

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re CHRISTOPHER B., a  
Person Coming Under the  
Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JUSTIN B.,

Defendant and Appellant.

B271554

(Los Angeles County  
Super. Ct. No. CK88985)

APPEAL from orders of the Superior Court of Los Angeles  
County, Akemi Arakaki, Judge. Affirmed.

Marsha F. Levine, under appointment by the Court of  
Appeal, for Defendant and Appellant.

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

---

## INTRODUCTION

Father appeals from the juvenile court's order terminating jurisdiction and ordering that father have no visitation with his son, Christopher. The court assumed jurisdiction on a sustained allegation that Christopher suffered emotional and physical harm engendered by his parents' contentious custody battle and anxiety over visits with father, who Christopher claimed had sexually abused him. Although Christopher's negative feeling toward father never changed, his therapist and social worker reported that, after nearly two years of counseling and juvenile court supervision, his mental and physical health had improved, and he was safely maintained in his mother's custody. Based on those reports, we conclude the juvenile court properly followed Welfare and Institutions Code section 364's mandate to terminate dependency jurisdiction.<sup>1</sup> And, because nearly every therapist who evaluated Christopher opined that compelling visitation with father would not be appropriate, we conclude the juvenile court acted within the proper bounds of its discretion by denying father visitation. We affirm.

## FACTS AND PROCEDURAL BACKGROUND

### 1. *Events Preceding the Instant Dependency Matter*

Father and mother are the parents of twins, Christopher and T., born March 2005. The parents separated in 2008 and their divorce became final in 2010. Since then they have been engaged in a long running custody dispute. The underlying dependency matter involves only Christopher.

---

<sup>1</sup> Statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

Prior to the referral that initiated the instant dependency proceedings, the Department had numerous other encounters with the family. Most of these encounters were prompted by sexual molestation allegations leveled against father and the paternal uncle, with whom father lived following the parents' separation. In December 2009, the Department investigated an allegation of sexual abuse by the uncle and general neglect by father. The Department determined the allegations were unfounded. In October 2012, the Department received a referral alleging T. had been molested by father. The results of the investigation were deemed inconclusive and the Department took no further action. In December 2012, the Department received another referral alleging father molested Christopher's older half-sibling, Sharon.<sup>2</sup> The Santa Monica Police Department investigated the allegation, and all the children participated in forensic interviews as part of the investigation. A detective connected with the case determined the children had never made a credible statement regarding sexual abuse. The allegations were ultimately dismissed as inconclusive. In August 2013, Christopher made another allegation that the paternal uncle had sexually abused him during a visit with father. Again, the Department determined the allegation was unfounded.

In September 2013, Christopher refused to go on a visit with father, prompting another referral charging the parents with general neglect. The referring party reported that the parents were engaged in an acrimonious divorce, and that mother might be "prompting" Christopher to refuse the visits. The Department learned that father's visits had ceased in the ensuing months, that father continued to show up for visits, but left when

---

<sup>2</sup> Sharon is mother's daughter from a previous marriage.

Christopher refused to go. The Department also observed that the more Christopher was interviewed, the stronger his claims about father's abuse became. The Department ultimately concluded the allegations of abuse and neglect were unfounded.

Notwithstanding all the preceding abuse charges, on June 2, 2014, the family law court entered an order upon the parents' stipulation granting mother and father joint legal custody of Christopher and T.. The parents stipulated and agreed that it was "in the best interest of their children to have frequent and continuous contact with both parents." The stipulation further provided that there was to be "no veto of visitation by the minor children or any therapist," that "ultimate control over this discretion" regarding visitation "must remain with the court," and that while the visitation orders "may be difficult for the children," the "best interest of the children demand frequent and continuing contact with both parents." Under the terms of the stipulation and order, father's visits with Christopher were generally limited to twice a week, on Wednesdays and Sundays.

## *2. The Referral and Detention Investigation*

On June 8, 2014, six days after the family law court entered the foregoing visitation order, the Department received a referral alleging father sexually abused Christopher. The reporting party explained that Christopher had been scheduled to visit with father that morning, but he refused to go. When father asked Christopher why he refused, Christopher asserted that during their last visit father " 'got naked and on top of [him].' " Father denied the charge, and repeatedly told Christopher, " 'That didn't happen. That's what other people are telling you to say.' " Mother was not present, but she later reported that Christopher's last visit with father was "around July/August in 2013," and he refused to go on visits thereafter.

On June 17, 2014, a social worker met with mother to discuss the most recent sexual abuse allegations. Mother said Christopher had a difficult time visiting with father. She said he had “great fear and anxiety” about visitation, and he reported that father touched him inappropriately. Per Christopher’s reports, father sat on his face, touched his private parts, and asked Christopher to touch father’s private parts. She said Christopher had not provided any further details. Mother also claimed that father molested her older daughter, Sharon, and that “the case [was] going to be filed with the state attorney.”

