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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re C.A. et al., Persons Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

L.A.,

Defendant and Appellant.

E065584

(Super.Ct.No. INJ1500316)

O P I N I O N

APPEAL from the Superior Court of Riverside County. Susanne S. Cho, Judge.

Affirmed with directions.

Lisa A. Raneri, under appointment by the Court of Appeal, for Defendant and Appellant.

Gregory P. Priamos, County Counsel, and James E. Brown, Guy B. Pittman, and Carole A. Nunes Fong, Deputy County Counsel, for Plaintiff and Respondent.

I

INTRODUCTION

Defendant and appellant L.A. (Mother) appeals the juvenile court’s dispositional “exit” orders (Welf. & Inst. Code, § 362.4)¹ terminating its dependency jurisdiction over Mother’s son, C.A. (now age 13), placing C.A. in the joint legal custody of Mother and his father A.A. (Father), but in the sole physical custody of Father, and denying Mother any visitation with C.A. unless initiated by C.A. Mother claims (1) insufficient evidence supports the juvenile court’s finding that Mother’s visitation with C.A. would be detrimental to C.A., and (2) the court improperly delegated its authority to C.A. to determine whether visits with Mother would occur. We affirm with directions.

II

FACTS AND PROCEDURAL HISTORY

A. Background

C.A. (born in January 2003) and his younger brother I.A. (born in February 2009) came to the attention of plaintiff and respondent, Riverside County Department of Public Social Services (DPSS), on October 6, 2015, following a report of a physical altercation between Mother and C.A., then age 12, on October 5. Mother and Father had separated 18 months earlier, were in the process of divorcing, and shared joint physical and legal

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

custody of C.A. and I.A. During the week, C.A. and I.A. lived with Mother in Palm Desert, and on the weekends the boys lived with Father in El Centro.

After he arrived at his middle school on the morning of October 6, 2015, C.A., then age 12, asked to see the school nurse for treatment of physical injuries he sustained during the October 5 altercation. School authorities contacted the sheriff's department, which in turn contacted DPSS.

During a forensic interview on October 6, C.A. explained what happened during the October 5 altercation: Mother was angry with C.A. for calling Father on C.A.'s cell phone. Multiple times, Mother pushed C.A. down onto a bed, and C.A. kept trying to get up. At one point, Mother pinned C.A.'s wrists down on the floor with her knees, and his wrists were sore. Mother choked C.A. with both of her hands around his throat, but when she realized she was choking him she moved her hands up and grabbed both sides of his face. Her long acrylic fingernails left scratches on C.A.'s face, arms, neck, and collarbone, and C.A. had two bruises the size of adult thumbprints on each side of his "wind pipe."

C.A. also reported that during the summer of 2015, when it was "extremely hot outside," Mother told C.A. to go outside because he was being lazy. C.A. was outside for a long period, and I.A. brought him water, bananas, and a towel. When Mother told C.A. to come back inside, she told him not to tell anyone, especially Father, about being outside in the heat.

I.A., then age six, witnessed the October 5 altercation and was also interviewed on October 6. I.A. saw Mother pulling C.A. off of the bed and “heaving” him onto the floor. Mother was doing “crazy stuff” and C.A. was trying to get Mother off of him. C.A. told I.A. to leave the room, but Mother told I.A. to stay, and C.A. asked Mother why she wanted I.A. to see what was happening between them.

I.A. reported that when he gets in trouble with Mother, she screams bad words at him like the “F-word.” Mother once spanked I.A. on his buttocks with her shoe. I.A. reported witnessing domestic violence in the home when Mother and Father were living together, and described Mother as “screaming at and slapping” Father. I.A. said living with Father was “much more better” than living with Mother because there was no screaming in Father’s home.

