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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

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

STANISLAUS COUNTY COMMUNITY
SERVICES AGENCY,

Plaintiff and Respondent,

v.

G.B.,

Defendant and Appellant.

F071605

(Super. Ct. No. 516123)

OPINION

APPEAL from orders of the Superior Court of Stanislaus County. Ann Q.
Ameral, Judge.

Karen J. Dodd, under appointment by the Court of Appeal, for Defendant and
Appellant.

John P. Doering, County Counsel, and Carrie M. Stephens, Deputy County
Counsel, for Plaintiff and Respondent.

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G.B., mother of A.H., appeals an order summarily denying her Welfare and Institutions Code section 388 petition for modification of a prior order terminating reunification services.¹ Mother contends the juvenile court abused its discretion in denying the petition. She also contends the juvenile court abused its discretion when it denied her request to be present at A.H.'s medication appointments. We disagree and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Dependency

Mother has five children, three of whom were subject of the underlying dependency action.² Only one, A.H., born in 2006, is a child at issue in this appeal. A.H.'s older brother, S.H., was returned to mother's care. Older sister C.H. requested a section 366.26 hearing be set so she could be freed for adoption.

In June of 2011, the Stanislaus County Community Services Agency (agency) received a referral that 10-year-old C.H. had marks on her arms and back from mother hitting her with a belt. She also had bruises on her face. According to C.H., mother began hitting her with the belt and she fell to the floor. While on the floor, mother continued to hit her on her legs and once on her face. When C.H. asked that mother stop, mother stated, "I don't care." Mother claimed the injuries were C.H.'s fault because she was trying to spank her on her bottom but she kept moving.

Mother was offered voluntary services but refused to agree to a safety plan. Mother, who appeared to be under the influence, tested positive for marijuana and

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

² Two other children, B.C. and D.B., were not in mother's care when this matter commenced and were not part of the underlying dependency action.

“inconclusive” for methamphetamine. Mother became aggravated and angry at the social workers, and it was determined family maintenance would not work.

Mother and her family had prior CPS involvement, including over a dozen referrals and periods of voluntary services due to mother’s inappropriate parenting and physical abuse of an older child. The referrals also described mother’s mental health and substance abuse issues.

Detention

On June 17, 2011, S.H., C.H., and then 5-year-old A.H. (collectively, the children) were detained. A section 300 petition was filed, alleging the children came under subdivision (b) due to mother’s failure to protect them. The petition further alleged S.H. and A.H. came under subdivisions (b) and (g) because their alleged father, Andrew H., was incarcerated and had a history of substance abuse.³ The children were placed into foster care.

Jurisdiction/Disposition

The report prepared in anticipation of jurisdiction/disposition stated mother was prescribed medications for bipolar disorder and Vicodin for a back injury. She admitted using marijuana for pain, but denied methamphetamine use. Mother did not inform her doctor of her substance abuse history because she wanted the pain medication. Mother missed her first two substance abuse assessment appointments because she was arrested July 2, 2011, for receiving stolen property, having a weapon in her vehicle, and a loaded weapon in a public place. She was intoxicated at the time of her arrest. She was released on July 8, 2011, and reported the charges had been dropped. Mother acknowledged needing anger management counseling.

An amended petition was filed July 21, 2011, adding allegations regarding C.H.’s alleged father, Curtis H.

³ Andrew H. was later elevated to presumed father as to S.H. only.

On August 26, 2011, after additional amendments to the petition were made on the record, mother waived her right to a hearing and submitted on the first amended petition. The children were present at the hearing. S.H., through counsel, stated he and his siblings did not want to be placed in a relative's home because they liked where they were in foster care placement and current schools. S.H. also noted the foster mother was very good at handling A.H., who had some "temper issues."

Mother was granted reunification services. Andrew H. was denied reunification services as to A.H. because he was only an alleged father (§ 361.5, subd. (a).)

Application Regarding Psychotropic Medication for A.H.

