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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re VALERIE H. et al.,
Persons Coming Under the
Juvenile Court Law.

A.H., Jr.,

Appellant,

v.

J.M.,

Respondent.

B344015

(Los Angeles County
Super. Ct. No.
24CCJP01213A-C)

APPEAL from orders of the Superior Court of Los Angeles County, Pete R. Navarro, Commissioner. Affirmed.

Zaragoza Law Office and Gina Zaragoza, under appointment by the Court of Appeal, for Appellant.

Sean A. Burleigh, under appointment by the Court of Appeal, for Respondent.

* * * * *

This is the second appeal in this juvenile dependency case. It follows the termination of dependency jurisdiction over A.H. Jr.'s (father's) three children. Father challenges the portions of the exit orders fixing his visitation rights with the children. Because father's challenges either lack merit or were invited, we affirm.

FACTS AND PROCEDURAL BACKGROUND¹

I. The Family

Father married J.M. (mother) in 2009. They have three children—Valerie (born March 2010), Zoey (born April 2012), and Michael (born January 2023). After father and mother split up in November 2022, they forewent a formal custody order and instead agreed to share physical custody of the children, with mother having primary custody.

II. Father Emotionally Abuses and Physically Endangers His Daughters

Over the course of several visits in 2023 and 2024, father's relationship with Valerie and Zoey deteriorated. Father would scream and curse at both Valerie and Zoey; he would pull Valerie's hair and hit her on the buttocks with his hand; and he once hit Zoey with a hairbrush hard enough to leave a mark. As

¹ We draw many of these facts from this court's prior unpublished opinion affirming the initial assertion of dependency jurisdiction in 2024. (*In re Valerie H.* (Aug. 21, 2025, B338866) [nonpub. opn.] (*Valerie H.*)).

a result, Valerie and Zoey grew “really scared” of him and resisted further visits. When the girls expressed their reluctance to visit, father cursed at them, stated he was no longer their father, and told them that he was having suicidal thoughts because they did not want to see him. During a February 2024 visit, father got so upset with their reluctance to spend a weekend in the mountains with father and his new girlfriend that he started yelling and driving in an unsafe manner, driving over twice the speed limit and running red and yellow lights. He eventually screamed at Valerie to “get the fuck out of [his] car.” When Valerie and Zoey got out of the car, both were crying and Zoey was visibly “shaky” and “scared.” The girls reported two other incidents of father driving unsafely with them in the car.

Father denied ever hitting the girls or pulling their hair, minimized the allegations against him, and assigned blame for his soured relationship with Valerie and Zoey to the girls and mother.

III. The Juvenile Court Asserts Jurisdiction Over All Three Children

At a June 2024 jurisdiction and disposition hearing, the juvenile court sustained as pled all of the alleged bases for dependency jurisdiction over Valerie, Zoey and Michael—namely, that (1) father placed the girls “in a detrimental and endangering situation” by “dr[iving] recklessly . . . and screaming at . . . Valerie” while Valerie and Zoey were passengers, and that this conduct “places” all three children “at risk of physical harm, damage and danger” (thereby warranting the exercise of jurisdiction under subdivisions (b) and (j) of Welfare and

Institutions Code section 300);² (2) father “emotionally abused” Valerie “by denigrating [her] and frequently speaking to [her] in a harsh and abusive manner,” despite being “aware of [her] self-harming ideation and behavior,” and that such “emotional abuse . . . places [her] at substantial risk of suffering serious emotional damage” (thereby warranting the exercise of jurisdiction under subdivision (c) of section 300); and (3) father “emotionally abused” Zoey by “frequently speaking to [her] in a harsh and abusive manner,” and that such “emotional abuse . . . places [her] at substantial risk of suffering serious emotional damage” (also warranting the exercise of jurisdiction under subdivision (c) of section 300).

As to disposition, the court released the children to the parents’ custody, with mother as the primary custodial parent. Father was granted visitation with Michael for four hours every Wednesday and 24 hours every weekend. The court ordered father’s parenting time with his daughters to be arranged by mother and father.

IV. Father’s Challenges to the Jurisdiction Findings Are Rejected on Appeal

Father timely appealed the jurisdiction findings. We affirmed the court’s order, concluding substantial evidence supported the court’s findings. (*Valerie H.*, *supra*, B338866 at pp. 6-9.)

