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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re Shiloh C., a Person Coming Under the Juvenile Court Law.	
CONTRA COSTA COUNTY CHILDREN AND FAMILY SERVICES BUREAU, Plaintiff and Respondent, v. S.O., Defendant and Appellant.	A173750 (Contra Costa County Super Ct. No. J2400215

S.O., the mother of Shiloh C. (mother), appeals from a portion of the juvenile court's exit order, issued upon its dismissal of a dependency petition. The court, upon ordering that father had physical custody of Shiloh, mother's and father's young son, ordered that mother had the right to every-other-week overnight weekend visits with Shiloh, including on Monday holidays, and, on the other weeks (the "off weeks"), the right to visit with him on Wednesdays between 1:30 p.m. and 4:30 p.m.

The court further ordered that, should Shiloh be in school and therefore unavailable for the Wednesday three-hour visit, both mother and father had to agree on an alternative day and time for that week's visit by

mother. According to mother, the court, by so ordering, and by including this order on page two of a Judicial Council JV-205 form used by the court to memorialize its order rather than on page one, in the "Visitation" section, abused its discretion by giving father veto power over whether that week's alternative day and time visit would occur.

We disagree. The court merely delegated to both parents the authority to work out the date and time of this alternative visit after the parties indicated their agreement to the arrangement, and mother gives us no reason to fault the court for outlining this portion of its order on page two of the JV-205 form. Accordingly, we will affirm.

I. BACKGROUND

A. *The Petition*

In April 2024, the Contra Costa County Children and Family Services Bureau (Bureau) filed a petition pursuant to Welfare and Institutions Code section 300[1] alleging the parents of Shiloh, who was then four years old, had failed to supervise and protect him. The Bureau contended regarding mother that, among other things, she had a history of chronic alcohol use that impaired her ability to care for Shiloh; she passed out in an elevator while heavily intoxicated with Shiloh in her care on April 11, 2024; and previously, in another dependency case, her family reunification services were terminated because of her excessive alcohol use and failure to comply with her case plan.

[1] Undesignated statutory references are to the Welfare and Institutions Code.

B. *Jurisdiction and Disposition Rulings*

Mother did not contest jurisdiction. In July 2024, the juvenile court sustained the allegations we have summarized and dismissed the remaining allegations, including those alleged against father.

In its disposition report, the Bureau reported that Shiloh was in the care of his paternal grandparents in El Sobrante, California and doing well. Father, then 40 years old, and mother, then 36 years of age, were married but separated. In 2021, Shiloh had been removed from mother's and father's custody due to his parents' general neglect and father's emotional and physical abuse. He was later reunified with father, who was given sole physical custody and joint legal custody with mother, and the petition was dismissed. Also, in January 2024, a Napa County family law court granted mother and father "joint and legal 50/50 custody of [Shiloh]."

Mother wanted to reunify with Shiloh. She denied abusing substances or alcohol and said she was "more of a social drinker." She said she did not have significant health issues other than having seizures, for which she took medication, but she did not have a formal diagnosis for them. She had entered a residential drug treatment facility in Monterey, California earlier in the year, but said she did so for the sole purpose of addressing domestic violence and not for alcohol. She said she had last consumed alcohol in July 2024.

Mother had a "protection order" against father that was set to expire in October 2024. She attributed her increase in alcohol consumption in part to dealing with the Bureau and father's domestic violence in 2021, among other things. She reported that he had punched her on multiple occasions off and on between 2008 and 2023, but said she had not reported his attacks to law enforcement for fear of retaliation.

The Bureau commended mother on her entry into a treatment program and her participation in random drug testing, parenting and domestic violence classes, and a weekly AA/NA meeting. Nonetheless, it assessed the safety risk to Shiloh of being in her care as "high" because of her "ongoing untreated alcohol use and lack of acknowledgement as to the reason for . . . intervention." It proposed that father attend a parenting education class and individual counseling, but otherwise expressed no issues regarding his care of Shiloh. The Bureau recommended, in a November 2024 addendum, that the court order Shiloh be removed from mother's physical custody and remain in the home of father (an apparent reference to his parents' home) under the Bureau's supervision, maintenance services be provided to father, and mother be given visitation rights and told her reunification services might be terminated at the six-month review hearing, when the court might award physical custody of Shiloh to father and end the case.

