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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re Christian L. et al., Persons Coming  
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

JESSICA L. et al.,

Defendants and Appellants.

D070342

(Super. Ct. No. EJ4019A-B)

APPEAL from orders of the Superior Court of San Diego County, Gary M. Bubis,  
Judge. Affirmed.

Katherine A. Clark, under appointment by the Court of Appeal, for Defendant and  
Appellant Jessica L.

Elena S. Min, under appointment by the Court of Appeal, for Defendant and  
Appellant Steven L.

Thomas E. Montgomery, County Counsel, John E. Philips, Chief Deputy County Counsel, and Lisa M. Maldonado, Deputy County Counsel, for Plaintiff and Respondent.

Jessica L. and Steven L. appeal from orders entered at the jurisdiction and disposition hearing concerning their children, Keith and Christian.<sup>1</sup> Steven contends: (1) his discipline of Keith did not constitute abuse under Welfare and Institutions Code section 300, subdivision (b)<sup>2</sup>; (2) the court erred in asserting jurisdiction over Christian under section 300, subdivision (j); and (3) the court erred in removing Christian from his physical custody. Jessica joins in Steven's arguments and separately contends insufficient evidence supported the jurisdictional orders with respect to both Keith and Christian. She also contends the court abused its discretion by issuing an exit order that awarded sole physical and joint legal custody of Keith to his biological father and impermissibly delegated its authority to his father to allow her unsupervised visitation. We affirm the court's orders.

#### FACTUAL AND PROCEDURAL BACKGROUND

Keith lived with his biological father, Keith, Sr., for much of the first six years of his life while Jessica served in the military. In 2011, Keith, Sr. became overwhelmed and requested services from his local child welfare agency. However, he was able to obtain support from family members and the child welfare agency terminated its involvement

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<sup>1</sup> Steven is Keith's stepfather and Christian's biological father.

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

after determining Keith was safe in his care. In 2012, Keith, Sr. filed for divorce from Jessica and, because he remained concerned about his ability to care for Keith on his own, he agreed to give Jessica sole legal and physical custody of Keith. Jessica later married Steven and they had a child, Christian, together.

Jessica and Steven used what they referred to as "physical discipline" with Keith, and at some point in 2015 they began hitting him with a belt. On one occasion in March 2016, when Keith was 10 years old and Christian was an infant, Steven disciplined Keith for doing poorly in school and hiding bad grades by forcing him to stand in a "T" position with books in his hands, while slapping and punching him on the stomach and chest and hitting him on the head with a belt. The abuse lasted for over an hour. Jessica observed the incident but did nothing to stop it. The next day Steven punched Keith in the stomach before dropping him off at school and threatened to punch him every day thereafter if he did not do well in school.

In response to a hotline referral regarding the abuse, the San Diego County Health and Human Services Agency (the Agency) interviewed Keith. The Agency observed hand prints on his chest, a bruise-like mark on his head, and a swollen cheek, as well as linear scarring, which Keith said was from being hit in the past on his shoulder. Keith told the Agency the abuse had been occurring on a monthly basis for about a year and Jessica had also hit him, although she had not done so during the most recent incident.

The Agency took the children to the emergency room for examination. Keith had swelling to the head area, bruises on both sides of his chest and his back, and abdominal tenderness. Christian had no visible injuries. Steven admitted abusing Keith and Jessica

admitted Keith sustained the injuries while they were "attempting to beat" him. The police arrested Steven and the Agency detained Keith in a confidential licensed foster home but left Christian in Jessica's care.

Jessica posted bail for Steven and he returned to the family home the following day. The Agency met with them a couple of days later to create a safety plan regarding Christian. Steven agreed to leave the family home while the Agency conducted its investigation and to limit his contact with Christian to supervised visitation with an approved third party. Jessica told the Agency she had no concerns about Steven caring for Christian. She was reluctant to agree to the safety plan because she was returning to work in a couple of weeks and was expecting Steven to watch Christian while she was working. The Agency agreed to hold a team decision making meeting prior to Jessica's return to work to address childcare and Jessica ultimately agreed to the safety plan. The same day he signed the safety plan, Steven called to inform the Agency he had moved out of the home and that he would call again so he could return to the home to visit Jessica and Christian.