On December 23, 2011, after A.H. was diagnosed with posttraumatic stress disorder (PTSD) and attention deficit hyperactivity disorder (ADHD), the agency filed an application regarding psychotropic medication (medication application). A.H. was described as very hyperactive, impulsive, and easily distracted. He had been suspended from kindergarten twice. It was hoped that a trial of Vyvanse would help with his ADHD symptoms. A.H. had a lot of anger issues and did not get along with his siblings. At one point, A.H. was so aggressive that he broke his foster mother's foot when he stepped on it. A clinician worked with A.H. and foster mother weekly and supported the agency's medication application.

Andrew H. filed an opposition to the medication application, stating this was the first he was aware of any psychological issues. He claimed he was not informed of the appointment with a psychiatrist and opposed giving A.H. psychotropic medication.

At a hearing in January of 2012 on the medication application, mother objected to the use of Vyvanse for A.H. because she had read online that it caused severe side effects. She argued instead that his behavioral issues should first be addressed with "diet" and "herbal methods." According to mother, when A.H. had been in her care she "almost had his temper tantrums and the other problems that we were having under control," and that they were again out of control because of his anger at being away from

her. Counsel for A.H. stated she almost always objected to medication for a child as young as A.H, but that he was “probably the most hyper five-year-old I’ve ever had in my office, and I’ve been doing this way too long.” The juvenile court granted the request without prejudice and ordered an appointment with the psychiatrist be scheduled and mother be invited to attend.

Six-Month Status Review

The February 2012 report prepared in anticipation of the six-month review hearing stated mother was participating in services. The agency recommended that the social worker be given discretion to allow overnight visits leading to a trial visit in mother’s home. Mother had completed the outpatient program at First Step and a 12-week parenting program in November of 2011. But, in the two months immediately prior to the report, mother had missed or cancelled five of her weekly visits with the children.

The report stated mother was able to meet with A.H.’s psychiatrist in January 2012 to discuss her concerns regarding medication. A.H. continued to have behavioral problems and was suspended from school twice during the first week of February 2012 for defiant and aggressive behavior.

The report also stated 13-year-old S.H. was addicted to marijuana and had been referred to an outpatient program for teens.

At the six-month review hearing March 1, 2012, the juvenile court granted the agency’s request for discretionary overnight visits. But, at the request of A.H.’s counsel, mother was ordered to administer A.H.’s medication exactly as prescribed while he was in her care. According to S.H., A.H.’s medication wore off about 7:00 p.m., causing him to become more aggressive. A.H.’s counsel noted that his nighttime aggressiveness began after visits in mother’s home. A psychiatric appointment was already scheduled for March 5, 2012, to ensure the current medication regimen was appropriate. The juvenile court ordered that no corporal punishment be allowed on any of the children. An

interim review hearing was set for May 3, 2012, and a 12-month review hearing for August 14, 2012.

Interim Review

The May 2012 interim review report stated A.H. continued to have behavioral problems and was suspended two more times from school. A new clinician, who could work with A.H. more frequently, was requested. The four- to six-hour visits with mother and the children were going well. Overnight visits were scheduled to begin on May 12, 2012. Mother had completed her anger management course.

On July 6, 2012, the agency filed a follow-up medication application, stating Vyvanse was working well, but that A.H. was having trouble sleeping and Clonidine was requested. The medication application noted mother was not in agreement with the request. The request was granted on July 10, 2012.

12-Month Status Review

The August 2012 12-month review status report recommended services to mother be terminated and that a permanent plan of long-term foster care be established. The report stated that, although mother had done well in the first six months of her case plan, she had recently experienced some setbacks. She continued to have anger towards her children and was again abusing substances. She tested positive for marijuana and methamphetamine and then failed to attend two alcohol and other drug (AOD) assessments.

Service log notes filed in anticipation of the August 14, 2012, contested hearing stated A.H. continued to have behavioral difficulties. During a May 7, 2012, appointment with the psychiatrist attended by mother and foster mother, A.H. had a “major meltdown” compounded by mother’s yelling at him. The psychiatrist recommended adding another medication for A.H. Mother adamantly opposed the recommendation and stated that, when her CPS case was closed, she would treat A.H. through “more holistic means,” described as a “caffeine regimen.” It was stressed to

mother that medication was only a part of A.H.'s treatment plan, which also included therapeutic behavioral services (TBS) and clinical support. The psychiatrist later confirmed mother did not know how to handle A.H. and she appeared to be angry, which angered A.H. even more.

