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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**THIRD APPELLATE DISTRICT**

**(Sacramento)**

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

C069827

SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

(Super. Ct. No. JD231552)

Plaintiff and Respondent,

v.

DEBORAH H.,

Defendant and Appellant.

Deborah H., the mother of 17-year-old Luke H., appeals from the findings and orders of the Sacramento County Juvenile Court adjudging Luke its dependent, removing him from mother's custody, placing him with nonrelated extended family member (NREFM) Catherine A., and designating her, rather than mother, as the holder of Luke's educational rights.

On appeal, mother contends the juvenile court's order designating Catherine A. as the holder of Luke's educational rights was an abuse of discretion. We shall affirm the findings and orders.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### ***Originating Circumstances***

In April 2011, the Sacramento County Department of Health and Human Services (the Department) received a referral from a mandated reporter expressing grave concerns about Luke's mental health related to ongoing abuse and exploitation. The reporter also expressed concern for Luke's adopted siblings who reside in mother's home and suffer from various disabilities. In addition, the reporter expressed concern that mother was unlawfully breeding and keeping a large number of dogs in a room used by a disabled sibling.

An investigating social worker met with Luke at the residence of his girlfriend. Luke reported that mother emotionally abuses him in that she makes him stay home for no known reason, uses sleep deprivation as punishment, yells at him for hours at a time, calls him "gay" or "butt pirate," accuses him of having been "butt buddies" with a deceased mentor, makes fun of his having been conceived by artificial insemination, and jokes about him not knowing his biological father. During arguments, mother sometimes uses against Luke his previous suicide attempt at age 10. When Luke is not listening to mother, she routinely threatens to "5150" him, i.e., commit him

involuntarily to a mental health facility.<sup>1</sup> Luke reported that, as a result of mother's abuse, he has irritable bowel syndrome (IBS), posttraumatic stress disorder (PTSD), and other stress-related issues. Luke explained that he did not feel safe with mother and, if forced to return to her, he would kill himself.

The next day, mother arrived at the residence of Luke's girlfriend (the N. family) and demanded that Luke enter her car so she could take him home. Social workers and police officers were present. Mother was advised that Luke did not feel safe with her and would hurt himself if returned to her care. Mother directed the social workers to get Luke into her car or put him in protective custody; they chose the latter and placed Luke at a receiving home.

Two days later, mother agreed to a voluntary placement of Luke with the family of his best friend, the F. family. Luke was released from protective custody.

During a mental health assessment, mother denied the allegations and believed that outside influences on Luke had exacerbated "'normal'" parent-teen conflicts. Specifically, mother believed the Department and the family of Luke's girlfriend had "'undermined'" her parenting authority and had worsened any problems that existed between her and Luke.

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<sup>1</sup> Mother is a former employee of the Department's emergency response unit. She has prior employment with a foster family agency and reported having 32 foster children in the previous nine years.

A mental health assessment of Luke revealed that he felt significant distress while in mother's care due to chronic negative interactions with her. Mother's style of communicating and interacting is domineering and intrusive. Luke perceived his home situation as intolerable and did not wish to return to mother's care until significant changes were made.

Shortly after the assessment, mother returned Luke to her residence. She agreed to individual counseling for herself and Luke, as well as family counseling.

However, mother would not allow Luke to return to his 10th grade class at a private school. Without seeking mother's approval, which he knew she would not give, Luke had obtained counseling under the auspices of the school. According to Luke, mother may have believed that, by doing so, Luke was undermining the "commandment" that he "honor [his] mother." Luke opined that mother was using his schooling as "leverage" and was threatening to send him to a public school.

In late April 2011, Luke told social workers that mother had placed bells on his bedroom door and allowed him to leave her sight only when using the bathroom. Since returning to her care, he needs to use the bathroom often and has blood in his stool. He believed his only options were suicide, absconding until age 18, or returning to protective custody.

Luke's counselor reported that Luke often feels hopeless and powerless in his home environment and has considered suicide as a means of escape. During his recent removal from mother's

residence, his suicidal ideation had diminished but returned when placed back at mother's home.

On April 29, 2011, the juvenile court approved a protective custody warrant that was executed the same day. Luke was returned to the family of his best friend and expressed relief that he no longer was in mother's care.

