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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re PAUL M., et. al., Persons Coming
Under the Juvenile Court Law.

B240325

(Los Angeles County
Super. Ct. No. CK42835)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Patricia Spear, Judge. Affirmed.

Aida Aslanian, under appointment by the Court of Appeal, for Defendant and Appellant.

Amir Pichvai, for Plaintiff and Respondent.

Mother, appellant R.M., appeals from a juvenile court order declaring her children dependents of the court, placing custody with the Department of Children and Family Services (DCFS) and ordering monitored visitation. Appellant contends: she was denied a fair hearing because the court failed to advise her of her rights; the court denied her rights to due process; there was insufficient evidence to support the court's jurisdictional findings; and the dispositional orders were not supported by clear and convincing evidence. We find appellant was adequately advised of her rights and that the hearing conformed with due process; there was substantial evidence to support the court's jurisdictional findings; and the dispositional orders were supported by the evidence. We affirm.

FACTUAL AND PROCEDURAL SUMMARY

Appellant is the mother of Paul M. (born May 1999) and L.P and E.P., twin girls (born December 2006). Appellant and her family had a previous dependency matter in the juvenile court system in 2000 in which Paul was temporarily removed from the home due to general neglect. Over the course of the past 12 years, there have been 22 child protection hotline referrals regarding appellant, though most were found inconclusive or unfounded.

In May 2011, a referral was made to DCFS due to a concern that Paul had unaddressed mental health issues and was possibly subjected to sexual abuse based on his use of inappropriate sexual language and inappropriate sexual behavior. The DCFS detention report, submitted to the court, detailed that agency's investigation. A social worker was sent to appellant's home to interview appellant and her three children. During those interviews, the twins reported being hit by both Paul and appellant with various objects, including a hand, a shoe, and a belt. They also stated that Paul had touched their "private parts" and that he made them "eat it." Appellant denied any inappropriate physical or sexual contact. The social worker returned the next day and the twins again detailed sexual contact with their brother, adding that appellant told them not to talk about it. Pursuant to a court order for removal of the children from appellant's

home, the children were detained for “physical abuse, general neglect, as well as failure to protect [the girls] against the sexual abuse committed by their brother, Paul.”

The first amended dependency petition alleged each of the children came within the jurisdiction of the juvenile court under Welfare and Institutions Code section 300, subdivisions (a), (b), (d), and (j).¹ As part of the DCFS jurisdiction/disposition report, dependency investigator Catherine Woillard interviewed various parties and submitted recommendations based on her findings. Woillard interviewed the twins who again indicated their mother hit them with various objects and that sometimes she ordered Paul to hit them. The twins also discussed having sexual contact with Paul, but vacillated about the details. When appellant was interviewed, she admitted hitting Paul with a belt and shoe on his “bottom and the legs.” She also admitted hitting the twins, including slapping one of them on the face, and having Paul spank them for her. She continued to deny there was any problem with the children, deflecting blame to others. Woillard decided to end the interview because appellant was “becoming more frustrated and anxious.”

Woillard interviewed the director of Paul’s after-school synagogue program, who expressed concerns about Paul riding his bike home in the dark, unattended. She added that there had been incidents in which Paul used inappropriate sexual language and engaged in inappropriate sexual behavior. When the director approached appellant regarding the incidents, appellant became angry and did not acknowledge there was a problem. This indicated to the director that there was a “psychological component” with appellant. Because she was not receiving any support from appellant and considered Paul a safety threat, the director expelled him from the program. The assistant principal at Paul’s middle school stated that Paul “had serious behavior issues” that put him on their “radar almost as soon as school began.” He said appellant was unwilling to acknowledge Paul’s issues and became defensive when approached about them.

¹ All further statutory citations are to the Welfare and Institutions Code, unless otherwise indicated.

The jurisdiction/disposition report concluded that appellant did not utilize appropriate parenting skills, placed her children at risk of harm, failed to provide Paul with adequate supervision and to seek treatment for his issues, physically abused the children, and failed to address Paul's sexual behavior with the twins. The report indicated mother suffered from numerous psychological and emotional issues.