By the end of May 2012, A.H. was receiving TBS at least three times a week in foster care. The goal was to transition the services to mother's home, which happened in early June. The plan was for two TBS sessions per week in foster care and two in mother's home.

Mother attended a follow-up appointment with A.H.'s psychiatrist. During the visits, A.H. played with the window blinds. Foster mother quietly and repeatedly redirected him; mother spoke harshly to him.

On July 2, 2012, the social worker received information that, at the previous weekend visit, mother had allowed the two older children to spend the night with an aunt. When A.H. was not allowed to go as well, he threw a tantrum and mother told the aunt she "whipped his butt." It was also reported that mother directed A.H. not to tell anyone she had spanked him because if he did, he might not get to come back to her.

When the social worker received this information, she went to mother's home to investigate. Mother was informed she needed to drug test, but mother claimed to have just gone to the restroom before the social worker arrived. A bit later, mother cried and said she might test positive for marijuana because she had eaten some brownies that may have been laced with weed. Mother eventually provided a urine sample which was positive for THC.

The social worker then met with A.H. at the foster home. A.H. told the social worker mother had spanked him and told him not to tell anyone. Mother's home visits were suspended.

A hair follicle test on mother July 6, 2012, was positive for amphetamine and methamphetamine. Mother claimed it was positive because she had taken Sudafed. She

then changed her story and said that the marijuana brownies she had accidentally eaten had frosting on them laced with methamphetamine. Mother was also taking pain medication for what she claimed was a herniated cervical disc, but mother declined to sign a release of information form so that the social worker could contact her physician to verify the information.

During this same period, a concern arose that S.H. was affiliating with gangs. He was also believed to be selling marijuana and stealing items from the foster home. On August 10, 2012, S.H. was moved to a new foster home in Los Banos.

After mother's home visits were suspended, A.H. again began having temper tantrums and was encouraged to use calming techniques taught him in TBS.

At A.H.'s July 23, 2012, psychiatric visit, mother arrived 15 minutes late. A discussion was had regarding the possibility of Asperger's Syndrome or PTSD, due to A.H.'s extreme rigidity and aversion to changes in schedule and routine. The psychiatrist wrote a prescription for Vyvanse and Clonidine, but opined that Prozac could be added if necessary. Mother finally agreed to consider medication for A.H.

Prior to A.H.'s first day of school, foster mother and TBS counselor took A.H. to school to show him the route to get to class and back. However, on the first day of school, the students walked a different route, causing A.H. to have a "meltdown" which took four personnel to control him.

On October 19, 2012, after a multiple-day contested 12-month review hearing, mother's reunification services were terminated with a permanent plan goal of long-term foster care. A section 366.3 post permanent plan review hearing was scheduled for April 11, 2013.

In November of 2012, the agency submitted another medication application stating A.H. was doing better and should continue the same medications. A.H. graduated from TBS and his behavior was improved. Mother was noted to be agreeable with the medication request, which was granted November 28, 2012.

First Section 388 Petition and First Section 366.3 Review

On March 6, 2013, mother filed a section 388 petition seeking to reopen reunification services. Mother had completed treatment at a recovery center February 14, 2013, and claimed she was no longer taking narcotics for pain medication. A hearing on the petition was set to coincide with the postpermanent plan review hearing April 11, 2013.

The April 2013 status review report stated A.H. had improved a great deal and was doing well academically. He had stopped counseling in December 2012 but resumed in March of 2013 after he began having tantrums before and after visits with mother. The social worker recommended against reopening services until mother had a longer period of sobriety.

Prior to the hearing, a semi-annual medication application was filed recommending a continuation of the same medications for A.H. It was granted without a hearing on May 2, 2013.