Christopher, T. and Sharon all told the social worker they had been sexual abused by father. Christopher claimed both father and father’s brother had molested him during visits. He claimed that when he refused father’s requests to engage in sexual activities, father “ ‘gets angry, he starts hitting.’ ” Referring to father, Christopher said, “ ‘I feel like I want to kill myself when I see him.’ ”

T. also reported being touched by father. According to her, she last saw father when she was in preschool. Sharon claimed father had molested her from the time she was eight until she was 11 years old.

The social worker also spoke to Christopher’s and T.’s therapist. The therapist said Christopher never disclosed the alleged molestation, but that he clearly was uncomfortable visiting with father. Based on her observations of father with Christopher, the therapist opined that father lacked boundaries and did not read the child’s cues, which was likely why Christopher felt uncomfortable around him.

Father denied all abuse allegations and accused mother of influencing the children.<sup>3</sup> Though he had not visited with Christopher for many months due to Christopher's refusal, father said that during their last visit Christopher had resisted at first but eventually warmed to him. He said Christopher enjoyed the visit until mother's new husband came to pick him up. Father maintained Christopher acted out because he knew mother was against the visits and wanted to please her. He said he would not give up on his son and insisted mother was manipulating the Department.

The social worker recommended that father's next visit with Christopher occur in a public setting. Father agreed; however, the visit did not happen because Christopher refused.

### 3. *The Dependency Petition*

On June 25, 2014, the Department filed a petition alleging Christopher should be adjudicated a dependent child as defined by section 300, subdivisions (b) and (c). The petition charged mother and father with engaging in an ongoing child custody dispute that detrimentally affected Christopher's emotional well-being, causing Christopher to suffer "emotional damage as evidenced by anxiety, depression, withdrawal and aggressive behavior toward himself and others." The court found the Department established a prima facie case for dependency jurisdiction, detained Christopher in the Department's temporary

---

<sup>3</sup> Consistent with father's general charge, in March 2014, a custody evaluator appointed by the family law court concluded that therapeutic steps should be taken to reunify father with the children, and that safeguards should be implemented to ensure mother would not sabotage those efforts. The evaluator anticipated that mother would "oppose any real efforts toward reunification of the children with Father."

custody, and released him to mother pending a full hearing on jurisdiction and disposition. The court granted father visitation in a therapeutic setting, once a week for one hour per visit.

In advance of the hearing, the Department interviewed Christopher, mother, father, Santa Monica Police Detective Leslie Trapnell, and forensic psychiatrist Suzanne Dupree. Detective Trapnell reported that mother had contacted the Santa Monica Police Department twice (in December 2009 and December 2012) with allegations that father's brother had sexual abused T. and Christopher. After her investigation, Detective Trapnell concluded there was no credible basis to be concerned for the children's safety and that mother appeared to be motivated by the secondary gain of obtaining custody.

Dr. Dupree had conducted two evaluations of the family for the family law court. Though she did not conduct a formal clinical evaluation, Dr. Dupree believed that T. and Christopher presented with autism spectrum disorder. She had provided the family with referrals and a recommendation to obtain an Individualized Education Program assessment, but understood they had not followed through.

Dr. Dupree reported mother and father were "polar opposites" in their views about parenting. She described mother as "highly intelligent and organized" and observed that mother had "valid concerns" about father's ability to provide proper care and supervision to the children. As for father, she said he "clearly loves the children," but "lacks insight into the children's needs and has an unconventional approach to parenting that is not appropriate for children with special needs." Dr. Dupree said she did not believe father or the paternal uncle abused T. or Christopher, but that the manner in which they play with the children "crosses boundaries." She observed the children were in strong need of intervention to "address their traits of Autism,"

and father needed to learn parenting techniques that are appropriate for children with their needs.

On August 7, 2014, the court sustained the petition and declared Christopher a dependent child as described in section 300, subdivisions (b) and (c). The court continued the disposition hearing in order to obtain a psychological evaluation and ordered the Department to ensure therapeutic visitation between father and Christopher commence within seven days. The court appointed Dr. Stephen Ambrose to conduct the psychological evaluation.

#### 4. *Visitation and Psychological Evaluation*

On September 15, 2014, father's counsel notified the court that the visits had not commenced. In response, the Department reported that Christopher adamantly refused to visit with father. He had two sessions with a new therapist who was willing to provide conjoint counseling once she determined it would be "clinically beneficial for Christopher." However, the therapist said she could not serve as a therapeutic monitor for visitation. The Department provided father with the names of three therapists who might be able to monitor visits, but father said they were all too expensive.<sup>4</sup> In an effort to move the case forward, the court modified father's visitation to one visit per week, and ordered that a Department employee monitor the visits.

