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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B246322

(Los Angeles County  
Super. Ct. No. CK 95504)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

E.A.,

Defendant and Appellant.

APPEAL from orders of the Superior Court for the County of Los Angeles. Terry Truong, Juvenile Court Referee. Affirmed.

Patti L. Dikes, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Peter Ferrera, Senior Deputy County Counsel, for Plaintiff and Respondent.

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## SUMMARY

The mother in this juvenile dependency proceeding seeks reversal of all jurisdictional and dispositional findings and orders, contending the evidence was insufficient to permit a finding that her 17-year-old daughter, Y.A., was at substantial risk of suffering “serious physical harm or illness,” as a result of mother’s failure or inability “to adequately supervise or protect the child,” or by mother’s “negligent failure . . . to provide the child with adequate . . . medical treatment . . .” (Welf. & Inst. Code, § 300, subd. (b).)<sup>1</sup> We affirm the orders.

## FACTS

Y.A. was detained when she was 16 years old after the Department of Children and Family Services received two calls on the same day in August 2012. One of them alleged physical abuse by the father, A.A., and the other alleged both physical and emotional abuse by the father and general neglect by mother, E.A.

The allegations of abuse by the father were dismissed, but the juvenile court sustained this allegation under section 300, subdivision (b):

“In 2012, the child[’s] mother, [E.A.,] and father, [A.A.,] are unable to provide appropriate parental care and supervision of the child, due to the child’s mental and emotional problems, including suicidal ideation. Remedial services failed to resolve the family problem in that the mother and father failed to ensure that the child is regularly participating in recommended necessary psychiatric treatment and the child has refused to take psychotropic medication as prescribed. The mother and father’s inability to provide appropriate parental care and supervision of the child and the parents’ failure to ensure the child’s necessary mental health treatment endangers the child’s physical health and safety and places the child at risk of harm, damage and danger.”

The Department’s jurisdictional and dispositional report aptly summarizes the circumstances this way: Y.A. “appears to be completely out of control, as demonstrated by the fact she has not attended school in nearly two years and her parents report living in fear of her. [¶] The child . . . is virtually running this household. [Mother] acquiesces to

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<sup>1</sup> All statutory citations are to the Welfare and Institutions Code.

her daughter's every demand no matter how inappropriate to avoid [Y.A.'s] wrath. [The father] removes himself from the home, thus abdicating his parental authority/responsibility. [Y.A.] has been out of school for two years, lies incessantly and frequently uses complaints of physical ailments to justify marijuana use. [Y.A.] runs her own show, bullies her mother and subjects everyone to histrionic tirades when thwarted. She has been psychiatrically hospitalized, threatens suicide, and has never complied with psychiatric/psychological treatment consistently."

The Department's evaluation and the sustained allegations were sufficiently supported by the evidence.

The initial referral calls and interviews with Y.A. indicated that, on August 2, 2012, Y.A. was taken by ambulance to a hospital and put on a 72-hour hold after threatening to kill herself by jumping out of a window. Y.A. described an altercation with her father that day and arguments and physical and verbal abuse over the past six months and earlier. Y.A. said mother was present during some of the incidents and was not protective because mother was "afraid of father."

After Y.A.'s discharge from the hospital a few days later, the Department held a meeting for the family that included the parents, social workers, a psychologist, Y.A.'s educational advocate (Steven Figueroa) and Y.A. The participants discussed concerns about Y.A.'s prescribed use of marijuana for shoulder pain (Y.A. has a medical marijuana card arranged by mother but disapproved of by father); there were "too many doctors involved with [Y.A.] and too many different diagnoses"; and Y.A. had not been attending school for over a year. Father wanted Y.A. to go to a residential facility and said he planned on leaving the home. Mr. Figueroa agreed with father that Y.A.'s excessive use of marijuana was a problem, and that Y.A. would "confabulate" stories and "residential facilities fear [Y.A.] making false allegations against them." The parents agreed to a voluntary family reunification program with parenting education and counseling, and to have Y.A. placed in a residential care facility.

