Mother’s petition. Mother appeals.

## **DISCUSSION**

### **I. Jurisdiction**

Mother contends there was insufficient evidence to support the juvenile court’s determination that Minor came within the jurisdiction of the court under section 300, subdivision (b). We review the juvenile court’s jurisdictional findings and dispositional orders for substantial evidence. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) Substantial evidence is “evidence which is reasonable in nature, credible, and of solid value.” (*Ibid.*) Under this standard of review, we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. (*In re Tania S.* (1992) 5 Cal.App.4th 728, 733.) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the juvenile court’s order, resolving all conflicts in support of the determination and indulging all legitimate inferences to uphold the lower court’s ruling. (*In re John V.* (1992) 5 Cal.App.4th 1201, 1212.)

Substantial evidence supported the juvenile court’s finding that Minor was at substantial risk of suffering serious physical harm or illness as a result of Mother’s inability to protect him. Minor and Mother were living in hazardous conditions. Not only

was the tent in which they were living cluttered with spoiled food and trash, but it was erected in an area that was filthy with human feces and urine, and infested by rats. Violent crime, property crime, and drug transactions were common. Minor had ready access to drug paraphernalia and broken glass on the sidewalk around the tent, and dangerous chemicals filled potholes on the streets. Minor was highly likely to encounter these dangers: as is common with two-year-olds, he wandered away from his mother and did not return when summoned.

Mother refused to acknowledge the dangers presented by Minor's presence on Skid Row. Skid Row, she said, had "good people and police walking around all the time." She described the people on Skid Row as her friends and insisted that they loved her son and would never harm him. She appeared not to perceive that she was being threatened by another Skid Row resident. Mother maintained that the people amongst whom they were living were "Christian people, they are people who don't do drugs," despite the prevalence of drug use and trafficking in the area. Mother attributed the multiple referrals made to DCFS about Minor to jealousy.

Minor was at substantial risk of illness from the unsanitary conditions and at substantial risk of injury from the dangerous surroundings and criminal activity in the area, and Mother's persistent extreme discounting of the hazards left her unable to mitigate these dangers or protect her child from them. Over and over she declined assistance that would have allowed her to remove her son from this dangerous environment. Mother elected to remain on Skid Row with Minor despite being offered a hotel voucher followed by permanent housing. She refused transport to the home of the person she said she lived with. With



the exception of a four-day hotel stay, Mother refused every time she was offered a shelter or transitional housing, and she gave false accounts of being excluded from the Union Rescue Mission to justify her refusal to accept the services that organization offered her. Aware of Mother's aversion to the Union Rescue Mission, DCFS referred her to other shelters that were specifically maintained for women and children, but she declined to consider them as well. Mother was only willing to live in a shelter that provided her separate private lodgings so that she would not have to interact with others. Minor's paternal family offered assistance to Mother and had even offered to provide care for Minor while Mother got back on her feet. Mother refused this too. She would not even allow her tent to be moved to a safer area. Once Minor was detained, she declared that she would return with him to her tent on Skid Row as soon as she regained custody of him, despite having safe housing available to her in the Court home.

This evidence was sufficient to establish that Minor and Mother were living on the streets in Skid Row not because of poverty, homelessness, or the unavailability of shelter, but because Mother wanted to remain there. As the juvenile court said, "I think it's clear that if Mother was living in a stable home at this point we would not have this petition, but that does not mean that homelessness is the only issue. I think that Mother has made choices." It was not that living in a tent was a problem per se, the court said, but that Mother rejected safe housing and chose to subject Minor to an environment with "dirt and trash all over the floor, rats carrying disease, antifreeze liquid coolant on the floor, other types of chemicals in the potholes, urine and feces on the floor, drug paraphernalia, like pipes, razors, hypodermic

needles accessible to the child, broken glass on the sidewalk.” Substantial evidence supported the juvenile court’s determination that Minor was at a substantial risk of suffering physical harm and/or illness as a result of the failure or inability of Mother to adequately supervise or protect him.

Mother argues, however, that the juvenile court took jurisdiction over Minor because she was homeless. The lack of emergency shelter for a family is insufficient on its own to establish dependency court jurisdiction. (§ 300, subd. (b) [a child “shall not be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family”].) Moreover, “poverty alone, even abject poverty resulting in homelessness, is not a valid basis for assertion of juvenile court jurisdiction.” (*In re G.S.R.* (2008) 159 Cal.App.4th 1202, 1212.) Here, however, Mother was not without emergency shelter, and the court did not exercise jurisdiction over Minor because they were poor or homeless: The court found the existence of jurisdiction because Mother exposed Minor to substantial risks of physical illness and injury while denying that any risk existed and categorically rejecting shelter, transitional housing, permanent housing, and all other options that would have spared him from the dangers their living situation presented.

