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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B251304
(consolidated with B255738)
(Los Angeles County
Super. Ct. No. CK92499)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

MALINDA J.,

Defendant and Appellant.

CONSOLIDATED APPEALS from a judgment and postjudgment orders of the Superior Court of Los Angeles County. Marilyn Martinez, Commissioner. Affirmed.

Andrea R. St. Julian, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, Richard D. Weiss, Acting County Counsel, James M. Owens and Dawyn R. Harrison, Assistant County Counsel, Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

Mother Malinda J. appeals from the judgment entered after the juvenile court declared her daughter, E. B., a dependent of the court under Welfare and Institutions Code section 300, subdivision (b)¹, and removed the child from her custody, as well as from postjudgment orders. Mother contends: (1) substantial evidence does not support the jurisdictional finding and, even if jurisdiction were proper, (2) substantial evidence is lacking for removal under section 361, subdivision (c)(1); (3) the denial of reunification services constitutes error; (4) the visitation and custody orders made in conjunction with the termination of jurisdiction are improper. We disagree with mother's contentions and thus affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Section 300 Petitions and Detention

On January 15, 2012, the Department of Children and Family Services (DCFS) received a referral of general neglect regarding the child, then four months old, due to mother's use of methamphetamine, amphetamine and marijuana. Mother failed to comply with a case plan developed by DCFS, and, on or about March 7, DCFS removed the child from mother's custody. The juvenile court sustained a section 300, subdivision (b), petition against mother and placed the child with father. The court granted family reunification services to mother. Mother failed to attend or participate in the services. Several months later, on June 6, the court terminated jurisdiction, awarding sole physical and legal custody to father and ordering monitored visitation for mother. A restraining order was in place against mother with respect to father, several of his relatives and the child outside of visitation. Six months later, on December 6, the family law court granted mother shared custody so that she and father each had custody of the child 50 percent of the time.

¹ Statutory references are to the Welfare and Institutions Code.

Six months after the family law court's joint custody award, on June 6, 2013, DCFS received a referral alleging general neglect by mother and indicating that mother and father "share[d] custody of the child, . . . but mother did not have stable housing and is currently using methamphetamines[,] which she has a known history of using." DCFS confirmed that mother's housing was not stable and spoke with father, who was caring for the child that day. Father came to the DCFS office with the child, who "presented healthy, happy and well cared for" and "appeared well bonded with father" "Father explained that he was granted sole custody by [the juvenile court] [in 2012] but mother went to [family court] and requested 50/50 custody. Father . . . was concerned when she requested the change in order because she did not participate in the DCFS court case and rarely made any of the visits when DCFS was monitoring the case. Father stated that mother did not reunify through [juvenile court] and he did not understand how or why the [f]amily [l]aw judge would allow mother to obtain 50/50 custody. [¶] Father further explained that mother's current housing situation is unstable. Father explained that he received a call from mother's friend named 'Mike' and ['Mike'] told him that mother was possibly using drugs again and hanging out with known drug dealers. Father . . . confronted mother about the alleged drug use when they exchanged [the child] that week. Father [said] . . . that mother told him that she had used meth a few days prior. Father further stated that mother has appeared to have lost a significant amount of weight within the last couple of months." (Emphasis omitted.)

Father also "explained that there was an incident that mother told him about regarding an altercation between her and her brother and that she told him that [the child] was pushed down during the altercation between them. . . . [T]here has been known altercations between [mother] and her brother in the past and . . . [father] has contacted [the police] in the past because of the physical violence in the home and his concern for [the child] when she is in the home with mother. . . . [O]n 4/8/13 [father] took [the child] to the doctor after mother fell on her during an altercation with her brother." The doctor found the child was not injured.

Several days after the referral, on June 11, DCFS spoke with mother, who denied the allegations and said DCFS did not need to know information regarding her whereabouts and residence. DCFS asked mother to drug test. DCFS spoke with mother on June 14, and mother again refused to give DCFS her location information. She became “very argumentative” and “yell[ed].” Mother ultimately reported that she was moving into church housing and agreed to meet at the DCFS office on June 17. She did not show for the meeting but called DCFS the next day, again resisting DCFS efforts to determine where she lived and asking about drug test results. DCFS informed mother that she had tested positive for methamphetamine. Mother stated that the results were false. She came to the DCFS office for an appointment but did not stay.

