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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re I.R., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

I.R.,

Defendant and Appellant.

E072825

(Super.Ct.No. J268504)

OPINION

In re I.R., a Person Coming Under the  
Juvenile Court Law.

SAN BERNARDINO COUNTY  
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.R.,

Defendant;

I.R.,

Appellant.

E072826

(Super.Ct.No. J273266)

APPEAL from the Superior Court of San Bernardino County. Christopher B. Marshall, Judge. Affirmed.

Richard D. Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant, I.R.

Michelle D. Blakemore, County Counsel, and Pamela J. Walls, Special Counsel, for Plaintiff and Respondent, San Bernardino County Children and Family Services.

Xavier Becerra, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Erik A. Swenson and Kristine A. Gutierrez, Deputy Attorneys General, for Plaintiff and Respondent, The People.

The Welfare and Institutions Code allows counties to operate a “dual status/lead agency” system with regard to minors, under which a juvenile court may exercise both delinquency and dependency jurisdiction and have either the probation department or child welfare services department act as the lead agency. (Welf. & Inst. Code, § 241.1, subd. (e), (e)(5); undesignated statutory references are to the Welf. & Inst. Code.) For a time, San Bernardino County operated under such a system, and appellant I.R. was a dual status minor with probation designated as the lead agency. In 2019, the county switched to a single status system. After the switch, the juvenile court terminated its dependency jurisdiction over I.R., leaving him only a ward of the delinquency court, and the county probation department as the only agency with an active case concerning him.

This appeal is primarily about what a court must do when terminating delinquency or dependency jurisdiction in situations such as these. I.R. contends that the hearing

terminating dependency jurisdiction following the switch to single status lacked due process because he was not allowed to cross-examine the social worker who prepared a status review report. We disagree; I.R. fails to demonstrate that any such procedural due process rights attach to the type of termination hearing that took place here. I.R. also contends that the decision to terminate dependency jurisdiction was based on a deficient report prepared under section 241.1, but as we recently held in *In re S.O.* (2020) 48 Cal.App.5th 781, no such report was required, so any error in the report is irrelevant. Overall, the juvenile court had discretion in deciding whether it could terminate its dependency jurisdiction over I.R., and it did not abuse that discretion here. Additionally, we reject I.R.'s contentions that the juvenile court failed to adequately consider placement with relatives or visits with siblings. We therefore affirm.

## I. FACTUAL AND PROCEDURAL BACKGROUND

I.R., who was born in 2003, had been raised by his adoptive mother M.R. (Mother) since he was very young. His biological mother, who is a halfsibling of Mother, had her parental rights over I.R. terminated in 2008.

### *2016: Initial Wardship Petition*

In December 2016, the People filed a juvenile wardship petition under section 602, alleging that I.R. committed a lewd or lascivious act with a child under 14 years of age (Pen. Code, § 288, subd. (a)), a felony. The petition was later amended, adding allegations of two instances of misdemeanor sexual battery (Pen. Code, § 243.4, subd. (e)(1)) on the same victim, I.R.'s niece. At a hearing, I.R. admitted the two misdemeanor

allegations, and the People dismissed the felony allegation. I.R. was declared a ward of the juvenile court and placed on formal probation.<sup>1</sup>

*2017: Additional Wardship Petitions and Initial Dependency Petition; Dual Status with CFS as Lead Agency*

In May 2017, the People filed a section 777 petition, alleging that I.R. violated the terms of his probation by not attending school or reporting school discipline to probation, and by going on a trip without telling the responsible adult the nature of I.R.'s charges. The probation officer's report stated that I.R. did not report two suspensions to probation. The report also stated that I.R. went to Magic Mountain without prior permission and without informing the chaperone of his charges, although he was required to do so. The People ultimately moved to dismiss the allegation regarding the Magic Mountain incident, and after I.R. admitted to the school related violation, the juvenile court ordered I.R. to serve 15 days in custody.