When interviewed by sheriff’s investigators on October 6, Mother reported C.A. had been “very disrespectful,” had been “giving her attitude,” and that was the reason for his scratches. According to Mother, C.A. was very angry because Mother took his cell phone, he yelled at Mother, and he told her to get out of the room. Mother then knelt down on the bed, grabbed C.A.’s face, and told him to stop and to calm down. C.A. began hyperventilating, so she grabbed his face and asked him to look at her and calm down. Mother reported she was trying to restrain C.A., which “led to a wrestling match” after he pushed her back onto the bed. Mother said she could not have stopped wrestling with C.A. because then she “would have lost.” C.A. wanted I.A. to leave the room, but Mother told I.A. to stay.

When shown photographs of the scratches on C.A.'s face, Mother denied causing all of the scratches and claimed she caused only one scratch. Mother said C.A. probably caused the rest of the scratches when she was trying to calm him down. Mother also denied choking or hitting C.A. Mother explained, "this is how it is at home; they do not listen to me because they do not respect me." She had to ask the boys multiple times to brush their teeth, put on their seatbelts, and do their homework, and her patience was exhausted. Mother said C.A. and I.A. were behaving like Father, and like Mother and Father's adult son R.A., and Mother disliked the behavior.

On October 6, Mother was arrested and charged with felony child endangerment and felony inflicting injury on a child. (Pen. Code, §§ 273a, subd (a), 273d, subd. (a).)² Father had no criminal history.

A social worker interviewed Father on October 6. Father was "shocked" by the injuries to C.A. and denied having ever seen marks or bruises on the boys when he picked them up for visits. Father was already seeking full custody of the boys in family court because he was concerned that Mother did not control her anger and had "no limits" about what she said and did in front of the boys. C.A. and I.A. had witnessed domestic violence between Mother and Father and Father claimed Mother was the perpetrator. R.A. had experienced "constant verbal abuse" from Mother, and Father often had to get between Mother and R.A. to protect R.A. from Mother. On July 17, 2015, Mother became aggressive with Father. She screamed at him, threatened to hit him with her car,

² On August 3, 2008, Mother was arrested for spousal battery against Father.

and prevented him from leaving her condominium by parking her car to block the street. Father called law enforcement, and Mother was placed into a squad car to calm down. Father was told to take C.A. and I.A.

B. The Petition and Additional DPSS Interviews

On October 8, 2015, DPSS filed dependency petitions for C.A. and I.A. At an October 9 detention hearing, the court found probable cause to detain the boys outside Mother's custody, but not outside Father's custody, and continued the boys in Father's custody. Mother was allowed twice monthly visits with the boys, supervised by DPSS, and one telephone call per week, supervised by Father.

Also on October 9, the district attorney's office obtained a protective order on behalf of C.A. and I.A., prohibiting any contact between the boys and Mother. On October 27, the juvenile court issued an exception to the protective order, liberalizing Mother's visitation and allowing her to visit the boys at least once per week for two hours, supervised by DPSS. Mother was also granted two telephonic visits, on Tuesdays and Fridays, supervised by Father. On October 15, Mother missed a mediation in the family court case, and the mediation was dismissed.

During an October 19 interview with the social worker, C.A. provided additional details of the October 5 altercation. Mother was angry with C.A. because C.A. went outside without Mother's permission and used his cell phone to call Father. Mother accused C.A. of talking to Father about Mother's life and her friends, and she told C.A. she did not want him talking to Father about her life or her friends. C.A. said he did not

like calling Father inside Mother's home because Mother would make him put the call "on speaker" so she could listen, and then she would get angry, grab the phone, and start yelling. C.A. apologized to Mother for going outside without her permission.

C.A. explained that while Mother had C.A. pinned down on the bed, face down, she used one of her hands to hold him down by placing her hand on the back of his neck, and she hit him on his back with her other hand. C.A. began hyperventilating because he was exhausted from trying to get away from Mother. Mother took C.A. into the bathroom and ran cold water over his head to stop his hyperventilation. Mother then kissed C.A.'s head, told him she loved him, and told him not to make her do that again. C.A. told Mother he wanted to go to Father's house, and Mother told him to "figure it out by himself" and left the room.