***Petition***

On April 29, 2011, a petition was filed alleging that Luke came within Welfare and Institutions Code section 300, subdivision (c),<sup>2</sup> in that he was suffering serious emotional damage as a result of mother's conduct. The petition alleged that mother degrades and belittles Luke, deprives him of sleep as a form of punishment, yells at him for hours past his bedtime, threatens to "5150" Luke if he does not listen to her, and engages in other excessively controlling, humiliating, and exploitive behavior. The petition alleged that, as a result, Luke suffered physical symptoms including IBS, rashes, shingles, and blood in his stool.

***Detention***

At a detention hearing in May 2011, the juvenile court found a prima facie showing had been made that Luke comes within section 300. Luke was ordered detained with the family of his best friend.

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<sup>2</sup> Undesignated statutory references are to the Welfare and Institutions Code.

### ***Contested Jurisdiction***

At a contested jurisdictional hearing in June 2011, the juvenile court sustained the section 300, subdivision (c) allegations. The court found that Luke may suffer serious emotional damage as a result of anxiety and depression.

### ***Contested Disposition***

In a June 2011 addendum to the jurisdiction/disposition report, the social worker noted that, by mother's own admission, she was not ready for Luke to return home. Mother believed they needed more counseling to address their ongoing parent-teen issues. The Department recommended that Luke remain in the home of his friend.

### ***Education***

In a September 2011 addendum to the report, the social worker described a meeting with mother, Luke, and his caregiver for the purpose of education planning. Mother stated she was willing to pay for Luke to attend private school, which his girlfriend also would attend, but mother insisted that Luke could not be on the student council, work as an office aide, or take computer classes; and he must take only academic subjects, including Spanish. Luke countered that Spanish was too difficult for him and would ruin his grade point average. Mother told Luke he had a "good brain" and could learn Spanish, but she cautioned that he must get only A's and B's. Mother and Luke argued throughout the majority of the meeting and Luke opined that mother was not acting in his best interest. Ultimately, mother enrolled Luke at a public school.

At the contested dispositional hearing in November 2011, mother denied that she had refused to allow Luke to return to private school as punishment for his obtaining therapy without her consent. Instead, mother claimed that, although "Luke is smart," and she wanted him to go to college, his "grades were suffering" at his private school, which "is very academically challenging," and mother "[didn't] see how his grades [were] going to improve." She hoped Luke would "get above a 3.0 grade point average" at the public school, which was "less challenging, academically." Mother offered no reason to believe that college admission officials would be unfamiliar with the schools or fail to account for their relative difficulty.

Mother testified that the private school would pose a financial hardship in that her "income has decreased by over 70 percent." Mother "had concerns about," and evidently wanted to minimize, Luke's contact with his girlfriend who attended the private school. Mother did not approve of Luke's interaction with the girlfriend's mother, who had assisted Luke in making the decision to obtain the therapy he believed he needed.<sup>3</sup> Mother testified that, "[a]s a parent, [she could not] imagine sneaking a child to a counselor without the parent's knowledge or permission." Mother considered the relationship Luke had with his girlfriend's mother to be "bizarre" and "unusual."

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<sup>3</sup> Another person who encouraged Luke to obtain therapy was Catherine A., who testified that she transported Luke to therapy "seven or eight times."

## ***Medical***

At the contested dispositional hearing, Luke testified that for three years mother had denied that he had a bowel disorder, saying his complaints were attempts to get attention and call her a bad parent. A year prior to the hearing, mother relented because Luke was "throwing up blood and pooping a lot of blood at football practice," and the school refused to let him do any physical activity until he saw a doctor. Mother took Luke to an emergency room, but afterward she treated his abdominal disorder as a one-time occurrence and did not take him for follow-up treatment.

In August 2011, Luke was diagnosed with Crohn's disease. The next month, Luke suffered an infected rectal abscess and was taken to a Sacramento medical center where it was determined he needed emergency surgery. Using her parental control over medical decisions, mother threatened to withhold her consent to necessary medical treatment unless she could remain with Luke at his bedside; and unless she, rather than his caretakers, could accompany him to San Francisco where the surgery would be performed.

Due to mother's threats, Luke became afraid that he would not receive the necessary treatment. He was crying when he spoke to the social worker by telephone. He reported that mother, who was allowed only supervised visits with him, had visited for about an hour without supervision. Mother stood over Luke and told him he was "under investigation" and could "get locked up for life."