Mother next contends that her ineligibility for group shelters due to her decision not to vaccinate Minor, a decision protected by her right to parental autonomy, is not sufficient to establish juvenile court jurisdiction. The record, however, demonstrates that the shelter Mother claimed had rejected her for the refusal to vaccinate actually did not turn families away if the children had not been vaccinated. Moreover, Mother does not identify any respect in which the record indicates that her

decision not to vaccinate Minor was the basis for exercising dependency jurisdiction; the cases she relies on concerning when juvenile court jurisdiction may be exercised based on a parent's failure to provide medical treatment are therefore inapplicable here. DCFS expressed concern that Mother's choice not to vaccinate Minor heightened the risk that he would become ill from the unsanitary conditions in which he was living, but the lack of vaccinations was neither mentioned in the allegation of the dependency petition nor identified as a basis for jurisdiction.

Mother next contends that jurisdiction could not properly be based on the facts that Minor wore dirty clothes, was dirty, and had a foul odor; that he was wearing light clothing and no shoes on a cold day; that he was exposed to old, spoiled food, and that the area around the tent was dirty and dangerous. She argues that Minor's absence of injuries demonstrated that he had been well-supervised and Mother had kept him away from the dangerous objects outside the tent, and that no one had actually seen Minor barefoot outside. She contends that the weather was not actually cold when Minor was dressed lightly. The conditions in the tent could not justify jurisdiction, she argues, because there was no evidence that Minor had been made sick by spoiled food or was hurt by the items stacked haphazardly in the tent. She contends that Mother had "reasonable explanations" for the state of her tent. With these arguments Mother is essentially inviting this court to reweigh the evidence and resolve conflicts in her favor, but we cannot do so. "We must resolve all conflicts in favor of the court's determination, and indulge all legitimate inferences to uphold the court's order. Additionally, we may not substitute our deductions for those of the trier of fact." (*In re John V.*, *supra*, 5 Cal.App.4th at p. 1212.)

Mother argues that the facts here are not as extreme as those in *In re Jeannette S.* (1979) 94 Cal.App.3d 52, in which jurisdiction was affirmed over a child who wore clothes that smelled of urine and was regularly unsupervised in a filthy home with animal feces on the floor. Mother distinguishes the facts here by saying that Minor “was not walking in feces in his home (the tent) nor unsupervised in an empty home,” but the facts of the *In re Jeannette S.* case do not establish minimum conditions for jurisdiction. *In re Paul E.* (1995) 39 Cal.App.4th 996, the other case upon which Mother relies to argue that jurisdiction is not appropriate here, is inapposite because it concerned the higher standard of clear and convincing evidence to justify removal of a dependent child, not whether jurisdiction was proper.

Finally, Mother argues that jurisdiction was improper because by the time of the jurisdiction hearing she had a safe place to stay and there was no current risk to the child. While Mother did present evidence that Court had offered her housing, there was also evidence that Mother intended to return Minor to the hazardous conditions on Skid Row. Mother would not agree to a long-term stay at Court’s home. She told the paternal aunt that she was only at Court’s residence temporarily until she gained custody of Minor, and then she would return to downtown Los Angeles. When DCFS raised the possibility that Mother might be using Court’s address to regain custody without a plan for keeping Minor safe, Mother defended keeping him on Skid Row, noting that other children lived on Skid Row and stating that her tent was in a place that was safe and cleaner than some. Mother has not established any error.

## II. Removal

Mother argues there was insufficient evidence to support Minor's removal from her care. Section 361, subdivision (c)(1) permits removal of a child from the physical custody of a parent with whom the child resides only if the 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-being" of the child if the child were returned home and "there are no reasonable means by which the minor's physical health can be protected without removing" the child from his or her parent's custody. We review removal orders at disposition for substantial evidence, bearing in mind the clear and convincing evidence standard of proof at the juvenile court level. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654.) We conclude that substantial evidence supports the removal order.