At a December 2024 contested disposition hearing, the court adopted the Bureau's proposed findings and orders with minor modifications and set a six-month review hearing for May 2025.

C. *The Bureau's Six-Month Status Review Report*

In its six-month status review report, the Bureau indicated that Shiloh was doing well in the paternal grandparents' home and got along well with father during visits. Father was not compliant with his case plan in that he had not completed a parenting class despite being told of this requirement, and he became argumentative and abruptly ended a phone call with the social worker who told him about it. He was compliant with individual therapy, having attended two sessions.

Mother continued to do well at her residential treatment program, where she had been since July 2024, and had participated in a wide range of

services. She was fully compliant with her case plan and had repeatedly tested negative for substances. Shiloh visited her every other weekend, and mother appeared to take good care of him. On the other weeks, mother had an unsupervised visit with Shiloh for three hours on Wednesday.

Father told the Bureau that Shiloh's pre-school said Shiloh "does not behave like himself after visits with [mother]." The Bureau's social worker then spoke to the program director at the pre-school, who confirmed that "Shiloh is typically calm and adaptive to the structure of the preschool. When he comes back he is constantly crying, not eating, in emotional distress, and appears dysregulated." According to the Bureau, Shiloh's "behavior is suggestive of difficulty adapting to recent changes and adjusting to a new baseline; however, definitive conclusions cannot be drawn at this time."

The Bureau opined that mother "has made great strides during this dependency and has made great effort to mitigate the risk which brought the family to the attention of the Bureau. It is evident that both parents demonstrate genuine love and care for [Shiloh] and remained committed to acting in his best interests." The Bureau recommended that the court vacate and dismiss the dependency case, and award the father sole physical custody and the mother and father shared legal custody.

D. *The Court's Rulings at the Six-Month Status Review Hearing*

At the contested six-month status review hearing in June 2025, the parties argued without presenting evidence. Mother, through her counsel, sought shared physical custody of Shiloh and asserted that the Bureau's recommended visitation was insufficient.

County counsel asserted that the Bureau made its recommendation because "it would be in [Shiloh']s best interests to have [him] reside primarily with the father, based on the parents residing in such a far

distance from each other. [¶] . . . [F]or [Shiloh's] stability, it would make logistical sense for [him] to remain with the father in the home that he has been in for the entirety of his dependency." Father and Shiloh's counsel supported the Bureau's recommendation, praising mother's progress in her program but contending it was "premature" to order joint physical custody.

The court then discussed with the parties the Bureau's proposed visitation order for mother. The Bureau proposed that mother, along with having overnight weekend visits with Shiloh every two weeks (with an additional day for Monday holidays), have a visit with Shiloh on the weeks when they did not have overnights of at least three hours from 1:30 p.m. to 4:30 p.m. on Wednesdays, which was a part of the existing visitation schedule.

The Bureau further recommended that when Shiloh was in school during a scheduled Wednesday visit with mother, both parties had to agree on a date and time for mother's visit of that week. The court asked county counsel specifically, "And what's the date and time to be worked out between the parents for that?" County counsel responded that if the scheduled Wednesday visit "interferes with school, that they would agree to some alternative date or day."

The court then turned to counsel for mother and father and asked, "[L]eaving that up to Mom and Dad to figure out for that weekday when he's in school, do you want the Court to be more specific with that, or will the parties figure out that weekday visit?" Mother's counsel responded, "My understanding is that this is already happening, and so our understanding of the custody agreement is that it's, essentially, the status quo continuing"; quizzed further by the court about the status quo, she said, "It is Wednesday 1:30 to 4:30." Mother's counsel also told the court Shiloh was in a

specialized educational program that was year-round except for two weeks in the summer, and said "the schedule"—an apparent reference to the Wednesday visit from 1:30 to 4:30—"works for my client."

