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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

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

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

Jasmine J.,

Defendant and Respondent;

J.J.,

Appellant.

E080371

(Super.Ct.No. RIJ1900553)

OPINION

APPEAL from the Superior Court of Riverside County. Mona M. Nemat, Judge.

Affirmed.

Marisa L.D. Conroy, under appointment by the Court of Appeal, for Appellant.

No appearance for Plaintiff and Respondent.

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and Respondent.

The juvenile court ordered that appellant dependent child J.J. (Minor), be placed with his grandmother, T.J. (Grandmother). Minor contends the juvenile court erred by (1) using the relative placement preference (Welf. & Inst. Code, § 361.3)<sup>1</sup> when the preference was inapplicable; and (2) by incorrectly applying the facts to the law in making the placement order. Plaintiff and respondent Riverside County Department of Public Social Services (the Department) supported Minor’s argument in the juvenile court and therefore does not oppose Minor’s argument on appeal. We affirm the order.

### **FACTS**

In January 2019, when Minor was 13 months old, he began residing with his maternal aunt and uncle, Je.J. (Aunt) and Jo.J. (Uncle). Uncle is the brother of defendant and respondent Jasmine J. (Mother). On April 9, 2019, in the probate court, Uncle filed a petition for guardianship of Minor. Aunt and Uncle “were advised that having [the Department] involved would benefit the relatives because [the Department] can provide services to [Mother] and will provide funding to them to assist with caring for the child.” On September 5, 2019, Uncle withdrew the petition and the probate court “ordered an immediate welfare check to be done by the Department.”

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<sup>1</sup> All subsequent statutory references will be to the Welfare and Institutions Code unless otherwise indicated.

In speaking with a Department social worker, Mother “admitted to having mental health issues and being homeless.” Mother only knew a nickname for Minor’s biological father, “Blaze.” On September 11, 2019, the Department placed Minor in Aunt and Uncle’s home, i.e., kept Minor in the home where he was already residing. On September 13, 2019, the Department filed a petition alleging Mother placed Minor at substantial risk of harm. (§ 300, subd. (b)(1).) The juvenile court found the allegations true and ordered Minor remain removed from Mother’s physical custody. Minor continued to reside with Aunt and Uncle.

On July 13, 2020, Aunt and Uncle told the Department they wanted legal guardianship of Minor “with the option of adopting him in the future.” Minor “continue[d] to grow and thrive in the care of [Aunt and Uncle].” Minor identified Aunt and Uncle as his parents.

Grandmother supervised Minor’s in-person and online visits with Mother. In October 2020 Mother prematurely gave birth to twins (the twins), who were placed in the Neonatal Intensive Care Unit and then placed in Grandmother’s physical custody.

On November 2021, the juvenile court ordered the Department to place Minor in Mother’s physical custody on a plan of family maintenance. Mother and Minor visited the twins almost daily, due to living near Grandmother, and Mother had unsupervised weekend visits with the twins. Uncle visited Minor at Mother’s home.

In July 2022, Mother was on the verge of being homeless due to her landlord selling the building where she lived and Mother being unable to find other housing. Mother left Minor in Grandmother’s care, but Minor went to live with Aunt and Uncle.

Minor went to Aunt and Uncle's home because Aunt works from home and could provide care for Minor, while the twins, who were in Grandmother's care, attended daycare due to Grandmother working in Los Angeles.

On August 23, 2022, the Department filed a supplemental petition alleging a more restrictive placement was necessary. (§ 387.) The Department detained Minor and placed him in Aunt and Uncle's care, i.e., where he was already residing. At the contested detention hearing, Mother requested the court order the Department to assess Grandmother for placement of Minor "so the siblings can maintain their connection," and the court made the order for the assessment.