A week and a half later, after the father left the home, mother said she no longer believed residential placement would help Y.A. The next day, mother said she did want

residential placement (and had said she did not because her daughter was present and she did not want her “to overhear the plan”). But a week later, mother said she no longer thought residential placement would be necessary, and no longer wanted to participate in the voluntary case plan.

In September 2012, mother said she was working with the school district to have Y.A. placed in a residential facility, and did not want her daughter placed in a facility through the Department because she “would be at risk of being assaulted” and a placement through the school district would be better for Y.A. because the school district “is interested in neuro-feedback therapy.” The director of special education at the school district (Dr. Katherine Mahoney) believed residential placement would be very beneficial, and mother “may not have the skills to deal with [Y.A.’s] issues.” Dr. Mahoney said that Y.A. had been out of school for more than 18 months, mother had been offered services through the school district “but mother has never been able to follow through”; Y.A. was offered home schooling, “but the teachers . . . were not allowed to enter” the home; and Y.A. did not show up for meetings with teachers elsewhere.

The police officer who investigated the August 2, 2012 incident between Y.A. and her father believed Y.A.’s allegations were false. Hospital personnel stated Y.A. was “very difficult to work with,” has bipolar disorder, “may be using the marijuana to treat the disorder,” and “may be an addict.” Mr. Figueroa, the educational advocate, had been working with the family since 2008. He was concerned about the parents’ ability to care for Y.A.; stated mother “‘doctor shops’ until she finds a doctor that agrees with her,” and “has also done this with psychologists for [Y.A.]” Mr. Figueroa said Y.A. “has a history of fabricating stories and mother will believe anything [Y.A.] says even if it is proven to be false.” Mr. Figueroa has observed bruises on mother caused by Y.A., but mother “has not called the police when [Y.A.] has assaulted her.” Y.A.’s adult sibling confirmed incidents when Y.A. has physically assaulted mother, including trying to choke mother while she was driving; he said Y.A. “is easily able to manipulate mother” and that Y.A.

“is a danger to herself and other[s] and would greatly benefit from a residential treatment facility.”

Y.A. showed social workers “track marks” on her arms where she used heroin in the past, as well as a number of healed cuts and burn scars that were self-inflicted. She told social workers, among other things, that she had attempted to overdose on pills more than 35 times and has used ecstasy, heroin, cocaine and methamphetamines, but currently only smokes medically prescribed marijuana, three to four times a day for her shoulder pain. She said she was raped when she was 12 years old, but told no one, and went alone to a clinic to terminate the pregnancy that resulted from the rape. Y.A. said the problem was solely with her father, who is always calling her “a slut and a whore,” and she is constantly fighting with her father, who is frequently threatening to kill her. Y.A. said things “were fine now that her father had left the home.”

Both the father and mother admitted problems with Y.A. have been escalating and they are no longer able to control her. Mother blamed the school district for Y.A.’s absence from school for two years, stating the district was not adhering to Y.A.’s individualized educational plan. She said Y.A. has been diagnosed with “Bipolar Disorder, Obsessive Compulsive Disorder, ADD and ADHD.” Y.A. “is not taking any medication and mother does not want [Y.A.] taking medication.” Mother reported Y.A. “refuses to see her therapist regularly and mother cannot force her to go.” Mother said she has been trying to get Y.A. into a residential treatment facility for the past two years, but Y.A. has been rejected by every facility.

Mother said she obtains the marijuana and paraphernalia for Y.A. (whose bedroom smells intensely of marijuana and contains five bongs, four pipes and seven lighters, as well as plastic containers and baggies with marijuana and a grinder). Mother admitted Y.A. has assaulted her, and she covered up from the father various incidents, including Y.A.’s kicking out a car window while on the freeway, and punching holes in the walls and “tagging” on the walls in her room.

Mother told the Department on September 11, 2012, that she was going to pursue residential placement through the school district; the next day mother called the

Department to say Y.A. was doing well now that the father was not in the home, and “she does not want [the Department] to ruin the progress they have made if [Y.A.] is placed in a residential facility.”