In September, the People filed a second section 777 petition, alleging that I.R. again violated the terms of his probation by driving Mother's car without her consent and by stealing items from Walmart. Contemporaneously, Mother informed the probation

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<sup>1</sup> It is important to note that "in juvenile court, a minor is not designated as a 'defendant,' nor accused of a 'crime,' even though the allegation would describe a crime in adult court. (§ 203.) The determination whether a minor has violated a criminal provision is made solely in order to establish that the juvenile court has jurisdiction. Once this determination is made, the juvenile court can declare the minor a ward of the court and order a disposition that will address the minor's behavior. A juvenile adjudication is not a 'conviction' [citation], and thus a ward of the juvenile court is not 'sentenced' for violating the law, even when disposition of the ward's case involves removal from home for a period of confinement." (*In re W.B.* (2012) 55 Cal.4th 30, 43.)

officer that she had found knives and a BB gun in I.R.'s room and that he was associating with unsavory characters. Accordingly, Mother informed the probation officer she did not want I.R. to return to the house and was afraid of what I.R. might do. I.R. stated he was acting out because Mother's roommate told him that Mother does not love him. At the detention hearing, I.R. denied the allegations, and the juvenile court detained him in juvenile hall. At a pretrial hearing the following month, I.R. admitted an allegation regarding the Walmart theft, and the People moved to dismiss the other allegations. The juvenile court ordered I.R. to serve 20 days in juvenile hall, which he had already served, and ordered him released to Mother.

Mother, however, was not at the pretrial hearing and did not pick I.R. up. This appears to have largely been expected, given that in a probation report filed in advance of the hearing, Mother stated that she had recently attempted to take her own life and had been hospitalized on an involuntary psychiatric hold. Mother had also told the probation officer that she "cannot keep" I.R. in her home, that she would not be at the pretrial hearing, and that she did not want I.R. back in her custody. Mother "was adamant about [I.R.] not returning to her home," and the report noted that Mother "ended the interview by stating that she would get a doctor's notice to inform The Probation Department and the Court that she was 'unfit' as a parent." Thus, in addition to ordering I.R. to be released to Mother's custody, the pretrial hearing minute order instructed probation to contact respondent San Bernardino County Children and Family Services (CFS) if

Mother did not pick I.R. up. When I.R. was released following the hearing, CFS placed him in a group home.

CFS filed a dependency petition two days later. At the dependency detention hearing, the court ordered I.R. removed from Mother and placed him in CFS custody. At a combined jurisdictional and dispositional hearing in November, the juvenile court found that I.R. fell within the description of section 300, subdivisions (b) and (g), declared him a dependent child of the court, ordered family reunification services for Mother, and referred the matter for a report by the “241.1 committee.”<sup>2</sup> The section 241.1 committee report recommended dual status with CFS as the lead agency, and in a December hearing, the juvenile delinquency court adopted the recommendation.

*2018: Additional Wardship Petitions; Change to Probation as Lead Agency*

At the dependency six-month review hearing in May 2018, Mother waived continued reunification services, and the court ordered the services terminated. In the status review report, Mother had informed CFS that “she did not want to participate in services and does not plan to reunify with” I.R., noting that she was “struggling with housing as well as her mental health.”

In July, the People filed a third section 777 petition, alleging that I.R. violated the terms of his probation by absconding from his group home in Rialto. Warrants were

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<sup>2</sup> In relevant part, section 241.1, subdivision (a) states that “[w]henver a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall . . . initially determine which status will serve the best interests of the minor and the protection of society.”

issued, and I.R. was arrested some days later. The arresting officer found a knife concealed in I.R.'s waistband, so the People filed a section 602 subsequent petition alleging a felony violation of Penal Code section 21310 (carrying a concealed dirk or dagger).

At a pretrial hearing in August, the People moved to dismiss the third section 777 petition and amend the allegation in the section 602 subsequent petition to a misdemeanor. I.R. then admitted the misdemeanor violation. At the delinquency dispositional hearing later that month, the court ordered I.R. to juvenile hall pending a suitable placement. I.R. was placed at a group home in Perris in September.