The next day, the Agency filed petitions on behalf of Keith and Christian under section 300, subdivisions (b) and (j), respectively. The Agency alleged Steven subjected Keith to excessive discipline or physical abuse, Jessica endorsed the abuse, and there was a substantial risk Christian would be subject to abuse or neglect as well. The Agency also filed a request for a protective custody warrant for Christian and requested he be placed in foster care with Keith. The court granted the warrant and held a detention hearing the following day at which it found a prima facie showing had been made for

both children. The court ordered the children detained in foster care and granted Jessica liberal supervised visitation with Keith and both parents liberal supervised visitation with Christian. The court also gave the Agency discretion to place Christian with Jessica, with the consent of Christian's counsel, so long as Steven was not in the home.

At the team decision making meeting, Jessica and Steven minimized the incident with Keith, blaming it primarily on his lying about his school work and neglecting to do his chores. They did not understand why Christian had been taken, and said their focus was on getting him back. The Agency spoke with Keith's teacher and school counselor the same day. They reported Keith had been doing well in school, including before the Agency's involvement, and there had been no previous concerns about his performance.

Around the same time, the Agency established contact with Keith, Sr., who was residing out of state. He expressed concern upon hearing what had occurred and requested custody of Keith. He and Keith began video chatting on a daily basis and, shortly thereafter, Keith said he wanted to live with Keith, Sr. The Agency spoke with several family members who stated they had no concerns regarding Keith, Sr.'s ability to care for Keith and that they would be willing to provide additional support if the court gave Keith, Sr. custody.

At a hearing in March 2016, the court placed Christian back in the home with Jessica on the condition Steven remain out of the home and have contact with Christian only during supervised visitation. In April, the parties agreed to place Keith with Keith, Sr. pending further hearings. Before he left, Jessica told the social worker she did

not want Keith to take anything she had bought him to his father's house and wanted "everything" back.

Jessica and Steven delayed participating in the services required by their case plans for various reasons, but finally began the required therapy and classes shortly before the contested jurisdiction and disposition hearing in May. Jessica informed the Agency she needed Steven to have unsupervised visitation with Christian while she worked, asserting "the threat" had been removed since Keith had gone to live with his father. In its report, the Agency expressed concern that neither Jessica nor Steven had demonstrated a thorough understanding of how their actions had placed the children at risk and both continued to feel justified in their disciplinary methods.

At the jurisdiction and disposition hearing, the court found the allegations in both petitions true by clear and convincing evidence. The parties agreed to allow Keith to remain with Keith, Sr. and the Agency requested Jessica's visitation with Keith be supervised because of her insensitive comments referring to Keith as a threat and a problem and her wanting to withhold his belongings when he initially left to live with Keith, Sr. The court agreed and stated it would order supervised visitation but trusted Keith, Sr. would allow the visits to be unsupervised if things were going well between Jessica and Keith.

With respect to Christian, the court noted that Steven and Jessica had abused his brother Keith; Steven did not seem to understand that the "discipline" was inappropriate; and Christian was a vulnerable infant who could become colicky and cry for an extended

period. The court was concerned that if that were to happen, Steven could become frustrated or angry with Christian and use physical force against him.

In its written orders, the court placed Christian with Jessica and gave the Agency the discretion to allow Steven to have unsupervised and overnight visitation with Christian with advanced notice to Christian's counsel. The court terminated jurisdiction over Keith and issued exit orders awarding joint legal custody to Jessica and Keith, Sr. and sole physical custody to Keith, Sr. The court awarded Jessica supervised telephone or video chat visitation three times per week, as well as supervised in-person visitation if Jessica traveled to Keith, Sr.'s home state.

Steven and Jessica appeal.

## DISCUSSION

### I. *Substantial Evidence Supports the Jurisdictional Orders*

Steven argues the court erred in asserting jurisdiction over Christian under section 300, subdivision (j) because Steven's "discipline" of Keith was not abuse under section 300, subdivision (b) and, even if it was, there was no risk he would also abuse Christian. Jessica joins in Steven's arguments and separately argues there was insufficient evidence to support the court's jurisdictional findings as to both children.

#### A. *General Legal Principles and Standard of Review*

The sole issue before the court in making a jurisdictional finding is whether the child, at the time of the hearing, fits one of the statutory descriptions set forth in section 300 such that the child falls within the jurisdiction of the juvenile court. (§ 355, subd. (a); *In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1134.) The Agency bears the

burden of establishing the child meets the statutory definition by a preponderance of the evidence. (§ 355, subd. (a); *In re Shelley J.* (1998) 68 Cal.App.4th 322, 329.)