A case management meeting occurred on June 25. Mother reported “that she has never used drugs and that the positive test must have come from taking Mike’s medication for her back pain.” When told that medication would not result in a positive methamphetamine test, mother “maintained that she has never used drugs and initially denied any previous drug history and then admitted that she ‘may have used once before’ when DCFS was involved with her family a year ago. Mike interjected and [said] that he thinks that mother may have taken . . . his Ritalin pills instead of a pain pill and this could have caused the test to be positive.” Mother was told that such medication also would not result in a positive methamphetamine test and that a positive test could come only from ingestion of methamphetamine. Mother appeared “to be visibly anxious; hands shaking, lack of eye contact, jittery as though she were ‘coming down.’” Mother denied the allegations and maintained that she does not use drugs and is not a danger to her child. Mother agreed to a court detention and [the child] being left in the care of her father at this time.” During the meeting, the child “smiled at her mother but never held out her hands to go to her mother and never left her father’s arms” until taken out of the room. (Emphasis omitted.) Mother reported that she was living with Mike, her fiancé, but said she had refused to give DCFS that information because Mike does not want to be involved. Mike indicated that he and mother are “‘kinda in a relationship,’” but “he does not want to be involved . . . because he is still married and does not want DCFS to affect

his divorce resulting in him having to move from the home if/when the wife finds [out] about the current situation and mother living in the home.” Although Mike stated he wants to help mother, he “implied he would ask her to leave the residence if it posed an issue for him retaining the home in his divorce.” Mike was clear that he and mother were not engaged to be married.

On June 28, DCFS filed a section 300 petition on behalf of the child. As amended by interlineation, the petition alleged under subdivision (b), that mother “has a history of illicit drug use, including marijuana, and is a current user of amphetamine and methamphetamine, which renders the mother unable to provide regular care and supervision of the child. On 06/11/2013, the mother had a positive toxicology screen for amphetamines and methamphetamine, while the child was in the mother’s care and supervision. The child is a prior dependent of the [j]uvenile [c]ourt due to the mother’s illicit drug use. Such illicit drug use by the mother endangers the child’s physical health and safety and places the child at risk of physical harm.” At a hearing that same date, the juvenile court found a prima facie case for detaining the child and released the child to father. The court ordered family maintenance services for father and reunification services and monitored visitation for mother.

2. *Jurisdiction and Disposition*

In the jurisdiction and disposition report, filed on August 13, DCFS reported that Mike had three prior drug-related convictions. Mother did not submit to an interview. Her whereabouts were unknown to DCFS, as she had enrolled in a drug treatment program on August 6 but left a few days later. Mother herself was a dependent as a child. Father reported that mother used marijuana ““quite a bit”” when they dated in 2009. After they had broken up, he learned that she was pregnant. When the child was four to six months old, father “learned from a neighbor of mother’s that she was using methamphetamine. . . . [T]he neighbor told him mother would often return home late at night and wasn’t providing adequate care and supervision” for the child. About the same time, father noticed mother “was rapidly losing an excessive amount of weight.” Father reported that mother currently calls him frequently to ask if they can reunite.

DCFS recommended termination of jurisdiction with sole legal and physical custody to father and monitored visitation for mother.