Meanwhile, shortly before the August pretrial hearing, a revised section 241.1 committee report recommended that I.R. continue as dual status but with a change to probation as the lead agency. In an order dated mid-October, the court adopted the recommendation. In a dual status hearing later in October, the court again ordered that I.R. continue as dual status with probation as the lead agency.

A few days after arriving at the Perris group home in September, I.R. absconded again, prompting the People to file a fourth section 777 petition. Another warrant was issued, and I.R. was arrested on December 29, but not before leading officers on a vehicle chase in which he ran multiple stop signs, drove on the wrong side of the road, drove approximately 70 miles per hour on residential roadways, and fled from the (stolen) vehicle on foot.

*2019: Additional Wardship Petitions; Elimination of Dual Status*

In early January 2019, the People filed another section 602 subsequent petition, alleging two felony violations based on the vehicle chase incident. At a pretrial hearing a couple of weeks later, the People moved to dismiss the fourth section 777 petition from September 2018 and amend the allegations in the section 602 subsequent petition to misdemeanors. I.R. then admitted the misdemeanor allegations, and the court ordered I.R. to juvenile hall pending a suitable placement. I.R. was placed at a group home in Fresno in late January. Also in January, the county's section 241.1 committee filed a revised section 241.1 report, again recommending dual status with probation as the lead agency. At the same pretrial hearing discussed immediately above, the juvenile court ordered that I.R. remain dual status with probation as the lead agency.

In April, the People filed a fifth section 777 petition, alleging that I.R. violated the terms of his probation by absconding from the group home. I.R. was arrested on a warrant a few days later. At an April 15 hearing, I.R. denied the allegation in the fifth section 777 petition, and the delinquency court referred the matter to the section 241.1 committee for another report. On April 29, I.R. admitted the allegation in the fifth section 777 petition, and the juvenile court again ordered him to juvenile hall pending a suitable placement. Also on April 29, the People informed the court that the section 241.1 committee had met the previous week and again recommended dual status with probation as the lead agency. (The record on appeal does not contain any April 2019 dual status report from the section 241.1 committee, and it is not clear whether one was

ever prepared by the section 241.1 committee. The record does contain a two page memo regarding dual status that probation drafted and filed in April 2019, as well as a “PPR/Dual Status Review Report” from CFS that same month.)

At a section 366.3 permanency review hearing on April 30, CFS moved to dismiss its dependency case over I.R., citing the county’s transition from dual status to single status. I.R.’s *delinquency* counsel objected and asked for a hearing on the matter, which the court agreed to set. I.R.’s delinquency counsel asked whether the social worker who prepared CFS’s “PPR/Dual Status Review Report” would need to be present, and the juvenile court responded by stating the law provides only a hearing (i.e., without witnesses) on the matter.

On May 7, the date originally scheduled for the contested termination hearing, I.R.’s delinquency counsel requested a continuance, which the court granted. The parties, however, again discussed whether the social worker, who had since been subpoenaed by I.R.’s delinquency counsel, was required to attend. The court reiterated its view that there is no requirement that there be an evidentiary hearing, and the minute order specified that the “social worker will not be present for” the rescheduled hearing on May 14.

On May 9, probation informed the juvenile court that I.R. had been accepted into a group home in Kalamazoo, Michigan, noting that “equivalent facilities are not available in the sending state and out of state placement (Michigan) is in the best interest of [I.R.] and will not produce undue hardship.”