A court may assert jurisdiction over a child under section 300, subdivision (b), if the child has suffered, or is at substantial risk of suffering, serious physical harm or illness due to the failure or inability of his or her parents to protect the child. (§ 300, subd. (b).) The child remains under the court's jurisdiction so long as it is necessary to protect the child from a continued risk of serious physical harm. (*Ibid.*) The sibling of a child that has been abused or neglected as set forth in section 300, subdivision (b) is also subject to the court's jurisdiction, under section 300, subdivision (j), if there is a substantial risk the sibling will also be abused or neglected. (§ 300, subd. (j).)

We review challenges to the sufficiency of evidence supporting the court's jurisdictional or dispositional findings for substantial evidence. (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1022 (*J.N.*)) We affirm the orders so long as there is substantial evidence in the record, viewed as a whole, from which a reasonable tier of fact could make the findings in question. (*Ibid.*; *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.) We do not reweigh the evidence or consider whether the court could have drawn a different conclusion. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228 (*Dakota H.*)) The appellant bears the burden of demonstrating a lack of sufficiently substantial evidence. (*Ibid.*)

**B. *Substantial Evidence Supports the Finding of Jurisdiction over Keith***

Although parents are entitled to discipline their children in any reasonable manner, the juvenile court properly asserts jurisdiction over a child when the discipline exceeds

reasonable limits and constitutes abuse. (*In re D.M.* (2015) 242 Cal.App.4th 634, 640-641 (*D.M.*)) In determining the reasonableness of the discipline, the court considers whether the conduct was truly disciplinary, whether the circumstances warranted the punishment, and whether the punishment was reasonable or excessive. (*Id.* at p. 641.) Jurisdiction is proper under section 300, subdivision (b), when, considering these factors, the court determines the discipline exceeded reasonable limits and, as a result, the child is subject to a substantial risk of harm. (*D.M.*, at pp. 641-642.) Where discipline causes actual injury to the child, courts typically conclude the discipline exceeds the reasonable limits. (*Ibid.*)

Here, Steven and Jessica claim they were merely disciplining Keith, but there was substantial evidence establishing what they refer to as discipline was actually abuse. Steven and Jessica hit Keith with their hands and a belt for a period of at least 10 months and, on the most recent occasion when Steven hit Keith, the child suffered significant injuries including bruising, a swollen cheek, and abdominal tenderness. Jessica was present while Steven beat Keith for an hour or more but did nothing to stop it. There was also evidence of past abuse in the form of scarring to Keith's shoulder. Moreover, Steven and Jessica claimed they were disciplining Keith for problems at school but the alleged problems were not substantiated by his teacher or his school counselor. After the Agency became involved, neither Jessica nor Steven appeared to understand how their actions had placed Keith at risk and, instead, continued to justify their actions as disciplinary in nature.

Steven argues his discipline of Keith did not constitute abuse or serious physical harm under section 300, subdivision (b), because it was similar to forms of discipline, primarily spanking, that the courts found were insufficient to support a jurisdictional finding in a number of other cases. (See, e.g., *D.M.*, *supra*, 242 Cal.App.4th at p. 640 [spanking of children on buttocks with hand and sandal]; *In re Joel H.* (1993) 19 Cal.App.4th 1185, 1201-1202 [slapping of child on buttocks by relative]; *In re Isabella F.* (2014) 226 Cal.App.4th 128, 131-132, 139 [unintentional fingernail injuries to child's face and earlobe as a result of struggle between parent and child during spanking].) However, as discussed, there was substantial evidence that Steven did not just spank Keith, but rather hit him on the chest and head with a fist, hand and belt, over a period of at least 10 months, causing significant injuries on at least one occasion. The court in *In re Veronica G.* (2007) 157 Cal.App.4th 179, 186, concluded there *was* sufficient evidence of abuse to support jurisdiction where a mother hit her children with an open hand or fist and kicked them on a regular basis and the father did nothing to stop it. (*Ibid.*) The evidence in the present case indicated a similar pattern of sustained abuse and was, likewise, sufficient to support the court's assertion of jurisdiction over Keith.