C.A. reported that Mother began using physical discipline with him after she and Father separated, and described the nature and frequency of the physical discipline. Once every two weeks, Mother grabbed C.A., got on top of him, and pinned him down on a bed or on the floor. Once per week, Mother "smacked" C.A. with her hand on his face or arms, and once or twice per day Mother hit C.A. with a shoe. Mother "cussed, yelled, and screamed" at C.A. on a daily basis. Mother once threw her cell phone at C.A., and it hit the wall and broke.

Mother told C.A. "everything was fine" between her and Father until the children were born, but C.A. recalled Mother and Father "fought all of the time" when they lived together. Father verbally fought with Mother, but Father never physically fought with

Mother. Mother “always perpetrated” the physical fighting with Father and with R.A. when R.A. lived in the home. Mother also fought verbally with her mother and sister. C.A. was content to remain in Father’s home, had a close relationship with Father, and could talk to Father about anything. C.A. and I.A. were undergoing counseling through Father’s private insurance.

I.A., Father, and R.A. were also interviewed on October 19. I.A. reported Mother yelled at him a lot, and I.A. felt “really sad and scared” for C.A. during the October 5 altercation. Mother was “being mean to [C.A.]” and “[C.A.] was being kind of mean” to Mother, and things got “badder and badder and badder.” For his part, R.A. reported Mother “almost forces you to fight with her,” she had anger issues, and she should be required to attend therapy, but R.A. did not believe Mother wanted to change.

Father reported that, during R.A.’s childhood, Father was “on the receiving end” of Mother’s yelling and screaming, but after R.A. became an adult R.A.’s arguments with Mother became physical. Father would intervene so that Mother would take her anger out on Father instead of R.A. After R.A. moved out, Mother began yelling and screaming at C.A., and Father believed I.A. was similarly at risk. In 2008, when Mother was arrested for perpetrating domestic violence against Father, she swung her fist at Father, dislocating his finger from its socket. In 2012, Mother pushed Father against the kitchen sink, started hitting him, and R.A. called law enforcement. Father and Mother attended marriage counseling for a couple of months until the counselor asked to see Mother individually and explore whether she needed psychiatric medication. Mother

“stormed out” of the counselor’s office and never returned. Father separated from Mother in order to protect the children from witnessing further domestic violence.

DPSS was unable to interview Mother regarding the allegations of the petition because Mother’s attorney was not available to be present during the interview. Mother’s criminal court arraignment was scheduled for October 22, 2015.

C. Further Juvenile Court Proceedings

In a jurisdiction/disposition report filed on October 28, 2015, DPSS recommended that the juvenile court dismiss the dependency proceedings with family law orders granting Father sole legal and physical custody of C.A. and I.A., and requiring Mother to seek supervised visitation with C.A. and I.A. in the family court. DPSS reported Father had insight into how domestic violence jeopardized the children’s safety, and had “a great support network,” including his girlfriend, several maternal relatives, and the paternal grandmother. Father was able and willing to provide for the health, safety, and well-being of the children.

The jurisdictional/dispositional hearing was originally scheduled for November 2, but the hearing was continued to December 15 after Mother asked for a contested hearing. In court on November 2, minors’ counsel reported C.A. did not wish to visit Mother at that time. County counsel reported one supervised visit had occurred, but only I.A. participated in the visit. Mother’s counsel objected to C.A. “making the decision” not to visit Mother.

The court noted it could not allow 12-year-old C.A. to “dictate” whether he would visit Mother but modified its prior visitation order to limit Mother’s visits with C.A. to a therapeutic setting, explaining “normally the way it works is [the therapist] develop[s] a relationship with the child first, and then they slowly incorporate the [parent], . . . to establish a visitation schedule.” I.A.’s visitation schedule remained unchanged.

The court urged the parties to participate in family court mediation regarding custody and visitation, and issued a minute order asking the family court to again refer the case to mediation so that a mediation report would be available to assist the court at the next hearing. The court said it wanted the mediation report so that, if it dismissed the dependency proceedings, it could “set up a visitation custody order that’s consistent with the needs of this case.”