On October 17, 2014, Christopher had a visit with father at the Department's office. When the social worker retrieved Christopher from mother's home, she observed his demeanor shift "from happiness to distraught and [distant]" almost instantly. Father was happy and enthusiastic to greet Christopher, but

---

<sup>4</sup> Father maintained that "because [Christopher] [was] in Dependency court, [the therapists] should be free or cheaper."



Christopher refused to interact with him. He rejected father's offer of chocolate and put his hands over his ears when father read a book to him. Christopher spent much of the visit ignoring father's questions and staring away at the wall. When father asked what was wrong, Christopher responded, " 'you know what you did to me.' " He repeatedly told father he wanted to go home, and told the social worker he never wanted to see father again. After receiving the Department's report, the court continued its visitation order.

On December 1, 2014, Dr. Ambrose completed his evaluation. He interviewed mother, father and Christopher, but was unable to observe father and Christopher together due to Christopher's refusal to visit father. Both parents agreed that their marriage had been marked by constant arguing. After their divorce, mother reported that T. never wanted to visit with father, but Christopher initially went to visits. Mother said she worried about the "chaotic" environment at the home father shared with his brother, and she observed that Christopher's performance in school began to deteriorate once the visits began. She said Christopher also began having trouble controlling urination and bowel movements around the same time.

Father maintained he was the victim of false allegations and "the system's inability to discern the truth." Dr. Ambrose observed that father "cast himself as a victim and accepted little to no responsibility for his current predicament." Among other things, father cited mother's arrest and conviction for making a false police report as evidence that she would "say anything to

hurt him.”<sup>5</sup> He maintained mother had also fabricated Christopher’s autism symptoms to hinder his access to the child. He said Christopher was “shut off” from his feelings due to the trauma of the parents’ custody battle.

As for the sexual abuse allegations, father maintained they were also designed by mother to “destroy” him. With respect to the charges made by Christopher, father accused mother of planting the allegations by “grilling” Christopher after their visits. When mother was asked whether she thought father molested Christopher, she stated that “he believes it and that something ‘uncomfortable’ must have happened to him.”

Christopher told Dr. Ambrose that father had touched him “‘hundreds’ ” of times and that the last time occurred when he was between five and seven years old. He had difficulty recalling any specific incident, however. Christopher also reported that father hit him “many times,” including one time that left a bruise on his face. He stated that father “should go to jail” for what he had done and said it was “exhausting” to tell so many people what happened.

Dr. Ambrose “did not find Christopher’s report of abuse . . . very convincing.” He also observed that mother did not appear to believe father had molested the children, and that she

---

<sup>5</sup> According to father, in May 2012, he discovered his car had two flat tires and found two bags of white powder in his bag. Worried he was being framed, he took the powder to the police. Later that day, mother called the police to inform them drug dealing had been occurring in the vicinity of father’s car. After initially denying involvement, mother admitted making the call, but denied planting the powder. Father complained mother also attempted to slander him online by suggesting he had been fired from a prior teaching job for acting in a sexually inappropriate way around the students.

seemed to be trying to avoid any perception that she might be “coaching” the children. But, notwithstanding his skepticism, Dr. Ambrose acknowledged he could not completely discount the possibility that father engaged in some inappropriate sexual contact with Christopher. With respect to Christopher’s flat affect when describing the abuse, Dr. Ambrose noted Christopher may indeed be on the Autism spectrum.

Despite his uncertainties, Dr. Ambrose recommended the court continue to pursue efforts toward reconciliation between Christopher and father. He suggested the process start with letters from father to Christopher, followed by closely monitored and supported telephone contact, and therapeutically supervised and supported visitation. Dr. Ambrose also emphasized mother’s crucial role in supporting the process, noting, “[s]he should know that she will be expected to encourage Christopher’s participation at every step and that any interference would be viewed negatively by the Court.”

On January 30, 2015, the court ordered the Department to assist father with sending letters to Christopher through Christopher’s therapist. The court also ordered Christopher’s therapist to provide a progress report concerning whether and why Christopher continued to make molestation allegations against father. Finally, the court ordered the Department to provide a report regarding the efforts made to facilitate conjoint counseling and reunification.

On March 2, 2015, Dr. Ambrose attended a visit between father and Christopher. Upon entering the visitation room where he was greeted by father, Christopher urinated himself. Dr. Ambrose regarded the incident as a clear indication that Christopher felt real “resentment and anxiety” about seeing father. Despite father’s repeated efforts to engage Christopher in conversation, Christopher’s responses were uniformly “terse and

rejecting.” Dr. Ambrose summarized the meeting as follows: “Throughout the 45-minute session, [Christopher] never let down his guard and was repeatedly provocative and insulting. He clearly needed to be totally rejecting and could not tolerate feeling or showing any ambivalence in his feelings toward his father.”

