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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

X.W.,

Defendant and Appellant.

B288484

(Los Angeles County  
Super. Ct. No. DK04352)

APPEAL from orders of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed in part, and remanded in part.

Janette Freeman Cochran, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

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Mother X.W. appeals from the juvenile court orders of August 21, 2017, awarding father D.R. sole legal and physical custody of their children L.R. and A.W. after the court terminated dependency jurisdiction. Mother does not assert any error in the termination of the juvenile court's dependency jurisdiction. We affirm the custody order but remand for the court to specify the frequency and minimum duration of mother's supervised visits with the children.

### **FACTUAL AND PROCEDURAL BACKGROUND**

L.R. was two years old in February 2016 when she was declared a dependent. A.W. had not yet been born. A.W. was two months old when he was declared a dependent in January 2017. Dependency jurisdiction was based on the parents' history of domestic violence, mother's history of substance abuse, including methamphetamine and marijuana (which she also used during her pregnancy with A.W.), and mother's mental and emotional problems for which she failed to obtain treatment and failed to take her prescribed medication. When L.R. was born, mother was 16 years old and father was nearly 20 years old. They never married and resided at different residences. The children were placed with paternal grandmother, M.H. The court ordered reunification services for both parents with respect to both children.

By January 2017, father was in compliance with the case plan ordered at disposition regarding L.R., and mother was in partial compliance. The court released the children to father's custody, conditioning the release as to A.W. on father residing in a Los Angeles County Department of Children and Family Services (Department) approved home. At that time, father and the children were residing in paternal grandmother's home, which was approved by the Department.

In July 2017, father was properly caring for the children and was described as a caring and nurturing parent. Meanwhile, mother had not advanced beyond supervised visits and was only in partial compliance with the case plan, having failed to undergo a psychiatric assessment and been terminated from individual counseling due to her lack of attendance. While she started drug testing on a somewhat more consistent basis just before the final court hearing, she missed many scheduled drug tests throughout the proceedings. For example, a January 2017 report indicated that mother failed to submit to scheduled drug testing 24 times during the previous 11 months.

In August 2017, the court awarded father sole legal and physical custody with monitored visitation for mother as detailed in the juvenile custody order. The Judicial Council JV-205 form visitation order specified monitored visits for mother to take place in a neutral setting; father was not to monitor the visits; and the monitor was to be approved by father. The visitation order did not specify the frequency or duration of mother's monitored visits. The reasons for the supervised visitation order were that mother had not completed and/or had not made substantial progress in court-ordered individual counseling and aftercare including a 12-step program with a sponsor.

Mother filed a timely notice of appeal following the August 21, 2017 hearing.

## **DISCUSSION**

Mother's first claim of error is that the court abused its discretion by awarding father sole legal and physical custody. She contends she sufficiently complied with her case plan to warrant a shared custody arrangement. She contends her failure to continue her aftercare program and individual counseling did not warrant an order of sole custody to father.

The juvenile court has exclusive jurisdiction to make custody orders over dependent children. In *In re Roger S.* (1992) 4 Cal.App.4th 25, the court held that Welfare and Institutions Code section 362.4 authorizes the juvenile court, when terminating jurisdiction, to make custody and visitation orders that will be transferred to a family court file and remain in effect until changed by the family court. (*In re Roger S.*, at p. 30.) A juvenile court's custody order is reviewed for an abuse of discretion. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.) A court abuses its discretion when its ruling is arbitrary, capricious, or patently absurd. (*Ibid.*)

Mother has not demonstrated the court abused its discretion. Under the circumstances of this case recited above, the court was well within its discretion in awarding sole custody to father.

Mother contends the court's visitation order improperly delegated authority to father to approve the monitor for mother's visits. Under the abuse of discretion standard of review, the juvenile court's decision will not be reversed unless it exceeded the bounds of reason. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.) We find the court did not abuse its discretion by granting authority to father to approve her monitor.

Mother contends if father did not approve a monitor, supervised visitation would not occur. However, mother's contention is based on speculation, as there was no evidence before the court that father ever attempted to deny mother visitation or otherwise interfere with her visitation rights. We will not interfere with the juvenile court's order based solely on mother's belief that something "may" happen in the future. (*In re Jose C.* (2010) 188 Cal.App.4th 147, 158-159.) Moreover, in *In re A.C.* (2011) 197 Cal.App.4th 796, the court found that a final visitation order calling for the parents to agree on a monitor to supervise visitation, or if

they were unable to do so, the father would choose the monitor, did not constitute an impermissible delegation of authority to determine whether visitation would occur. (*Id.* at pp. 799-800.) We agree with the Department that it only makes sense that father, as the custodial parent, should have the final say in approving future monitors.

Mother also contends the court erred by not specifying the frequency and duration of her supervised visits. The Department concedes mother is correct. Accordingly, we will remand for the juvenile court to modify its visitation order to specify the frequency and duration of visits.

If mother's circumstances change in the future, the family law court is the proper court in which mother may seek a modification in custody and visitation rights.

#### **DISPOSITION**

The orders of August 21, 2017 are affirmed, except that we remand with instructions to the juvenile court to modify its visitation order to specify the frequency and duration of visits.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

GOODMAN, J.\*

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