In an addendum report filed on December 9, 2015, DPSS recommended that the court order C.A. and I.A. removed from Mother’s physical custody, terminate the dependency proceedings, and order that Father have sole physical and joint legal custody of the boys, with supervised visitation for Mother “*at the request of each child* and in accordance with Family Law Court orders.” (Italics added.) In the same report, DPSS restated its previous recommendation that the court issue “family law orders” requiring Mother to “present herself to Family Law Court in order to establish supervised visitation orders.”

DPSS also reported that Mother regularly attended all of her visits with I.A., he enjoyed the visits, and I.A. would spontaneously tell Mother he loved her. On October

26, 2015, Mother began attending weekly individual counseling, parenting classes, and anger management classes through Catholic Charities.

C.A. began seeing a marriage and family therapist on November 22, 2015, and his therapist did not believe he was ready to visit Mother. The therapist was helping C.A. write a letter to Mother as a first step toward visiting her. C.A. was happy in Father's home and was doing very well in school. C.A. said he felt "scared" that he might have to see and visit Mother, and said: "I don't want to go to therapy with mom." In conducting "safety house activit[ies]" with the social worker on November 17, neither of the boys would allow Mother into their safety houses. Neither C.A. nor I.A. felt safe with Mother, and I.A. believed Mother might "torture" Father and R.A.

On December 15, 2015, the jurisdictional/dispositional hearing was continued to January 5. In court on December 15, minors' counsel reported C.A. was "vehement" that he was not ready to see Mother at that time. C.A. had written his letter to Mother, but he was still "not ready for visitation on any level." Father's counsel reported Mother had been "coaching" I.A. what to tell the social worker, and objected to Mother having any unsupervised visits with I.A. Mother reported problems with Father and his girlfriend supervising her telephonic visits with I.A., so the court ordered DPSS to supervise those visits. The court ordered DPSS to arrange a three- to six-hour holiday visit between Mother and I.A., supervised by the maternal aunt or another person.

On December 15, Mother told the court she preferred that the juvenile court case be closed and referred to family court. The court explained to Mother, in part: "It sounds

like to me this case really belongs in family law. So after we do the jurisdictional hearing, my intention was to send it to family law so that you guys can do mediation and come up with formal custody orders and such. But when I do close the case here, I am obligated to come up with custody orders. I can make orders that indicate to [the family court] that I'm authorizing family law to modify whatever orders I make. I can make that order that it can be modified even though there is no changed circumstances, because I believe the court mediation for family law can better serve the family and do a better job in coming up with a visitation custody schedule.”

On December 16, 2015, the juvenile court conducted a *Marsden*³ hearing at Mother's request. Attorney Denise E. Shaw remained Mother's appointed counsel.

D. The Jurisdictional/Dispositional Hearing and Exit Orders

The jurisdictional/dispositional hearing was continued from January 5, and was held on January 15, 2016. DPSS submitted the matter based on its filed reports, the police report of the October 5, 2015 altercation, and DPSS's recommendations to the juvenile court. Mother testified over the advice of her counsel, and her criminal case was still pending.

During her testimony, Mother explained what happened during her October 5 altercation with C.A. and what led to the altercation. According to Mother, C.A. was “battling and fighting and arguing” with Mother about why Mother was demanding he relinquish his cell phone to her, and Mother was trying to calm C.A. Earlier in January

³ *People v. Marsden* (1970) 2 Cal.3d 118.

2016, Mother had one therapy session with C.A., which Mother described as “emotional.” During the therapy session, C.A. said to Mother: “It’s taken all of this for you to learn you’re not changing.” As of January 15, 2016, Mother had completed all of her parenting classes, 13 out of 16 anger management classes, and 11 out of 15 individual therapy sessions.

C.A. testified outside the presence of Mother and Father. C.A. was turning 13 years old the following week. When asked what he thought Mother needed to do in order to help her “do better,” C.A. said Mother should change “the way that she acts or the way she reacts to stuff.” When asked whether he thought meeting with Mother in therapy settings would be helpful, C.A. answered “[n]o” and explained that Mother was getting annoyed during a January 2016 therapy session they had because she had to listen to what C.A. had to say. C.A. did not want to see Mother very often and did not want Mother to work on her relationship with him.