At the jurisdiction and disposition hearing, on September 5, mother testified, stating that she had not used methamphetamine for approximately two years and she believed the positive methamphetamine test was the result of iron pills. After evaluating mother's testimony, DCFS reports and arguments of counsel, the juvenile sustained the petition, declaring the child a dependent under section 300, subdivision (b). According to the court, "We have here a mother who has a history of substance abuse. The court has previously sustained an allegation that she is drug involved. She has not presented any evidence that she complied with the prior order. In fact, the court terminated dependency jurisdiction providing that the child would be in her father's full legal and physical custody. Mother says that she did attend [a drug treatment] program . . . for about six weeks. The office manager from that program was interviewed by the social worker and indicated that mother did enroll in the inpatient program but she left after a few days. . . . So there's a discrepancy. . . . [Mother] continues to be drug involved. I do not accept her explanation that the positive test for amphetamines and methamphetamine [is] due to iron pills. There's . . . no credible evidence whatsoever to support that. . . . So taking together that she has a history of drug involvement, that she's never verified that she's completed a program, that she continues to be drug involved, this child needs to be protected from her mother. This is a very young child who could not otherwise protect herself or recognize that her mother may be under the influence and not be able to care for her and speak up loudly" Mother interrupted the court several times during its statement, requiring the court to admonish her, "You shall not be disrespectful. You do not need to laugh at what it is I say because that's disrespectful. You must be respectful or I'll ask you to step out." At disposition, after asking mother to leave the courtroom because of her continued disruption, the court maintained the child's placement with father. It ordered monitored visitation of one hour per week for mother but no reunification services. The court continued its jurisdiction, setting a review hearing for March 6, 2014.

Mother filed a timely notice of appeal. (§ 395, subd. (a)(1); see *In re Tracy Z.* (1987) 195 Cal.App.3d 107, 112 [jurisdictional findings reviewable on appeal from judgment following disposition].)

3. *Termination of Jurisdiction and Exit Orders*

While the appeal from the judgment following disposition was pending, DCFS filed a status review report for the March 6 hearing. In the report, DCFS indicated that “[t]here have been no significant changes in [f]ather’s household. Father and [the child] appear to be doing well and [the child’s] needs appear to be met in the home. Father reports having a continued issue[] with [m]other inappropriately calling him. Father stated that [m]other calls him at odd hours of the day asking to speak to [the child] and frantically stating that he and the baby need to move out of California as she predicts an oncoming earthquake. Father stated that he feels harassed by [m]other because she doesn’t respect the restraining order or his space.” Father apparently obtained a second restraining order against mother in October 2013. According to DCFS, “[m]other continues to take no responsibility for her actions during visits and matters related to this case. Mother denies any wrongdoing that is brought up to her. Mother is most often unable to be told information that is not in her favor and becomes argumentative, unreasonable, and goes on to misplace her anger. Mother is difficult to work with because she doesn’t show an ability to self reflect.” DCFS noted difficulty in finding relatives to monitor visits due to mother’s erratic behavior and said mother nevertheless has been inconsistent in attending visits and at times inappropriate during them. DCFS recommended termination of jurisdiction with a family law order giving father sole physical and legal custody. At the March 6 hearing, the juvenile court continued the matter to April 17.

Before the April 17 hearing, DCFS reported that mother had enrolled in a drug treatment program as of February 12. Mother was initially inconsistent in her participation, but as time went on seemed “more willing and more spiritual and reports she has been clean for two months.” Mother suffered a black eye and “reported it was from a man she was with that she loved.” Mother told DCFS the black eye was from

Mike, who now was her ex-boyfriend. Mother said she did not intend to report the incident and she and Mike agreed to stay away from each other. Mother was attentive with the child during visits but, “from time to time, made inappropriate comments. During this past month of supervision, at the 3/18/2014 visit, [m]other told [the child] to tell her [f]ather that [mother] loves him and will see him soon.” According to DCFS, “[a]lthough [m]other appears to be in a better place and motivated to become clean and sober, [m]other is only beginning her process and still has a lot of issues to address.” DCFS continued to recommend termination of jurisdiction with the child to remain with father.