### A. Risk to Minor

Mother argues there was insufficient evidence Minor would be in danger if he were returned to her. Mother argues that various circumstances posed no risk to Minor, but none of her arguments demonstrate that the removal order was not supported by substantial evidence. For instance, Mother observes that Minor had not been "hurt by sleeping in a tent on [S]kid [R]ow, or hurt by razor blades, hazardous chemicals, or drugs," but "the child need not have been actually harmed for removal to be appropriate." (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) Mother also contends that there was "no evidence he was inappropriately dressed for the weather, or that he was at risk of harm from the man who was speaking rudely to his

mother,” but there was evidence that Minor was not dressed warmly enough and that Mother was being threatened by an irate man. We must “indulge all legitimate inferences to uphold the court’s order.” (*In re John V.*, *supra*, 5 Cal.App.4th at p. 1212.) Even if Mother’s assertions about the state of the evidence were accurate, however, there remained abundant evidence of a substantial danger to Minor’s physical health, safety, protection, or physical or emotional well-being if he were returned to Mother’s custody: Mother rejected permanent housing and chose to remain in living conditions that placed him at substantial risk of serious physical harm and/or illness, and she intended to return Minor to those hazardous conditions when she regained custody of him.

Next, Mother contends that a speech delay is not sufficient evidence to remove a child from the home, but this was not the basis for Minor’s removal. At disposition, after discussing the “severe, severe risk” posed to Minor by the conditions in which he was living, the court stated that although it had hoped “that we could find some way to cooperate with Mother,” she “will not sign anything asking the Regional Center to do an analysis until she decides whether the analysis is correct.” This statement cannot reasonably be understood as a ruling removing Minor from Mother because he had a speech delay or because she would not sign a consent form. Rather, the court appears to have been setting out the bases for its dispositional orders prior to announcing them. The court, therefore, (1) described the risk to Minor; (2) noted that Mother was frustrating the assessment of Minor’s speech delay and his eligibility for early intervention

services;<sup>3</sup> and (3) observed that Mother continued to be unwilling to assist in obtaining a birth certificate for Minor. The court then reiterated that Minor was in “severe risk” if not removed<sup>4</sup> and made its orders: (1) Minor would be removed from Mother and suitably placed; (2) Mother’s educational and developmental decision-making rights would be limited and transferred to Minor’s caregiver; and (3) Mother (as well as the purported paternal relatives) would be required to prove a biological relationship to Minor by undergoing a DNA test. Mother has not demonstrated any error in Minor’s removal from her care.

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<sup>3</sup> By his own pediatrician’s evaluation, Minor was overdue for further language assessment. In April 2016, Minor’s pediatrician had observed his speech delay and instructed Mother to bring him back in two months for an evaluation and further referrals. As Mother testified, the pediatrician told her, “[A]fter two months you come back with the child and we see the progress that he have and after I [the doctor] will recommend where he can go and get assessed again.” The disposition hearing took place in August 2016, two months after Minor should have been evaluated again. To the extent that Mother intends to challenge the order that she sign consent forms with her argument that “the court had no basis for requiring that Mother sign a consent for Regional Center services for her son because there was no reason to believe his needs were being neglected such that Regional Center services were required,” the court’s order was amply supported by this evidence of a speech delay and the need for assessment for early intervention services.

<sup>4</sup> The court actually said he was “in severe risk if not detained,” but in context it is clear the court was discussing removal.”

## B. Supervision

Mother next argues that Minor should not have been removed because there was no evidence that placing him with Mother under DCFS supervision would have been insufficient to ensure his safety. Court testified that Mother and Minor could stay with his family, and Mother testified that she would stay at the Court home with Minor. Mother's counsel also represented that Mother would "submit to the case plan and would be willing to enroll in services on the condition that . . . the child is released to Mother in the home of Mr. Court."

As we have already discussed, however, Mother was not staying regularly with the Courts, and she would not commit to a long-term stay. She planned to return to her former living situation once she regained custody of Minor. She had not enrolled in services and had no interest in them. Mother also said she had no obligation to stay in the country, raising the possibility that she would flee with Minor. "It is the [juvenile] court's role to assess the credibility of the various witnesses, to weigh the evidence[,] to resolve the conflicts in the evidence. We have no power to judge the effect or value of the evidence, to weigh the evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence. [Citation.] Under the substantial evidence rule, we must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact. [Citation.]" (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.) The court was entitled to give greater weight to Mother's out-of-court statements and conduct than to her testimony that she would stay at the Court residence. There was substantial



evidence to support the court's conclusion that removal was necessary, and we decline Mother's invitation to reweigh the evidence and substitute our judgment for that of the juvenile court.

