

DISMISSALS AND TRANSFERS

TRANSFER

Transfer to county of the parent's residence, regardless of where the child was detained. (*In re Jon N.* (1986) 179 Cal.App.3d 156; see *In re R.D.* (2008) 163 Cal.App.4th 679, 687 [county of minor's legal guardian].)

May transfer to the county of the minor's new residence. (*In re Christopher T.* (1998) 60 Cal.App.4th 1282.)

A court cannot reject a transfer in, but it may retransfer out if it is in the minor's best interest. (*In re J. C.* (2002) 104 Cal.App.4th 984, 991-992.) A court cannot transfer in and then transfer out in the same hearing; there must be an appeal or a separate transfer out hearing. (*In re R.D.* (2008) 163 Cal.App.4th 679, 684-685.) A transfer out can be justified only if there is new evidence or the county appeals. (*In re Andrew J.* (2013) 213 Cal.App.4th 678, 689-692.)

Transfer order must be in the minor's best interest. (*In re R.D.* (2008) 163 Cal.App.4th 679, 687-688.)

Appealability: Intercounty transfer order may be appealed in either court. (*In re Christopher T.* (1998) 60 Cal.App.4th 1282, 1287.)

Standard of review: Transfer order reviewed for abuse of discretion. (*In re R.D.* (2008) 163 Cal.App.4th 679, 685.)

DISMISSAL

The court generally cannot dismiss a petition at the detention hearing. (*Los Angeles County Dept. of Children and Family Services v. Superior Court* (2008) 162 Cal.App.4th 1408, 1414-1421.)

The court should dismiss the petition if there is a parent available to safely take care of the child. (*In re Janee W.* (2006) 140 Cal.App.4th 1444, 1452-1453; *In re Sarah M.* (1991) 233 Cal.App.3d 1486; *In re Aaron S.* (1991) 228 Cal.App.3d 202, 207-210; *In re Phoenix B.* (1990) 218 Cal.App.3d 787, 794; *In re Venita L.* (1987) 191 Cal.App.3d 1229, 1244; *In re La Shonda B.* (1979) 95 Cal.App.3d 593, 599-600; see *In re A.J.* (2013) 214 Cal.App.4th 525; cf. *In re Jean B.* (2000) 84 Cal.App.4th 1443, 1446 [not because parent kidnapped the child].)

The court can dismiss certain allegations under Welfare and Institutions Code

section 390 at the six month review hearing in order to conform the petition to proof from the jurisdictional hearing; it was not necessary to file a section 388 petition. (*In re Andrew L.* (2011) 192 Cal.App.4th 683, 688-690.)

The burden of proof is on the party seeking to terminate dependency jurisdiction. (*In re Robert L.* (1998) 68 Cal.App.4th 789, 793.)

Should not dismiss simply because the minor is uncooperative and keeps running away from placement. (*In re I.G.* (2014) 226 Cal.App.4th 380, 386-390; *In re Natasha H.* (1996) 46 Cal.App.4th 1151, 1155.)

Abuse of discretion to dismiss in order to save money though no finding it would be in the minor's best interest. (*In re Joshua S.* (2003) 106 Cal.App.4th 1341, 1356.)

Should dismiss family maintenance after six months when the parent complied with case plan and no evidence of any of the problems that were a concern. (*In re N. S.* (2002) 97 Cal.App.4th 167, 172-173.)

Must give notice, and if there is an objection, CPS must show why it is in the minor's best interest. (*Allen M. v. Superior Court* (1992) 6 Cal.App.4th 1069.)

CPS cannot unilaterally dismiss petition over minor's objection. (*Kimberly R. v. Superior Court* (2002) 96 Cal.App.4th 1067, 1077-1078.)

Should not dismiss if visitation or other services need to continue because this requires the court's oversight. (*In re K.D.* (2004) 124 Cal.App.4th 1013, 1019; see also *Los Angeles County Dept. of Children & Family Services v. Superior Court (David P.)* (2006) 145 Cal.App.4th 692, 699 [permitting molesting father to come home with order of no unsupervised contact with minor required court oversight]; *In re Austin P.* (2004) 118 Cal.App.4th 1124 [minor still needed services].)

The standard is whether it is in the minor's best interest, not whether there is good cause for continuing jurisdiction. (*In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1130-1161.)

“Section 391 expresses the legislative preference for retaining jurisdiction and so the statute authorizes the termination of jurisdiction in only three specific circumstances: the court finds (1) ‘[t]hat the nonminor does not wish to remain subject to dependency jurisdiction;’ (2) ‘[t]hat the nonminor is not participating in a reasonable and appropriate transitional independent living case plan;’ or (3) ‘[t]he court finds after reasonable and documented efforts [that] the nonminor cannot be located.’ (§ 391, subds. (c)(1)(A),

(c)(1)(B) & (d)(1); Cal. Rules of Court, rule 5.555(d)(2)(A)(i)-(iii), italics [omitted].)” (*In re Nadia G.* (2013) 216 Cal.App.4th 1110, 1118.)

To dismiss at the minor when the minor turns 18, there must be compliance with Welfare and Institutions Code section 391. (*In re Nadia G.* (2013) 216 Cal.App.4th 1110, 1121-1123; see *In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1161; see generally *In re Shannon M.* (2013) 221 Cal.App.4th 282, 292-301.)