Jessica asserts the Agency based its petition on a single incident and that the past abuse of Keith, without more, was insufficient to support the jurisdictional finding. Although the court must find the circumstances existing at the time of the hearing subject the child to a statutorily defined risk of harm, evidence of past conduct is often probative of current conditions and the risk of future harm. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 823; *In re Cole C.* (2009) 174 Cal.App.4th 900, 917 (*Cole C.*); *In re T.V.* (2013)

217 Cal.App.4th 126, 133 (*T.V.*) ["A parent's past conduct is a good predictor of future behavior."].) Further, the court may base jurisdiction on a single isolated incident, so long as the court considers the nature of the conduct, all surrounding circumstances, and the present situation, including the parent's understanding of and attitude toward the past conduct. (*J.N., supra*, 181 Cal.App.4th at pp. 1025-1026.) Although the petition in this case referred specifically to only the two most recent incidents of severe physical discipline used on Keith, the evidence before the court at the jurisdictional hearing showed sustained abuse of Keith by both Steven and Jessica and that they both still did not comprehend the severity of their actions. That evidence was sufficient to support the court's finding that Keith remained subject to a substantial risk of harm.

Jessica also argues Keith was no longer at risk because the Agency had noted her supervised visits with him were going well, Christian was placed in her care, and Steven was no longer living in the family home. However, there is no indication the court did not consider these factors in making its findings and we do not reweigh the evidence on appeal. (*Dakota H., supra*, 132 Cal.App.4th at p. 228.) In any event, these factors do not establish Keith was no longer at risk. Jessica's interactions with Keith while under Agency supervision offered little insight into how she might interact with him if he were in her care full time without supervision, and, although the court placed Christian with her, it maintained jurisdiction over him and found he remained at risk. Finally, because Jessica repeatedly expressed her desire that Steven return to the home with her and Christian, it was reasonable for the court to assume he would do so absent its detention of the children.

Based on the foregoing, we conclude there was sufficient evidence to support the court's finding that Keith fell under the jurisdiction of the court under section 300, subdivision (b).

C. *Substantial Evidence Supports the Finding of Jurisdiction over Christian*

Because his brother Keith fell within the court's jurisdiction pursuant to section 300, subdivision (b), the court's finding of jurisdiction over Christian under section 300, subdivision (j) was proper so long as there was substantial evidence to support a determination that there was a substantial risk Steven or Jessica would also abuse Christian. (§ 300, subd. (j); *In re David M.* (2005) 134 Cal.App.4th 822, 832.) In making that determination, the statute requires the court to consider "the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child." (§ 300, subd. (j); see *In re I.J.* (2013) 56 Cal.4th 766, 774 [noting section 300, subdivision (j) expands the court's jurisdiction with respect to siblings of abused children].) Systematic abuse of a sibling warrants jurisdiction, particularly where the court has removed the previously abused sibling and there is a risk the other sibling will become the target of the abuse in his or her absence. (See, e.g., *In re Francisco D.* (2014) 230 Cal.App.4th 73, 81-82.)

Here, both children were male and Christian was significantly younger than Keith. The parents argue Christian's age placed him at a lower risk because he was not old enough to misbehave and require discipline like Keith, but his age also placed him at

greater risk because he was more vulnerable and unable to report abuse. Noting Christian was an infant and infants often cry for extended periods of time, the court concluded there was a risk Steven would resort to physical abuse if he became frustrated with Christian, particularly since he had not yet addressed the basis of his unwarranted aggression towards Keith. Further, the nature of Steven's abuse of Keith was significant and sustained over a period of at least 10 months and, as Keith was now living with Keith, Sr., Christian was the only child in the home. Based on the foregoing, we conclude the evidence supported the court's finding there was a substantial risk Steven would abuse Christian.

Jessica and Steven set forth a number of facts they contend weigh against a jurisdictional finding for Christian but none establish that the evidence in support of the finding is insufficient. Steven asserts the abuse of Keith was a one-time occurrence and both he and Jessica were forthcoming, but there is substantial evidence that the abuse was continual and neither parent fully appreciated the extent of the harm they inflicted on Keith. Jessica asserts she had made significant efforts to get Christian back and demonstrated a commitment to his well-being through visitation, breast-feeding, and agreeing to Steven's moving out of the home. Although the court placed Christian with Jessica based on these factors, Jessica continued to downplay the abuse of Keith and to request that the court permit Steven to care for Christian in the home unsupervised. Finally, both Jessica and Steven point out they agreed to Keith's moving out of state with his father, but their statements to the Agency regarding his placement indicated they both blamed Keith for the abuse rather than taking responsibility themselves. Because neither

had yet addressed their own abusive behaviors, the court reasonably found Christian remained at risk.