After a two-day combined section 388 and contested review hearing, the juvenile court denied mother's section 388 petition, finding her circumstances "changing" but not "changed completely." At the hearing, C.H. testified she did not want to go home as she had been in foster care for almost two years and was happy. Although she wanted to go home eventually, she was afraid that, if she went home now and it got "messed up," she would not be able to go home again. She did not want to increase visits with mother. C.H. did not think mother had the patience to handle A.H.

As for the review hearing, the juvenile court found the children's placement necessary and progress by mother to be "fair," but that there was no compelling reason to set a section 366.26 termination hearing as the children would like to return to mother at some point. Another review hearing was scheduled for October 31, 2013.

Second Section 366.3 Status Review

The October 2013 status review report stated A.H. and C.H. were moved in August of 2013 to the home of an aunt in Turlock. S.H. remained in his foster home in Los Banos. In late August, the aunt requested A.H. be taken off all medication, which was done in consultation with the psychiatrist. As of late October, A.H. was doing well. Mother visited regularly, but there was no recommendation to change the children's permanent plan. The review hearing was continued to November 21, 2013, where no changes were made.

Second Section 388 Petition

In the meantime, mother filed a second section 388 petition on November 14, 2013, seeking to reopen services. The petition stated mother had extended her sobriety time and the children were "very bonded to their mother and wish to return to her care."

An addendum report filed by the agency in opposition to the motion stated that, while mother alleged continued sobriety, she was again taking narcotic medication for a purported injury that occurred in August of 2013. The social worker was also concerned with mother's parenting skills, as mother was heard telling A.H. that if he was bullied, he should "beat the bully up" instead of seeking help.

The report stated that, after three months in the aunt's home, the relative caretaker asked that the children be moved. They were able to return to their former foster mother in November of 2013. According to the report, A.H. digressed and began having progressively more intense temper tantrums, mostly at school. A.H. had an emergency appointment with the psychiatrist January 6, 2014. Mother did not attend, but called to say she was opposed to putting A.H. back on medication. The psychiatrist agreed to let A.H. have time to settle back into foster care before resuming medication. While at school on January 14, 2014, A.H. began choking himself with his shirt and "engaging in suicidal gestures and ideation." As a result, he was hospitalized and placed on several

medications to address his diagnosis of “mood disorder, not otherwise specified.” While in the hospital, A.H. reported hearing voices and seeing angels.

In January of 2014, the agency file a new medication application requesting the medications A.H. was taking upon discharge from the hospital, namely Vyvanse, Risperdal, Depakote, and Clonidine. Mother filed an opposition to the medication request objecting to Risperdal and Depakote, citing possible side effects. She also cited a psychologist at the Children’s Law Center of California, who stated there had not been a study done supporting the administration of more than three psychotropic medications to pediatric patients. The juvenile court granted the request for administration of Clonidine, Vyvanse and Risperdal. TBS was reinstated for A.H.

On February 3, 2014, a stipulated agreement was reached providing for reopened reunifications services to mother for S.H. only. Mother’s visits with A.H. and C.H. were ordered to be supervised. A status review hearing was scheduled for May 14, 2014.

Third Section 366.3 Status Review

The May 2014 review report stated A.H.’s behavior at school had improved dramatically after he was reevaluated for psychotropic medication. A.H.’s previous caretaker (his aunt) admitted taking A.H. off of his medication had not been a good idea. A.H. had adjusted “fairly well” to being back in his foster home.

At the May 14, 2014, review hearing, mother asked that she be allowed to attend A.H.’s psychiatric appointments. The juvenile court denied the request, noting mother was against A.H. being on medication and it was clear he needed to be. No changes were made at the hearing, but mother and S.H. were both admonished not to talk to C.H. and A.H. about coming home. A section 366.3 review hearing was set for November 12, 2014.

On August 21, 2014, the agency filed a new medication application recommending the same medication regimen. Mother renewed her opposition and requested she be present at medical consultations “to better understand the doctor’s

request for medication, and to ask questions of the doctor.” The request for psychotropic medication was granted.

Fourth Section 366.3 Status Review

The status review report for November 2014 stated A.H. had been moved to a new intensive treatment foster home with older children who did not “buy into” A.H.’s “provocations.” A.H.’s behavior improved in the new foster home. Despite his emotional problems, A.H. was a good student and received good academic grades.