At the April 17 hearing, the juvenile court denied mother’s section 388 petition in which she had requested reunification services and increased visitation, concluding mother did not demonstrate changed circumstances such that the requests would be in the best interests of the child. The court then terminated jurisdiction pursuant to a family law order, awarding sole legal and physical custody to father. Mother was granted monitored visitation of one hour per week and, if father does not have a monitor available for the visits, then mother is to secure and pay for a professional monitor. In making these orders, the court stated that mother “is not in substantial compliance She has not made substantial progress addressing the issues which brought her daughter before this court. She enrolled in a drug rehab program and she was discharged from that program early February of this year for her noncompliance. She did immediately enroll in a [new] program. She’s been in that program for two months. And for now, she is complying and making progress. But . . . her history of substance abuse[] [and] her failure to be able to regularly attend and comply with a drug rehab program does not bode well that she may complete the program that she’s currently in. . . . [S]he is at the very beginning of addressing her drug related issues. As to visits, . . . it has been difficult to find relatives to assist to monitor mother’s visits given mother’s erratic behavior. Mother has been inconsistent in attending and at times inappropriate during the visits.” In addition, the court expressed concern about mother’s recent injury due to a domestic

violence incident with her now ex-boyfriend. As the court was making its visitation order, mother walked out of the courtroom and uttered an expletive.

Mother appealed from the denial of her section 388 petition and from the order terminating jurisdiction and its attendant custody and visitation orders. (§ 395, subd. (a)(1); see *In re K.C.* (2011) 52 Cal.4th 231, 235-236 [order denying § 388 petition appealable]; *In re T.G.* (2010) 188 Cal.App.4th 687, 692 [orders after judgment at disposition, except for order setting hearing a selection and implementation hearing pursuant to § 366.26, are appealable postjudgment orders].)

We consolidated the two appeals for purposes of oral argument and decision.

DISCUSSION

1. *Jurisdiction Under Section 300, Subdivision (b)*

“The purpose of section 300 is ‘to identify those children over whom the juvenile court may exercise its jurisdiction and adjudge dependents.’ [Citation.]” (*In re A.O.* (2010) 185 Cal.App.4th 103, 110.) To declare a child a dependent under section 300, the juvenile court must find by a preponderance of the evidence that the allegations are true. (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318; see § 355, subd. (a).) We review the court’s findings under section 300 for substantial evidence and will affirm the judgment based on those findings if they are supported by reasonable, credible evidence of solid value. (*Matthew S.*, at p. 1319.)

Under section 300, subdivision (b), the juvenile court may adjudge a child a dependent of the court when “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child” “A jurisdictional finding under section 300, subdivision (b)[,] requires: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the child, or a ‘substantial risk’ of such harm or illness.” [Citation.]’ [Citations.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.) When the jurisdictional finding is “based on the parent’s ‘inability . . . to adequately supervise

or protect the child[.]” DCFS must show “parental unfitness or neglectful conduct.”
(*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1254.)

As noted, the juvenile court sustained a section 300 petition against mother under subdivision (b) based on the allegation, as amended by interlineation, that mother “has a history of illicit drug use, including marijuana, and is a current user of amphetamine and methamphetamine, which renders the mother unable to provide regular care and supervision of the child. On 06/11/2013, the mother had a positive toxicology screen for amphetamines and methamphetamine, while the child was in the mother’s care and supervision. The child is a prior dependent of the [j]uvenile [c]ourt due to the mother’s illicit drug use. Such illicit drug use by the mother endangers the child’s physical health and safety and places the child at risk of physical harm.” Mother contends that the jurisdictional finding based on this allegation is not supported by substantial evidence. We disagree.

According to the evidence, a petition was sustained against mother in June 2012 based on her drug use. Six months later, mother succeeded in obtaining an order from the family law court giving her shared custody of the child. Nevertheless, several months later, DCFS received a referral regarding mother’s continued drug use, and mother tested positive for methamphetamine. In addition, mother’s boyfriend and a neighbor of mother’s reported mother’s drug use to father, and father noticed that mother was rapidly losing weight. Mother admitted to father that she had used methamphetamine but denied her drug use to DCFS and blamed her positive test result on various medications. She, however, exhibited physical signs of drug use when speaking to DCFS. She had unstable living arrangements, did not participate in drug treatment, behaved erratically with father and in court and had physical altercations with her brother, at least once putting the child at risk of injury. The child was very young and unable to speak up for herself or recognize if mother was under the influence. This evidence supports the determination of a substantial risk of serious physical harm or illness to the child.

