Children's Law Center of California

"DEPENDENCY LEGAL NEWS"

Vol. 21, No. 9: October 14, 2025
Issued by the Children's Law Center of California on the second Tuesday of each month.
Written by: Daniel Szrom (DS), Maggie Lee (ML), Kristin Hallak (KH), Michael Ono (MO), Ann-Marissa Cook (AMC), Stanley Wu (SW), Sarah Liebowitz (SL), Taylor Lindsley (TL), Liz Lopez (LL), Kaveh Landsverk (KL).

NEW DEPENDENCY CASE LAW

Jurisdiction—WIC 300(g)

In re X.D.—filed 09/10/2025; Second Appellate Dist., Div. Five
Docket No. B338140; 114 Cal.App.5th 357
Link to Case: https://www.courts.ca.gov/opinions/documents/B338140.PDF

WHERE AN INCARCERATED PARENT IS UNABLE TO ARRANGE SUITABLE, RELIABLE, OR APPROPRIATE CARE FOR THE CHILD BY THE TIME OF THE JURISDICTION HEARING, JURISDICTION UNDER 300(G) IS APPROPRIATE.

The agency filed a 300 petition after mother was killed during a domestic violence incident with her boyfriend. At the time, father's whereabouts were unknown, and X.D. was placed with maternal grandmother. The agency subsequently located father, who was incarcerated. In a prior dependency case, father made no effort to reunify with X.D., had lost custody of X.D., and had not been in contact with X.D. for years; nevertheless, at this time, father wished to reunify with X.D. upon his release and suggested that X.D. be placed with paternal grandmother or paternal uncle. X.D. did not know the paternal relatives and was not interested in visiting or reunifying with father. Father did not reach out to either paternal relative regarding a plan

of care, but the agency did. The agency reported that paternal grandmother was bedridden, lived in a cluttered home, and resided with another relative who had just been released from incarceration. The agency attempted contact with paternal uncle multiple times, but he did not return calls, even after the agency spoke to his girlfriend who reported that they were already caring for two children under the age of one. At the jurisdiction/ disposition hearings, the juvenile court inferred father was unable to arrange for X.D.'s care because the two paternal relatives he suggested were unable to care for X.D. and father had insignificant involvement in X.D.'s life. The court sustained interlineated allegations under 300(b) and (g) and ordered reunification services for father. Father appealed.

Affirmed. Section 300(g) empowers a juvenile court to exert dependency jurisdiction if the child's parent has been incarcerated and cannot arrange for the care of the child by the time of the jurisdictional hearing. Here, the juvenile court reasonably determined that the two relatives father proposed would not provide suitable, reliable, or appropriate care for X.D. during father's incarceration. Paternal grandmother appeared to be bedridden and lived in a cluttered residence with two other people, one of whom had a criminal record that would need special clearance before placement of X.D. was permitted. Likewise, paternal uncle expressed his disinterest by failing to respond to the agency's many efforts to contact him. Further, father had expressed no interest or involvement in X.D.'s life for years, as he had made no effort to reunify with her in the prior dependency case and almost never visited, having last seen her three years prior to mother's death. The juvenile court could infer from father's inability to name a suitable caretaker as well as his disinterest in X.D.'s life that he was unable to arrange for her care. Father's arguments—(1) that dependency jurisdiction under 300(g) can be avoided so long as the parent can name *anyone* as a potential caregiver, regardless of the parent's involvement in the child's life or the ability of the proposed caregiver to provide suitable, reliable, and appropriate care, (2) that the agency must make efforts to reform an unsuitable caregiver before the court may exert jurisdiction under 300(g), and (3) that father was capable of arranging for X.D.'s care because he did not block maternal grandmother from caring for X.D.—were rejected. (AMC)

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Artificial Intelligence; Brief Writing

Noland v. Land of the Free, L.P., et al.—filed 9/12/2025; Second Dist., Div. Three
Docket No. B331918; 114 Cal.App.5th 426
Link to case: https://www4.courts.ca.gov/opinions/documents/B331918.PDF

AN ATTORNEY WAS ORDERED TO PAY MONETARY SANCTIONS FOR SUBMITTING A BRIEF TO THE COURT THAT HAD BEEN CREATED BY ARTIFICIAL INTELLIGENCE WITH FABRICATED QUOTES AND CITATIONS THAT THE ATTORNEY DID NOT CHECK BEFORE SUBMITTING.

In this non-dependency case, plaintiff's attorney appealed after the trial court granted defendant's motion for summary judgment. On appeal, appellant filed legal briefs, which are at issue in this case. Prior to oral argument, an order to show cause (OSC) was issued due to counsel filing appellate briefs with inaccurate quotations and citations that were not reviewed prior to submitting the briefs to the Court.