The termination hearing was held on May 14. Among other contentions, which have not been raised on appeal, I.R.’s delinquency counsel argued that “nothing . . . precludes a court from granting a full hearing and permitting testimonial evidence in addition to the 241 report an[d] the PPR that was provided in this case[,] particularly where the evidence before the court is insufficient.” Relying on “the 241 reports and the PPR report of April 30th and April 29th” as well as case law, the juvenile court determined it had “sufficient information” before it and ordered I.R.’s dependency case dismissed. I.R.’s delinquency counsel then filed notices of appeal in both I.R.’s dependency and delinquency cases, which we have consolidated. The notices indicate that I.R. appeals from the dismissal of dependency jurisdiction, as well as from the juvenile court’s April 29, 2019 orders declaring probation as the lead agency and ordering I.R. to juvenile hall pending a suitable placement.<sup>3</sup>

## II. DISCUSSION

On appeal, I.R. contends that (1) he was denied due process because the termination hearing was not a full evidentiary hearing; (2) the section 241.1 report relied upon at the termination hearing was deficient; (3) the juvenile court failed to consider

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<sup>3</sup> Although he noted an objection to I.R.’s placement in an out-of-state group home at the May 14 hearing, I.R.’s dependency counsel did not join delinquency counsel’s objections regarding dependency jurisdiction or file notices of appeal. Delinquency counsel’s contention at the hearing that the county’s “change from dual [status] . . . is simply a veiled attempt to dump cases onto probation” sheds possible light as to why delinquency counsel, but not dependency counsel, contests here that dismissal of I.R.’s *dependency* case was unwarranted.

placement with relatives; and (4) the juvenile court failed to consider sibling visitation. We consider each in turn.<sup>4</sup>

*A. Due Process*

I.R. first contends that he was denied his right to a meaningful hearing when the juvenile court refused to allow the social worker who prepared CFS's April 2019 "PPR/Dual Status Review Report" to be cross-examined. We disagree with the argument's premise. A right to cross-examine witnesses at a hearing implies the existence of procedural due process rights with regard to the manner in which the hearing is conducted, but I.R. fails to show that any such rights attach to a hearing such as the one here.

First, nothing in section 241.1 requires a court to conduct a termination hearing when a county transitions from a dual status system. Actually, section 241.1 does not call for any specific court procedures under such circumstances. (See *In re S.O.*, *supra*, 48 Cal.App.5th at p. 787 ["neither section 241.1 nor California Rules of Court, rule 5.512," which "requires the joint assessment under section 241.1 to be memorialized in a written report," "addresses a county's transition from dual to single status protocol"].) If a juvenile court is not required to hold a hearing in determining whether delinquency or dependency jurisdiction should be eliminated, then it is doubtful that a court that chooses to hold a hearing must allow for witnesses and cross-examination at that hearing. (See *In*

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<sup>4</sup> We grant CFS's unopposed request for judicial notice requesting the county's "WIC 241.1 Committee Single Status Protocol," dated August 2019, be included in the record on appeal. (Evid. Code, §§ 452, 453, 459.)

*re Henry S.* (2006) 140 Cal.App.4th 248, 259 [noting minor’s failure to demonstrate that “the federal Constitution requires a full evidentiary hearing” even though the California Rules of Court state that a court “may” set a section 241.1 hearing when dual status *begins*].)

In addition, “[p]rocedural due process . . . focuses upon the essential and fundamental elements of fairness of a procedure which would deprive the individual of important rights.” (*In re Crystal J.* (1993) 12 Cal.App.4th 407, 412.) But I.R. does not identify any important rights that he lost when the juvenile court determined that probation should be the only agency assisting him. The state, for instance, has a *parens patriae* interest in “preserving and promoting the welfare of the child” (*Santosky v. Kramer* (1982) 455 U.S. 745, 766), and this interest exists in both delinquency and dependency proceedings. (See, e.g., *Schall v. Martin* (1984) 467 U.S. 253, 263 [state’s *parens patriae* interest “makes a juvenile proceeding fundamentally different from an adult criminal trial”].) And although I.R. contends that he has an interest against being “placed out-of-state, away from the people who are important in his life—Ann [i.e., his biological mother], Gloria, and [his] sisters—without a court knowing why,” as discussed below, the court was well aware of why such a placement was appropriate.<sup>5</sup>

Accordingly, I.R. has not shown a violation of due process.

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<sup>5</sup> I.R. repeatedly mentions “Gloria” in this section of his opening brief, but we have not found any references to anyone with that name in the record.