In October 2022, at the contested jurisdiction hearing<sup>2</sup>, the juvenile court found true the allegation that the prior disposition had not been effective in protecting Minor. The court terminated reunification services for Mother. The juvenile court said it would set a further hearing concerning placement of Minor. Minor's counsel objected asserting that Minor's home is with Aunt and Uncle because he identifies them as his parents. The court explained that "in light of the fact there is a preference to place siblings together at any time possible," it needed the assessment of Grandmother's home, which had been ordered at the detention hearing, to make the placement decision. The court overruled the objection.

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<sup>2</sup> The reporter's transcript reflects the contested jurisdiction hearing took place on October 28, 2022, while the clerk's transcript gives the date as October 17, 2022.

The placement hearing was held on December 14, 2022. The Department explained that Minor was still residing with Aunt and Uncle, who were interested in becoming his legal guardians, that Minor frequently visited Grandmother and the twins, and that Grandmother was interested in becoming Minor's and the twins' guardian. Minor's attorney advocated for Minor to remain with Aunt and Uncle because they "have always been [Minor's] primary caretakers." Minor's attorney asserted the twins know Grandmother as their primary caretaker because the twins have always been placed with Grandmother, whereas Minor was not accustomed to Grandmother being his primary caretaker. The Department supported the argument that Minor's best interests would be served by continuing to be cared for by Aunt and Uncle.

Mother's attorney urged the court to place Minor with Grandmother "so that he can be raised with his siblings." Mother's attorney contended, "[I]t is a statutory preference to have siblings raised together." Further, she argued that Minor has a close relationship with Grandmother in that he has known her since birth and had overnight visits in her home.

The juvenile court placed Minor with Grandmother and gave a list of reasons for its decision. First, Mother wanted Minor placed with Grandmother. Second, Minor can be raised with his siblings in Grandmother's home. Third, Minor has a relationship with Grandmother, and her home is familiar to him.

## DISCUSSION

### A. LEGAL STANDARD

Minor contends the juvenile court erred because “[t]he relative placement preference does not apply to remove a child from a long-term, stable, and continuing placement with one relative to placement with a different relative after termination of reunification services when no new placement is necessary.” We will separate these issues and address them in turn, starting with whether a new placement was necessary.<sup>3</sup>

“The procedures relating to jurisdiction hearings . . . apply to the determination of the allegations of a . . . supplemental petition. . . . At the conclusion of the hearing on a supplemental petition the court must make findings that: [¶] (A) The factual allegations are or are not true; and [¶] (B) The allegation that the previous disposition has not been effective is or is not true.” (Cal. Rules of Court, rule 5.565(e)(1).)

If the court makes true findings at the jurisdiction hearing on the supplemental petition, then “[t]he procedures relating to disposition hearings . . . apply to the determination of disposition on a . . . supplemental petition.” (Cal. Rules of Court, rule 5.565(e)(2).) In other words, a disposition hearing was necessary following the sustention of the supplemental petition. The prior placement order was for family maintenance with Mother, so the juvenile court needed to make a new placement order. Accordingly, the juvenile court did not err by making a disposition order.

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<sup>3</sup> Mother, who is the respondent in this case, asserts Minor forfeited this issue by failing to raise it in the juvenile court. We choose to address the merits of the issue.

Minor contends the December 14, 2022, hearing in which the court ordered Minor placed with Grandmother was not the disposition hearing. Minor contends the October 2022 contested jurisdiction hearing was a combined jurisdiction and disposition hearing, thus rendering the December 14, 2022, hearing a procedural oddity.

At the start of the October 2022 hearing, the Department's attorney announced, "We are here for a contested jurisdictional hearing as to a supplemental petition filed on August 23rd, 2022." At the end of the hearing, the juvenile court sustained the supplemental petition and said, "I would like to set this matter for [a] further proceeding with respect to placement. I would like the Department to assess for current placement, and how that's going and also assess [Grandmother's] home and provide information with respect to that. And then we can set a further proceeding just on the issue of placement of this minor."