At the November review hearing, mother asked for unsupervised holiday visits in her home. Counsel for C.H. and A.H. noted C.H. would rather spend holidays at her foster home. Counsel opposed mother having unsupervised visits. Mother’s request was denied. No changes were made at the hearing and a section 366.3 review hearing was scheduled for May 5, 2015.

Third Section 388 Petition

On December 17, 2014, mother filed a third section 388 petition requesting reunification services as to A.H. be reopened. Mother alleged A.H. was bonded to her and wanted to return to live with her and S.H., with whom mother had successfully reunified. The section 388 hearing was set for January 16, 2015.

In January 2015, the agency filed a new medication application requesting Prozac be added in preparation to wean A.H. off of Risperdal, due to elevated levels of prolactin in his blood. The juvenile court approved the request.

Mother’s section 388 petition was addressed January 16, 2015. County counsel argued the petition did not make a prima facie showing of best interest, as it simply stated A.H. wanted to go home and offered no evidence or proof as to where this allegation came from. Counsel for A.H. stated A.H. had never mentioned he wanted to go home despite many opportunities to say so. Counsel stated there was no evidence of the claimed parent child bond between mother and A.H. The juvenile court found that,

although a prima facie case had been shown, there was “too much contradictory evidence” and denied the petition.

Fourth Section 388 Petition

On April 29, 2015, mother filed her fourth section 388 petition to reopen reunification services with A.H. According to mother, A.H. was having increased behavior problems in the foster home. She attached his Individualized Education Program (IEP) and medication requests as evidence. Mother alleged it would be in A.H.’s best interests to reunite with her, stating A.H. had become suicidal in foster care and wished to return to her care. Mother also attached a declaration from S.H. stating A.H. had asked him when he could come live with S.H. and mother.

The juvenile court denied the section 388 petition without a hearing, stating that, while A.H. does have behavioral issues, a review of the documents did not reveal a decline in behavior, as asserted by mother. In addition, the juvenile court found there was no evidence presented that granting the request would be in A.H.’s best interests.

Fifth Section 366.3 Status Review

A status review report for May 5, 2015, stated C.H. was in a new confidential foster home and wished to be adopted. A section 366.26 hearing was requested for her.

The status report stated A.H. was tested at school and found to meet the criteria for emotionally disturbed, but continued in a mainstream classroom. His behavior continued to stabilize in the foster home with older children. He had changed psychiatrists, but continued on the same medication.

At the May 5, 2015, review hearing, the social worker stated “[t]hings are going pretty well.” Mother renewed her request to have notice of psychiatric appointments and be allowed to attend. Counsel for A.H. indicated there did not appear to be any benefit to A.H. by having mother at his appointments, as she did not interact with him on an ongoing basis enough to be able to address his behavior. At this point, mother was having two supervised visits a month with A.H., “with an occasional community visit.”

The juvenile court found that, because it was postpermanency, not reunification, and “given the history,” it was not going to allow mother to be present at the appointments. All other orders remained the same.

DISCUSSION

I. DID THE JUVENILE COURT ABUSE ITS DISCRETION IN FAILING TO HOLD AN EVIDENTIARY HEARING ON MOTHER’S SECTION 388 PETITION?

Mother contends the juvenile court abused its discretion in denying her April 2015 section 388 petition without an evidentiary hearing because (1) she made a proper showing of changed circumstances, and (2) the requested modification would be in A.H.’s best interests. We disagree.

Mother’s April 2015 Section 388 Petition

Mother’s petition asserted the following information for the juvenile court to consider: “Mo[ther] has successfully completed services in regards to her other son, S[.]H. In January of 2015, oral statements were made to the court that A[.H.] was ‘thriving’ in his new foster placement, and reopening services would not benefit the child. Besides declaration, the court did not have any information to the contrary. Attached is evidence that A[.H.] has actually had worse behavior problems since being placed.”