Court should dismiss dependency when minors turns 18 years old and wishes not to receive services. (*In re Nadia G.* (2013) 216 Cal.App.4th 1110, 1119-1121 [when the person refused to participate]; *In re Holly H.* (2002) 104 Cal.App.4th 1324, 1327.) The minor “consenting” to dismissal, because it was apparently the only way for her to remain in school, was not effective consent. (*In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1163-1165.)

The juvenile court need not dismiss the dependency legal guardianship when the minor becomes 18 years old. (*In re D.R.* (2007) 155 Cal.App.4th 480, 487.)

When a juvenile court terminates its jurisdiction over a dependent child, it is empowered to make “exit orders” regarding custody and visitation. (§ 364, subd. (c), 362.4; *In re Kenneth S., Jr.* (2008) 169 Cal.App.4th 1353, 1358.) Such orders become part of any family court proceeding concerning the same child and will remain in effect until they are terminated or modified by the family court. (*In re Roger S.* (1992) 4 Cal.App.4th 25, 30.)

When court makes exit orders, it must make an informed decision for the best interests of the minor. (*In re John W.* (1996) 41 Cal.App.4th 961, 973; *In re Jennifer R.* (1993) 14 Cal.App.4th 704; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

“In making ‘exit’ orders, however, it is the best interest of the child, in the context of the peculiar facts of the case before the court, which are paramount.” (*In re John W.* (1996) 41 Cal.App.4th 961, 965; accord, *In re Chantal S.* (1996) 13 Cal.4th 196, 206; *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

It is difficult to change exit orders in family court. (See *In re Chantal S.* (1996) 13 Cal.4th 196, 200-201; *In re Michael W.* (1997) 54 Cal.App.4th 190, 195; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31.)

Limits on exit orders. (*In re Katherine M.* (1994) 24 Cal.App.4th 91 [parent continue counseling]; *In re Donovan J.* (1997) 58 Cal.App.4th 1474, 1477 [visitation at the discretion of the therapist].)

The court can arrange visitation with a nonparent as part of the exit orders. (*In re J.T.* (2014) 228 Cal.App.4th 953, 959-962 [grandparent]; *In re Hirenia C.* (1993) 18 Cal.App.4th 504, 519-520 [former partner of adopting parent]; *In re Robin N.* (1992) 7 Cal.App.4th 1140, 1146 [de facto parent].)

The court abused its discretion in refusing to schedule a contested hearing concerning a visitation schedule between the parents when neither parent were a danger to the minor at that point. (*In re Alexander M.* (2007) 156 Cal.App.4th 1088, 1096-1097.)

“[O]nce the court dismissed the petition, it had no jurisdiction over the children unless the Department filed a new section 300 petition.” (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 203.) The juvenile court did not have jurisdiction to consider parent’s 388 petition after the dependency was dismissed. (*In re A.S.* (2009) 174 Cal.App.4th 1511, 1514-1515.)

Parent does not have standing to present evidence to oppose dismissal of the petition. (*In re Eric H.* (1997) 54 Cal.App.4th 955, 969.)

Appealability: Dismissal is appealable. (*In re Lauren P.* (1996) 44 Cal.App.4th 763, 767-768 [dismissed with prejudice]; *In re Sheila B.* (1993) 19 Cal.App.4th 187, 1967 [insufficient evidence at jurisdiction]; but see *In re Tony C.* (1990) 218 Cal.App.3d 694, 698 [voluntary dismissal without prejudice].)

Standing: A parent has standing to contest exit orders. (*In re Michael W.* (1997) 54 Cal.App.4th 190, 194-196; *In re Roger S.* (1992) 4 Cal.App.4th 25, 30-31; but see *In re Elaine E.* (1990) 221 Cal.App.3d 809.)

Standing: A parent does not have standing to challenge the dismissal of the dependency when the minor is 18 years old. (*In re J.C.* (2014) 222 Cal.App.4th 1489, 1492-1494.)

Standing: Parent does not have standing to contest dismissal of allegations against the other parent. (*In re Paul W.* (2007) 151 Cal.App.4th 37, 60-61, disagreeing with *In re Lauren P.* (1994) 44 Cal.App.4th 763, 770-771; *In re Carissa G.* (1999) 76 Cal.App.4th 731, 736 [jurisdiction against other parent]; *In re Tomi C.* (1990) 218 Cal.App.3d 694, 698, disagreeing with *In re Lauren P.* (1996) 44 Cal.App.4th 763, 770-771; but see *Allen M. v. Superior Court* (1992) 6 Cal.App.4th 1069, 1074.)

Waiver: Not objecting to dismissal waives the issue. (*In re K. D.* (2004) 124

Cal.App.4th 1013, 1018-1019.)

Standard of review: Uphold dismissal order if there was substantial evidence. (*In re Marcus G.* (1999) 73 Cal.App.4th 1008; but see *In re Joshua S.* (2003) 106 Cal.App.4th 1341, 1356 [abuse of discretion standard].)

Mootness: An appeal from any order may be dismissed by the court of appeal if the parent fails to appeal from an order terminating the court's jurisdiction. (See *In re Michelle M.* (1992) 8 Cal.App.4th 326, 328-330, citing *In re Sarah M.* (1991) 233 Cal.App.3d 1486; see also *In re Hirenia C.* (1993) 18 Cal.App.4th 504, 517-518.)