Based on the foregoing, we conclude there was sufficient evidence to support the court's finding that Christian fell within the court's jurisdiction pursuant to section 300, subdivision (j).

## II. *The Court Did Not Err in Removing Christian From Steven's Custody*

Steven also contends the court erred in removing Christian from his physical custody and allowing him only supervised visitation.

To remove a child from the custody of his or her parents, the court must find, by clear and convincing evidence that "the child would be at substantial risk of harm if returned home and there are no reasonable means by which the child can be protected without removal." (*T.V.*, *supra*, 217 Cal.App.4th at p. 135; § 361, subd. (c)(1).) Because the focus is on preventing harm to the child, it is not necessary for the court to find the child has actually been harmed before ordering removal from a parent's custody. (*Cole C.*, *supra*, 174 Cal.App.4th at p. 917.) The court has broad discretion in making dispositional orders and may consider the parent's past conduct as a predictor for future behavior. (*Id.* at p. 918; *T.V.*, at p. 133.) We review the underlying factual findings for substantial evidence and the disposition order itself for an abuse of discretion. (*In re Cole C.*, at pp. 917-918; *J.N.*, *supra*, 181 Cal.App.4th at p. 1022.)

The evidence supporting the court's jurisdictional findings, as discussed above, is also sufficient to support the court's decision to remove Christian from Steven's custody. Based on that evidence, the court reasonably found Christian was at substantial risk of

harm if left unsupervised with Steven and the only way to prevent that from occurring was to remove him from Steven's custody until Steven made demonstrable progress in anger management and understanding the gravity of the abuse he inflicted on Keith.

Steven argues the court erred by failing to consider other alternatives, such as allowing him a chance to voluntarily comply with the safety plan. Steven relies primarily on *In re Ashly F.* (2014) 225 Cal.App.4th 803 (*Ashly F.*), in which two siblings were removed from the family home and placed in foster care after the mother hit a third sibling with an extension cord. (*Id.* at pp. 806, 808.) The juvenile court in *Ashly F.* found, by clear and convincing evidence, that there were no means to protect the children without removing them from the home. (*Id.* at pp. 807-808.) The appellate court reversed, concluding there was insufficient evidence to support that finding because the Agency presented no supporting argument or evidence in its report, and the record revealed no basis for the Agency's unsupported assertion. (*Ibid.*)

In contrast to *Ashly F.*, in the present case substantial evidence supports the court's findings that there were no means to protect Christian other than removal. The Agency presented evidence that Jessica was resistant to the safety plan requiring Steven to remain out of the home and only have supervised contact with Christian, and that she continued to request that Steven be permitted to care for Christian in an unsupervised setting. It was therefore reasonable for the court to infer there was a risk Steven and Jessica would not continue to follow the plan voluntarily. Further, unlike the mother in *Ashly F.*, who had expressed remorse over the prior abuse, Steven had not fully accepted the severity of his abuse of Keith and had not made progress in his case plan. And, unlike the somewhat

older children in *Ashly F.*, Christian was a vulnerable infant. Finally, the disposition order placed Christian with Jessica and prevented only Steven, the main perpetrator of the abuse against Keith, from having unsupervised contact with Christian, and, thus, was no more restrictive than necessary.<sup>3</sup>

Based on his abuse of Keith, his failure to acknowledge the severity of the abuse, and his failure to make progress in the services set forth in his case plan, it was the Agency's assessment that it would be detrimental to Christian if the court were to permit Steven to care for Christian without supervision. Given the Agency's assessment and the evidence supporting it, the court reasonably found there was clear and convincing evidence that there would be a substantial danger to Christian if he were returned to Steven's care and that removal was the only reasonable means of protecting him. (§361, subd.(c)(1).) The court's order removing Christian was not an abuse of discretion.

### III. *Exit Orders Concerning Custody of Keith*

Jessica contends the court abused its discretion by issuing exit orders that gave Keith, Sr. sole physical and joint legal custody of Keith and impermissibly delegated the court's authority to Keith, Sr. to reduce or increase Jessica's visitation.

Upon terminating jurisdiction, the court may issue exit orders regarding custody and visitation, which orders remain in effect until the family court terminates or modifies them. (*In re T.H.* (2010) 190 Cal.App.4th 1119, 1122-1123.) As in any custody

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<sup>3</sup> The disposition order is also no more restrictive than the safety plan Jessica and Christian claim they would have followed voluntarily absent the court's orders.

determination, the court's focus and primary consideration in making such orders is on the best interests of the child. (*In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268.)

