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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

JUAN A., Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Real Party in Interest,	B286589 (Los Angeles County Super. Ct. Nos. DK22343A, DK22343B)

ORIGINAL PROCEEDINGS. Petition for extraordinary writ. Frank J. Menetrez, Judge. Petition Denied.

Law Office of Danielle Butler Vappie and Christina Samons; Los Angeles Dependency Lawyers, Inc. and Amelia Meier for Petitioner.

No appearance for Respondent.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Julia Roberson, Deputy County Counsel, for Real Party in Interest.

INTRODUCTION

Petitioner, Juan A., is the presumed father of 14-year-old I.V. and eight-year-old Y.V. The juvenile court found father's history of committing violent felonies, including his use of a deadly weapon in a 2014 carjacking, placed the girls at risk of serious harm, and denied father reunification services on that basis. (See Welf. Inst. Code, §§ 300, subd. (b), 361.5, subd. (b)(12).)[1] Father contends the dependency petition's operative allegation was insufficient to sustain jurisdiction, the juvenile court failed to make the requisite findings with respect to its disposition order, and the court improperly relied upon an uncertified CLETS rap sheet in bypassing reunification services.[2] We find no error in the court's rulings. Father's petition is denied.

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[1] Statutory references are to the Welfare and Institutions Code, unless otherwise designated.

[2] "CLETS is an acronym for the California Law Enforcement Telecommunications System, a computer system administered by the Department of Justice." (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1449, fn. 3.)

FACTS AND PROCEDURAL BACKGROUND

The family consists of father and half-sisters, I.V. (born February 2004) and Y.V. (born January 2010).

The children came to the attention of the Los Angeles Department of Children and Family Services (the Department) in April 2017 after their mother was shot and killed in a random act of violence. At the time of the incident, the children were under the care of their mother's close friend, Anna J. Neither child was able to identify her father; however, I.V. believed Y.V.'s father was currently incarcerated and named "Carlos." Anna identified Y.V.'s father as "Juan Carlos." She said he had a destructive relationship with mother; he was violent with mother and he "smoked meth and would steal," which had resulted in his incarceration.

After interviewing the children and Anna, the Department filed a dependency petition alleging the children had no parent to care for them. The juvenile court found a prima facie case for jurisdiction and ordered the children to remain in Anna's care while the Department worked to identify their fathers or other family members.

On May 17, 2017, the Department received a telephone call from Juan A., who identified himself as Y.V.'s biological father.[3] He said he learned of mother's death from a friend and wanted information on the children. Juan A. confirmed his date of birth—July 10, 1993—and reported that he was currently incarcerated in state prison. The dependency investigator

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[3] Juan A. reported he was 15 years old when he conceived Y.V. with mother, who was 35 years old at the time. He said he declined to include his name on Y.V.'s birth certificate due to his age.

obtained his California Department of Corrections (CDC) number.[4]

Juan A. said it was odd that the children claimed not to know him. He said he lived with mother in 2010 when Y.V. was born, and claimed that he raised I.V. since she was five years old.[5] He confirmed he was incarcerated in 2014, identifying the charges as grand theft auto, second degree burglary, assault resulting in great bodily injury, and terrorist threats. He had not seen the girls since his incarceration, but claimed he last spoke with them three or four months earlier. He was eager to reconnect with them.

The Department interviewed I.V. about her recollections of Juan A. She said she had not seen him for several years and she did "not have good memories" of him. She believed he was a drug dealer, explaining, " 'I knew he was in that stuff because I would see him and hear him talking about it.' " She also said he was always smoking.

I.V. said Juan A. frequently kicked mother and the girls out of his home after fighting with mother. When this happened, they were forced to stay in another home where I.V. was sexually molested by an adult who lived there. She reported the abuse to mother, and said Juan A. knew the perpetrator. I.V. expressed

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[4] Juan A.'s counsel subsequently provided the same CDC number in a notification of mailing address form for her client.

[5] In July 2017, the Department spoke with a man who had been identified as I.V.'s biological father. The man said he was unaware of I.V.'s birth until 2005, he was unsure if he was her biological father, and he had no desire to be involved in her life or the dependency proceeding.

deep resentment and anger toward Juan A., who she blamed for subjecting her to the molestations. She did not wish to live with Juan A., but was willing to have monitored visits with him. She said he called her and Y.V. on their birthdays every year.