The Code of Civil Procedure and the Rules of Court permit an appellate court to sanction an attorney for filing a frivolous appeal. An appeal is frivolous when it is based on fabricated legal authority. Relying on fabricated citations and quotes is a sanctionable offense. This case was published to serve as a warning to the legal community about the use of artificial intelligence (A.I.) to generate briefs, pleadings, or motions without first personally verifying the veracity of the citations and quotes. A.I. "hallucinations" are fake legal authority created by A.I. Appellant's opening brief contained 23 quotations from cases, and 21 of those were fabricated hallucinations. Appellant's reply brief likewise contained fabricated quotes and citations. "To state the obvious, it is a fundamental duty of attorneys to *read* the legal authorities they cite in appellate briefs or any other court filings to determine that the authorities stand for the propositions for which they are cited." Had counsel reviewed his briefs before submitting them, he would have been able to determine that they contained false legal authority. Appellant's counsel was ordered to pay the Court $10,000 in sanctions, the clerk of the Court was ordered to forward a copy of the opinion to the State Bar, and appellant's counsel was ordered to provide the opinion to his client. (KH)

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Disposition—Incarcerated Parents—WIC 361(d)

In re A.M.—published 9/18/25; Second Dist., Div. Eight
Docket No. B343879; 114 Cal.App.5th 627
Link to case: https://www4.courts.ca.gov/opinions/documents/B343879.PDF

WHERE FATHER HAD MADE A SUITABLE PLAN FOR THE CHILD, THE JUVENILE COURT ERRED IN REMOVING THE CHILD BECAUSE FATHER WAS INCARCERATED.

In a prior dependency case, the juvenile court removed A.M. from mother due to mother's substance abuse. The court placed A.M. with her father and terminated its jurisdiction. Father and A.M. lived with paternal aunt Martha for six years. Just before A.M. turned seven, father was arrested for drug possession and incarcerated. Before going to prison he arranged for Martha to care for A.M. – he gave Martha educational and medical documents and a notarized letter establishing temporary custody. This situation remained stable until mother picked up A.M. for a visit and refused to return her to Martha's care. Mother neglected A.M. by using drugs, failing to get A.M. to school, and fighting with residents in her apartment complex. When mother was arrested for driving a stolen car, the agency filed a petition and placed A.M. back in Martha's care. The Department alleged that father's criminal conduct placed A.M. at risk of harm. The court sustained a petition against mother and father. At the dispositional phase, both father and A.M.'s counsel argued for A.M. to be released to father under a plan of care with Martha. The court removed from mother and father. A.M. filed a notice of appeal.

Reversed. Section 361(d) governs removal of a child from the custody of a parent with whom the child did not reside at the time of the petition. There is no go-to-jail-lose-your-child rule in California. No substantial evidence supported the finding removing A.M. from father's care because father's plan was satisfactory. When evaluating the appropriateness of the plan, the court looks to the parent's ability at the time of the hearing. A.M. had lived with father for most of her life. Father's criminal history alone did not support jurisdiction or removal and there was no evidence that A.M. was present or affected by father's criminal conduct. Furthermore, there was no evidence that Martha's care posed any danger to A.M. Father's plan at the time of jurisdiction was the same plan put forward by the county and adopted by the court – A.M. to be in Martha's care. "If the court had not removed A.M. from the father, *she would be in exactly the same situation as she is currently*." (Emphasis in original.) (DS)

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Admission of Evidence; Parentage—*Kelsey S.* Fathers

Adoption of X.D.—filed 09/29/2025; Second Appellate Dist., Div. Eight
Docket No. B343632; 114 Cal.App.5th 812
Link to Case: https://www.courts.ca.gov/opinions/documents/B343632.PDF

[1] AS WITH ANY OTHER WRITING, SCREENSHOTS OF TEXTS CAN BE AUTHENTICATED AND RENDERED ADMISSIBLE WITHOUT THE AUTHOR'S TESTIMONY; [2] *KELSEY S.* DOES NOT PROTECT FATHERS WHOSE DOMESTIC VIOLENCE HAS INTERFERED WITH THEIR ASSUMPTION OF PARENTAL RESPONSIBILITIES.

Mother placed child X.D. for adoption on the day he was born. Prospective adoptive parents filed for adoption and asked the juvenile court to terminate biological father's parental rights. Upon receiving notice, father opposed the adoption on the grounds that he qualified as a *Kelsey S.* father and that his efforts to assume parental responsibilities had been thwarted by mother. At trial, parties presented evidence of physical and verbal abuse against mother by father before and after X.D.'s birth, including while mother was pregnant, causing her to flee to a domestic violence shelter and cut off contact with father. Prospective adoptive parents attempted to introduce screenshots of threatening texts father's sister had sent to mother – texts allegedly from father – but the court deemed them inadmissible due to hearsay, a lack of authentication, and undue prejudice. Reasoning that mother deliberately misled both father and the adoption agency to prevent him from asserting his parental rights, the court ruled that father qualified as a *Kelsey S.* father. Prospective adoptive parents, mother, and X.D. appealed.

Reversed. [1] The trial court abused its discretion in excluding the screenshots of father's texts. While the trial court erroneously required father's sister's testimony to authenticate the screenshots, the Evidence Code allows for a variety of means via which a writing can be authenticated. All that is required is a prima facie case that the writing is what it purports to be. Father admitted that the phone number in the screenshots was his and mother testified to their provenance and contents. Once authenticated, the screenshots were admissible as both a non-hearsay statement regarding mother's state of mind and a hearsay statement of a party opponent: father. Lastly, the risk of undue prejudice did not substantially outweigh the probative value of the evidence. [2] Taking the erroneously excluded evidence into account, substantial evidence does not support the trial court's finding that father qualified as a *Kelsey S.* father. From the moment he learned of the pregnancy, father made no meaningful efforts to investigate or assert his parental rights. The evidence of domestic violence shows that father was far from the emotionally supportive partner *Kelsey S.* requires, and in fact his

actions put both mother and their unborn child at risk of harm. To the degree that circumstances interfered with his assumption of parental duties, they were of his own making. (KL)