Following the visit with father, Dr. Ambrose met with Christopher and mother. He observed that Christopher’s behavior and attitude with mother were “diametrically different than with his father.” Mother was “warm and affectionate” with Christopher, and Christopher seemed “intent on showing [Dr. Ambrose] the stark contrast in his feelings toward his two parents.” Though mother expressed her desire to support Christopher’s relationship with father, Dr. Ambrose observed “there may well be more subtle messages that she conveys to Christopher.” In that regard, he noted that mother had provided him with several documents at the end of their meeting related to the family law proceedings and father’s employment history, “presumably because she wanted to negatively influence [his] opinion of [father].”

Dr. Ambrose concluded Christopher’s behavior toward father indicated a “continuing and very intense level of alienation.” He acknowledged such behavior would be “understandable and justified” had Christopher indeed been molested. However, even if the charges of molestation were not true, Dr. Ambrose observed it still would be difficult for Christopher to embrace father, given the level of acrimony in the parents’ relationship. In that vein, he noted it was not just mother who had intensely negative feelings toward father, it was also Christopher’s two sisters. Due to that dynamic, he opined that Christopher might view the prospect of reconciling with father as a threat to his relationship with the entire family.

Accordingly, Dr. Ambrose stated it was imperative that mother be “clear, implicitly and expressly, that she supports [Christopher and father] having a relationship.” In view of mother’s attempts to influence his opinion of father, Dr. Ambrose remarked that “it is probably safe to assume that she does not disguise her negative opinion of [father] with her children.”

Dr. Ambrose strongly recommended that Christopher and father participate in conjoint therapy with a therapist experienced in working with children and families in high conflict divorce cases. While he expressed confidence that Christopher would not refuse to attend if told firmly that he must, Dr. Ambrose acknowledged that Christopher would not be prepared or willing to attend visits for several months. Finally, he said “both parents need to be admonished not to convey negative messages about the other to Christopher or his sister.”

On March 11, 2015, Christopher’s therapist reported that she did not believe Christopher was ready to participate in conjoint counseling with father. The therapist stated that Christopher was resistant to father’s letters and remained consistent with his sexual abuse allegations. She said Christopher’s symptoms were “not getting better” and echoed Dr. Ambrose’s recommendation that Christopher obtain services from a therapist who specializes in custody issues. She remarked that Christopher’s physical and psychological issues seemed to stem from the “custody battle and the stress and anxiety it has over him.”

On April 1, 2015, the court entered a disposition order placing Christopher in mother’s physical custody. The court ordered father to attend individual counseling to address case issues, conjoint counseling with Christopher once recommended by Christopher’s therapist, and psychological testing to determine whether he had a mental illness or condition. The

court also ordered father to complete a parenting class. Father's visitation with Christopher was to remain monitored in a therapeutic setting. The court also ordered mother to complete a parenting class, attend individual counseling, and undergo psychological testing to determine whether she had a mental illness or condition. Finally, the court ordered the Department to make best efforts to refer Christopher and the parents to therapists who had experience working with families in high conflict divorce cases.

#### 5. *Post-Disposition Review*

On August 31, 2015, the Department reported that Christopher's individual therapist had reduced his counseling session to every other week due to his progress in treatment. The therapist reported that over the past month, Christopher's bladder and bowel control issues had improved, as had his anxiety and difficulty concentrating.

As for visitation, Christopher remained adamant in his refusal to visit with father. His therapist stated that conjoint sessions would not be appropriate due to Christopher's level of anxiety about visits. When asked by the Department's social worker why he refused to visit with father, Christopher reportedly "shut down," stating only, "I am just tired of talking about it; over and over everyone keeps asking me the same thing.'"

Father asked the social worker to arrange for Christopher to see another therapist, as the current therapist had made no progress in facilitating visitation. The social worker contacted another therapist, but was told it would be inappropriate to facilitate therapeutic visits as Christopher's individual therapist opposed conjoint counseling due to Christopher's anxiety and refusal.

On August 27, 2015, the social worker met with Christopher. Christopher said he was relieved that his therapy sessions had been curtailed and reported that he was enjoying school. The social worker obtained a copy of his report card and noted that all his grades had improved significantly. Despite the social worker's repeated requests, Christopher still refused to have any contact with father.

On September 30, 2015, the Department reported that Christopher was doing well and mother had maintained a stable home environment for him during the review period. His ability to function at school had significantly improved, and he was actively participating in afterschool activities. He had also completed individual counseling, including eight months of individual sessions and three additional months of bi-monthly sessions. Mother had likewise completed individual counseling and parenting classes. The Department reported that she had been cooperative in facilitating home visits and providing requested information pertaining to Christopher.

Father had not completed a parenting class or psychological evaluation as ordered by the court. He told the social worker he could not afford individual counseling or to pay for a conjoint therapist. Father said he was disappointed with the Department's inability to facilitate his reconciliation with Christopher. He maintained that the case was a clear instance of parental alienation and that mother used the dependency system to manipulate Christopher.