### C. Reasonable Efforts

Mother argues that the court erred in finding that DCFS made reasonable efforts to avoid removing Minor from Mother's custody as required by section 361, subdivision (d). She first asserts that reasonable efforts could not have been made because Minor could have been protected in her care by using means less drastic than removal. She suggests that the court could have ordered her to comply with the required services and to advise DCFS if she intended to move. She argues that she "made efforts to comply with some of [DCFS's] requests" and said she would participate in services on the condition that she had custody of her son. Mother contrasts this case with *In re Stephen W.* (1990) 221 Cal.App.3d 629, in which the social worker had explored possibilities other than detention before detaining the child. She complains that the social worker who detained Minor, Lopez, did not explore the possibilities of a nondetained petition or voluntary services with staff supervision, and did not consider all assessment issues. She claims Lopez "went along with the police" and detained Minor without making a good faith effort to handle the matter constructively and by means other than detention.

Substantial evidence supported the juvenile court's finding that reasonable efforts were made to prevent or eliminate the need to remove Minor from Mother. DCFS worked for several weeks with Mother to provide supportive services and to avoid detention, and at first did not observe conditions indicative of a

failure to protect Minor. Notably, at that time DCFS was unaware that Mother was lying when she represented to DCFS that she and Minor were sleeping in the home of a friend and that they were ineligible to stay in shelters. Mother had not yet been observed being threatened on Skid Row, DCFS had not yet seen the conditions inside Mother's tent, and it was not yet known that Mother was intent upon staying on Skid Row with Minor. Later investigations and observations revealed that detention of Minor was necessary, and as we have already discussed, by the time that the court ordered removal, the court had substantial evidence that Mother would not participate in services or comply with DCFS's requests; she would not commit to residing in the safe housing available to her once Minor was returned to her; she refused to acknowledge the risks Minor's living situation posed; she was determined to return Minor to Skid Row; and she was a potential flight risk. In light of this evidence we cannot say that the court erred when it concluded that less drastic means such as Mother's proposed court orders would not have protected Minor.

### **III. Order for DNA Testing/Limitation on Visitation**

Mother appeals the order requiring her to undergo DNA testing and the court's subsequent limitation on her visitation when she did not comply. DCFS takes no position on these claims.

Mother does not argue, nor could she, that the court abused its discretion when it ordered the DNA test at disposition on August 12, 2016. At the time of that hearing, Mother had refused to sign the papers necessary to obtain a birth certificate despite being ordered to do so by the court. She had misrepresented the

father of the child to DCFS and the court despite a previous DNA test that identified the child's actual father. Under questioning by the court she would not unequivocally agree to sign the appropriate birth registration papers, leading the court to say, "I don't take from [Mother's] testimony evidence that she's willing to help us with the birth certificate. The problem is . . . without any birth certificate, we don't know if she's the mother of this child."

Mother argues that the documents attached to DCFS's last minute information report on October 11, 2016, made the court's earlier August 12, 2016 order an abuse of discretion. We cannot review the court's order based on evidence not provided to it until two months after the order. (*In re Zeth S.* (2003) 31 Cal.4th 396, 405 ["an appeal reviews the correctness of a judgment as of the time of its rendition, upon a record of matters which were before the trial court for its consideration"].)

The documents attached to the October report, an emergency medical services report and a newborn screening report from the date of Minor's birth, provided a strong basis for asking the court to reconsider its order requiring Mother to take a DNA test. Mother, however, never asked the court to do so. At the October 11 hearing, Mother told the court that she refused DNA testing; but she did not bring the reports to the court's attention, ask the court to recognize her as Minor's biological mother, or ask to be relieved from the testing requirement. Even when the documents were discussed in court, on February 8, 2017, Mother still did not request revocation of the testing order. Mother cannot show that the court abused its discretion by declining to grant a request she never made.

We next consider the juvenile court's October 11 order restricting Mother's visitation. "Visitation is a necessary and integral component of any reunification plan. [Citations.] 'An obvious prerequisite to family reunification is regular visits between the noncustodial parent or parents and the dependent children "as frequent[ly] as possible, consistent with the well-being of the minor.'" [Citation.]" (*In re S.H.* (2003) 111 Cal.App.4th 310, 317.)