When a court awards primary physical custody to one parent, it must award reasonable visitation rights to the other parent unless such visitation would be detrimental to the best interests of the child. (Fam. Code, § 3100, subd. (a); *Camacho v. Camacho* (1985) 173 Cal.App.3d 214, 218.) We review juvenile court exit orders concerning custody for an abuse of discretion and affirm the orders unless they are arbitrary, capricious, or otherwise exceed the bounds of reason. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 810-811.)

The Agency contends Jessica waived any argument regarding the custody orders by requesting and agreeing to joint legal custody. We agree Jessica waived her arguments with respect to joint legal custody, but do not agree that she waived her arguments with respect to physical custody or visitation. Where a party acquiesces to a court's ruling, it cannot dispute the ruling on appeal. (*In re Marriage of Hinman* (1997) 55 Cal.App.4th 988, 1002.) Here, the record shows Jessica requested joint legal custody but also sought joint physical custody or, in the alternative, unsupervised visitation. The court granted Jessica's request for joint *legal* custody, but awarded Keith, Sr. sole physical custody, with supervised visitation to Jessica. Having requested joint legal custody, the only portion of the order Jessica may now challenge is the portion awarding Keith, Sr. sole physical custody and restricting her to supervised visitation.

Jessica's arguments that the court's orders regarding physical custody and visitation were an abuse of discretion are not persuasive. Jessica contends the record did

not contain evidence regarding Keith, Sr.'s relationship with or ability to care for Keith. To the contrary, the record shows he cared for Keith, essentially as a single parent, for the first six years of Keith's life. The Agency investigated Keith, Sr. and concluded there were no concerns regarding his ability to care for Keith; the child welfare agency in his home state had previously reached the same conclusion; he had a family support network; and he demonstrated a positive, caring relationship over video chat with Keith. Keith wanted to live with him and things were going well once the court placed Keith with him. Jessica, on the other hand, had abused Keith and had failed to prevent or stop Steven from abusing him, and she continued to blame Keith for the abuse and to make insensitive comments about him. The foregoing factors support a finding that it was in Keith's best interests to award Keith, Sr. sole physical custody and to award Jessica only supervised visitation, and the court did not abuse its discretion in doing so.

Jessica also asserts the court impermissibly delegated its authority by granting Keith, Sr. discretion to reduce or increase her visitation with Keith. A court may not delegate its authority to decide *whether* visitation is to occur (see, e.g., *In re James R.* (2007) 153 Cal.App.4th 413, 438; *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1009; *In re S.H.* (2003) 111 Cal.App.4th 310, 317), but the court did not do so here. The court's written order granted Jessica supervised visitation over the phone or video chat a minimum of three times per week as well as a set amount of in-person supervised visitation if she were to travel to Keith, Sr.'s home state. The order specified the frequency and duration of Jessica's visitation with Keith and did not grant any discretion to Keith, Sr. to prevent, or reduce, that visitation.

Despite the written order, Jessica argues that the court's oral statement at the hearing that it trusted Keith, Sr. would allow her unsupervised visitation in the future if visits with Keith were going well gave Keith, Sr. unwarranted discretion over her visitation. However, this was not part of the final written order and it did not constitute an impermissible delegation of authority in any event. Because the juvenile court was terminating jurisdiction over Keith, Jessica and Keith, Sr. could agree on Jessica having additional or unsupervised visitation without needing to obtain a modification of the court's order. If Jessica believed she should have unsupervised visitation at some point in the future and Keith, Sr. refused to allow it, Jessica could petition the appropriate family court to modify the visitation order, as in any other non-dependency custody case. (See *In re Marriage of Burgess* (1996) 13 Cal.4th 25, 37 [noncustodial parent may seek order altering legal or physical custody based on changed circumstances].) We therefore conclude the court did not improperly delegate its authority by suggesting Jessica and Keith, Sr. work together in the best interests of Keith going forward.

We find no abuse of discretion in the exit order granting Keith ,Sr. sole physical custody and awarding Jessica a defined amount of supervised visitation.

DISPOSITION

The orders are affirmed.

IRION, J.

WE CONCUR:

BENKE, Acting P. J.

AARON, J.