In support of her section 388 petition, mother submitted a copy of the prescribing physician’s statement dated January 26, 2015, a copy of A.H.’s IEP dated December 17, 2014, and a copy of a letter entitled “Clinical Assessment for Emotional Disturbance Eligibility” from the Stanislaus County Office of Education dated December 17, 2014. Mother contends this documentation showed that A.H. was having “behavior problems in his current placement” and his physician wanted to increase the dosage of his psychotropic medications.

As for best interests of the child, mother stated “A[H.] is bonded to his mother and wish[es] to return to her care and wishes to reside with his sibling. He has been in several different placements, and has not be[en] thriving in foster care. His behaviors have worsened at school and he has been suicidal. Mother has made substantial progress in her former case plan objectives, and it would be in the children’s best interest to reunite the family.” In support of this statement, mother provided a declaration from S.H. stating that A.H. had told him he wanted to come home.

The juvenile court denied mother’s last section 388 petition ex parte, checking the boxes that the request did not state new evidence or a change of circumstances, and the proposed order did not promote the best interest of the child. In the order, the juvenile court stated: “Court acknowledges A[H.] does have behavioral issues. However, a review of all documents do not evidence any decline as asserted by the mother. There is no evidence presented that the granting of the request which was just denied three months ago, would be in the child’s best interests.”

At the hearing on mother’s prior section 388 petition held three months earlier on January 16, 2015, the agency argued the petition did not meet the prima facie showing that there was any evidence to suggest A.H. wanted to return home to reside with his sibling. According to A.H.’s counsel, he never informed her he wanted to return home. Mother’s counsel requested the matter be set for evidentiary hearing because there appeared to be a factual disagreement concerning A.H.’s desires. The juvenile court, in denying the motion, stated, “I’m going to find that a prima facie showing has been shown at this time, and there is just too much contradictory evidence.”

The minute order for January 16, 2015, states the section 388 petition was denied because the proposed modification “does not state a change of circumstances or new evidence” and “does not appear that the best interest of the child may be promoted by the proposed modification.”

Mother's Contention on Appeal

Mother now argues that the juvenile court abused its discretion in denying her current petition because she provided evidence that A.H. did want to return home to mother. And mother contends, she adequately demonstrated her lifestyle had changed. According to mother, she had previously testified she had been sober since July of 2012, and since there was no evidence she had relapsed, as evidenced by the fact that she had reunified with S.H., her circumstances were no longer changing, but had changed.

Applicable Law and Analysis

“A party may petition the court under section 388 to change, modify, or set aside a previous court order. The petitioning party has the burden of showing, by a preponderance of the evidence, that (1) there is a change of circumstances or new evidence, and (2) the proposed change is in the child’s best interests.” (*In re Jackson W.* (2010) 184 Cal.App.4th 247, 257.)

To obtain a full hearing, a parent must make a prima facie showing of both of these elements. (*In re Jackson W., supra*, 184 Cal.App.4th at p. 257.) “The petition must be liberally construed in favor of its sufficiency.” (*Ibid.*) ““The prima facie requirement is not met unless the facts alleged, if supported by evidence given credit at the hearing, would sustain a favorable decision on the petition.’ [Citation.]” (*Id.* at p. 258.) “[A] hearing must be held only if it appears the best interests of the child may be promoted by the proposed change of order.” (*Id.* at p. 259-260.) When determining whether the petition makes the necessary prima facie showing, “the court may consider the entire factual and procedural history of the case.” (*In re Justice P.* (2004) 123 Cal.App.4th 181, 189; *In re Jamika W.* (1997) 54 Cal.App.4th 1446, 1450-1451.)

We review the juvenile court’s order summarily denying a section 388 modification petition for an abuse of discretion. The appellate court will not disturb the juvenile court’s decision unless the juvenile court exceeded the limits of legal discretion

by making an arbitrary, capricious or patently absurd determination. (*In re A.S.* (2009) 180 Cal.App.4th 351, 358.)

As evidenced by the factual and procedural history of this case, A.H. is a child in need of stability, as he does not deal with change and his responses can be dramatic, aggressive and self-destructive. It was demonstrated throughout the case that A.H. functioned better on medication, which mother consistently opposed. This was made even more evident when A.H. was placed with a maternal aunt who took him off medication and in less than three months' time, asked that he be removed from her home and admitted taking him off medication was not a good idea. Even after this, mother opposed medication, a wish the psychiatrist honored until A.H. exhibited suicidal behavior and had to be hospitalized.