2. *Removal from Custody*

Mother also argues that, even if jurisdiction were proper, the juvenile court erred at disposition in removing the child from her custody because the standard for removal under section 361, subdivision (c)(1), was not met. Substantial evidence supports the court's finding under section 361, subdivision (c)(1), of clear and convincing evidence that "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody." (*In re Henry V.* (2004) 119 Cal.App.4th 522, 529 [review standard for removal decision under § 361, subd. (c)(1), is substantial evidence].) Mother did not demonstrate the ability or the stability to care for the child, who was a young toddler. As noted, after the termination of one dependency proceeding based on her drug use, mother obtained shared custody of the child. Just months later, mother tested positive for methamphetamine, was reported to be using drugs by her boyfriend and a neighbor and admitted methamphetamine use to father. She did not have stable living arrangements. She denied drug use to DCFS and said her positive drug test result was false. She was not treating her drug issues, behaved erratically toward father and in court, had physical altercations with her brother and exhibited physical signs of drug use. Under these circumstances, the court did not err in removing the child from mother's custody.

3. *Denial of Reunification Services*

Mother contends that substantial evidence does not support the denial of reunification services under section 361.5, subdivision (b)(13), to a parent who "has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention." The juvenile court, however, was not required to provide reunification services to mother based on the child's placement with father who previously had shared custody with mother. "[S]ection 361.5 is inapplicable when at the disposition hearing a child is returned to

the custody of a parent.” (*In re Pedro Z.* (2010) 190 Cal.App.4th 12, 19.) “[W]hen a child . . . is not removed from her custodial parent(s) in the context of the dependency proceeding, no ‘reunification’ services are called for. Instead, as stated in section 362, the court in that situation is vested with discretion to make ‘any and all reasonable orders to the parents or guardians of the child who is the subject of any proceedings . . . as the court deems necessary and proper to carry out the provisions of this section The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the child is a person described by [s]ection 300.’ (§ 362, subd. (c).)” (*In re A.L.* (2010) 188 Cal.App.4th 138, 145.)²

To the extent mother’s argument is that the juvenile court erred by not exercising its discretion to order reunification services, or some type of enhancement services, at disposition or before termination of jurisdiction when she requested relief under section 388, it likewise is unpersuasive. At disposition, mother was not in drug treatment, had enrolled in a program but left after a few days, laughed and acted disrespectfully to the court and failed to cooperate with DCFS. Mother also did not demonstrate a change in circumstances such that services would have been in the best interests of the child. Mother was terminated from one treatment program during the proceedings for failing to attend consistently and submit to scheduled drug testing. Although she had started another program, she admitted to sobriety for only a two-month period. Moreover, in mother’s relationship with Mike she suffered an injury based on

² The juvenile court discussed section 361.5, subdivision (b)(13), and in connection with that provision mother’s drug use and failure to complete certain programs. But that discussion was in the context of deciding whether mother should receive enhancement services, which “are child welfare services offered to the parent not retaining custody, designed to enhance the child’s relationship with that parent.” (*Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1497, fn. 1.) Reunification services, in contrast, are provided with the goal of reunifying the child with a parent, a goal that is not at issue in a case such as this one when the child is placed with a custodial parent. (*In re Pedro Z.*, *supra*, 190 Cal.App.4th at p. 20.) Reunification services, as mother’s counsel noted, were not “at issue given that the child resides with father.”

domestic violence. And she continued disruptive behavior in court. Under these circumstances, the court acted within its discretion in declining to offer mother reunification or enhancement services.

4. *Termination of Jurisdiction with Physical and Legal Custody to Father and Visitation for Mother*

As discussed, the juvenile court terminated jurisdiction and awarded physical and legal custody of the child to father. It granted mother monitored visits of one hour per week and required mother to pay for a professional monitor if one were not available through father. Mother contends the juvenile court erred by awarding custody to father and by granting her only one hour of monitored visitation per week for which she could be responsible for payment of a professional monitor. We disagree.