C.A. testified he was “really happy” living with Father and living with Mother was “really stressful” because he had to “deal with a lot of stuff” he should not have had to deal with. While living with Mother, C.A. had to be “the big brother” and “the biggest guy,” but while living with Father he only had to focus on school and fun things. C.A. was “liking being a kid right now.” C.A. reiterated that the October 5 altercation was not the only time Mother had been “physical” with him, and she had yelled at him for extended periods of time. C.A. wanted I.A. to leave the room during the October 5

altercation because he had “pretty much [been] in [I.A.’s] shoes” when Mother fought with R.A.

When minors’ counsel asked C.A. whether he would rather visit Mother in a therapeutic setting or have his aunt or a social worker supervise the visits, C.A. said he would “rather not see [Mother] at all,” and he did not want to visit her. When the court told C.A. it could not “just do” what C.A. wanted because that would not be “fair to everybody who is involved,” and asked C.A. whether he could visit Mother for a couple of hours monthly, with someone supervising, C.A. said, “I mean, I could do it, but I don’t know if I would like it.”

When asked who would be a good supervisor for the visits, C.A. said social worker Aubrey Pradetto would be a good supervisor, but none of his relatives would be good supervisors because Mother did not “really listen” to any of them. According to C.A., Mother did not respect anyone unless she had to respect them, and Mother even yelled at her own mother.

At the conclusion of the hearing, the court found that C.A. and I.A. were described in section 300, subdivisions (a), (b), and (j), and found those allegations of the petition true, including that Mother had a history of violent acts against Father and of inappropriate physical discipline of her children. The court also noted that, given C.A.’s size and weight, the amount of force Mother used to discipline him was excessive. C.A. and I.A. were adjudged dependents of the court and ordered removed from Mother’s

custody. (§ 361, subd. (c)(1).) The court ordered Father's counsel to prepare "family law orders," and upon the filing of those orders the court would terminate its jurisdiction.

The court directed that the orders were to grant Father sole physical custody of C.A. and I.A. and grant Mother and Father joint legal custody of the boys. Mother was to have one weekly visit with I.A., supervised by an agreed-upon third party, and twice weekly telephonic visits with I.A., supervised by Father.

The court denied Mother any visitation with C.A., finding it would be detrimental to C.A.'s "well-being" "at this time." The court explained: "Having seen [C.A.] in court in person, hearing him testify, the court thinks that visitation at this time is detrimental and I so find. The court will authorize [C.A.] and the mother to reestablish contact and visitation after [C.A.] and mother have separately engaged in therapeutic services. ¶ . . . I don't know when that's going to be, but [C.A.] needs some time out, and I would hope the father would allow [C.A.] to continue with some therapeutic services, and I think most professional therapists would encourage [C.A.] to reestablish a comfort zone, boundaries with their biological parent. So I'm going to give [C.A.] some time to reestablish trust so that [he] can feel comfortable having visits with his mother. That will be the family law order."

Mother's counsel then asked the court how Mother would know when she could visit C.A., after she and C.A. engaged in therapeutic services. Mother's counsel asked: "[I]s there a time period or is [C.A.] requesting the visits or how are we going to know when [Mother can visit C.A.?]?" The court responded: "I think it's illegal actually for me

to put a certain time period. So I think I'm going to put at the end of [C.A.]’s visitation request, ‘initiated at the request of [C.A.]’”

On February 17, 2016, a custody order-final judgment was filed in the juvenile proceedings on Judicial Counsel form JV-200. (Cal. Rules of Court, rule 5.700(b).)⁴ The judgment states that Mother was to have “no visitation” with C.A. because “[t]he court finds that visitation for mother with [C.A.] would be detrimental to [C.A.] Visitation with mother to be initiated by [C.A.]”