An addendum report stated that another interview was conducted by a DCFS social worker with the twins. The twins again discussed having sexual contact with their brother, adding additional details. The report also discussed appellant's visits with the children, finding she struggled to exhibit appropriate behavior when in the presence of the children. A letter was sent to appellant giving her firm guidelines for future visits because of "ongoing, problematic behaviors exhibited by [appellant] during her visits." The addendum report found these behaviors "emotionally harmful for the children." It further stated appellant "often reacts in a threatening, aggressive, defensive and/or combative manner," which they believed was a "reflection of her undiagnosed yet visible mental health issues." It stated the mental health issues impeded her "ability to interact with the children appropriately on a consistent basis."

In subsequent court proceedings, appellant asked to represent herself several times. Her request was eventually granted after she was advised of the likely disadvantage of proceeding without counsel and that she would be held to the same legal standards as the attorneys. She also was told by the court that she would be allowed to cross-examine any witnesses she chose. She agreed with the court's recommendation to proceed by declaration. Counsel for DCFS stated his intention to make his case on the reports alone, and said he did not plan to call witnesses. The court again stated that it would still allow appellant to identify any declarants from the reports whom she wished to cross-examine at trial and explained the procedure for doing so, including listing their names so they could be subpoenaed. The court informed her that she could submit her declarations by a certain date or could bring in any witnesses she wanted to question. The court also told her the dependency investigator who compiled the DCFS jurisdiction/disposition report would be available at trial and could be cross-examined.

After appellant turned in her declarations and asked to provide two more at a later date, the court asked her if she was going to proceed to trial just on those documents and not rely on any witnesses. Appellant replied that she was, but was also planning to bring in an expert of her own to testify. During the jurisdictional hearing, appellant again confirmed that she planned to go forward on the declarations she had submitted and the reports submitted by DCFS. However, just before the court announced its jurisdictional findings, appellant indicated her dissatisfaction with the proceeding because there were no witnesses, and stated that she wished to cross-examine the declarants from the reports. The court overruled her objection, pointing to appellant's stated position that she would submit on the declarations and reports alone.

The court amended some of the allegations in the petition, struck others, and sustained the petition as amended. It declared the children dependents of the court and ordered them to remain in DCFS custody. It also ordered that appellant's visits be monitored and that appellant undergo a psychological assessment. This appeal followed.

DISCUSSION

I

Appellant contends she was deprived of a fair trial and her right to due process. She claims the trial was fundamentally unfair because she was not allowed to cross-examine witnesses or challenge DCFS's evidence; was not advised of her trial rights and did not give an intelligent waiver of those rights; was not allowed to present an expert witness who would testify on her behalf; and was not properly presented with the amended petition. We find she was provided a fair hearing in conformity with due process.

Appellant claims she was not advised of, and was deprived of, her rights under California Rules of Court, rule 5.682(b), specifically the right to a hearing, the right to cross-examine all witnesses called to testify, and the right to subpoena witnesses on her own behalf. However, the record shows she was repeatedly advised that she could identify any witness she wished to examine in court and of the process for doing so. She was afforded a hearing by the court and agreed to proceed with the hearing through

documentary evidence alone. Even after this agreement, she was repeatedly made aware of her right to cross-examine any person who provided evidence in the reports submitted by DCFS, even though DCFS declared its intention to rely on the reports alone. She was given a specific date by which she should present the list of witnesses she wished to have present at the jurisdictional hearing, and informed of the date set for that hearing. When the time came for submitting evidence prior to the hearing, she stated her intention to go forward on the declarations she had submitted and those alone. At the jurisdictional hearing she reiterated that her only evidence was her declarations.

The dependency investigator who prepared the reports submitted by DCFS, Woillard, was available at the jurisdictional hearing. Appellant was told earlier that she would have an opportunity to cross-examine the investigator as statutorily required; she chose not to question Woillard. (§ 355, subd. (b)(2).) As for her claim that she was not provided an expert, appellant stated that she had secured an expert of her own. Nevertheless, she failed to ensure his presence at the hearing.