Y.V. said she did not have many memories of Juan A., other than receiving a birthday card from him. Like I.V., she did not want to live with Juan A., but was willing to have monitored visits.

The juvenile court ultimately found Juan A. to be Y.V.'s and I.V.'s presumed father.[6]

On September 18, 2017, the Department filed an amended petition, adding the following allegation under section 300, subdivision (b): "[The father] has an extensive criminal history. The father is currently incarcerated and serving his sentence for 7 felony convictions on his criminal record. On 08/07/2017 [*sic*], the father was convicted for the following; use of dangerous and deadly weapon in car-jacking, 2 counts of burglary in the second degree, 2 counts of threaten crime with intent to terrorize, grand theft auto and force/assault with a deadly weapon not firearm: [great bodily injury] likely. The father's criminal history and conduct endangers the child's physical health and safety and places the child at risk of serious physical harm, damage and

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[6] For the remainder of the opinion we refer to Juan A. as "father."

danger."[7] The Department recommended that the juvenile court bypass reunification services for father based on his current incarceration.

In support of the jurisdictional allegation and disposition recommendation, the Department submitted a report with the children's and Anna's statements, together with a CLETS transcript purporting to show father's criminal history. The transcript reflected search results from the CLETS database for three possible aliases (Juan A., Juan Carlos A., and Carlos A.), three birthdates (including the July 10, 1993 date father provided to the Department), three social security numbers, and a single CDC number that the Department used to correspond with father in prison. The transcript listed several arrests and convictions dating back to 2010, including a 2014 arrest record associated with father's July 10, 1993 date of birth. The 2014 arrest resulted in felony convictions for two counts of burglary (Pen. Code, § 459); one count of carjacking (*id.*, § 215, subd. (a)); two counts of criminal threats with intent to terrorize (*id.*, § 422, subd. (a)); one count of grand theft auto (*id.*, § 487, subd. (d)(1)); and one count of assault with a deadly weapon (*id.*, § 245, subd. (a)(1)). The transcript concluded with a "CDC CUSTODY" entry, bearing father's CDC number, reflecting a four-year prison sentence, commencing in August 2014, on the carjacking

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[7] We agree with the Department that the August 7, 2017 date referenced in the allegation was an apparent typographical error that is inconsequential to the grounds authorizing jurisdiction. As discussed below, the evidence upon which the court based its jurisdictional finding showed father suffered the listed felony convictions in August 2014, a fact he admitted in his initial conversation with the Department.

conviction with use of a deadly weapon enhancement (*id.*, § 12022, subd. (b)(2).)

Father filed a written demurrer to the amended dependency petition. He argued the allegation regarding his criminal convictions was insufficient to sustain jurisdiction under section 300, subdivision (b), without facts regarding the surrounding circumstances.

On October 12, 2017, the juvenile court held a hearing on the amended petition. After considering each counsel's argument, the court overruled father's demurrer and proceeded to adjudication. The court received the Department's reports, including the CLETS transcript, into evidence without objection. The Department, joined by the minors' counsel, asked the court to sustain jurisdiction, emphasizing that father's propensity to engage in criminal activity had endangered the children and continued to pose a risk of harm. Father's counsel asked the court to dismiss the petition, arguing the Department failed to establish a "nexus" between father's criminal history and the alleged risk. The court sustained the count regarding father's criminal history and continued the matter for a contested hearing on disposition.[8]

On November 9, 2017, the juvenile court held the contested disposition hearing. The court noted the Department's recommendation to deny reunification services, and questioned whether there was sufficient basis for the request. The Department responded that the court could bypass reunification

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[8] The juvenile court dismissed the other count, asserted prior to identifying father, which had alleged the children had no parent to care for them.

services under section 361.5, subdivisions (b)(12) and (e), based on father's felony carjacking conviction and his current incarceration.[9] Minors' counsel joined with the Department's recommendation, and argued services "would be detrimental to the children," citing I.V.'s recollections of father's criminal activity and the sexual abuse she suffered when father forced mother and the girls out of his home.