Mother followed Luke to San Francisco and requested to stay in his hospital room even though he did not want her there. Mother threatened to leave San Francisco without signing medical documentation if she could not be with Luke constantly.

As a result of mother's threats to withhold her consent to treatment, the Department obtained from the juvenile court two orders authorizing emergency or nonroutine medical, surgical, or dental care.

Mother told Luke that she could halt his treatment, which was being funded by "ACCESS" or Medi-Cal, simply by letting the hospital know that she had not followed through on her plan to discontinue her private health insurance and still had coverage through Kaiser.

### ***Arguments of Counsel***

In summation, the Department asked that Luke remain in foster care and that mother receive reunification services. The Department argued Catherine A. lacked sufficient relationship with Luke to qualify as a NREFM.

Luke's counsel requested that he be allowed to return to private school; that he be allowed to visit the people who are important to him, who mentored him and helped him obtain counseling; that mother not have educational rights; and that he be placed with Catherine A., who would qualify as a NREFM.

Mother's counsel argued that mother had made educational decisions for Luke throughout his life and would make decisions that are in his best interest. Mother's counsel agreed with the

Department that Catherine A. does not rise to the level of a NREFM.

### ***Court Ruling***

In its ruling, the juvenile court found by clear and convincing evidence that there was a substantial risk Luke's physical health and emotional well-being would suffer if returned to mother. The court found that mother "is not able to meet the educational needs of [Luke] and a different person should be appointed to hold the educational rights." The court found that, according to mother's testimony, she believes that Luke lies and thus she does not believe what he says. Mother does not support Luke continuing at the private school he has attended since kindergarten. Instead, she wants him to attend a public school that is "remarkably different in all ways, and where he has no friends, so he can get better grades." Mother believed that, because Luke lies to her, he no longer deserves to attend a school with the standards of the private school.

The juvenile court found that mother's testimony "demonstrated what was already obvious from the reports of the social workers, that she does not respect Luke's feelings, that all decisions about his life must be made by her, that if he does not agree with his mother, her reaction is one of anger and punishment. [¶] One need only read carefully the description of what transpired while Luke was in the hospital, as contained in the fourth addendum report, to understand the toxic nature of the emotional abuse."

The juvenile court expressly found that Luke's testimony was credible, that it was stressful for him in mother's home, and that he had had IBS for three years, which mother ignored until he began throwing up blood and had blood in his stool. The court credited the testimony of Luke's treating physician that, although Crohn's disease is not caused by stress, its symptoms can be exacerbated by factors in a child's environment such as lack of adequate sleep, bad diet, and emotional stressors. The court found that mother's "need to dominate, manipulate, and control every aspect of the child's life results in stress to the child, which, ultimately, affects his physical well-being." The court found that Catherine A. qualified as a NREFM, and that placement in her home was in Luke's best interest. The court found that mother is not able to meet Luke's educational needs and authorized Catherine A. to hold Luke's educational rights.

### **DISCUSSION**

Mother contends an order limiting a parent's educational rights is appropriate only where it appears the parent is unwilling or unable to make educational decisions. She claims there was no showing that she was unwilling or unable; thus, the juvenile court's order designating Catherine A. as the holder of Luke's educational rights was an abuse of discretion. We are not persuaded.

Section 361, subdivision (a) provides, in relevant part: "In all cases in which a minor is adjudged a dependent child of

the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent . . . and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent . . . to make educational . . . decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent . . . to make educational . . . decisions for the child, the court shall at the same time appoint a responsible adult to make educational . . . decisions for the child." (See *In re Samuel G.* (2009) 174 Cal.App.4th 502, 510; *Jonathan L. v. Superior Court* (2008) 165 Cal.App.4th 1074, 1103-1104.)

When exercising discretion to limit a parent's educational rights, the juvenile court should consider the history of abuse, the parent's continued refusal to accept that he or she has abused the child, the parent's lack of cooperation with investigating social workers, and other relevant matters. (*In re Jonathan L., supra*, 165 Cal.App.4th at p. 1104.)

The juvenile court's order is reviewed for abuse of discretion. ""The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for

that of the [juvenile] court."'" (*In re Stephanie M.* (1994)  
7 Cal.4th 295, 318-319 (*Stephanie M.*).