V. The Juvenile Court Terminates Dependency Jurisdiction

On December 12, 2024, the juvenile court held a six-month status review hearing. During that six-month period, Valerie

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

and Zoey only had intermittent in-person visits with father in public settings and declined to participate in conjoint counseling with father. Also during that period, the court modified father's visitation schedule with Michael to grant father eight hours every Wednesday and 52-hour visits every other weekend. The Los Angeles Department of Family and Children Services (the Department) recommended that jurisdiction be terminated with an exit order granting mother and father joint legal and joint physical custody of all three children.

Mother agreed with the Department's custody recommendation but requested "tie-breaking authority" as the "primary caretaker" because Valerie and Zoey "ha[d] been desirous of very limited contact with [] father" and "just recently bec[a]me comfortable with visits." Father also agreed to joint legal and physical custody, but asked the court to not grant mother tie-breaking authority, adding he was "hopeful that now that [Valerie and Zoey] are feeling a little more comfortable to have more contact, that things can only go up from here, hopefully speaking." When mother clarified for the court that there was no "set schedule" for visitation with the girls because they had "just barely started being desirous of visitation," father immediately responded that he "want[ed] to make sure that [Valerie and Zoey] are comfortable with visits. So as long as [Valerie and Zoey] are okay, he and mother agree that should not be an issue for them. He just wanted more custody of [] Michael, as he is differently situated."

The court then issued an order (1) terminating dependency jurisdiction (upon receipt of the Juvenile Custody Order or "exit order"); (2) awarding the parents joint legal custody and joint physical custody of the children; and (3) directing the parents to

participate in mediation for the purpose of formulating a detailed parenting schedule.

VI. The Juvenile Court Holds a Further Hearing Regarding Visitation and Issues an Exit Order

On January 17, 2025, the court conducted a further hearing. Father for the first time objected to the designation of mother as the primary custodian, but reiterated that what he was “fighting for” was “more time” with Michael. The court expressed its hope “that the parents will be able to be more flexible with each other,” but adhered to its prior order and informed father that, if circumstances materially changed, he could seek appropriate modification in the family law court. Neither parent nor the court raised, addressed, or otherwise made reference to the issue of visitation with Valerie and Zoey.

On February 10, 2025, the court filed the exit order. As pertinent here, the exit order provides that (1) mother and father share joint legal and physical custody of all three children, and that the children’s primary residence is with mother; (2) “[f]or child Michael father is authorized to have alternating weekend visits from Friday at 12:00pm to Sunday at 4:00pm” and “also authorized to have mid-week visits on Wednesdays from 12:00pm to 8:00pm”; and (3) “[f]or children Valerie and Zoey, father’s parenting time is to be as arranged by mother and father.” That same day, the juvenile court lifted the stay of its December 2024 termination order and terminated its jurisdiction.

VII. Appeal

Father filed a timely notice of appeal.

DISCUSSION

Father contends the juvenile court’s exit order must be vacated because the court (1) did not award him greater

visitation time with Michael, and (2) improperly delegated to mother the power to decide whether visits would occur with Valerie and Zoey.

Where, as here, a juvenile court terminates dependency jurisdiction when the dependent children are in their parents' custody,³ the court may concurrently issue an "exit order" regarding custody and visitation. (§ 362.4, subd. (a); *In re J.M.* (2023) 89 Cal.App.5th 95, 112.) When making such determinations, "the court's focus and primary consideration must . . . be the best interests of the child." (*In re T.S.* (2020) 52 Cal.App.5th 503, 513, quoting *In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268 (*Nicholas H.*)). In assessing which custodial or visitation arrangement is in a child's best interest, a court is to consider the totality of the circumstances. (*In re Chantal S.* (1996) 13 Cal.4th 196, 201.) A juvenile court has broad discretion in crafting exit orders, and we review solely for an abuse of that broad discretion. (*In re N.M.* (2023) 88 Cal.App.5th 1090, 1094; *In re T.H.* (2010) 190 Cal.App.4th 1119, 1123.)

I. Visitation Schedule for Michael

The juvenile court did not abuse its discretion in providing that father had the right to custodial visits for Michael during a (1) weekly eight-hour, mid-week visits and (2) alternating, full-weekend visits. The court was confronted with conflicting evidence regarding whether additional visitation time would be in Michael's best interest. On the one hand, mother reported that, upon returning from visits with father, Michael cried more and had trouble sleeping. On the other hand, father reported that Michael's overnight visits on the weekends "went well," and

³ No party challenges the juvenile court's decision that termination of jurisdiction was appropriate.

a Department social worker recommended that father and mother have “50/50 parenting time”; father also urges us to discount mother’s reports because “[t]ransitions [from one parent’s custody to the other] can be difficult for various reasons.” The juvenile court implicitly resolved the conflicting evidence in mother’s favor in ruling that no increase in visitation time was in Michael’s best interest, and we are in no position to gainsay the court’s credibility determination or to reweigh that competing evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

Father responds with what boils down to three arguments.