*B. Section 241.1 Report*

I.R. next contends that a “section 241.1 report” was deficient and that the deficiencies were not harmless beyond a reasonable doubt.

Initially, it is not clear whether the report I.R. refers to is the “PPR/Dual Status Review Report” CFS filed in April 2019, the memo regarding dual status that probation filed that same month, or some other report. In the sections of his briefs addressing purported section 241.1 report deficiencies, for example, he does not follow any reference to a section 241.1 report with a citation to the record. However, in other sections where he contends that a section 241.1 report was deficient, he refers to the January 2019 report filed by the section 241.1 committee.

In any event, no matter which section 241.1 report I.R. means to refer to, any purported deficiencies in them did not legally affect the juvenile court’s decision to terminate its dependency jurisdiction over him. As we recently held in *In re S.O.*, *supra*, 48 Cal.App.5th at p. 790, “at this stage in [the proceedings], no joint recommendation report for dismissal of the dependency action was required,” and “[b]ecause no report was required, it follows that any error in the manner it was prepared is necessarily harmless.”

I.R.’s argument here fails for other reasons as well. First, to the extent I.R. points to deficiencies in the section 241.1 committee’s January 2019 report, he did not object to that report in his January pretrial hearing, which is when the juvenile court first considered that report and ordered that I.R. remain dual status with probation as the lead

agency. Any contentions based on those deficiencies have therefore been forfeited. (See *In re S.B.* (2004) 32 Cal.4th 1287, 1293.) Second, I.R. alleges a number of deficiencies—for example, that the section 241.1 committee’s January 2019 report does not contain a copy of I.R.’s individualized education program—but does not discuss why these deficiencies have any practical significance. He therefore fails to demonstrate any prejudice from the alleged errors.

Third, what I.R. calls “the most shocking omission” in the report—a description of “how Mother treated [him], slapping him across the face on a weekly basis, not giving him attention, not visiting him, not wanting to reunify with him, and just plain abandoning him”—was not an omission at all. Both the delinquency court (in an October 2017 probation report) and the dependency court (in the section 300 petition, detention report, jurisdictional/dispositional report, and six-month review report) were well aware that Mother had no desire to reunify with I.R. or have him return to her home. I.R.’s reference to Mother slapping him across the face on a weekly basis is additionally misleading because I.R. fails to mention Mother’s denial of that act or that CFS sought to dismiss an allegation in the section 300 petition regarding serious physical harm, stating in the jurisdictional/dispositional report that it did not believe there was “enough evidence to prove that [I.R. had] been physically abused or excessively disciplined.”

Fourth, I.R. contends that the section 241.1 report’s “failure to adequately report efforts to place [him] with family members” (specifically, his biological mother), or in a “good,” “family-like” home,” were not harmless beyond a reasonable doubt. This

contention is without merit; not only does I.R. fail to show that such items would have been required in a section 241.1 report, the record shows why such alternatives were unavailable. I.R.'s escalating criminal conduct—a characterization he concedes—made either more restrictive or more distant placements necessary, and his biological mother had her parental rights over I.R. terminated in 2008.<sup>6</sup>

“A juvenile court’s order dismissing a dependency is reviewed for abuse of discretion,” as is a determination under section 241.1. (*In re S.O.*, *supra*, 48 Cal.App.5th at p. 786.) Here, the record amply shows that the juvenile court acted within its discretion in terminating its dependency jurisdiction over I.R. Over the course of his wardship, I.R. admitted to five misdemeanor allegations as well as three parole violations. The misdemeanor violations involve sexual battery, carrying a concealed dirk or dagger, taking a vehicle without the owner’s consent, and evading an officer. Moreover, in October 2018, January 2019, and April 2019, the juvenile court declared I.R. dual status with probation as the lead agency, and at none of those times did either probation, CFS, or I.R. object to probation’s lead status. Once the county “ended the dual status/lead agency system and became a single status county,” dual jurisdiction over I.R. was “prohibited.” (*Id.*, at p. 788.) Ending the juvenile court’s dependency jurisdiction to

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<sup>6</sup> I.R. contends at various points in his briefs that the juvenile court should have considered placing him with his biological mother despite the fact her parental rights had been terminated. The contention is completely without merit. Once her parental rights had been ordered terminated, the juvenile court had “no power to set aside, change, or modify” that order, outside of situations not applicable here. (§ 366.26, subd. (i)(1).)

maintain delinquency jurisdiction over I.R. was therefore reasonable, and contrary to what I.R. contends, the evidence before the juvenile court was sufficient.

