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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re S.V., a Person Coming Under  
the Juvenile Court Law.

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LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Sheila C.,

Defendant and Appellant.

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B270556

(Los Angeles County  
Super. Ct. No. CK97933)

APPEAL from an order of the Superior Court of Los  
Angeles County, Annabelle G. Cortez, Judge. Affirmed.

Michele Anne Cella, under appointment by the Court of  
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel and Tracey F. Dodds, Deputy County Counsel for Plaintiff and Respondent.

Gabriela Horowitz Shapiro for the Minor.

## I. INTRODUCTION

Sheila C., the mother, appeals from the juvenile court's February 5, 2016 dispositional order. The dispositional order declared the child, S.V., to be a dependent child of the court under Welfare and Institutions Code, section 360.<sup>1</sup> The dispositional order directed the mother to participate in counseling. The mother argues the juvenile court's counseling order was an abuse of discretion. We affirm the dispositional order.

## II. PROCEDURAL HISTORY

On January 6, 2016, the Department of Children and Family Services (the department) filed a petition under section 300, subdivisions (a) and (b). The petition, as amended, alleges the child is at risk of suffering serious physical harm because the father, Elias V., mistreats his female companion, Nereida H. The petition, as amended, alleges: the father has a history of engaging in violent altercations in the child's presence; the father physically abused Nereida's 15-year-old child; and the father used inappropriate physical discipline on Nereida's 9-year-old son. Finally, as amended, the petition alleges Nereida placed a knife next to her stomach. This occurred in the child's presence. As a result, the child intervened on Nereida's behalf. On January

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code except where otherwise noted.

6, 2016, the juvenile court detained the child. But the child was released to the mother's custody.

On February 5, 2016, the juvenile court sustained the amended petition and declared the child to be a dependent minor. The child was placed in home of the mother under the department's supervision. The juvenile court ordered the department to provide family maintenance services. The juvenile court ordered the mother to participate in "individual counseling to address case issues" including past domestic violence and parental discord. In addition, the mother was ordered to follow up and ensure the child's consistent attendance in therapy and all medical and mental health services. Custody was taken from the father, enhancement services were ordered for him and he was granted monitored visits.

### III. EVIDENCE

#### A. The Child Was Exposed to Domestic Violence During the Marriage

The child was born in 2007 to the mother and the father, who were married and living together. The child was exposed to domestic violence, including the father's physical and emotional abuse of the mother. The father hit the mother on many occasions. These assaults occurred even while the mother was pregnant with the child. The father constantly insulted the

mother, called her names and screamed and yelled at her. The mother was too frightened to call the police.

The mother would leave father and come back to him. Even after they divorced in 2009, the mother returned to him in order to give the father another chance. The last time they lived together was in 2011. The mother filed a restraining order petition, but did not pursue it after the father tampered with her tires to prevent her from going to a hearing.

**B. The Child Was Exposed to Verbal Domestic Violence and Conflict Between the Parents After the Parents Separated**

The parents were engaged in a custody dispute concerning custody and visitation. A December 19, 2012 family law order granted the father visitation on the first, third and fifth weekends of each month. The exchange was to take place at a school or at a police station. The parents frequently engaged in arguments in the child's presence. The parents would raise their voices at one another during these arguments. The mother would become upset. The father frequently argued with school personnel in the child's presence and was belligerent to mother during visitation exchanges. The child stated the father asked inappropriate questions about the mother. And the father made derogatory comments about the mother to the child. The father told a social worker, "She told me that her mother is always asking how things are at my house . . . ." ~

The parents did not agree on how to raise the child. The mother accused the father of being violent and harassing her. And the father accused the mother of refusing to discuss his concerns regarding the child. The mother stated that, since they separated, “[She and the father] have not been able to have a normal conversation regarding their daughter because he is always looking for an argument.”

The department detained the child on February 22, 2013. The child was released to the mother. The department filed a section 300 petition following allegations by the father that the mother neglected the child’s hygiene. (This is not the petition which is the subject of the present appeal.) And the petition alleged the father engaged in ongoing abusive behavior toward the mother that caused the child emotional distress. The mother agreed to participate in services offered by the department. The juvenile court dismissed the petition, as it appeared to the department the matter was a custody dispute that belonged in family court.

C. The Child Was Exposed to Conflict Involving the Mother and  
Nereida

The father lived with Nereida and her two children. The father’s visitation with the child occurred in this home. The child was exposed to verbal and physical domestic violence that the father perpetrated against Nereida. Also, the child saw acts of

domestic violence by the father directed at Nereida's two children. The child did not feel safe in the father's home. In December 2015, Nereida held a knife to her stomach and threatened to kill herself because she was angry with the father. The child intervened and pulled the knife away. The parents' custody dispute included "acrimonious back-and-forth" between the mother and Nereida. Nereida and the father accused the mother of making false domestic violence allegations.

In July 2015, Nereida filed a temporary restraining order petition against the mother. Nereida alleged the mother came to the hospital when father was seeking treatment in the emergency room for a severe headache. There, the mother got into an argument with father and Nereida. The mother refused to leave the hospital. Nereida sought the help of a security guard. The mother then approached Nereida from behind. Nereida was then pushed so hard she hit a table. A nurse summoned a security guard. The child, who was present, was frightened and cried. According to Nereida: "[The mother] has a history of harassing me and creating problems for me. She shows up at our home, yells, screams, and makes scenes." Nereida also complained to a social worker, "She knows where we live and she constantly threatens us."