The court then repeated its understanding of the proposed visitation schedule directly to father, including that mother would visit with Shiloh on every other Wednesday from 1:30 to 4:30. Father agreed with the court's understanding.

After further discussion of various visitation details, the court said, "The thing I see is that you guys are working really well together trying to figure this out," and expressed confidence they would continue to do so. The court added, "[I]t sounds like the two of you are really good about figuring out what is in Shiloh's best interest and what's fair to both of you in terms of the time that you're spending with him. [¶] Do I have a good sense of that?" Father responded, "Yeah, I have no problem with him being around his mom at all." Mother's counsel did not raise any further issues about mother's visitation rights before submitting to the court.

The court then adopted the Bureau's recommendations, including on visitation. It told mother it was giving her such extensive visitation rights because of its recognition of her hard work on her sobriety and the court's faith that she would continue that work. The court asked, "So I don't think I need to lay out any other additional visitation orders, correct?" County counsel agreed and the other counsel did not say anything. The court dismissed the petition and granted sole physical custody to father and joint legal custody to both parents.

The court also executed and filed certain forms, as prepared by the Bureau and modified by the court, which became a part of its final judgment. This included a JV-205 form. On its page one, in the "Visitation"

section, under the subheading "Weekends," the court marked the box for "alternating weekends" and indicated visitations would begin on July 4, 2025. It left blank the boxes under the subheadings for "Midweek" and "Other" visits in this section.

However, on page two of the JV-205 form, in a box entitled "Other findings and orders," the court stated: "On the week that [mother] does not have an overnight visit, she will be given a minimum three-hour visit on alternating Wednesdays to occur from 1:30pm to 4:30 pm. If Shiloh is in school, both parents must agree to a day and time for [mother] to have her visit for the week. Additionally, when [Shiloh] has a school break, [mother] may have an additional overnight visit from Friday through Monday."

Mother filed a timely notice of appeal.

II. DISCUSSION

Mother raises one issue on appeal: that the juvenile court abused its discretion by improperly delegating visitation authority to father because of its order that, if Shiloh is in school on Wednesday afternoons, both parents must approve the day and time of mother's visitation that week, and its failure to include this part of its visitation order in the "Visitations" section of the JV-205 form.

A. *Legal Standards*

"When a juvenile court terminates its jurisdiction over a dependent child, it is empowered to make 'exit orders' regarding custody and visitation. [Citations.] Such orders become part of any family court proceeding concerning the same child and will remain in effect until they are terminated or modified by the family court." (*In re T.H.* (2010) 190 Cal.App.4th 1119, 1122–1123 (*T.H.*).) "The power to determine the right and extent of visitation by a noncustodial parent in a dependency case resides with the court and may not be delegated to nonjudicial officials or

private parties," including visitation outlined in exit orders (*T.H.*, *supra*, 190 Cal.App.4th at p. 1123, citing *In re Donnovan J.* (1997) 58 Cal.App.4th 1474, 1476; *In re Korbin Z.* (2016) 3 Cal.App.5th 511, 516 (*Korbin Z.*)) and any delegation to "the parents themselves" (*In re Armando L.* (2016) 1 Cal.App.5th 606, 616). " 'When the court abdicates its discretion and permits a third party . . . to determine whether any visitation will occur, the court impermissibly delegates its authority over visitation and abuses its discretion.' " (*Korbin Z.*, at p. 519.)