III

DISCUSSION

A. Substantial Evidence Supports the Court’s Finding That Mother’s Visitation With C.A. Would be Detrimental to C.A.

Mother claims insufficient evidence supports the court’s finding that Mother’s visitation with C.A. would be detrimental to C.A. Mother specifically argues there is no evidence that monthly, monitored visitation between herself and C.A., in a therapeutic setting, would be detrimental to C.A. We disagree.

We review a juvenile court’s finding of detriment for substantial evidence. (*In re A.J.* (2015) 239 Cal.App.4th 154, 160.) Substantial evidence “means evidence that is ‘reasonable, credible and of solid value; it must actually be substantial proof of the essentials that the law requires in a particular case. [Citation.]’” (*In re E.D.* (2013) 217 Cal.App.4th 960, 966.)

⁴ All references to rules are to the California Rules of Court.

“Detriment is a familiar standard in child welfare determinations; but, as several courts have acknowledged, the notion of detriment is at best a nebulous standard that depends on the context of the inquiry. . . . It cannot mean merely that the parent in question is less than ideal Rather, the risk of detriment must be *substantial*, such that [the proposed action] represents some danger to the child’s physical or emotional well-being.” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1490.)

Here, substantial evidence shows that, on January 15, 2016, when the court issued its order denying Mother any visitation with C.A., any visits between Mother and C.A.—even if limited to one monthly visit in a monitored, therapeutic setting—would have been substantially detrimental to C.A.’s emotional well-being. C.A. had only begun seeing a therapist on November 22, 2015, less than two months before the January 15, 2016 hearing when the “no visitation” order was issued. In December 2015, C.A. was “vehement” that he did not want to visit Mother and expressed fear that he would have to visit her. C.A. did not feel safe with Mother, and as of January 15, 2016, he still did not want to visit Mother.

Moreover, and as Mother concedes, the record shows that C.A. had not focused on his school work during the previous year due to his fights with Mother. Mother had been yelling and screaming at C.A. on a daily basis, and frequently abused him physically. Now that C.A. was living with Father, C.A. was doing very well in school because he no longer had the stress of worrying about Mother’s anger and abuse, and of having to protect I.A. from Mother’s abuse.

C.A. was only 12 years old and in the seventh grade when the dependency proceedings began in October 2015. He had been through a great deal of emotional trauma in Mother's care and custody. After Mother and Father separated, 18 months before October 2015, Mother began physically abusing C.A. In January 2016, C.A.'s emotional wounds were still fresh, and he needed more time to participate in individual therapy, gain trust, and heal from the emotional wounds he suffered as a result of Mother's verbal and physical abuse. C.A. simply needed more time away from Mother. If C.A. were forced to look forward to even a single, monitored monthly visit with Mother in a therapeutic setting, he would likely suffer emotional detriment, and his school work would also likely suffer.

Mother points out that DPSS had no concerns regarding C.A.'s mental health, and "no substantial evidence was presented" that C.A.'s therapist believed his visits with Mother in a therapeutic setting would be detrimental to him. Nonetheless, the juvenile court reasonably concluded that *any* visits between Mother and C.A. would cause substantial detriment to C.A.'s emotional well-being. C.A. said he wanted to have a better relationship with Mother. But for the reasons we have explained, the juvenile court reasonably concluded that, for the sake of C.A.'s emotional well-being, C.A. needed more time to begin visiting Mother under any circumstances. (*In re Mark L.* (2001) 94 Cal.App.4th 573, 581 ["The focus of dependency law is on the well-being of the child, and we do not fault the court for determining forced contact [between the minor and his father] may harm [the minor] emotionally."].)

B. The Exit Order Allowing C.A. to Initiate Visits Is Not Prejudicial to Mother

Mother claims the juvenile court erroneously delegated its judicial authority to C.A. to determine if and when visitation with Mother would occur, and this requires reversal of the order denying Mother any visitation with C.A. Mother argues the case must be remanded to the juvenile court with directions to issue new orders granting Mother visitation with C.A., or, at the very least, to “fashion a new visitation order establishing guidelines for the resumption of visitation between Mother and [C.A.] without improperly delegating its judicial authority.”