The father told the Department “the biggest obstacle in providing [Y.A.] with discipline and structure is mother,” who “is very passive and allows [Y.A.] to do whatever she wants to do,” and “cover[s] up for [Y.A.] regularly.”

One social worker who interviewed the family and others in August believed the parents’ conduct constituted general neglect, emotional abuse and physical abuse, evidenced by, among other things, Y.A.’s physical assaults on her mother and their inability to control Y.A.’s behavior; Y.A.’s abuse of marijuana; the mother’s allowing Y.A. to smoke excessive amounts of marijuana; the mother’s refusal to allow Y.A. to take any psychotropic medications for her mental health issues; Y.A.’s absence from school; and that both parents have recognized Y.A.’s need for a residential placement, “but they have not followed through with getting the child into such a program, and every time a program is located the mother appears to sabotage the plan out of fear of hurting the child’s feelings . . . .”

On September 14, 2012, the court detained Y.A. from the father and released her to mother, ordering a multidisciplinary assessment of the child and family. At the hearing, Y.A.’s counsel asked that Y.A. be allowed to continue her therapy, physical as well as psychiatric. The court said, “I’m not so inclined to allow the use of marijuana, though. The therapy, I don’t have a problem with. The marijuana, I definitely have a problem with. That is to stop. [¶] You’re 16 years old. That is to stop.” When Y.A. said she could not take any painkillers, the court said, “Find alternatives. There’s got to be some other alternative. Unless you get me a physician’s note from at least three different physicians, telling me that she has to take medical marijuana, then I’ll accept it. For now, no.” The court also told mother not to buy marijuana for Y.A.

The Department’s jurisdictional and dispositional report reflected further interviews with the family members, Mr. Figueroa, Dr. Mahoney, and Dr. Richard Klein, a psychologist.

Y.A. said she had not been going to school because the former director was not allowing her to do so and was a racist. She said she could not go to school “because of my pain medications.” She said she never used marijuana to get high; she used it “so I could do my stretches.” She was “in a lot of pain right now” and asked her doctor if he would write a letter to the court saying she needed marijuana, but “he said he doesn’t want to lose his job.” She said she had never attempted suicide and was “totally against psychiatric medications.” Pain medications gave her “really bad liver pain” and caused her to throw up blood; marijuana “is the only thing this is working for me.”

The mother recounted Y.A.’s history, with issues beginning in eighth grade because of racism and harassment at school. Mother stated they filed and won a civil rights complaint against the school.<sup>2</sup> Mother said she had been trying to find a residential facility for Y.A. “because I cannot handle this any more.” Mother stopped giving Y.A. marijuana, “but I don’t know what she does when I leave the house.”

The father said that Y.A. “is very angry, and she is dangerous.” She “gives us hell if she doesn’t get what she wants. She lies. The whole reason she said any of these things about me is because I said we needed Children’s Services help.” Father thought the marijuana was addictive and “impairs her judgment,” and he was sure mother was still giving Y.A. marijuana, because “[i]f she wasn’t [Y.A.] would kill her. I just had to get out.” Y.A. “needs a residential program. She steals, she lies. . . . She keeps going

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<sup>2</sup> The United States Department of Education, Office for Civil Rights, investigated Mr. Figueroa’s complaint, on behalf of the family, against the Monrovia Unified School District. In May 2011, the Office found insufficient evidence the district discriminated against Y.A. based on race, national origin and/or disability by subjecting her to harassment, but found the district failed to respond appropriately to the family’s complaints of harassment against the student by peers and administrators, and failed to evaluate Y.A. in a timely manner for special education services, denying her a free appropriate public education. Y.A.’s triennial psycho-educational assessment on September 25, 2012, indicated her March 5, 2012 individualized education plan included special education support through a residential treatment center and other services until her placement, but that Y.A. “has not accessed these services.”

down this disastrous path.” Father said mother had tried to get Y.A. into residential programs before, “but once they see all of this, they don’t want to take her.”