Mother's argument overlooks our standard of review. She effectively asks this court to deduce from the facts an inference that, "[p]rior to the juvenile court's intervention, [mother] demonstrated good judgment in making decisions for Luke and had been fully capable of making educational decisions." She further asks this court to deduce that she "remained willing and able to continue making educational decisions for Luke and there were no circumstances that compromised [her] ability to make these important decisions." Mother goes so far as to claim her "ability and willingness to remain involved in her son's education went undisputed at the contested jurisdictional and dispositional hearings." She asserts "no concerns were voiced which sufficiently demonstrated that the termination of [her] educational rights was necessary to protect Luke."

However, the facts of this case amply support a contrary inference that limitation of mother's rights is necessary to protect Luke. (§ 361, subd. (a).) Thus, this court has no authority to substitute its decision for that of the juvenile court. (*Stephanie M., supra*, 7 Cal.4th at pp. 318-319.)

There was abundant evidence that, prior to the order transferring educational rights, mother had not been making educational decisions in Luke's best interest. Mother claimed that, although "Luke is smart," and she wanted him to go to college, his "grades were suffering" at his private school,

which "is very academically challenging," and mother "[didn't] see how his grades [were] going to improve." She hoped Luke would "get above a 3.0 grade point average" at the public school, which was "less challenging, academically."

On appeal, mother claims her decision was "well thought out," but she offers no reason to believe college admission officials would be unfamiliar with the two schools or would fail to account for their relative difficulty. Thus, there was no reason to believe mother's manipulation of Luke's grade point average could or would assist his admission to college. In argument, Luke's counsel aptly remarked that mother's "decision . . . to lower his standards so that he can step over them easier and get into college instead of helping him come up to the standard" does not exemplify "a good educational decision maker." We agree.

Mother argues her decision to enroll Luke in public school was "influenced by her genuine concern with Luke's relationships at [his private school]," most particularly his relationship with the mother of his girlfriend. However, the juvenile court could deduce that mother's concern was primarily for her own ability to control Luke, not for his best interest.

As noted, Luke obtained counseling under the auspices of his school without seeking mother's approval, which he knew she would not give. The girlfriend's mother, a California attorney and an English teacher, advised Luke of his right to obtain therapy without mother's consent. She discussed with him the

"pros and cons" of notifying mother of his decision to see a counselor. At the contested hearing, mother testified that she could not "imagine sneaking a child to a counselor without the parent's knowledge or permission." Mother believed the actions of the girlfriend's mother brought "into question [her] judgment, belief in parental authority, her motives." The juvenile court could deduce that mother's main concern was with her own authority, not Luke's ability to obtain the counseling he needed.

When asked why he had formed the relationship with his girlfriend's mother, rather than his own mother, Luke cogently explained that "mother was unresponsive. And when she was responsive, it was, inevitably, always going to come back and bite me in some way."

Mother testified that she found Luke's relationship with the girlfriend's mother "bizarre." Mother relies on this testimony to support her appellate argument. But the testimony also supports a contrary inference.

Mother's dismissal of Luke's relationship as "bizarre," and her consequent failure to detect and respond to his need for a "responsive" maternal figure, suggests she similarly would fail to detect, and respond to, Luke's educational needs. The fact the evidence could also support a contrary inference does not warrant reversal of the judgment. (*Stephanie M., supra*, 7 Cal.4th at pp. 318-319.)

Further indication that limitation of mother's educational rights is necessary to protect Luke (§ 361, subd. (a)) may be found in the evidence of her abuse of her medical rights. As noted, when Luke suffered an infected rectal abscess and it was determined he needed emergency surgery, mother threatened to withhold her consent to treatment unless she could remain at Luke's bedside and unless she, rather than his caretakers, accompanied him to San Francisco where the surgery would be performed. Due to mother's threats, Luke became afraid that he would not receive the necessary treatment. Mother followed Luke to San Francisco and requested to stay in his hospital room even though he did not want her there. Mother threatened to leave San Francisco without signing medical documentation unless she could be with Luke constantly. Mother also told Luke that she could halt his treatment by letting the hospital know that she still had private insurance through Kaiser. These blatant, and repeated, abuses of mother's medical authority support an inference that she would abuse her educational rights in similar fashion. The order transferring educational rights to the NREFM was well within the juvenile court's discretion.

**DISPOSITION**

The findings and orders of the juvenile court are affirmed.

\_\_\_\_\_ BUTZ \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ NICHOLSON \_\_\_\_\_, Acting P. J.

\_\_\_\_\_ MAURO \_\_\_\_\_, J.