In other words, the juvenile court said it would be continuing the issue of disposition until it had more information. Minor's attorney "ask[ed] that the Court not put a further proceeding and not allow removal of the minor from the caretakers at this time." The juvenile court explained that the disposition issue needed to be continued "in light of the fact there is a preference to place siblings together at any time possible. [¶] So [the court] would like that assessment done." In sum, the court continued the disposition hearing, and that further disposition hearing took place on December 14, 2022.

Minor contends the juvenile court made a disposition order at the end of the October 2022 hearing by ordering that Minor remain at Aunt and Uncle’s home pending the further disposition hearing. The juvenile court’s order for Minor to remain in Aunt and Uncle’s home pending the continued hearing was not a disposition order because the juvenile court expressly said it needed more evidence before making the disposition ruling. Rather, the court made a temporary placement order pending the disposition hearing. (See *In re Lauren R.* (2007) 148 Cal.App.4th 841, 858 [temporary placement].)

Next, we address Minor’s contention that the relative placement preference does not apply “after termination of reunification services.” In support of his argument, Minor cites *Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1032, which provides, “It is well established that the relative placement preference found in section 361.3 does not apply after parental rights have been terminated and the child has been freed for adoption.” The termination of reunification services (§ 361.5) is different from the termination of parental rights (§ 366.26, subd. (b)(1)). Mother’s parental rights had not been terminated at the time of the disposition order on the supplemental petition, so the relative placement preference could properly be applied in this case.

Next, we address the assertion that the relative placement preference does not apply when it would cause a child to be removed from a different relative’s home. The relative placement preference consists of a set of factors a court must consider when “determining whether placement with a relative is appropriate.” (§ 361.3, subd. (a).) “In any case in which more than one relative requests preferential consideration



pursuant to this section, each relative shall be considered under the factors enumerated in subdivision (a). Consistent with the legislative intent for children to be placed immediately with a relative, this section does not limit the county social worker's ability to place a child in the home of a relative or a nonrelative extended family member pending the consideration of other relatives who have requested preferential consideration.” (§ 361.3, subd. (b).) In other words, if a dependent child is in a relative's home, the court can still use the relative preference factors to determine the best placement for the child between different relatives' homes. Thus, the juvenile court did not err by applying that preference.

**B     APPLYING THE STANDARD**

Minor contends the juvenile court erred in determining that Grandmother's home was the best placement for Minor. We apply the abuse of discretion standard of review. (*In re Sabrina H.* (2007) 149 Cal.App.4th 1403, 1420-1421.) Under that standard, we will reverse “ ‘only “ ‘if we find that under all the evidence, viewed most favorably in support of the trial court's action, no judge could reasonably have made the order that [the juvenile court] did.’ ” ’ ” (*Id.* at p. 1421.)

The first relative placement factor to consider is “the wishes of the parent, the relative, and the child, if appropriate.” (§ 361.3, subd. (a)(2).) There were conflicts as to this factor. Mother wanted Minor placed with Grandmother. However, Minor's attorney advocated for Minor to stay with Aunt and Uncle. Grandmother wanted Minor to be raised with the twins.

The second placement factor is “proximity of the natural parents to the placement so as to facilitate visitation and family reunification.” (Fam. Code, § 7950, subd. (a) & Welf & Inst. Code, § 361.3, subd. (a)(3).) Mother has a closer relationship with Grandmother than she has with Aunt and Uncle. Thus, while the whole family was in close physical proximity, Grandmother was the better placement in terms of facilitating visitation and family reunification.

The third factor to consider is the “[p]lacement of siblings and half siblings in the same home.” (§ 361.3, subd. (a)(4).) The twins, who are Minor’s half siblings, reside with Grandmother. Accordingly, by living with Grandmother, Minor will reside with his half siblings. The fourth factor is “[t]he good moral character of the relative.” (§ 361.3, subd. (a)(5).) Grandmother, Aunt, and Uncle, all appear to have good moral character.