Mr. Figueroa said he had “never seen anything like this. Everyday there is a new issue. The father would complain he’s afraid of his own daughter. She makes allegations he’s physically abusive, but she makes the same allegations against teachers and other students. To be honest, I won’t be in the room alone with her. Everyone is afraid to touch her because she claims injuries. She has been able to manipulate her parents. They’ve done everything they could.” Mr. Figueroa thought there were “a lot of issues with [Y.A.’s] diagnosis because there is not just one doctor. The mom keeps [bringing] her to different doctors. [Y.A.] needs one doctor, one primary doctor, who is overseeing everything.” Mr. Figueroa also thought Y.A. “needs a narcotic placement. This whole situation is the school district’s fault.” Y.A. was bullied, and the “school was profiling her because her father is from Palestine.”

Dr. Mahoney repeated that residential treatment was the best option, and that mother was in agreement, but “has been in agreement before and backed out.”

Dr. Klein had worked with Y.A. for a long time, but had not seen her since May 2012. “The family is totally dysfunctional. [Y.A.] is fairly resilient considering her home life. Dealing with the father is impossible. The mother is nearly . . . impossible.” Before Dr. Klein worked with her, Y.A. was prescribed medication, “but she probably wasn’t taking them as she should. She said she didn’t like the way they made her feel.” Dr. Klein thought she should go to a residential facility, and said there had been efforts to get Y.A. into residential treatment, “but the school district dragged their feet.” When Dr. Klein was seeing Y.A., her marijuana use was not out of control and, given she was previously suicidal, was cutting herself and involved in “all sorts of street drugs,” using the marijuana “was not that bad.”

The Department concluded Y.A.’s parents “have seemingly not obtained appropriate or adequate care for [Y.A.] to meet her needs.”

The Department submitted “last minute information” to the court on the date of the dispositional hearing, indicating that mother and Dr. Mahoney were meeting to



contact prospective out-of-state residential treatment programs for Y.A., and a decision from a facility in San Diego was pending.

The jurisdictional and dispositional hearing was held on October 29, 2012. The Department's reports and last minute information were admitted in evidence without objection. No testimony was presented. Mother's counsel requested dismissal of the petition, contending mother "has been doing everything she can possibly do"; "[p]ractically speaking, it doesn't seem as though [the Department] can really provide any additional services for this family as well"; and "[t]here is no risk to this child that is really shown by the Department . . . ." Y.A. also sought dismissal, saying she felt safe at home with her mother "and doesn't feel she needs the help of the department."

The trial court sustained the petition as amended and quoted above, dismissing the other counts. The court issued a "home-of-parents" order, saying: "However, I do recognize the fact that this is a very, very dysfunctional family, and there are necessary services that need to be put in place. And I do not believe that [Y.A.] should be the one to put those services in place." The Department was ordered to provide family maintenance services to both parents; the court said, "I want both parents in individual and conjoint counseling with their daughter. [¶] [Y.A.] is to be in individual counseling and conjoint counseling with her parents and to take all psychotropic medications prescribed."

Mother filed a timely appeal from the court's October 29, 2012 jurisdictional and dispositional orders.

## **DISCUSSION**

"At a jurisdictional hearing, a finding that the minor is a person described in section 300 must be supported by a preponderance of the evidence." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. "In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most

favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court." (*Ibid.*) "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court." (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.)

Mother argues the evidence was insufficient to support "the jurisdictional finding of neglectful failure of the parents to provide medical treatment," or, as mother puts it, "medical neglect." On the contrary, mother argues, the evidence showed she had been "very diligent and proactive in seeking care and treatment for her daughter," and instead "the difficulties [mother] faced were from the child's school and residential facilities," not from mother's lack of diligence. Mother repeatedly observes there was no evidence from a psychiatrist or medical doctor that failure to ensure Y.A. took her psychotropic medication endangered her health or placed her at risk of harm, or that Y.A.'s use of marijuana for pain management constituted neglect or placed her at risk of harm from using marijuana, or about *any* parental neglect.

We disagree with mother's assessment of the record.