In response to the temporary restraining order petition filed by Nereida, the mother stated as follows. On July 15, 2015,

the child was visiting the father. The mother called to see how the visit was going. The mother telephoned because the child had many problems with the father and Nereida. Later that day, the mother called father to talk to the child. But the father refused to allow the child to speak to the mother, stating they were in an emergency room. Thinking something had happened to the child, the mother went to the hospital. Nereida saw the mother. According to the mother's declaration, "When I got to the room where my daughter was, Nereida was there and she right away started screaming: POLICE, POLICE, HELP ME SHE IS MAKING PROBLEMS." The mother held the child. Nereida pushed the mother. Also, the mother stated she was insulted many times. The mother's declaration also states: "[Nereida] doesn't like [the child] in any way, she hates her, she insults her, she makes fun of her, she calls her stupid pig, she tels [sic] her she is as fat as a bomb and insults her. Every time [the child] gets to the house, she makes her take a shower and tells her that I have benerial deceases [sic][:] she also tells my daughter not to drink from their glasses in their home because I kiss many men. She also calls her stupid and tells her that she is the one that makes all the problems in her home. She has gotten her [daughters] to hate my [daughter] and do bullying on her too. . . . [Nereida] is a very violent woman and I am also very scared that she might do bad things to my daughter, she already does, she



puts her to sleep on the floor without a blanket, she starves her too. . . . I don't want her near [the child] or me." On August 14, 2015, after testimony from the mother, the father and Nereida, the requested restraining order was issued. The restraining order protecting Nereida and her two children would expire in three years.

#### D. The Conflict and Domestic Violence Has a Detrimental Effect on the Child

According to department filings, the parents argued about the child. The conflict caused the child to experience "headaches, shakes and stomach aches" and then to cry. At times, the child's heart raced and hurt and she suffered from anxiety, constant nightmares and fear of being alone. The symptoms started when the parents separated. The child began receiving counseling in 2013 to address her symptoms. The therapist, Ana Tapia, stated, "[The child] has a feeling of not 'being good enough and not being able to perform up' to [the] father['s] or mother's standards." On January 28, 2016, Ms. Tapia stated, and psychological testing confirmed, that the child's symptoms were not improving.

#### IV. DISCUSSION

The mother contends the juvenile court's counseling order is an abuse of discretion because it is not designed to eliminate any of the conditions that led to the dependency. She argues there is no evidence of deficiencies in her parenting that

counseling would correct. We respectfully disagree.

Section 362, subdivision (d) identifies the requirements that may be imposed on parents as part of the dispositional order: “The juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out this section . . . That order may include a direction to participate in a counseling or education program[.] . . . The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the child is a person described by Section 300.” The juvenile court’s discretion in fashioning a dispositional order is as follows: “The juvenile court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order in accordance with this discretion. [Citations.] The court’s determination in this regard will not be reversed absent a clear abuse of discretion.” (*In re Jose M.* (1988) 206 Cal.App.3d 1098, 1103-1104; see *In re I.G.* (2014) 226 Cal.App.4th 380, 386-387.) Our Supreme Court has explained: “‘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.’ [Citation.]” (*In re*

*Stephanie M.* (1994) 7 Cal.4th 295, 318-319; see also *In re D.B.* (2013) 217 Cal.App.4th 1080, 1088-1089.)

To begin with, there is no merit to the mother’s argument that a dispositional order can only address the issues that caused the commencement of the dependency proceedings. The Courts of Appeal have held: “The problem that the juvenile court seeks to address [in a dispositional order] need not be described in the sustained section 300 petition. . . . In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order. (See [*In re I.A.* (2011) 201 Cal.App.4th 1484,] 1492 [‘A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established.’].) [¶] . . . [¶] At disposition, the juvenile court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children. . . . Instead, the court may consider the evidence as a whole.” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311.)

The dispositional order the mother objects to requires her to participate in “individual counseling to address case issues” including but not limited to past domestic violence and parental discord. The emotional and physical toll on the child from the family conflict, against a backdrop of domestic violence, was one

of the conditions that led to the dependency proceedings. Here, there is evidence when the father lived in the home, the mother was the victim of constant verbal abuse in the child's presence that at times escalated to physical violence. The verbal confrontations continued after the parents separated. The mother played a role in this scenario—she participated in arguments, became upset and raised her voice.

The evidence also establishes a high degree of current discord between the mother and the father. And there is a substantial level of animosity between the mother and Nereida who sided with the father. The parents constantly argued about the child. They were unable to have a conversation or discuss their differences concerning the child's upbringing. The mother was an active participant in the conflict and engaged in conduct detrimental to the child. The mother participated in escalating arguments with the father and Nereida in the child's presence. One angry confrontation escalated to the point the mother pushed Nereida into a table. In 2015, the superior court issued a three-year long restraining order against the mother protecting Nereida. The order extended to Nereida's two children. The mother regularly questioned the child about how things were in Nereida's home and appeared during visitation. And the mother would call during visitation to check on the child.

There is evidence the discord and mutual mistrust was harmful to the child. The child was increasingly anxious and sad and she experienced painful, frightening physical symptoms of these feelings. The child felt she was caught in the middle of what was going on between the parents. The child felt she was not good enough and could not meet her parents' expectations.

No abuse of discretion occurred. The challenged order is a reasonable response to the fact specific aspects of this case. Counseling is in the child's best interest because it will help the mother address the discord and be better able to co-parent. Moreover, the conflict, which must stop, has led to physical violence in the child's presence. The juvenile court-ordered counseling is designed to: have the mother address her role in the conflict; help the mother understand the effects of the discord on the child; and assist the mother handle the conflict in a positive way. It is reasonable to conclude that both the mother and the child will benefit from the counseling order. The counseling order is well within the juvenile court's discretionary authority.

V. DISPOSITION

The order under review is affirmed.

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TURNER, P.J.

We concur:

BAKER, J.

KUMAR, J.\*

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