Based on the significant improvement in Christopher's ability to function at home and at school, as well as mother's cooperation in providing a stable and nurturing home environment for Christopher while addressing his mental health, educational and medical needs, the Department recommended

that the court terminate jurisdiction and enter a family law order granting mother sole legal and physical custody.

On September 30, 2015, the court held a post-disposition review hearing. Father requested a contested hearing on the Department's recommendation to terminate jurisdiction. The court granted the request. The court also reiterated its order that Christopher was to have visitation with father in a therapeutic setting, even if that meant re-enrolling Christopher in counseling.

In response to the court's order, the Department submitted a referral to the Department of Mental Health (DMH) to obtain a neutral therapist. However, after assessing Christopher, the DMH determined he did not meet the criteria for treatment. The Department also contacted a therapist who had experience with high conflict divorce cases. The therapist met with Christopher, but ultimately determined it would be inappropriate to facilitate conjoint therapy or visitation with father at the present time. The Department continued to recommend that the court terminate its jurisdiction over the case.

#### 6. *Section 364 Review Hearing*

On March 9, 2016, the court held the contested review hearing. Father called the case social worker to testify. The social worker acknowledged Christopher and father had not participated in conjoint counseling despite the court's orders. She discussed the issue with Christopher's therapist on three separate occasions, and the therapist consistently maintained she could not facilitate conjoint counseling as it would conflict with her duties as Christopher's individual therapist. After Christopher completed individual counseling, the social worker contacted three other therapists to obtain conjoint counseling for Christopher and father. None would agree to provide conjoint counseling under the current conditions. The social worker also



contacted Christopher's therapist from the family law case, but the therapist likewise refused to provide services to the family. In view of Christopher's progress, and notwithstanding his refusal to visit with father, the social worker testified there were no other services needed to maintain Christopher safely in mother's home.

The Department argued the court should terminate jurisdiction, emphasizing the issues that authorized jurisdiction—Christopher's emotional anxiety and suicidal ideation—had been resolved. The Department also stressed that mother had cooperated with all court orders, and there had been no suggestion in recent months that mother had done anything to impede visitation with father. Finally, while the Department acknowledged Christopher still refused all contact with father, it argued the court would not have taken jurisdiction of the case if the only issue had been Christopher's refusal to attend visitation.

Christopher's counsel joined the Department's request to terminate jurisdiction. In addition to urging the court to enter an order granting mother sole legal and physical custody, Christopher's counsel argued the court could not make a monitored visitation order, given Christopher's unwillingness to engage in visits and all parties' inability to identify a venue where monitored visits could safely occur. Christopher's counsel maintained that the "evidence throughout the Department's reports [established] it would be detrimental at this time for Christopher to have visits with his father."

Father's counsel opposed the request to terminate jurisdiction, arguing the Department had been co-opted by mother to assist her in alienating Christopher from father. Counsel stressed that Dr. Ambrose had twice recommended father and Christopher begin to repair their relationship through conjoint therapy, and she insisted there was "nothing" in the

record to suggest Christopher's individual therapist or the Department facilitated those efforts. Finally, father's counsel asserted the court could not make a detriment finding based merely on Christopher's refusal to visit with father.

7. *The Court's Ruling and Detriment Finding*

The juvenile court terminated its jurisdiction, and entered an exit order granting mother sole legal and physical custody of Christopher. The court found visitation between father and Christopher would be detrimental to the child, and ordered that father have no visitation with Christopher, absent a change in circumstances.

With respect to terminating jurisdiction, the court rejected father's contention that the Department had failed to make reasonable efforts to facilitate visitation and conjoint counseling. The court acknowledged father's concern that Christopher might have been influenced or confused about the sexual abuse allegations, but explained, "Christopher believes that these things happened. They may not have, to be quite honest. . . . But to the core of this kid by every account he believes it, and he is not ready and not able to overcome it yet." In that regard, the court emphasized that it had attempted with its initial orders to "force those visits and make this happen," but the evidence showed those efforts were "making things worse" by harming Christopher psychologically and hardening his resistance to intervention. The court concluded that it "needed to make an assessment of the situation based on the input of the professionals--the therapists, the social workers, the individuals who were working regularly with this child." Based on "every report" by those professionals, the court found that Christopher was no longer exhibiting the behavioral and emotional problems that initially authorized jurisdiction and jurisdiction, therefore, should be terminated.

As for the exit order and detriment finding, the court explained that it took “pains” to make the finding and deny visitation. However, “based on all of the information received by [the] court from the treatment providers,” the court concluded “it would be a detriment to the child at this time to have visitation with the father.”