We conclude that Mother has not shown that the exit order, which is erroneous to the extent it allows C.A. to “initiate” visits with Mother, is prejudicial to Mother. Accordingly, we affirm the exit order.

“Section 362.4 provides that when the juvenile court terminates jurisdiction over a dependent child, and there is a pending family court case, the juvenile court may issue an order determining the custody of, or visitation with, the minor, which order ‘shall’ become part of the family court file and ‘shall continue’ unless ‘modified’ or ‘terminated’ by that court. (§ 362.4.) An order entered pursuant to section 362.4 is commonly referred to as an “exit” order. [Citations.]” (*In re Cole Y.* (2015) 233 Cal.App.4th 1444, 1455.)

Section 302, subdivision (d), provides that an exit order “shall be a final judgment and shall remain in effect after [juvenile court] jurisdiction is terminated,” and “shall not be modified” by the family court absent “a significant change of circumstances since the

juvenile court issued the order and modification of the order is in the best interests of the child.” (See *In re Cole Y.*, *supra*, 233 Cal.App.4th at p. 1456; rule 5.700(a).)

As Mother points out, “[t]he power to determine the right and extent of visitation by a noncustodial parent in a dependency case resides with the court and may not be delegated to nonjudicial officials or private parties. [Citation.] This rule of nondelegation applies to exit orders issued when dependency jurisdiction is terminated. [Citations.]” (*In re T.H.* (2010) 190 Cal.App.4th 1119, 1123.) A juvenile court violates the separation of powers doctrine and abuses its discretion if it delegates its authority to determine whether *any visitation will occur* to any third party, including to the child. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 48-49; *In re S.H.* (2003) 111 Cal.App.4th 310, 319 [child’s wishes may not be “the *sole* factor” in determining whether any visitation takes place]; cf. *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1232-1233, 1237 [order providing for visits at discretion of social services agency and the minors did not improperly delegate court’s authority to determine whether visits would occur, because the order only authorized the minors to express their desires whether visits should occur and authorized the agency to administer the details of the visitation as specified by the court]; see also *In re Daniel C.H.* (1990) 220 Cal.App.3d 814, 839.)

Here, the exit order provided for “no visitation” for Mother based on substantial evidence that C.A. would suffer detriment to his emotional well-being if he were forced to visit Mother, while allowing C.A. to “initiate” visits with Mother. Because the court could have ordered “no visitation” for Mother *without* allowing C.A. to initiate any visits,

the portion of the exit order allowing C.A. to initiate visits “amounts to a windfall to [Mother], not a violation of [her] rights.” (*In re Chantal S.* (1996) 13 Cal.4th 196, 213-214 [no prejudicial error shown where court delegated its authority to child’s therapist to determine when child’s visits with father would begin, where court could have ordered *no visitation* for father].) Though the the court erroneously delegated its authority to C.A. to determine whether visits with Mother would occur, Mother has not shown she was prejudiced by the error—precisely because the court could have ordered *no visitation* for Mother with C.A., without allowing C.A. to initiate visits. (*In re Chantal S.*, *supra*, at p. 214.) Nonetheless, the portion of the exit order allowing C.A. to initiate visits with Mother was erroneous. Accordingly, we affirm with directions to strike that portion of the exit order allowing C.A. to initiate visits with Mother.

Lastly, Mother is in no way precluded from seeking to modify the “no visitation” order in the family court. In the event Mother seeks to modify the no visitation order in the family court, she will be required to show (1) a substantial change of circumstances since the exit order was made, and (2) her proposed modification would be in the best interest of C.A. (§ 302, subd. (d); *In re Cole Y.*, *supra*, 233 Cal.App.4th at p. 1456; rule 5.700(a).) Mother has not explained and we see no reason why the portion of the exit order allowing C.A. to initiate visits with Mother could adversely affect Mother’s ability to make either of these showings, if and when the showings can be made.

IV

DISPOSITION

The juvenile court's February 17, 2016 "exit orders" are affirmed with instructions to strike the language which reads "to be initiated by [C.A.]"

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

McKINSTER
Acting P. J.

SLOUGH
J.