First, she cites no authority suggesting that evidence from medical doctors and psychiatrists is required for a jurisdictional finding of parental neglect based on "failure or inability . . . to adequately supervise or protect the child, or . . . negligent failure . . . to provide the child with adequate . . . medical treatment . . . ." (§ 300, subd. (b).) Such matters are not beyond the realm of common experience and do not require evidence from physicians.

Second, there was substantial evidence in the record to support the juvenile court's findings that the mother and father "failed to ensure that the child is regularly participating in recommended necessary psychiatric treatment," and that their "inability to provide appropriate parental care and supervision of the child and [their] failure to ensure the child's necessary mental health treatment" places Y.A. at risk of harm. Mother claims she has been trying "for the greater part of three years" to get Y.A. into a residential facility, but the record supports a contrary conclusion. An employee of the Department of Mental Health, who had been working with the family since 2009, said

that in 2010, they were in the process of placing Y.A. in a residential care facility, but mother did not want Y.A. placed out of state. In late August 2012, after agreeing on a voluntary case plan involving placement in a residential facility, mother decided it was unnecessary to place Y.A. in a residential treatment facility, and reneged on participation in the voluntary case plan. In September 2012, mother told the Department Y.A. was doing well with the father out of the home and did not want the Department “to ruin the progress they have made if [Y.A.] is placed in a residential facility.”

Mother cites *In re Janet T.* (2001) 93 Cal.App.4th 377, 387, where the court found insufficient evidence to support jurisdiction under section 300, subdivision (b). In *Janet T.*, the court concluded mother’s failure to ensure her children’s school attendance did not subject the children to physical injury or illness, and thus could not support jurisdiction. (*Id.* at pp. 388-389.) Also, there were no facts to suggest how the mother’s mental and emotional problems created a substantial risk of physical injury or illness to her children. (*Id.* at p. 390.) Mother here claims that, likewise, there was no evidence the parents’ conduct placed Y.A. at substantial risk of serious physical harm or illness. We cannot agree. This case does not turn on school attendance or mother’s mental health; here, the evidence showed a child in a continual state of crisis with multiple disorders, and a mother failing to insure she received therapy and failing to do what virtually every professional said was necessary: placing Y.A. in a residential treatment facility.

Mother also cites *In re Precious D.* (2010) 189 Cal.App.4th 1251, 1259, where the court concluded dependency jurisdiction could not be asserted over an incorrigible 17-year-old whose parent was neither unfit nor neglectful. (*Id.* at p. 1261.) But there, the only finding that was critical of the mother’s parenting skills or conduct was that mother and daughter were not communicating, and the record showed the opposite; indeed, the Department admitted it sought dependency court jurisdiction because of the child’s incorrigible behavior and need for services, not because of any neglectful conduct by the mother. (*Ibid.*) That is not this case.

In sum, there was evidence from which the juvenile court could agree with the Department’s assessment that, despite mother’s recognition of Y.A.’s need for a

residential placement, the parents “have not followed through with getting the child into such a program, and every time a program is located the mother appears to sabotage the plan out of fear of hurting the child’s feelings . . . .” Further, there was evidence mother failed to ensure Y.A.’s participation in therapy, as mother stated that Y.A. “refuses to see her therapist regularly and mother cannot force her to go.” There was evidence Y.A. assaulted the mother and punched holes in the walls of her room, and that mother consistently covered up for Y.A.’s conduct. The mother stated Y.A. “is not taking any medication and mother does not want [Y.A.] taking medication.” Further, while disapproving of prescribed medications, mother facilitated Y.A.’s use of marijuana as a pain management technique. Under these circumstances, sufficient evidence supported the juvenile court’s finding Y.A. was at substantial risk of suffering “serious physical harm or illness,” as a result of mother’s failure or inability “to adequately supervise or protect the child” and “negligent failure . . . to provide the child with adequate . . . medical treatment . . . .” (§ 300, subd. (b).)

#### **DISPOSITION**

The orders are affirmed.

GRIMES, J.

We concur:

BIGELOW, P. J.

FLIER, J.