Although it is unclear whether appellant was formally notified of the allegations of the first amended petition, dated August 4, 2011, the record clearly indicates that she had received it, was made aware of its allegations, and denied each of them. (See *In re Jasmine G.* (2005) 127 Cal.App.4th 1109, 1114.) The purpose of requiring the court to present the allegations in the petition at the initial stage of dependency litigation is to ensure that “‘meaningful notice’” has been given to the parents and that concerns of the social service agency have been “‘adequately communicate[d].’” (*In re Jessica C.* (2001) 93 Cal.App.4th 1027, 1037.) The hearing on the original petition complied with relevant statutory provisions, and appellant was aware of the additional allegations made in the amended petition. (Welf. & Inst. Code, § 353; Cal. Rules of Court, rule 5.682(a).) Even if appellant was not formally notified of the allegations in the amended petition in a court proceeding, the goals of notice and adequate communication were met, and appellant suffered no prejudice. (See *In re Monique T.* (1992) 2 Cal.App.4th 1372, 1377-1378.)

Appellant successfully sought to represent herself in the proceedings before the court. The court probed her competency to do so by inquiring into her English-language

proficiency and her prior education. As we have discussed, appellant was explicitly advised by the court of the problems she would face in representing herself, and that she would be held to the same legal standard as an attorney. Her waiver of counsel was valid and any resulting disadvantage was a consequence she knowingly and willfully accepted. (*In re A.M.* (2008) 164 Cal.App.4th 914, 923; *In re Angel W.* (2001) 93 Cal.App.4th 1074, 1084.) We conclude appellant was provided with a clear advisement of her rights and was provided a fair hearing before the court.

II

Appellant contends there was insufficient evidence in the record to support the jurisdictional findings of the court. She argues the court improperly relied on the uncorroborated hearsay in the DCFS reports as the sole basis for finding jurisdiction over the children.

Upon a sufficiency of the evidence challenge to a juvenile court's jurisdictional finding, we review the record in the light most favorable to the court's order. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450-451.) We uphold the ruling if there is evidence, even if contradicted, to support the finding; "[e]vidence from a single witness, even a party, can be sufficient to support the trial court's finding." (*Id.* at p. 451.)

At a jurisdictional hearing, the court is charged with deciding whether a minor is a person described by section 300. (§ 355, subd. (a).) "Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible" (*Ibid.*) Reports prepared by the petitioning agency, and any hearsay contained within them, are admissible, and may constitute sufficient evidence upon which a finding of jurisdiction is based. (§ 355, subd. (b).) However, if a timely objection is raised to such hearsay evidence, that evidence "shall not be sufficient by itself to support a jurisdictional finding," unless the petitioner can establish a valid exception. (§ 355, subd. (c)(1).) Absent such an exception, the hearsay statements are not rendered inadmissible, but rather, unless they are corroborated, they do not constitute substantial evidence and cannot be used as the exclusive basis for finding jurisdiction under section 300. (*In re B.D.* (2007)

156 Cal.App.4th 975, 984.) “In this context, corroborating evidence is that which supports a logical and reasonable inference that the act described in the hearsay statement occurred.” (*Ibid.*)

Appellant made timely objections to the hearsay evidence contained in DCFS’s reports. She argues the only evidence against her was this hearsay evidence, and thus, the court was prohibited by section 355, subdivision (c)(1), from using that evidence as the sole basis for its finding of jurisdiction. We find the children’s own statements contained in the reports met one of the enumerated exceptions in section 355, and find that the reports constitute substantial evidence to support the court’s jurisdictional finding.

Hearsay statements contained in a petitioning agency’s reports may be relied on as the sole basis for a jurisdictional finding if the “hearsay declarant is a minor under 12 years of age who is the subject of the jurisdictional hearing.” (§ 355, subd. (c)(1)(B).) Our Supreme Court has stated that a juvenile court may rely exclusively on such statements if “the time, content and circumstances of the statement[s] provide sufficient indicia of reliability.” (*In re Lucero L.* (2000) 22 Cal.4th 1227, 1248.) “[A]ny factor bearing on reliability may be considered.” (*Id.* at p. 1250.)

The court stated that it found the twin’s statements regarding abuse at the hands of their brother and appellant to be “very consistent” over the course of conversations with “a multiple number of people.” “The decision of the juvenile court, if correct, will be upheld even if the stated reasons for the decision are erroneous or incomplete.” (*In re Lucero L., supra*, 22 Cal.4th at pp. 1249-1250.) We agree with the court that the statements by the children were fairly consistent over the many interviews conducted by DCFS. In addition, the statements of physical abuse were corroborated and the language used by the twins to describe the sexual abuse was evidence of the authenticity of the statements.

