

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION ONE

Los Angeles County Department of Children and Family Services v.
Thomas M.

In re N.M. · No. B315559 · Decided March 2, 2023

SUMMARY

The California Court of Appeal held that the juvenile court abused its discretion by awarding the mother sole physical custody in an exit order without expressly determining that the award served the children’s best interests. The court concluded that custody orders may not be used to reward or punish a parent for compliance or noncompliance with a dependency case plan. It reversed the order insofar as it granted mother sole physical custody and affirmed it in all other respects, including the parenting-time schedule.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division One
WRITING FOR THE COURT	Chaney, J.; Rothschild, P. J.; Bendix, J.
JURISDICTION	California
DECIDED	March 2, 2023
DOCKET	B315559
DISPOSITION	reversed
PROCEDURAL POSTURE	Father appealed a juvenile court exit order terminating dependency jurisdiction, awarding the parents joint legal custody, granting mother sole physical custody, and granting father unmonitored visitation.
STANDARD OF REVIEW	A custody or exit order under Welfare and Institutions Code section 362.4 is reviewed for abuse of discretion. The order will not be disturbed unless the juvenile court exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination; the relevant inquiry is whether the court exceeded the bounds of reason.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under California law.

PARTIES

Thomas M. v. Los Angeles County Department of Children and Family Services

TOPICS

child custody

appellate procedure

standard of review

family law procedure

parental rights

PRACTICE AREAS

Dependency law

Family law

Juvenile law

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the juvenile court's exit order granting mother sole physical custody of the children.
2. Whether the juvenile court abused its discretion by awarding sole physical custody to mother as a means of declining to reward father's failure to comply with his case plan rather than based on the children's best interests.

HOLDINGS

1. A juvenile court exit order must serve the best interests of the children and may not award sole physical custody to reward or punish a parent for failing to comply with a case plan.
2. The juvenile court abused its discretion by granting mother sole physical custody without an express or implied finding that father's drug use, incomplete case plan, or visitation practices affected the children's interests.

KEY QUOTATIONS

“This was an abuse of discretion because an exit order must serve the best interests of the children, not reward or punish one parent or another for failing to comply with the case plan.” (5)

“Although we do not condone ignoring the court’s orders, there has been no express finding that these factors impacted the children’s interests, and no grounds appear for an implied finding.” (5)

FACTUAL BACKGROUND

Mother was arrested for child endangerment after driving under the influence of alcohol with her youngest child in the car, and the juvenile court sustained a section 300 petition based on her alcohol abuse. The children were detained from mother and released to father, but father failed to complete his case plan, missed 22 drug tests, declined drug rehabilitation, failed to document completion of a parenting class, and later visited inconsistently. At the exit hearing, the juvenile court awarded mother sole physical custody primarily because father had not meaningfully participated in the case plan, without expressly finding that sole physical custody served the children's best interests.

PROCEDURAL HISTORY

The juvenile court sustained a Welfare and Institutions Code section 300 petition based on mother's alcohol-related child endangerment, detained the children from mother, and later conducted periodic review hearings. After mother completed her case plan and father failed to complete his, the juvenile court terminated jurisdiction and entered an exit order awarding mother sole physical custody. The parents subsequently entered a mediation agreement concerning parenting time, which was incorporated into the custody order. Father appealed the sole-physical-custody provision, and the Court of Appeal reversed that provision while affirming the order in all other respects.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered. The order was reversed only insofar as it granted mother sole physical custody; all other aspects, including the time share, were affirmed.

CASES CITED

- In re Nicholas H. (2003) 112 Cal.App.4th 251, 265 fn. 4
- In re Nicholas H. (2003) 112 Cal.App.4th 251, 268
- In re Chantal S. (1996) 13 Cal.4th 196, 206
- Bridget A. v. Superior Court (2007) 148 Cal.App.4th 285, 300
- In re Stephanie M. (1994) 7 Cal.4th 295, 318-319