

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
THREE

In re L.M.

In re L.M. · No. A171105 · Decided July 31, 2025

SUMMARY

The California Court of Appeal considered whether the juvenile court could order visitation between a dependent minor and a nondependent sibling over the objection of the sibling’s parent. The court held that Welfare and Institutions Code sections 388 and 16002 are not facially unconstitutional because they authorize, but do not require, visitation orders and must be applied consistently with the parent’s constitutional rights. The court declined to decide the as-applied constitutional challenge, rejected the abuse-of-discretion claim, and affirmed the visitation order.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Three
WRITING FOR THE COURT	Tucher, P. J.; Petrou, J.; Rodríguez, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Three
DECIDED	July 31, 2025
DOCKET	A171105
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed a juvenile court order, entered on reconsideration, authorizing supervised visitation between her dependent son and her nondependent daughter over Mother's objection.
STANDARD OF REVIEW	Constitutional facial challenges are reviewed under the applicable constitutional standards; visitation orders are reviewed for abuse of discretion and are not reversed absent a clear showing that the juvenile court exceeded the bounds of reason. Procedural objections not raised below are generally forfeited.
PRECEDENTIAL VALUE	Published in part; part IV of the Discussion is not certified for publication.
PARTIES	K.P. (Mother) v. Sonoma County Human Services Department, L.M. (Minor)

TOPICS

family law procedure

parental rights

due process

statutory interpretation

appellate procedure

PRACTICE AREAS

juvenile dependency

family law

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether Welfare and Institutions Code sections 388 and 16002 are facially unconstitutional because they fail expressly to protect a presumed-fit parent's right to direct the upbringing of a nondependent child.
2. Whether the juvenile court's visitation order was unconstitutional as applied because the court allegedly failed to give special weight to Mother's decision regarding visitation with Z.S.
3. Whether the juvenile court abused its discretion by ordering sibling visitation without sufficient evidence that visitation was consistent with Z.S.'s safety and well-being.
4. Whether Mother's challenges to the form of the visitation request and the allocation and standard of proof were preserved for appellate review.

HOLDINGS

1. Sections 388 and 16002 are not facially unconstitutional because they authorize, but do not require, a juvenile court to order visitation between a dependent child and a nondependent sibling, and they do not prevent the court from giving special weight to a presumed-fit parent's views.
2. When deciding whether to order visitation between a dependent child and a nondependent sibling, the juvenile court must consider and respect the decision of a parent who is presumed fit, giving that decision special weight even if the court ultimately overrules the objection.
3. The court declined to decide whether the visitation order was unconstitutional as applied because the record did not disclose what weight the juvenile court gave to Mother's concerns or how it reached its decision.
4. The juvenile court did not abuse its discretion by ordering supervised sibling visitation.
5. Mother forfeited her challenge to the form of the visitation request by failing to raise it below, and the court declined to decide the proper burden or standard of proof because the record did not show what standard the juvenile court applied.

KEY QUOTATIONS

“What matters is that the juvenile court had no statutory authority to enter a visitation order regarding a nondependent sibling.” (at 5)

“In considering visitation with a sibling who is not a dependent of the juvenile court, the Constitution requires no less.” (at 10)

“Because the statutes do not compel the court to order sibling visitation in any particular case, they are not generally, totally, or facially unconstitutional.” (at 12)

FACTUAL BACKGROUND

L.M., a fifteen-year-old dependent of the juvenile court, was removed from Mother's custody after allegations involving Mother's inability or unwillingness to care for him, emotional harm, and inadequate provisions for support were sustained. L.M.'s three-year-old sister, Z.S., remained in Mother's care and was not the subject of dependency proceedings. The Department sought supervised sibling visitation because the children were close and L.M. expressed great love and care for Z.S.; Mother objected to in-person visits based on concerns about L.M.'s behavior, but the juvenile court ordered supervised video visits followed by weekly in-person visits.

PROCEDURAL HISTORY

The juvenile court sustained dependency allegations concerning L.M. and placed him outside Mother's custody. It initially ruled that it lacked jurisdiction to compel visitation between L.M. and his nondependent sister, relying on *In re Luke H.*, but later granted reconsideration, concluded that Welfare and Institutions Code sections 388 and 16002 authorized sibling visitation, and ordered video and then in-person visits. Mother appealed, challenging the statutes constitutionally and arguing that the visitation order was an abuse of discretion.

DISPOSITION

affirmed

CASES CITED

- *In re A.R.*, 203 Cal.App.4th 1160, 1171 (2012)
- *In re Luke H.*, 221 Cal.App.4th 1082, 1084, 1089-1091 (2013)
- *Troxel v. Granville*, 530 U.S. 57, 60-80 (2000)
- *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)
- *Parham v. J.R.*, 442 U.S. 584, 602 (1979)
- *In re Marriage of Harris*, 34 Cal.4th 210, 214, 221 (2004)
- *Guardianship of L.V.*, 136 Cal.App.4th 481, 493 (2006)
- *In re Hirenia C.*, 18 Cal.App.4th 504, 519 (1993)
- *Needelman v. DeWolf Realty Co., Inc.*, 239 Cal.App.4th 750, 763 (2015)
- *Wittenberg v. Bornstein*, 51 Cal.App.5th 556, 567 (2020)
- *People v. Alexander*, 91 Cal.App.5th 469, 474 (2023)
- *In re Sheena K.*, 40 Cal.4th 875, 888-889 (2007)
- *In re N.R.*, 87 Cal.App.5th 1187, 1190 (2023)
- *In re J.P.*, 37 Cal.App.5th 1111, 1119 (2019)
- *In re Alexandria M.*, 156 Cal.App.4th 1088, 1095-1096 (2007)
- *In re Dennis H.*, 88 Cal.App.4th 94, 98 (2001)