Father's counsel argued there was no basis to apply section 361.5, subdivision (e), because the Department's reports acknowledged father was set to be released in 2018, before the period for reunification services would expire.[10] As for section 361.5, subdivision (b)(12), counsel asserted the court could not invoke the bypass provision without a "certified copy of the

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[9] Section 361.5, subdivision (b)(12) states that reunification services need not be provided to a parent when the court finds, by clear and convincing evidence, that the parent "has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code." Carjacking, as defined in subdivision (a) of Penal Code section 215, is among the violent felony convictions that authorize the court to deny reunification services under section 361.5, subdivision (b)(12). Section 361.5, subdivision (e)(1) provides that, if the parent is incarcerated, "the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child."

[10] Section 361.5, subdivision (a)(1)(A) states, "for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the dispositional hearing and ending 12 months after the date the child entered foster care."

conviction." Counsel also urged the court to find reunification would be in the children's best interests, citing evidence of father's efforts to participate in anger management, domestic violence prevention, addiction recovery, and parenting classes while incarcerated.[11]

The court denied reunification services under section 361.5, subdivisions (b)(12) and (e). Focusing on the violent felony bypass provision, the court emphasized that father's counsel had offered no authority to support her assertion that a "certified" record was required to confirm the carjacking conviction. The court found father was convicted of a violent felony as set forth in the CLETS transcript, and ruled his evidence was insufficient to find reunification would be in the children's best interests. The court confirmed "[t]he removal findings and orders . . . [were made] pursuant to the court's powers under [sections] 361(a) and 362(a)," and set a permanency planning hearing under section 366.26.

DISCUSSION

1. *The Jurisdictional Allegation Was Facially Sufficient and the Finding Was Supported by Substantial Evidence*

Father challenges the juvenile court's jurisdiction on two grounds. First, he contends the dependency petition's operative allegation, as pled, was insufficient to sustain jurisdiction as a matter of law. Second, he argues the Department's evidence was

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[11] Section 361.5, subdivision (c)(2) states that the court "shall not order reunification for a parent," who, among other things, has been convicted of a violent felony, "unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child."

insufficient to support the court's jurisdictional finding. Neither contention has merit.

a. *Sufficiency of the pleading*

We begin with father's challenge to the facial sufficiency of the jurisdictional pleading. "A dependency petition must contain a 'concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.' (§ 332, subd. (f).) If the parent believes that the allegations, as drafted, do not support a finding that the child comes within section 300, the parent has the right to bring a motion akin to a demurrer." (*In re Kaylee H.* (2012) 205 Cal.App.4th 92, 107 (*Kaylee H.*).)

Section 300, subdivision (b)(1) authorizes the juvenile court to assume jurisdiction over a child if the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child." "When the facial sufficiency of a petition filed under section 300, subdivision (b) is challenged on review, we construe the well-pleaded facts in favor of the petition to determine whether the [Department] pleaded that the parent or guardian did not supervise or protect the children within the meaning of section 300, subdivision (b). [Citations.] A facially sufficient petition 'does not require the pleader to regurgitate the contents of the social worker's report into a petition, it merely requires the pleading of essential facts establishing at least one ground of juvenile court jurisdiction.' " (*Kaylee H., supra,* 205 Cal.App.4th

at p. 108; accord *In re James C.* (2002) 104 Cal.App.4th 470, 480 (*James C.*).)

The petition in this case alleged father was currently incarcerated and serving a sentence for a number of felony convictions, several of which involved violent conduct, including a conviction for carjacking with use of a deadly weapon. Father maintains the allegation was insufficient on its face because it failed to show that his criminal history placed the children at risk of harm "in some concrete and non-speculative manner." We disagree.

Construing the pleaded facts, as we must, in favor of the petition's adequacy, it takes no speculation to understand how the conduct and judgment that led to father's felony convictions endangered the children when they were in his custody and care. Nor need we speculate as to how father's propensity to engage in such conduct would continue to endanger the children. Indeed, the risk of harm is so self-evident that the Legislature has deemed a conviction for a violent felony, such as carjacking, sufficient, without more, to deny a parent reunification services. (See § 361.5, subd. (b)(12); Pen. Code, § 667.5, subd. (c)(17).) In view of this legislative judgment, and the reasonable inferences that can be drawn from father's violent criminal history, the petition's allegation was sufficient on its face. (See, e.g., *James C., supra,* 104 Cal.App.4th at p. 482 [holding "allegations were sufficient on their face," where petition alleged "the father's criminal history, which involved drugs and violence, could endanger the children's welfare"].)

b. *Sufficiency of the evidence*

Father contends the evidence was insufficient to support the court's jurisdictional finding because "the Department provided absolutely no information or evidence in support of the [jurisdictional] allegation except for a printout of [father's] record in the CLETS database and uncorroborated statements by the children's caretaker." Absent "police reports regarding [father's] alleged conduct that resulted in his criminal convictions," or "evidence that any children were involved in or otherwise affected by [father's] alleged criminal conduct," father argues the juvenile court could not reasonably find the children had suffered, or were at risk of suffering, physical harm as required by section 300, subdivision (b). Again, we disagree.