Nonetheless, the juvenile court may delegate to a third party the responsibility for managing visitation details, including the time, place, and manner of visits. (*T.H.*, *supra*, 190 Cal.App.4th at p. 1123; *Korbin Z.*, *supra*, 3 Cal.App.5th at p. 517.) Indeed, "the ministerial tasks of overseeing visitation as defined by the juvenile court 'can, and should be delegated to the entity best able to perform them . . . .' " (*In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1374.) Nonetheless, "[w]here a juvenile court orders visitation, the court shall specify the frequency and duration of visits." (*In re Grace C.* (2010) 190 Cal.App.4th 1470, 1478.) Thus, for example, "[t]he time, place, and manner of visitation may be left to the legal guardians, but the guardians shall not have discretion to decide whether visitation actually occurs." (*Ibid.*)

We review a juvenile court's exit and visitation orders for abuse of discretion. (*In re N.M.* (2023) 88 Cal.App.5th 1090, 1094 [exit order]; *Montenegro v. Diaz* (2001) 26 Cal.4th 249, 255 [visitation order].) Under this standard, "a disposition that rests on an error of law constitutes an abuse of discretion." (*In re Charlisse C.* (2008) 45 Cal.4th 145, 159.)

B. *Analysis*

Mother contends that the juvenile court, by ordering that her three-hour off-week visit with Shiloh, should he be in school on Wednesday

between 1:30 p.m. and 4:30 p.m., take place at a day and time agreed to by both parents, improperly delegated its visitation authority to father by giving him in effect veto power over whether this alternative time visit occurs at all.

Mother bases her argument on *T.H.*, *supra*, 190 Cal.App.4th 1119. There, the juvenile court terminated jurisdiction, granted the separated parents joint legal custody and mother physical custody, and "ordered that father have supervised visitation 'to be determined by the parents,' such visits to take place" at a particular professional site or one comparable to it. (*Id*. at p. 1122.) Our colleagues in Division Five of this court determined this was an abuse of discretion because "the visitation order provided that supervised visitation would occur, but only upon the 'agreement of the parents,' " in a circumstance where it was "clear . . . that father and mother do not get along and that any agreement regarding visitation will be difficult to achieve"; indeed, the court noted, mother had objected to father having any visitation at all. (*Id*. at p. 1123.) The appellate court concluded that, under these circumstances, the juvenile court "abused its discretion by framing its order in a way that gave mother an effective veto power" over father's right to supervised visitation. (*Id*. at p. 1124.) It remanded the matter for the trial court to "exercise its discretion in formulating an order that establishes, at the very least, the amount of visitation to which father is entitled." (*Ibid*.)

The court's order here, and the present circumstances, are easily distinguishable from those in *T.H.* As mother acknowledges, one major difference is that the juvenile court here *did* detail the frequency and amount of visitation time it was ordering for mother, all of which are beyond father's control—overnight weekend visits every other week, including

Monday holidays, and, on the off-week, a three-hour visit on Wednesdays between 1:30 p.m. and 4:30 p.m. unless Shiloh is in school at that time.

Also, the juvenile court's delegation of authority to the parents was limited to the day and time of mother's off-week three-hour visit with Shiloh if he is in school on a Wednesday between 1:30 p.m. and 4:30 p.m. The court did *not* delegate to father the authority to determine whether *any* visitation would occur during this off-week—its order plainly indicates mother is to have at a minimum a three-hour visit with Shiloh in the off-weeks, thereby making clear the frequency and duration of these visits. It only delegated determination of the day and time of the visit to the parents if Shiloh's attendance at school makes the normally scheduled Wednesday afternoon visit impossible. This was well within the court's discretion. (*T.H.*, *supra*, 190 Cal.App.4th at p. 1123; *Korbin Z.*, *supra*, 3 Cal.App.5th at p. 517; *In re Grace C.*, *supra*, 190 Cal.App.4th at p. 1478.)