First, father asserts that he is entitled to a 50/50 visitation schedule absent a showing that a deviation from such a schedule would be detrimental to Michael. The implicit assumption of father’s argument is that a 50/50 custody or visitation arrangement is the default custodial arrangement in an exit order (and hence is what is presumptively in a child’s best interest). But the law is to the contrary. (*In re John W.* (1996) 41 Cal.App.4th 961, 965 [“The court is not required to apply a per se rule that the child’s time must be split in half as long as neither parent poses an active threat”]; see generally, *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712 [rejecting notion that “presumption [of] joint custody” applicable in family law cases “is in the best interest of the minor”]; *Nicholas H., supra*, 112 Cal.App.4th at p. 268 [“joint physical custody may not be in the child’s best interests for a variety of reasons”].) Father cites *In re Liam L.* (2015) 240 Cal.App.4th 1068 in support of his assertion, but *Liam L.* is inapt. *Liam L.* held that a noncustodial parent makes a “prima facie case” for relief in seeking a change-of-custody order under section 388 by showing that he is entitled to relief under section 361.2, which entitles noncustodial parents to

custody as long as it would not be detrimental to the child's safety. (*Id.* at pp. 1085-1086.) *Liam L.* applied the "lack of detriment" standard set forth in section 361.2's plain text to a section 388 petition; it did not, as father suggests, hold that "lack of detriment" supplants the "best interest of the child" standard in all of dependency law.

Second, father argues that his completion of his case plan entitles him to equal custodial time with Michael. He is wrong. Although father is correct that *In re C.W.* (2019) 33 Cal.App.5th 835 holds a juvenile court may err in granting custody to a parent who did not complete his case plan, father is incorrect that *C.W.* supports the inverse proposition that a parent's completion of his case plan entitles him to equal custody regardless of other considerations. Indeed, father's proffered standard is wholly inconsistent with the best interest standard, which as noted above looks to the *totality* of the circumstances (rather than solely to a parent's progress on their case plan).

Third and lastly, father cites *Adoption of Kelsey S.* (1992) 1 Cal.4th 816, 849, for the proposition that his "interest in retaining custody of his children is cognizable, and substantial." This is true, but is of no moment because father has been granted joint custody; because the question here is thus not custody, but visitation; and because a parent's entitlement to visitation necessarily yields to whichever visitation arrangement is in the child's best interest.

II. Visitation Schedule for Valerie and Zoey

Although a juvenile court may delegate to a third party (including a parent) the responsibility to manage the details of visitation, such as the time, place and manner of visits (*In re Moriah T.* (1994) 23 Cal.App.4th 1367, 1374-1376), a visitation

order that actually or effectively allows a third party (including a parent) to decide whether visitation occurs at all is impermissible because it erroneously delegates the *judicial* power to set visitation. (*In re S.H.* (2003) 111 Cal.App.4th 310, 317-319; *In re Armando L.* (2016) 1 Cal.App.5th 606, 616; *In re Rebecca S.* (2010) 181 Cal.App.4th 1310, 1314.) We need not decide whether the exit order’s visitation provisions regarding Valerie and Zoey, which provides that “father’s parenting time is to be as arranged by mother and father”—ostensibly delegates to mother the power to decide whether visitation occurs at all because father acquiesced to this arrangement when he agreed with mother that his visitation with the girls retain no “set schedule,” that it should turn on their “comfort[] with [the] visits,” and that “he and mother agree” that this more consent-driven arrangement “should not be an issue for them.” Father’s failure to object to the juvenile court’s arrangement constitutes a forfeiture that precludes father from raising it on appeal. (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1338-1339.) Indeed, father’s affirmative acquiescence goes a step further because it induced the juvenile court to accede to the plan; we will not intervene to correct such an invited error. (*In re G.P.* (2014) 227 Cal.App.4th 1180, 1193.)

DISPOSITION

The juvenile court's exit orders are affirmed.

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_____, P. J.
HOFFSTADT

We concur:

_____, J.
MOOR

_____, J.
KIM (D.)