In assessing the sufficiency of the evidence to support the juvenile court's jurisdictional findings, we review the entire record to see "if substantial evidence, contradicted or uncontradicted, supports them." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) "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.*) "Evidence from a single witness, even a party, can be sufficient to support the trial court's finding" (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451), and we may not disturb the court's finding "unless it exceeds the bounds of reason" (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564).

Consistent with the juvenile court's finding, the evidence showed father's judgment and conduct, which resulted in multiple felony convictions, endangered the children. Father acknowledged the children lived with him in 2014 when he was arrested on charges that resulted in his felony convictions, including, by his own account, charges for grand theft auto, second degree burglary, and assault resulting in great bodily injury. I.V. had traumatic memories of her time living with father. She said his home was always "dirty," and she knew he was dealing drugs because she would " 'see him and hear him talking about it' " and he was "always smoking." Her statements were corroborated by Anna's recollection that father "smoked meth" as his "drug of choice" when he lived with mother and the children. Most disturbingly, I.V. reported that father's conduct—his frequent expulsions of mother and the girls from his home—subjected I.V. to a dangerous condition where she was repeatedly subjected to sexual abuse by another adult. She reported that father knew the person who molested her, but failed to protect her from the abuse.

I.V.'s and Anna's statements, coupled with father's admitted criminal history, were sufficient to establish that father's past criminal and reckless conduct subjected the children to serious physical harm. Although father offered evidence of his efforts to rehabilitate in prison, his conduct in that controlled setting did not preclude the juvenile court from finding a current risk that his endangering behavior would reoccur. (See *In re Rocco M.* (1991) 1 Cal.App.4th 814, 824 ["evidence of past conduct may be probative of current [risk] conditions"].) The juvenile court, "having substantial interests in preventing the consequences caused by a perceived danger," did not err in

asserting jurisdiction to protect these children.[12] (*In re Eric B.* (1987) 189 Cal.App.3d 996, 1003.)

2. *The Juvenile Court Acted Within Its Statutory Authority to Make Reasonable Disposition Orders for the Care and Custody of the Children*

Father contends the juvenile court erred by removing the children from his physical custody under section 361, subdivision (c), despite the fact that he was not a custodial parent. The record does not support his contention.

Section 361, subdivision (c) mandates that "[a] dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians *with whom the child resides at the time the petition was initiated*, unless the juvenile court finds

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[12] In a footnote, father suggests the juvenile court should have considered probate guardianship as an alternative placement for the children, citing *Kaylee H., supra,* 205 Cal.App.4th at p. 106 for the proposition that juvenile court intervention is not authorized if a guardianship is sufficient to ensure a child's safety. In *Kaylee H.*, the parents had placed their daughter with her paternal great-uncle while they worked to resolve their substance abuse problems. (*Id.* at p. 97.) With the parents' consent, the uncle filed for and was granted temporary guardianship in the probate court. (*Ibid.*) The juvenile court, nevertheless, asserted dependency jurisdiction. The appellate court ruled this was error, because the child was "in the custody of a *suitable and protective* guardian." (*Id.* at p. 107.) Unlike *Kaylee H.*, there was not a probate guardianship in place when the Department filed the petition for dependency. Under the circumstances, the juvenile court reasonably assumed jurisdiction to supervise the welfare of these children, even as it ordered that they remain suitably placed in Anna's care, while it adjudicated father's parental rights.

clear and convincing evidence of" certain enumerated circumstances. (Italics added.) As its express language demonstrates, "section 361, subdivision (c), restricts the juvenile court's authority at disposition only when the court is considering removing a dependent child from the physical custody of the parent with whom the child actually resides." (*In re Anthony Q.* (2016) 5 Cal.App.5th 336, 350 (*Anthony Q.*).) But, in all other circumstances, "the dependency court has the power under section 361, subdivision (a) and section 362, subdivision (a) to limit the access of a parent with whom the child does not reside and thus *effectively remove the child from the noncustodial parent*."[13] (*In re Julien H.* (2016) 3 Cal.App.5th 1084, 1090, italics added; accord *In re Dakota J.* (2015) 242 Cal.App.4th 619, 632 ["Unlike section 361, subdivision (c), section 361, subdivision (a), applies to '*any* parent or guardian,' not solely custodial parents or guardians"].)