## DISCUSSION

### 1. *The Juvenile Court Properly Exercised Its Discretion to Terminate Jurisdiction*

After a juvenile court enters a disposition order determining a dependent child may safely remain in the custody of a parent, the court holds periodic review hearings pursuant to section 364 to “determine whether continued supervision is necessary.” (§ 364, subd. (c); see also § 364, subd. (a); *In re Aurora P.* (2015) 241 Cal.App.4th 1142, 1155 (*Aurora P.*).) “At the section 364 review hearing, ‘the court is not concerned with reunification, but in determining “whether the dependency should be terminated or whether further supervision is necessary.” [Citations.]’ ” (*Aurora P.*, at p. 1154; *In re Pedro Z.* (2010) 190 Cal.App.4th 12, 20 (*Pedro Z.*).)

Section 364, subdivision (c) establishes a “statutory presumption in favor of terminating jurisdiction and returning the children to the parents’ care without court supervision.” (*In re Shannon M.* (2013) 221 Cal.App.4th 282, 290.) Under the statute, the juvenile court “*shall terminate* its jurisdiction *unless* [the party opposing termination] establishes by a preponderance of evidence that the conditions still exist which would justify initial assumption of jurisdiction under Section 300, or that those conditions are likely to exist if supervision is withdrawn.” (§ 364, subd. (c), italics added; *Aurora P.*, *supra*, 241 Cal.App.4th at p. 1163 [where the Department recommends termination of jurisdiction, the burden rests with the party opposing

termination to establish by a preponderance of the evidence that conditions justifying retention of jurisdiction exist or are likely to exist if supervision is withdrawn].)

“Although the decision whether to terminate [jurisdiction] is considered discretionary [citation], use of the word ‘shall’ denotes a mandatory act.” (*In re D.B.* (2015) 239 Cal.App.4th 1073, 1085.) In other words, “[t]he juvenile court is under a duty to terminate dependency jurisdiction unless ‘there is a preponderance of evidence that the conditions are such to justify that retention.’” (*Aurora P.*, *supra*, 241 Cal.App.4th at pp. 1162-1163.) Where, as here, the court terminated its jurisdiction, it plainly has determined the party opposing termination—in this case, father—failed to meet this burden of proof. (*Id.* at p. 1163.) Thus, as the issue on appeal turns on father’s failure of proof at trial, “the question is ‘whether the evidence compels a finding in favor of the [father] as a matter of law.’” (*Ibid.*; see *In re I.W.* (2009) 180 Cal.App.4th 1517, 1529 [reversal is authorized under this standard only where “undisputed facts lead to only one conclusion”].) We conclude it does not.

The juvenile court assumed jurisdiction over this matter pursuant to section 300, subdivisions (b) and (c), upon the sustained allegation that the parents’ ongoing child custody dispute “detrimentally affected [Christopher’s] emotional well-being . . . as evidenced by anxiety, depression, withdrawal and aggressive behavior toward himself and others.” Section 300, subdivision (b) authorizes jurisdiction where the child “has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness,” as a result of parental neglect. Section 300, subdivision (c) authorizes jurisdiction where the child “is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe

anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent.” Under both subdivisions, there must be evidence of extant harm, or a substantial risk of harm, to the child’s physical or emotional well-being to authorize and maintain jurisdiction.

Father concedes in his opening brief that, at the time the court terminated jurisdiction, “Christopher was apparently no longer making statements that he wanted to hurt himself, no longer taking action to endanger himself, and no longer running away.” This concession is consistent with the reports of the case social worker and Christopher’s individual therapist, both of whom attested to Christopher’s improved mental state at home and at school, and to mother’s cooperation in maintaining a stable and nurturing home environment for Christopher while addressing his mental health, educational and medical needs. The evidence before the juvenile court showed, consistent with the court’s finding, that Christopher was no longer suffering the physical or emotional harm that justified the initial assumption of jurisdiction. (See § 364, subs. (b) & (c).)

Father contends the juvenile court was not permitted to rely on the foregoing evidence because Christopher’s improved mental and physical state derived from “the fact that father was essentially removed from [Christopher’s] life.” By his account, the evidence compelled the court to retain jurisdiction because “Christopher’s actions and demeanor in the presence of father” still indicated he would suffer fear and anxiety were the contact to resume. We disagree.

The problem with father’s argument is it overlooks the fundamental purpose of dependency proceedings, the focus of which “ ‘is to reunify the child with *a parent*, when safe to do so for the child.’ ” (*Pedro Z.*, *supra*, 190 Cal.App.4th at p. 20; see § 300.2.) “The goal of dependency proceedings—to reunify a child

with at least one parent—has been met when, at disposition, a child is placed with a former custodial parent and afforded family maintenance services.” (*Pedro Z.*, at p. 20.) Thus, under section 364, “when the child remains in a parent’s home, . . . the court is *not concerned with reunification*, but in determining ‘whether the dependency should be terminated or whether further supervision is necessary.’” (*Pedro Z.*, at p. 20, italics added.) Here, in assessing whether further supervision was necessary, the juvenile court appropriately relied upon the reports by the social worker and Christopher’s therapist concerning his improved mental and physical state, notwithstanding evidence that renewed contact with father would likely cause the prior detrimental conditions to return.