*C. Placement with Relatives*

I.R. contends that the juvenile court failed to comply with section 361.3 by not considering placing I.R. with relatives. We disagree.<sup>7</sup>

At the dependency detention hearing, I.R. requested that he be placed with “his biological mother or his sister Stephanie or his aunt.” At other times, I.R. again requested to be placed with his biological mother. The record does not otherwise provide any identifying information regarding the aunt, and I.R. does not refer to any aunt (other than Mother, who is I.R.’s biological aunt) on appeal, so we do not address the aunt further. Regarding I.R.’s biological mother, as we have noted, the juvenile court would not have had the ability to place I.R. with his biological mother even if it wanted to. (See § 366.26, subd. (i)(1).) And as to I.R.’s sister Stephanie, the record shows that she had two “young female children in her care.” Given I.R.’s admitted sexual battery against a young female child, as well as probation terms that prohibited him from associating with other minors when unaccompanied, I.R. fails to demonstrate why any implicit or explicit refusal to place him with Stephanie (or his biological mother) might constitute an abuse

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<sup>7</sup> ““Section 361.3 gives “preferential consideration” to a relative request for placement, which means “that the relative seeking placement shall be the first placement to be considered and investigated.”” (In re Isabella G. (2016) 246 Cal.App.4th 708, 719.)

of discretion. (See *Alicia B. v. Superior Court* (2004) 116 Cal.App.4th 856 [abuse of discretion standard applies to custody placement orders].)

I.R.'s contention that consideration should have been given to other relatives is similarly unpersuasive. Under section 361.3, preferential consideration must only be given to a request made by the relative. (See § 361.3, subs. (a) [“preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative”], (b) [“In any case in which more than one relative requests preferential consideration pursuant to this section, each relative shall be considered . . . .”].) Although the record shows that Stephanie expressed a desire for I.R. to be placed with her, no others made such a request or even expressed an informal desire to CFS. Thus, it does not matter for our purposes that I.R. has an older brother who, according to I.R., is an “an adult sibling” who CFS knew about but failed to contact for placement consideration. Similarly, I.R.'s characterization of a friend's mother as an NREFM, or nonrelative extended family member, who was denied consideration is irrelevant, as the friend's mother never sought placement.

Moreover, although I.R. contends on appeal that CFS failed to adequately search for relatives, at no point during the proceedings below did I.R. raise this issue. I.R. went so far as to disclaim any relatives he could be placed with: prior to the six-month review hearing, he “denied any [relatives other than his biological mother] able and willing to assist in placement or support.” We therefore consider any contention as to the adequacy of CFS's reports on this issue forfeited. (See *In re S.B.*, *supra*, 32 Cal.4th at p. 1293.)

*D. Sibling Visitation*

Lastly, I.R. contends that CFS failed to “document its efforts at preserving sibling relationships through visitation.” Because he made no objection regarding sibling visitation in juvenile court, however, this issue is forfeited as well. (See *In re S.B.*, *supra*, 32 Cal.4th at p. 1293.) Even if the issue were not forfeited, I.R. has not demonstrated why the findings and orders he appeals from (i.e., the juvenile court’s dismissal of its dependency jurisdiction over him, his latest placement, and the juvenile court’s prior determination of probation as the lead agency) merit reversal, even assuming sibling visitation were inadequately documented.

III. DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAPHAEL  
J.

We concur:

MCKINSTER  
Acting P. J.

FIELDS  
J.