In delivering its disposition order from the bench, the juvenile court expressly stated its "removal findings and orders . . . [were made] pursuant to the court's powers under

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[13] Section 361, subdivision (a)(1) provides, "[i]n all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations." Section 362, subdivision (a) states, "If a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court."

[sections] 361(a) and 362(a)." Nevertheless, father appears to premise his contention on the court's written order, which added that the court had found "by clear and convincing evidence, pursuant to Welfare and Institutions Code section 361(a)(1), *361(c)*, and 362(a)" that it was "reasonable and necessary to remove the [children] from the father." (Italics added.) The mere reference to an additional statutory provision in the court's written order is insufficient to establish reversible error. So long as the court had authority to make the order, and its order was supported by the evidence, there was no miscarriage of justice to be corrected by reversal. (See Cal. Const., art. VI, § 13 ["No judgment shall be set aside . . . for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice"]; *In re D'Anthony D.* (2014) 230 Cal.App.4th 292 [although juvenile court erred in removing child from noncustodial parent under section 361, subdivision (c), the error was harmless because evidence supported the requisite detriment finding under section 361.2, subdivision (a)].)[14]

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[14] As the Department correctly points out, father's contention that the court was required to make findings under section 361.2 is contrary to that statute's express language. Section 361.2, subdivision (a) establishes a procedure for the juvenile court to consider placement with a non-custodial parent, after the court "orders removal of a child pursuant to Section 361." Here, because the children were not removed from mother, who was deceased, section 361.2 did not apply, and the juvenile court properly invoked its general authority under section 361, subdivision (a) and section 362, subdivision (a). (See *Anthony Q., supra,* 5 Cal.App.5th at pp. 350-351.)

Here, the juvenile court invoked the appropriate statutory authority in making its disposition order, and father does not dispute that the order was supported by the evidence.[15] We find no error.

3. *The Juvenile Court Properly Denied Reunification Services Under the Violent Felony Bypass Provision*

Father contends the juvenile court erred when it denied him reunification services under section 361.5, subdivision (b)(12)—the violent felony bypass provision. He maintains the CLETS transcript was insufficient to prove he was convicted of a violent felony, and argues the evidence compelled the juvenile court to find reunification would be in the children's best interests. Neither contention has merit.

a. *The violent felony conviction finding*

"As a general rule, reunification services are offered to parents whose children are removed from their custody in an effort to eliminate the conditions leading to loss of custody and facilitate reunification of parent and child." (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 478.) "Section 361.5, subdivision (b) sets forth certain exceptions—also called reunification bypass provisions—to this 'general mandate of providing reunification services.' " (*In re Allison J.* (2010) 190 Cal.App.4th 1106, 1112.) "When the court determines a bypass provision applies, the general rule favoring reunification is replaced with a legislative presumption that reunification services would be ' "an unwise use of governmental resources." ' " (*Ibid.*; *In re Baby Boy H.,* at p. 478

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[15] Notably, at the disposition hearing, father expressly stated he did not seek custody and he requested only visitation. The juvenile court granted supervised visitation.

[in section 361.5, subdivision (b), the Legislature "recognize[d] that it may be fruitless to provide reunification services under certain circumstances"].)

Section 361.5, subdivision (b)(12) authorizes the juvenile court to deny a parent reunification services if the court finds, by clear and convincing evidence, that the parent "has been convicted of a violent felony," such as carjacking as defined by Penal Code section 215, subdivision (a). (§ 361.5, subd. (b)(12); see also fn. 8, *ante*.) "An appellate court reviews a court's findings under section 361.5 for substantial evidence. [Citation.] In so doing, we presume 'in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order.' " (*In re G.L.* (2014) 222 Cal.App.4th 1153, 1164 (*G.L.*); *James C., supra,* 104 Cal.App.4th at p. 484.)

