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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re L.C. et al., Persons Coming  
Under the Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

LEONARDO C.,

Defendant and Appellant.

B275540

(Los Angeles County  
Super. Ct. No. DK08781)

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

Karen B. Stalter, under appointment by Court of Appeal,  
for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, and Sally Son, Senior Associate  
County Counsel, for Plaintiff and Respondent.

\* \* \* \* \*

Leonardo C. (father) appeals from the juvenile court's April 22, 2016 orders terminating jurisdiction, granting mother sole legal and physical custody of their children L.C. and R.C., and ordering monitored visits for father. Father had sexually abused the children's half sister, Y.S., and, though he attended counseling, he continued to deny the sexual abuse. His only contention on appeal is that the court abused its discretion by failing to order joint legal custody of L.C. and R.C. to mother and father.

We affirm.

### **BACKGROUND**

The Los Angeles County Department of Children and Family Services (Department) responded to a referral alleging five-year-old Y.S. was sexually abused in November 2014 by father, who is her stepfather. (Y.S. resides with her biological father and is not involved in this appeal.) At the time, L.C. was almost three years old, and R.C. was one year old. Mother and father consented to their detention from father in order for them to remain in the home with mother.

After a three-day contested adjudication hearing in April and May 2015, the court sustained petition allegations that father fondled Y.S.'s vagina, penetrated her vagina with a crayon, and exposed her to pornographic movies. The court removed L.C. and R.C. from father's physical custody and ordered father to complete individual counseling and sex abuse counseling for perpetrators, and ordered his visits were to be monitored.

In a status review report for a November 2015 hearing, the Department reported that father had enrolled in a sexual abuse offenders counseling program and had attended nine sessions as of mid-September 2015. The program director stated in a

progress report that father “uses group to complain about system and proclaim innocence,” “tends to intellectualize, is avoidant and unwilling to address issues of sexual abuse” and “is in complete denial.” Father had also enrolled in individual counseling. The program director reported that father “informed this counselor that he was acquitted of all the charges in criminal court.

[Father] has been continuously confronted and advised on the importance of being up-front, as a means of benefiting from the therapeutic intervention. [¶] [Father] is in a state of denial and continues to vehemently contest these allegations. As the charges were read, he demonstrated vivid emotions and continues to be puzzled by the accusations. . . . At this point his overall prognosis has been limited due to his state of denial and failure to take responsibility for his actions.”

Father had made no progress by the time of the February 2016 review hearing. The program director’s reports were virtually identical to the previous reports. Although father had attended 21 individual counseling sessions and 35 sex abuse counseling sessions, he “continue[d] to contest the sustained allegations of the molestation,” and remained in a state of denial.

Likewise, the Department reported in late April 2016 that father had made no progress in counseling. He continued to participate in the court ordered counseling programs, but “continue[d] to deny the allegations of sexual abuse. [Father] reports that he feels devastated to be in such situation. Father reports that he feels that it is unjust that he is being accused of such false allegations.”

At the April 22, 2016 review hearing, the Department recommended that the court terminate jurisdiction, granting mother sole legal and physical custody, with father’s visits to

remain monitored. Mother's counsel and the children's counsel joined in the Department's recommendation. The court adopted the Department's recommendation, explaining that father had shown "[t]echnical compliance by participating in a program," but had made no substantive progress toward resolving the case issues.

Father filed a timely notice of appeal.

### **DISCUSSION**

The parties agree the standard of review is abuse of discretion. "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.) Father has not demonstrated the court abused its discretion by finding it was in the best interests of L.C. and R.C. to order sole legal custody to mother. Father has never challenged the court's jurisdictional findings or disposition orders. He does not challenge his program director's assessment of his total lack of progress in counseling.

Father argues the court abused its discretion by ordering sole legal custody to mother "due to the minors' positive relationship with [father], as well as the fact that mother and [father] wanted to reunite their family." Further, father argues, "An order granting [father] joint legal custody would have promoted the minors' best interests and would have reflected their interest in continuing to have a relationship with [father]."

These bare arguments ignore the trial court's implied finding that father's state of denial and failure to take responsibility for his actions continued to place his very young children at substantial risk of harm. (Cf. *In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197 [mother who abused drugs "did not

participate in reunification services because she did not believe that she needed to make any changes in her life as she did nothing wrong. . . . [S]he continued the same denials of any wrongdoing. One cannot correct a problem one fails to acknowledge[.]

We find the trial court did not abuse its discretion in deciding it was in the children's best interests to order sole legal custody to mother due to father's steadfast refusal to take responsibility for the sexual abuse of his stepdaughter and his inability to benefit from counseling.

**DISPOSITION**

The juvenile court's April 22, 2016 orders are affirmed.

GRIMES, J.

WE CONCUR:

RUBIN, Acting P. J.

FLIER, J.