Mother contends these setbacks were the result of A.H. being in foster care and she provided the medication request and IEP as evidence of his worsening condition. The juvenile court correctly noted that this was not new evidence and did not demonstrate a change of circumstance. The documents provided by mother simply described A.H.'s ongoing issues. His behavioral problems increased during periods of instability, such as increased visits with mother and removal of his medication.

Nor is mother's claim that she reunified with S.H. an indication of changed circumstances. S.H. was, at the time of reunification, 16 years old without any mental health issues. A.H. presented a completely different scenario.

On this record, the juvenile court properly denied the section 388 petition because the request does not state new evidence or a change of circumstances. A parent seeking a modification under section 388 must show "*both* a change in circumstances or new evidence *and* the promotion of the child's best interest." (*In re G.B.* (2014) 227 Cal.App.4th 1147, 1157.) Because mother failed to show changed circumstances would justify the resumption of reunification services, it is unnecessary to address the second

prong of the section 388 test, namely, whether the proposed modification would promote A.H.'s best interests.

In any event, mother presented no evidence that A.H., whom she visited twice a month in a supervised setting, was bonded to her or that his best interests would be served by resuming reunification services with her.

II. DID THE JUVENILE COURT ABUSE ITS DISCRETION IN DENYING MOTHER'S REQUEST TO BE PRESENT AT A.H.'S MEDICATION APPOINTMENTS?

Mother contends the juvenile court abused its discretion in denying her request to be present at A.H.'s medication appointments. We disagree.

Procedural Background

At the May 5, 2015, section 366.3 status review hearing, mother requested that she be notified of A.H.'s psychiatric medication appointments and that she be able to attend. Council for A.H. objected, stating that mother did not live with A.H. and did not interact with him on an ongoing basis, and there would be no benefit to her being present at the appointments. The juvenile court reasoned that, "because we're in post permanency at this point and not reunification" and "given the history," mother would not be allowed to be present at the medical appointments.

Applicable Law and Analysis

By way of background, section 369.5, subdivision (a) provides that "only a juvenile court judicial officer shall have authority to make orders regarding the administration of psychotropic medications" for a dependent child who has been removed from parental custody. "The juvenile court may issue a specific order delegating this authority to a parent upon making findings on the record that the parent poses no danger to the child and has the capacity to authorize psychotropic medications." (*Ibid.*)

Here, the juvenile court had not delegated to mother the authority to make decisions regarding psychotropic medication. As such, the decision whether to grant a medication request was solely the province of the juvenile court.

Mother does not contest the juvenile court's granting of the medication application, but instead contends the juvenile court abused its discretion in denying her the right to attend A.H.'s medication appointments. But mother does not cite any authority for the proposition that she has a "right" to attend A.H.'s appointments at this stage in the proceedings.

Even if we assume mother has that right, we find no abuse of discretion on the part of the juvenile court in denying her request to do so. "After the termination of reunification services, the parents' interest in the care, custody and companionship of the child are no longer paramount. Rather, at this point 'the focus shifts to the needs of the child for permanency and stability' [citation]" (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317; accord, *In re Marilyn H.* (1993) 5 Cal.4th 295, 309.)

Through most of the dependency proceedings, mother opposed the use of psychotropic medication for A.H. Her objection to certain medications was based on her own research and anecdotal information. The juvenile court presided over mother's case for four years and was well aware of the issues mother had with A.H.'s medications, as well as her handling of A.H. And the juvenile court had before it evidence of A.H.'s behavior issues and his improvement when he was on medication.

The juvenile court did not abuse its discretion in concluding that having mother present at medication appointments was counter-productive to A.H.'s permanency and stability and therefore not in A.H.'s best interests.

DISPOSITION

The orders of the juvenile court are affirmed.

FRANSON, Acting P.J.

WE CONCUR:

PEÑA, J.

SMITH, J.