In terminating jurisdiction, the juvenile court has the authority to make custody and visitation orders. (§ 362.4.) “When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes it 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, fn. omitted.) “Although both the family court and the juvenile court focus on the best interests of the child, the juvenile court has a special responsibility to the child as *parens patriae* and must look at the totality of the child’s circumstances.” (*Id.* at pp. 30-31.) We review a custody and visitation order pursuant to section 362.4 for an abuse of discretion. (*Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.)

The juvenile court did not abuse its discretion in awarding physical and legal custody of the child to father when it terminated jurisdiction. The child lived with the father throughout the dependency proceeding and was doing well in his care. Mother was not successful in addressing her drug use issues, except for in the two months before the termination of jurisdiction, which the court concluded put mother in the beginning stages of overcoming her drug use. Mother also exhibited erratic behavior toward father and the child and disrupted court proceedings, including the hearing at which the court

terminated jurisdiction. Father has a restraining order against mother, the second one obtained since 2012. Given these circumstances, the court was within its discretion in determining that shared custody was not in the best interests of the child and awarding sole physical and legal custody to father.

Nor did the juvenile court abuse its discretion as to visitation. Mother did not demonstrate in her section 388 petition, filed shortly before the termination of jurisdiction, changed circumstances such that it would have been in the best interests of the child to increase mother's visitation or allow it to be unmonitored. Indeed, the monitored visitation of one hour per week is the type and amount of visitation that mother had throughout the dependency proceedings, and mother was not always consistent with her visits. In addition, she spoke inappropriately to the child during a visit and suffered an injury as a result of her boyfriend's domestic violence, both close in time to the termination hearing. These incidents, combined with mother's inconsistent drug treatment and erratic behavior leading to father's restraining order, demonstrate that monitored visits of one hour per week were an appropriate discretionary order on termination.

Mother contends the juvenile court abused its discretion with respect to the order that mother pay for a professional monitor if father is unable to provide a monitor because, given her financial situation, such an order ensures that mother "will not have visits because of her poverty." The court stated that, "unless [father] has an appropriate monitor, there shall be a professional monitor. [Mother] shall be responsible for the full fee. And the reason I'm ordering that she's responsible for the full fee is that if she had, during her opportunity, sufficiently complied" During the court's statement, mother walked out of the courtroom and said, "Fuck you." The court then continued, "If she had sufficiently complied when she was first ordered and if she had been sufficiently committed to her program and made sufficient progress, she would not be in the position that she is today. And [father] cannot be held responsible financially for [mother's] failures to comply and make substantial progress when he has been cooperative and complying." Father had difficulty during the dependency proceedings in finding a friend

or relative to monitor mother's visits, but the reason for that difficulty was mother's behavior. The court put the initial onus on father to find an appropriate monitor, and he may be able to do so. If that does not occur, then, based on mother's behavior, the court did not abuse its discretion by requiring her to pay for a professional monitor. Although mother claims she cannot afford to pay for a professional monitor, nothing in the evidence suggests that father has any greater ability to cover the cost.

Mother also asserts, based on *In re T.H.* (2010) 190 Cal.App.4th 1119, that the order requiring her to pay for a professional monitor if father cannot secure an appropriate one constitutes an "improper delegation" of "the right and extent of visitation" of a noncustodial parent from the juvenile court to a custodial parent. The order, however, does not have such an effect. The court determined the amount and nature of mother's visitation. In *In re T.H.*, in contrast, the court's exit order at termination provided that visitation for father, the noncustodial parent, was to be determined "upon the 'agreement of the parents.'" (*Id.* at pp. 1123-124.) Given that the order failed to even specify the amount of father's visitation, the appellate court concluded that it was "more than simply a delegation of the authority to set the 'time, place and manner' of the visitation—it effectively delegate[d] to mother the power to determine whether visitation will occur at all." (*Ibid.*) As a result, the appellate court remanded the matter for the court to exercise its discretion to formulate an order "that establishes, at the very least, the amount of visitation to which father is entitled." (*Id.* at p. 1124.) Because the court here set the amount and nature of mother's visitation, its order is not tantamount to an improper delegation of authority regarding visitation.

DISPOSITION

The judgment and postjudgment orders are affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

MILLER, J.*

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