Here, it appears that the juvenile court based its limitation of visitation not on an assessment of Minor's well-being but as a penalty for Mother's refusal to comply with its orders: The court said it would not find Mother in contempt of court because it would be pointless; instead it would limit her visitation to one hour per week. Both Mother's and Minor's counsel objected that there was no evidence visitation was detrimental to Minor. The court responded, "Well, the social worker's report is slightly to the contrary. But the point is—[¶] . . . [¶] that Mother is not going to follow the court's orders. Now I have—and particularly in a situation where I have no assurance that Mother is the mother. I think that's an appropriate order."

In the social worker's report the court mentioned, DCFS reported, "The mother has yet to miss a visit with child. It has been reported that the visitations are appropriate with little concern. However, it has been reported that mother lacks boundaries with the child and does not provide structure during the visits." To the extent that the court attempted to justify its order on the basis of the quality of Mother's visits, appropriate visits generating little concern, even without structure or boundaries, cannot support a conclusion that Minor's well-being

would be better served by cutting back visits with his mother by two-thirds.

The court's words, moreover, demonstrate that the quality of Mother's visits was not the basis for its ruling—"the point" underlying its order, the court said, was that Mother would not comply with its orders. In the absence of evidence demonstrating that Mother's noncompliance negatively affected Minor's well-being, this is not a legitimate basis for restricting visitation.

The visitation order, however, has long since been superseded by subsequent orders.<sup>5</sup> In mid-May 2017, Minor was placed in the home of the paternal aunt in Northern California, with Mother permitted to visit once per month for four hours. On May 26, 2017, Mother's visitation and telephone contact with Minor were suspended. The court reinstated visitation on June 6, 2017, ordering Minor to be transported to Los Angeles twice per month for a two-hour visit. Minor's section 388 petition was granted on July 18, 2017, and the court ordered one four-hour visit per month if Minor was brought to Los Angeles, or two four-hour visits per month if Mother traveled to San Francisco. Two weeks later, at the August 1, 2017 hearing at which the court terminated Mother's reunification services, the court ordered that Minor did not have to travel to Southern California for visits, and gave Mother twice-monthly visits in San Francisco. Mother's challenge to the October 11, 2016, visitation order is accordingly

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<sup>5</sup> Post-judgment evidence is admissible for the limited purpose of determining whether any subsequent developments have rendered an appeal partially or entirely moot. (*In re F.S.* (2016) 243 Cal.App.4th 799, 807, fn. 6.) We take judicial notice of the court's minute orders of May 12, 2017; May 26, 2017; June 6, 2017; July 18, 2017; and August 1, 2017.

moot. (See *In re Pablo D.* (1998) 67 Cal.App.4th 759, 760-761 [appeal is moot when no effective remedy can be fashioned].)

## **V. Guardianship Request**

The juvenile court rejected Mother's guardianship petition, filed on the day of the section 366.21, subdivision (e) review hearing, because it was "not a proper petition for these proceedings." The court observed that while a procedure existed for seeking a guardianship under section 360, subdivision (a), the request had to be made "before reunification services were granted." Mother, the court said, therefore did not have "standing" to make a guardianship request at this point in the proceedings. The court also said that the petition would have had to have included a waiver of "parental rights," and said it would not consider the "totally unsupported" petition.

Section 360, subdivision (a), upon which Mother relies, offers the juvenile court three choices at disposition: "After receiving and considering evidence on the appropriate disposition, the juvenile court may (1) order a legal guardian be appointed for the child (§ 360, subd. (a)); (2) order informal services without adjudicating the child a dependent (*id.*, subd. (b)); or (3) adjudge the child a dependent of the juvenile court (*id.*, subd. (d))." (*In re G.W.* (2009) 173 Cal.App.4th 1428, 1436.) Section 360, subdivision (a), "is 'an alternative procedure for appointing a guardian when the parent acknowledges early in the dependency proceedings that he or she cannot, and will not be able to, even after family reunification services, provide adequate care for the child.' [Citation.]" (*In re L.A.* (2009) 180 Cal.App.4th 413, 425.)

At the August 2016 disposition hearing, when a petition for guardianship would have been timely, Mother did not decline reunification services and seek a guardianship for Minor. On that date the court selected the third option provided by section 360(d) and declared Minor a dependent child of the juvenile court. Reunification services were then made available to Mother for months, although she refused to participate. Only at the close of the reunification services period did Mother attempt to name a guardian for Minor. The court properly refused Mother's untimely petition.

### **DISPOSITION**

The appeal from the October 11, 2016 order limiting Mother's visitation is moot. In all other respects, the judgment and orders are affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.