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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re I.H., a Person Coming  
Under the Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.T.,

Defendant and Appellant.

B278195

(Los Angeles County  
Super. Ct. No. DK15937)

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

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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The juvenile court terminated dependency jurisdiction and issued an order granting sole physical and legal custody of I.H. to father I.H., Sr., and mother D.T. was given monitored visits. Mother does not claim any error in the termination of the juvenile court's dependency jurisdiction, nor did she object to the custody orders in the trial court. Her sole claim on appeal regards the juvenile court's visitation order.

She argues that the juvenile court delegated to father the power to prevent mother's visitation, as the monitor must be approved by father or paid for by her. Since mother expressly agreed to the custody and visitation orders, she forfeited appellate review of the visitation order. Thus, we affirm.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

Mother mostly cared for I.H. without father since I.H. was born in 2006. Mother lived alone with I.H. in her apartment, but starting in 2015 mother's mental issues began worsening. I.H. moved into his maternal aunt's home, so maternal aunt and maternal grandmother could primarily care for him.

On January 22, 2016, the Los Angeles County Department of Children and Family Services (Department) was alerted to the situation when mother brought I.H. to the hospital. She appeared delusional and was incoherent. This was one of the ten times mother had been the subject of calls for police service since January 1, 2016. After the January 22, 2016 incident, the social worker began to investigate the situation.

On February 29, 2016, the social worker called the maternal aunt to inform her that the Department decided to file a request for a removal order, and the maternal aunt agreed with the Department's decision.

During the detention proceedings on March 9, 2016, the juvenile court put I.H. in father's custody, but maternal

grandmother and maternal aunt were to care for I.H. until the school year was finished. The court also ordered monitored visits for mother at a minimum of three times per week for three hours. Until the court terminated jurisdiction, the monitor was to be approved by the Department.

The jurisdiction and disposition hearing was held on September 23, 2016. The court asserted dependency jurisdiction and ordered that upon receipt of a family law custody order, the father would be granted sole legal and physical custody of I.H. “with monitored visits for the mother to continue in hopes that she’ll continue to address these issues [(psychosis)] and perhaps address them in the family law court for some type of modification.” The court stated its intent to terminate jurisdiction upon receipt of the family law custody order. On September 23, 2016, prior to the entry of the family law order, mother filed her notice of appeal.

On September 30, 2016, the juvenile court received a copy of the form JV-205 family law order which had been approved by all parties, including mother. The court stated that “monitored visits [would occur] as outlined in the JV205.” The JV-205 order granted father sole legal and physical custody of I.H., and gave mother monitored visitation three times a week, the monitor to be chosen by father or mother would pay for a professional monitor. Mother’s counsel did not raise any objections to the disposition orders, and all counsel signed the order. The court terminated dependency jurisdiction.

Mother filed an amended notice of appeal following the September 30, 2016 hearing.

### **DISCUSSION**

Mother contends the court’s visitation order improperly delegated authority to father to circumvent her visitation rights. 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, 319.) She argues the juvenile court abused its discretion when it created a visitation order that did not adequately define her rights to visitation. We disagree.

Mother not only failed to object to the visitation order in the juvenile court, but she expressly agreed to the order, therefore forfeiting her contentions. It is a fundamental principle of appellate jurisprudence that issues not timely preserved below by way of objection will be deemed forfeited. (*People v. Saunders* (1993) 5 Cal.4th 580, 589-590.) The purpose behind this rule is "to encourage parties to bring errors to the attention of the trial court, so that they may be corrected." (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, superseded by statute on other grounds as stated in *In re S.J.* (2008) 167 Cal.App.4th 953, 962.) In dependency matters, the appellate court also applies the forfeiture rule. (*In re Aaron B.* (1996) 46 Cal.App.4th 843, 846.)

"But application of the forfeiture rule is not automatic." (*In re S.B.*, *supra*, 32 Cal.4th at p. 1293.) An appellate court may excuse forfeiture, but this discretion "should be exercised rarely and only in cases presenting an important legal issue." (*Ibid.*) In dependency cases, this discretion "must be exercised with special care." (*Ibid.*)

Mother claims that the specific visitation parameters laid out in the JV-205 form were not orally specified by the juvenile court at the September 23 or 30 hearings. However, the record demonstrates that mother's counsel signed the JV-205 form, which included the specific parameters of visitation. In addition, mother acquiesced during the final proceedings, on September 30, when the court orally stated that visitation would occur according to the JV-205 form.

In any event, mother's argument is without merit. Due to the fact that the monitor must be approved by father, or paid for by mother, mother claims that father could disapprove of any of her suggested monitors, which would result in her having to pay for the services of a monitor three times a week for three hours at a time. Mother states that she cannot afford to pay for these services, as she is indigent.

However, mother's contention that the visitation order effectively denies her visitation is based on speculation, as there is no evidence presented to the court of father ever attempting 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.)

In the future if mother's circumstances change, or if father unreasonably fails to approve a monitor, the family law court is the proper court in which mother may seek a modification in visitation rights.

### **DISPOSITION**

The disposition orders issued on September 30, 2016, are affirmed.

GRIMES, J.

WE CONCUR:

FLIER, Acting P. J.

SORTINO, 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.