The twins’ statements regarding appellant’s inappropriate physical discipline were repeated multiple times by the girls, who stated that appellant hit them with a shoe, a belt, and appellant’s own hand. They made these claims when interviewed together and

separately and repeated them to multiple social workers. Their statements were corroborated by appellant's own testimony.

The twins initially disclosed sexual abuse by their brother to the investigating social worker. They reiterated these claims to that social worker the following day. The twins repeated their accounts of abuse at the hands of their brother on several other occasions with increasing detail, including an interview with the dependency investigator, a forensic interview with a social worker, and with their therapist.

The phrasing of the twins' statements regarding the physical and sexual abuse had "the mark of being made in [their] own words," and the only evidence of prompting was the twins' discussing appellant's instructions not to talk about Paul's penis. (*In re Lucero L.*, *supra*, 22 Cal.4th at p. 1250.) "Given this consistency over a considerable period of time reported by multiple sources, we cannot conclude the trial court abused its discretion in finding the statements reliable." (*Ibid.*) Therefore, we conclude the statements constituted substantial evidence on which the court could sustain counts b-4 and b-5, and count d-1, leading to a finding of jurisdiction under section 300, subdivisions (b) and (d).

Where there are multiple statutory bases for jurisdiction alleged in the dependency petition, a reviewing court can affirm the finding if any basis is supported by substantial evidence, and the court need not consider whether any or all of the other grounds are similarly supported. (*In re Alexis E.*, *supra*, 171 Cal.App.4th at pp. 450-451.) We have found substantial evidence supported a jurisdictional finding based on several counts and thus need not address the remaining counts in the sustained petition.

III

Appellant contends the court's dispositional orders were not supported by clear and convincing evidence. She argues the court's decision to deny her custody and grant only monitored supervision were not adequately supported by the record. She further contends the court's order that she undergo a psychological evaluation was inappropriate and was not supported by the evidence.

Even after children are properly deemed dependents of the juvenile court, they cannot be removed from their home unless there is clear and convincing evidence that

there would be a substantial danger to their “physical health, safety, protection, or physical or emotional well-being” if returned home, and there is no reasonable means of otherwise assuring their safety. (§ 361, subd. (c)(1); *In re Henry V.* (2004) 119 Cal.App.4th 522, 528-530.) We review such a dispositional order for substantial evidence. (*In re Henry V.*, at pp. 528-530; *In re D.G.* (2012) 208 Cal.App.4th 1562, 1574.)

The evidence in the record shows that appellant was made aware of serious issues facing her children, yet consistently failed to properly address or accept them. The children’s behavior and language indicates emotional and physical trauma. The record supports the court’s conclusion that the children’s continuing safety could not be assured if returned to appellant’s custody. At times, appellant was the direct source of physical harm to the children: hitting them with various household objects despite their young ages. There is substantial evidence supporting the court’s decision to remove the children from harm’s way.

We review a challenge to a juvenile court’s visitation terms for abuse of discretion. (*In re Brittany C.* (2011) 191 Cal.App.4th 1343, 1356.) We will not disturb the court’s order unless it is arbitrary, capricious, or patently absurd. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318.) As discussed, the court was faced with evidence of the children’s problematic behavior and use of graphic sexual language. The cause for such behavior and language could not be definitively determined but the record showed the issues were not being adequately addressed by appellant. There also was evidence of appellant’s inappropriate behavior when visiting with the children. Appellant had to be given strict instructions by the social workers, and the DCFS report indicated that appellant’s behavior was emotionally harmful to the children. Requiring monitored visits is one way to ensure that interactions between a parent and child are appropriate. Given the concerns, the order for monitored visits was neither arbitrary nor capricious.

Appellant’s argument regarding the psychological evaluation also fails. Once a court has established jurisdiction and declared a minor a dependent of the court, it has the authority to order an evaluation of a parent in order to assess what services, if any, will

facilitate the reunification of a child with his or her parent. (*In re C.C.* (2003) 111 Cal.App.4th 76, 91; § 361.5.) Multiple sources familiar with appellant and her interactions with the children expressed concerns about appellant's mental health and the possibly negative effects on the children. Given the additional concerns raised by the evidence before the court about the children's behavior and its possible causes, the decision to order a psychological evaluation was supported by the evidence and was not an abuse of discretion.

DISPOSITION

The jurisdictional findings and dispositional orders of the juvenile court are affirmed.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.