Additionally, while the court’s detriment finding was essential to the visitation exit order, that finding also played a critical role in the court’s assessment of whether it should retain jurisdiction over Christopher. As the court observed at the review hearing, the record showed its previous efforts to “force” Christopher’s visits with father had the effect of “making things worse.” The issue, in the court’s view, was not just Christopher’s resistance to visitation, but “all the other things that follow,” including “the behavior and all of [the] trauma he did illustrate or exhibit” when the visits occurred. Though the court expressed reserved skepticism about whether Christopher’s reactions stemmed from actual abuse by father, it nevertheless had evidence suggesting that further intervention to force visitation would be detrimental to Christopher’s well-being. Given that the fundamental purpose of dependency proceedings is to “ensure the safety, protection, and physical and emotional well-being of children who are at risk of . . . harm” (§ 300.2), we cannot say the court was compelled to retain jurisdiction as a matter of law when the evidence showed further supervision would be

detrimental to Christopher. This is not a case “where undisputed facts lead to only one conclusion.” (*In re I.W.*, *supra*, 180 Cal.App.4th at p. 1529.) As the party seeking reversal of the order terminating jurisdiction, father has failed to meet his burden on appeal. (See *Aurora P.*, *supra*, 241 Cal.App.4th at p. 1164.)

2. *The Court’s Detriment Finding Is Supported by the Evidence; The Court Properly Exercised Its Discretion to Deny Father Visitation in the Exit Order*

We turn now to father’s contention that the juvenile court erred by denying him visitation with Christopher following the termination of dependency jurisdiction. When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes the court to make custody and visitation orders that will be transferred to an existing family court file and remain in effect until modified or terminated by the superior court. (*In re Roger S.* (1992) 4 Cal.App.4th 25, 30; 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 (*John W.*)).

As with other visitation orders in dependency proceedings, the statutory scheme “ ‘requires the court to consider the best interests of the child’ ” (*In re Candida S.* (1992) 7 Cal.App.4th 1240, 1254) upon examination of “ ‘the totality of the child’s circumstances’ ” when fashioning visitation provisions in a section 362.4 exit order. (*In re Michael W.* (1997) 54 Cal.App.4th 190, 195; see also *Chantal S.*, *supra*, 13 Cal.4th at p. 201; *John W.*, *supra*, 41 Cal.App.4th at p. 972 [The juvenile court’s “power

under section 362.4 require[s] it to make an informed decision concerning the best interests of the child.”].) That said, it must also be remembered that the parent has a right, subservient only to the best interest of the child, to visit reasonably with his or her child. (*Devine v. Devine* (1963) 213 Cal.App.2d 549, 553.) “Such right ensues from parenthood and should not be denied without cause.” (*DeBoynton v. DeBoynton* (1955) 137 Cal.App.2d 106, 110.) “Because of the importance of the parent-child relationship and the likely benefits to the child as it grows up from reasonable (and, where necessary, supervised or restricted) visits with the parent who does not have custody, the courts should not deprive such a parent of all visitation privileges absent a clear showing that any contact with such parent would be detrimental to the child.” (*Devine*, at p. 553.)<sup>6</sup>

---

<sup>6</sup> We note the juvenile court made a finding of “detriment,” a standard expressly required by the Family Code to deny parental visitation rights. (See Fam. Code, § 3100, subd. (a) [“In making an order pursuant to Chapter 4 (commencing with [Fam. Code, §] 3080), the court shall grant reasonable visitation rights to a parent unless it is shown that the visitation would be detrimental to the best interest of the child”].) Unlike the Family Code provision, section 362.4 does not expressly require a detriment finding, and, as a general matter, such a finding has not been required to deny visitation unless expressly stated in the governing statute. (See, e.g., *In re J.N.* (2006) 138 Cal.App.4th 450, 459 [holding, “section 361.5, subdivision (f) does not dictate a particular standard the juvenile court must apply when exercising its discretion to permit or deny visitation between a child and a parent who has not been receiving reunification services”].) Our Supreme Court, in considering a different aspect of a juvenile court exit order pertaining to visitation, has also held the Family Code does not apply in view of the distinct purposes of the juvenile and family law courts. (See *Chantal S.*, *supra*, 13 Cal.4th at p. 207 [Family Code section



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; see *In re Marriage of Burgess* (1996) 13 Cal.4th 25, 32 [in general, “[t]he standard of appellate review of custody and visitation orders is the deferential abuse of discretion test”].) “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.’ [Citations.]” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318–319.) “The reviewing court should interfere only ‘“if we find that under all the evidence, viewed most favorably in support of the trial court’s action, no judge could reasonably have made the order that he did.” [Citations.]’” (*In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.)