Father contends the "unauthenticated" CLETS transcript was insufficient to find he had been convicted of carjacking. Citing Evidence Code section 452.5, father suggests a "certified" record of conviction was required before the court could deny him reunification services under section 361.5, subdivision (b)(12).[16]

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[16] Evidence Code section 452.5, subdivision (b)(1) provides that "[a]n official record of conviction certified in accordance with subdivision (a) of Section 1530, or an electronically digitized copy thereof, is admissible under Section 1280 to prove the commission, attempted commission, or solicitation of a criminal offense, prior conviction, service of a prison term, or other act, condition, or event recorded by the record." Evidence Code section 1280 is the official records exception to the hearsay rule. (*People v. Martinez* (2000) 22 Cal.4th 106, 113, 119 (*Martinez*).)

He also argues the multiple dates of birth and social security numbers listed on the CLETS transcript raised enough doubt about the transcript's authenticity that the juvenile court could not rely on it as the "sole basis" for applying the bypass provision.

Our Supreme Court's decision in *People v. Martinez* is controlling. There, the court considered whether an "uncertified" CLETS transcript was admissible under the official records exception to the hearsay rule (Evid. Code, § 1280) to establish the defendant was a habitual criminal offender. (*Martinez, supra,* 22 Cal.4th at pp. 111-112.) Like father in this case, the defendant in *Martinez* suggested Evidence Code section 452.5, precluded the court from relying on the uncertified CLETS transcript to establish his prior convictions. (*Martinez,* at pp. 118-119.) The Supreme Court rejected the argument, observing that the purpose of Evidence Code section 452.5, like other provisions of the Criminal Convictions Record Act, was "merely 'to *simplify* recordkeeping and admission in evidence of records of criminal convictions,' " and, in enacting the provision, "the Legislature did not question the accuracy or trustworthiness of existing information sources, such as CLETS." (*Martinez,* at p. 119.)

Moving on to application of the official records exception, the *Martinez* court emphasized that the CLETS database was subject to significant statutory and reporting duties, including, among other provisions, Government Code sections 15150 through 15167, which placed the CLETS database under the direction of the Attorney General with the mandate to ensure the accuracy and efficient accessibility of the database for state agencies. (*Martinez, supra,* 22 Cal.4th at pp. 121-125.) The Supreme Court explained that, "[i]n applying the official records

exception, these statutory reporting and recording duties are significant because, under Evidence Code section 664, '[i]t is presumed that official duty has been regularly performed.' " (*Id.* at p. 125.) " 'This presumption,' " the court continued, " 'shifts the burden of proving the foundational issue of trustworthiness of the method of preparing the official writing to the party objecting to the admission of the official writing.' " (*Id.* at p. 130.) Because the defendant failed to offer "evidence to support his attack on the trial court's trustworthiness finding," the Supreme Court concluded it was not an abuse of discretion to admit the uncertified CLETS report under the official records exception. (*Id.* at pp. 133-134.)

Martinez conclusively refutes father's principal contention that a certified record, as opposed to an uncertified CLETS transcript, is required to prove a prior conviction. Moreover, as discussed in *Martinez*, given the presumption that state officials properly discharged their duties with respect to the CLETS database, the juvenile court could reasonably rely upon the contents of the transcript, without requiring witness testimony to independently verify its accuracy. (See *Martinez, supra,* 22 Cal.4th at p. 130; *People v. Dunlap* (1993) 18 Cal.App.4th 1468, 1477 ["a court may rely on the rebuttable presumption that official duty has been regularly performed (Evid. Code, § 664) as a basis for finding that the foundational requirements of Evidence Code section 1280 are met," without requiring a witness to testify to the identity of the record or its mode of preparation].) And, although the first page of the CLETS transcript listed multiple dates of birth and social security numbers, the critical entry regarding father's carjacking conviction listed only one date of birth—the July 10, 1993 date father provided to the

Department—and one CDC number—the number the Department used to correspond with father in prison.[17] Finally, the date of the carjacking conviction and the four-year sentence set forth in the CLETS transcript were consistent with father's admission that he was incarcerated in 2014 for, among other things, grand theft auto, and that he anticipated he would be released in 2018. Viewing this record in the light most favorable to the court's finding, we conclude substantial evidence supported the decision to deny father reunification services under section 361.5, subdivision (b)(12).