The fifth factor is “[t]he nature and duration of the relationship between the child and the relative, and the relative’s desire to care for, and to provide legal permanency for, the child if reunification is unsuccessful.” (§ 361.3, subd. (a)(6).) Minor had a more extensive relationship with Aunt and Uncle, compared to his relationship with Grandmother, because Minor lived with them for years. Grandmother, Aunt, and Uncle were all willing to become Minor’s legal guardian.

The sixth factor is the relative’s ability to provide for the child’s needs, including the ability to facilitate visitation with other relatives. (§ 361.3, subd. (a)(7).) At Grandmother’s home, Minor would have his own bedroom. Due to Grandmother having contact with Mother, the twins, and Aunt and Uncle, Minor will be able to easily

visit his relatives. Uncle does not have a close relationship with Mother and “there is ‘some animosity’ ” between them, so it is unclear if Uncle would facilitate visits as easily as Grandmother would.

The seventh factor is “[t]he safety of the relative’s home.” (§ 361.3, subd. (a)(8)(A).) Minor has spent weekends at Grandmother’s home. Minor said some of the “ ‘good’ things that happen while at [Grandmother’s] home [are] that he gets haircuts, and he and his brother can get ice cream.” Minor said that his cousins, i.e., Aunt and Uncle’s children, are “ ‘mean’ at home,” which Uncle explained were “age-expected disagreements.”

The eighth factor is the child’s best interests, including any special needs the child may have. (§ 361.3, subd. (a)(1).) From reading the record, we infer that Minor has a need to know where his home is after so much moving around. Uncle said that Minor has weekend visits with his siblings at Grandmother’s home. Thus, when Minor is with Aunt and Uncle, Minor’s weekend home is with Grandmother. If Minor were living with Grandmother full time, then Minor could reside in one home for the entire week.

In sum, Aunt and Uncle would provide a good home for Minor, but Grandmother’s home is a better fit because she is able to provide Minor with a relationship with his half siblings, facilitate visits with Mother, allow Minor to stay in one home all week, and give Minor his own bedroom; and Grandmother’s home is where Mother would prefer Minor to be placed. Given the foregoing, it was reasonable

for the juvenile court to place Minor with Grandmother. We conclude the juvenile court did not abuse its discretion.

Minor asserts the juvenile court erred by considering whether Minor would suffer detriment by being placed with Grandmother, rather than considering Minor's best interests. Contrary to Minor's position, the juvenile court did determine it was in Minor's best interests to be placed with Grandmother. Specifically, the juvenile court said, "And the Court finds that it's in the best interest of [Minor] to be placed with [Grandmother] and move forward from there at this time."

Next, Minor contends the record leaves doubt as to whether the juvenile court considered all eight of the relative placement factors because the court only expressly addressed a few of the factors. Minor asserts the juvenile court failed to address the bond that Minor shares with Aunt and Uncle. Contrary to Minor's position, the juvenile court did address the bond. Specifically, the juvenile court said, "I understand that [Minor] has been with [Aunt and Uncle] on and off. And while I appreciate [Aunt and Uncle] being there for [Minor], this is a situation where [Minor] knows [Grandmother]. He visits [Grandmother] every weekend, as indicated in the addendum. [¶] It isn't that we're taking him away from the only home he's known and placing him with strangers. This is a family that has all worked together to ensure that the child is bonded with all the adults." That last sentence, in particular, indicates the juvenile court considered Minor's bond with Aunt and Uncle.

Minor asserts "the juvenile court also did not consider [Minor's] need for 'permanency and stability.'" Contrary to Minor's position, the juvenile court said,

“Yes, [Aunt and Uncle] have provided a large degree of stability to him in an unstable world. But I have no doubt that [Grandmother] is able and willing to provide the same stability.” In sum, the juvenile court did not err.

**DISPOSITION**

The disposition order on the supplemental petition (Cal. Rules of Court, rule 5.565(e)(2)) is affirmed.

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MILLER  
J.

We concur:

McKINSTER  
Acting P. J.

FIELDS  
J.