The record shows the juvenile court was cognizant of the grave consequences attached to its visitation order, and assessed the evidence, as it had managed the case, with appropriate concern for Christopher’s welfare and father’s right to visitation. Based on the evidence presented, we cannot say the court acted unreasonably in concluding that compelling visitation between

---

3190, which permits a family court to require parents involved in a custody or visitation dispute to participate in counseling for not more than one year, did not apply in a juvenile court proceeding]; see also *In re Josiah Z.* (2005) 36 Cal.4th 664, 678 [dependency proceedings are governed by their own rules and statutes; unless otherwise specified, Civil Code and Code of Civil Procedure requirements do not apply].) In any event, here, the juvenile court’s finding was plainly based on its appraisal of Christopher’s best interests, and whether assessed under the broad best interest standard or more demanding detriment standard, we conclude the finding was supported by the evidence.

father and Christopher would not be in Christopher's best interests and, indeed, would be detrimental to his emotional and physical welfare.

The current dependency proceeding began in August 2014 with Christopher's adamant refusal to visit father, coupled with his assertion that father sexually abused him. Over a period of nearly two years, the juvenile court attempted to re-establish the relationship with father and Christopher by ordering, modifying and continuing its order for monitored visitation six times. Despite those efforts, Christopher visited with father only twice, due in large measure to his visceral resistance to contact with father, as well as the advice of his therapist, who maintained Christopher was not ready for conjoint counseling. Both visits provoked largely negative and unproductive responses from Christopher.

When the social worker retrieved Christopher for the first visit, in November 2014, she observed his demeanor shift from "happiness to distraught and [distant]" almost instantly. During the visit, Christopher refused to interact with father, resolutely asserted he had been abused, and told the social worker he never wanted to see father again.

The second visit, this time with Dr. Ambrose in March 2015, went much the same way. Upon encountering father, Christopher urinated himself—a response which Dr. Ambrose regarded as a clear indication that Christopher felt real "resentment and anxiety" about seeing father. And, as before, Dr. Ambrose reported Christopher was uniformly "terse and rejecting" toward father throughout the 45-minute meeting.

Although Dr. Ambrose recommended that father and Christopher participate in conjoint therapy, no therapist would agree to facilitate the sessions. In total, the Department contacted at least six therapists, including three referrals for father. Christopher's individual therapist said he was not ready to participate in conjoint counseling with father, and Christopher continued to maintain father sexually abused him. Despite the Department's efforts to repair the relationship, the therapist reported Christopher was "not getting better." The Department contacted another therapist, but she said it would not be appropriate to intervene if Christopher's therapist opposed conjoint counseling due to the child's anxiety and refusal.

The reports of the social worker and Christopher's individual therapist showed that Christopher began to improve only after his therapy sessions became less frequent and eventually stopped. Nevertheless, in advance of the contested review hearing, the Department contacted a therapist who had experience in high conflict divorce cases. The therapist met with Christopher, but determined it would be inappropriate to facilitate conjoint therapy or visitation with father. After that meeting, Christopher implored the social worker to stop making him go to therapy and to stop asking him to see father. An assessment by the DMH also found that Christopher no longer met the criteria for therapy.

In fashioning a visitation provision into its exit order, the juvenile court was required to examine the totality of Christopher's circumstances, as evidenced by the foregoing reports by the professionals in regular contact with the child and family, to determine whether continued visitation with father would be in Christopher's best interest. (See *Chantal S.*, *supra*, 13 Cal.4th at p. 201; *John W.*, *supra*, 41 Cal.App.4th at p. 972.) Here, the court appropriately considered Christopher's manifest

aversion to contact with father and the assessment of numerous therapists who concluded visitation and conjoint counseling were not appropriate. (See *Chantal S.*, at p. 213 [the juvenile court appropriately considers the opinions of family and individual therapists in determining visitation rights]; *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1238 [a juvenile court must consider “the possibility of adverse psychological consequences of an unwanted visit between mother and child”].) Though, as father emphasizes, Dr. Ambrose offered a contrary opinion concerning the possibility for conjoint counseling and the appropriateness of forcing Christopher’s attendance, it was the court’s duty to resolve that conflict in determining what order best advanced Christopher’s interest. That is the essence of judicial discretion, and the court acted upon its duty in making the visitation order. (Cf. *In re Donovan J.* (1997) 58 Cal.App.4th 1474, 1477-1478 [order stating “ ‘no visitation rights without permission of minors’ therapists’ ” improperly delegated judicial discretion to therapist; “[a]lthough a court may base its determination of the appropriateness of visitation on input from therapists, it is the court’s duty to make the actual determination”].) Based on the evidence presented, we conclude the juvenile court reasonably determined that compelling continued visitation with father was not in Christopher’s best interest.

### **DISPOSITION**

The orders terminating jurisdiction and determining visitation are affirmed.

### **NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

GOSWAMI, 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.