Also, the court made its decision after specifically quizzing the parties, including the parents, about whether they wanted to work out together an alternative day and time for the off-week three-hour visit when necessary, and invited them to request more specific orders on the issue. Mother's counsel responded that the court's proposed visitation order worked with mother's schedule, father indicated he had no problems with mother visiting with Shiloh, and the court indicated that it appeared the parents were doing well working out matters between them regarding Shiloh, all without mother raising any issues about visitation.[2]

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[2] Indeed, it appears that, assuming for the sake of argument that the court erred, mother invited this error by her consent to the court's visitation order. (See, e.g., *In re G.P.* (2014) 227 Cal.App.4th 1180, 1193–1196 [in a termination of parental rights case, father invited error regarding the

Mother cites the Bureau's six-month status review report indicating she was frustrated that father and his parents did not share information and Shiloh's schooling and his medical appointments when requested. But she ignores that her counsel raised this issue at the hearing and did *not* argue it created any problem with visitation (the court was satisfied when father's counsel indicated mother had the ability to obtain this information on her own).[3] Moreover, the court was within its discretion to credit father's affirmation that he had no problems with mother visiting with Shiloh and the parties' cooperation with each other regarding visitations, regardless of this history.

We decline to second-guess the trial court under these circumstances. "In determining whether there has been . . . an abuse [of discretion], we cannot reweigh evidence or pass upon witness credibility. The trial court is the sole arbiter of such conflicts. Our role is to interpret the facts and to make all reasonable inferences in support of the order issued." (*Dodge,*

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court's determining the children were adoptable without finding it would be detrimental to the child if returned to his custody].) But since father does not raise the invited error doctrine, we do not decide this appeal on that ground.

[3] On appeal, mother also cites to the Bureau's disposition report, in which the Bureau indicated she said she had suffered physical abuse at father's hands as late as 2023, to contend the parties might not agree to the details of mother's off-week three-hour visit with Shiloh. However, mother does not show this history was presented to the court—by her or anyone else—at the six-month status review hearing. Therefore, we will not consider that part of her argument. "It is an elementary rule of appellate procedure that, when reviewing the correctness of a trial court's judgment, an appellate court will consider only matters which were part of the record at the time the judgment was entered," absent certain circumstances not applicable here. (*Reserve Insurance Co. v. Pisciotta* (1982) 30 Cal.3d 800, 813, quoted in *Haworth v. Superior Court* (2010) 50 Cal.4th 372, 379, fn. 2.)

Warren & Peters Ins. Services, Inc. v. Riley (2003) 105 Cal.App.4th 1414, 1420.) And in any event, if father acts in a way that thwarts mother's ordered off-week three-hour visits with Shiloh, she can seek modification of the exit order in family court. (§ 302, subd. (d) [family law court may modify an exit order regarding custody and visitation upon finding a significant change of circumstances and that modification of the order is in the best interests of the child]; *T.H.*, *supra*, 190 Cal.App.4th at p. 1123; *Heidi S. v. David H.* (2016) 1 Cal.App.5th 1150, 1164.)

Finally, mother also argues the court's visitation order somehow requires reversal because "the court did not properly document the mother's alternating weekly weekday visit in the 'Visitation' section of the JV-205 form" [on its page one], which, along with the court's directive that the parents must agree on the day and time of a visit if Shiloh is in school on a Wednesday afternoon, "gave the father the same kind of veto power that the *T.H.* court found required reversal." According to mother, because the court instead outlined the terms of mother's off-week three-hour visitation rights on the form's page two, "if a dispute were to arise between the parents and an investigating officer were to review the order, it would not be immediately apparent" that mother has this visitation right.

We must presume that the juvenile court's orders are correct, and mother has the burden as appellant of affirmatively showing the court erred in outlining the terms on page two of the JV-205 form instead of in the "Visitation" section on page one. (See, e.g., *In re J.F.* (2019) 39 Cal.App.5th 70, 79.) Having failed to provide any legal authority for her contention that the juvenile court was somehow required to outline these terms in the "Visitation" section or face reversal for abuse of discretion, mother fails to meet that burden. (See *Ibid.* [" ' "When an appellant fails to . . . support [a

point] with reasoned argument and citations to authority, we treat the point as waived." ' "].)

III. DISPOSITION

The order appealed from is affirmed.

STREETER, J.

WE CONCUR:

BROWN, P. J.
GOLDMAN, J.