b. *The best interests of the children*

Section 361.5, subdivision (c)(2) directs that the juvenile court "shall not order reunification for a parent" who was convicted of a violent felony, "unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child." In assessing the children's best interests, the "court

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[17] In his reply brief, father argues *Martinez* is distinguishable because the prosecution in that case had a witness testify about his experience accessing the CLETS database. The distinction makes no substantive difference. The witness in *Martinez*, a paralegal for the Los Angeles District Attorney's Office, testified that he obtained the subject CLETS transcript by inputting several aliases for the defendant with his date of birth, and that the "various identification numbers and criminal history information on the CLETS printout matched identification numbers and criminal history information on other exhibits." (*Martinez, supra,* 22 Cal.4th at p. 120.) Likewise, here, the information contained in the CLETS transcript was corroborated by other documents in the court's file, including a notification of mailing address form, submitted by father's counsel, that identified the same CDC number as the one associated with the carjacking conviction in the CLETS transcript.

should consider 'a parent's current efforts and fitness as well as the parent's history'; '[t]he gravity of the problem that led to the dependency'; the strength of the bonds between the child and the parent and between the child and the caretaker; and 'the child's need for stability and continuity.' " (*In re William B.* (2008) 163 Cal.App.4th 1220, 1228 (*William B.*); *G.L., supra,* 22 Cal.App.4th at p. 1164.) "The burden is on the parent to . . . show that reunification would serve the best interests of the child." (*William B.,* at p. 1227.)

"A juvenile court has broad discretion when determining whether . . . reunification services would be in the best interests of the child under section 361.5, subdivision (c). [Citation.] An appellate court will reverse that determination only if the juvenile court abuses its discretion." (*William B., supra*, 163 Cal.App.4th at p. 1229; *G.L., supra,* 22 Cal.App.4th at pp. 1164-1165.)

Father cannot demonstrate the juvenile court abused its discretion by concluding reunification would not serve the children's best interests. Although he presented evidence of his commendable efforts to rehabilitate himself in prison, those efforts did not compel the court to make a best interest finding, given all the other evidence supporting the opposite conclusion. As discussed, at the time of the disposition hearing, father had been incarcerated for nearly four years on multiple felony convictions. During that time he had almost no contact with the children, who were unable to positively identify him when they were initially interviewed by the Department. When he eventually came forward to report he had lived with the children for three to four years before his incarceration, I.V. disclosed that she did "not have good memories of him," that she believed he

was a drug dealer, and that she blamed him for subjecting her to conditions where she was repeatedly sexually abused. For her part, Y.V. reported that she had no memories of father, apart from receiving a birthday card from him. Neither child wished to live with father, and both reported they wanted to stay with Anna, who had cared for them since their mother's untimely death. On this record, there is simply no credible basis to argue the juvenile court abused its discretion by declining to find reunification services would be in the children's best interests.[18] We find no error in the court's ruling.

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[18] The juvenile court also denied reunification services under section 361.5, subdivision (e)(1), which states, "[i]f the parent or guardian is incarcerated . . . the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child." Father does not address the merits of the court's order; rather, he contends "the trial court did not actually make [a] finding under section 361.5, subdivision (e)," because the court did not articulate its findings at the hearing. However, "[o]n appeal, we must indulge '[a]ll intendments and presumptions . . . to support [the lower court's order] on matters as to which the record is silent.' " (*In re Zamer G.* (2007) 153 Cal.App.4th 1253, 1271.) If the ruling is correct " 'upon any theory of law applicable to the case,' " we will sustain it, " 'regardless of the considerations that moved the lower court to its conclusion.' " (*Ibid.*) Thus, if there is substantial evidence to support the court's written order, we must affirm it, regardless of what reasons were or were not articulated at the disposition hearing.

In determining detriment, section 361.5, subdivision (e)(1) directs the juvenile court to consider "the age of the child, the degree of parent-child bonding, the length of the sentence, the length and nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not

DISPOSITION

The petition for extraordinary relief is denied.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

EDMON, P. J.

LAVIN, J.

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offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, the likelihood of the parent's discharge from incarceration, institutionalization, or detention within the reunification time limitations described in subdivision (a), and any other appropriate factors." (§ 361.5, subd. (e)(1).) Here, as we have discussed with respect to the best interests of the children analysis, there was ample evidence to find "detriment" under the factors enumerated in section 361.5, subdivision (e).