

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re ALEXANDER B. et al.,
Persons Coming Under the
Juvenile Court Law.

B294894
(Los Angeles County
Super. Ct. No. 18CCJP07015)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

JENNIFER V.,

Defendant and Appellant.

APPEAL from the jurisdictional and dispositional orders of the Superior Court of Los Angeles County, Danette J. Gomez, Judge. The jurisdictional order is affirmed in part and reversed in part. The dispositional order is affirmed.

Caitlin Christian, under appointment by the
Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Kimberly Roura, Deputy County
Counsel, for Plaintiff and Respondent.

Mother appeals from the juvenile court's jurisdictional and dispositional orders declaring her two sons dependents of the juvenile court. Mother challenges the jurisdictional findings as to father and her, albeit in the juvenile court, father did not dispute jurisdiction based on his conduct. We conclude substantial evidence supported jurisdiction over the children based on father's methamphetamine abuse and inability to care for them when he was under the influence of a controlled substance.

The same is not true for the jurisdictional findings as to mother. At the time of the jurisdictional hearing, there was no substantial evidence mother failed to protect her children from father's substance abuse. To the contrary, mother insisted father move out of the family home and successfully complete a substance abuse program before returning. Mother then made arrangements for father to live elsewhere.

We conclude mother forfeited her challenges to the juvenile court's dispositional orders by not objecting to them below. We also conclude the court did not abuse its discretion in requiring mother to participate in programs designed to increase mother's awareness of signs of substance abuse.

In sum, we reverse the juvenile court's findings that mother failed to protect the children. We otherwise affirm the juvenile court's jurisdictional and dispositional orders.

FACTUAL AND PROCEDURAL BACKGROUND

Alexander was six years old and David was four years old when dependency proceedings commenced. Mother worked in a grocery store and a department store. Father worked in a grocery store. Father and mother were not married but had been in a relationship for 10 years.

1. Welfare and Institutions Code Section 300 Petition

The Welfare and Institutions Code¹ section 300 petition alleged that father had a history of substance abuse and currently abused amphetamine and methamphetamine rendering him incapable of caring for Alexander and David (the children). The children were in father's care when he was arrested for being under the influence of a controlled substance. Two days later, father had a positive toxicology screen for amphetamine and methamphetamine.

The petition also alleged that mother knew of father's substance abuse and failed to protect the children.

2. Detention Report

DCFS reported that on October 20, 2018, when responding to an unrelated call at an intersection near a shopping center, officers observed father to be "‘super fidgety and paranoid.’"

Father was incoherent and disoriented. He did not know where he was going and repeated: "‘I need to follow directions.’" (Italics omitted.) Father had trouble providing his name and was grinding his teeth. Father's "speech was repetitive and fast (often unintelligible). He turned his head side to side, had

¹ All statutory citations are to the Welfare and Institutions Code.

difficulty answering simple questions and could not follow simple instructions.” Father’s pupils were dilated, and he had tremors in his hands and arms. Father’s lips were slightly burnt. The fingertips on his left hand were burnt, a sign that father had used a glass pipe to smoke narcotics. Officers described the children as afraid and confused.

On October 20, 2018, officers arrested father for being under the influence of a controlled substance. Mother said that she saw father at lunchtime (a few hours before his arrest) and that he was fine. Mother recounted that in the 10 years she has known father, he has not used drugs and she never saw him use drugs. Mother also said that “father has a history of crystal.” (Italics omitted.) According to an officer, “[c]rystal” is a term used to refer to methamphetamine.

Mother told a social worker that she did not want father to return to the family home until he completed a drug rehabilitation program. Mother said she would not have allowed father around the children if she knew that he was using drugs. Mother contacted a paternal aunt to request father stay with the aunt.

Father acknowledged to social workers he used methamphetamine and stated that he was embarrassed. He reported that mother did not know of his methamphetamine use. According to father: “The night before [father’s arrest] I was deprived of sleep for 2 days because I had used meth. I had never been arrested for drugs. I had used meth on the street far away from home. I only do one line but this time, I inhaled 2 lines around 3 pm and it affected me that way it did. It was the worst error I had done. When I used, the children were with my mom; she was watching them.” (Bold and italics omitted.)

Father continued: “The first time I tried meth was about 6-7 months ago. There is no excuse for my use. It made me feel good and friend’s pressure. I am not addicted. I do not have any drug problem. I do not use[] when I am around the mother or the children.” (Bold and italics omitted.) Father stated that he was willing to participate in a substance abuse program.

Father tested positive for methamphetamine and amphetamine on October 22, 2018.

3. Jurisdiction Report

DCFS prepared a jurisdiction report dated December 12, 2018. Mother told social workers that father’s October positive drug test was the first time she was aware father was using drugs. Mother also told social workers that she wanted father to participate in a substance abuse program. She indicated she would not have allowed father near the children if she had known he was using drugs.

When interviewed, father stated that within the last seven months, he used cocaine once and methamphetamine twice. Father reported that the last time he used methamphetamine was October 19, 2018, the day before his arrest.

At the time of the jurisdictional hearing, father had not “enrolled in any programs,” including any substance abuse program. Father tested negative for controlled substances including methamphetamine twice in November 2018. DCFS recommended that mother be ordered to participate in Al-Anon Family Groups (Al-Anon) meetings and conjoint counseling with father. DCFS recommended that father complete individual counseling, a parenting class, and a substance abuse rehabilitation treatment program.

4. Hearing

No witness testified at the jurisdictional or dispositional hearing. Father's counsel presented no argument on jurisdiction.

Mother's counsel argued that mother did not know father was abusing methamphetamine. Mother's counsel requested that the juvenile court find mother nonoffending and indicated mother could still be ordered to attend Al-Anon meetings to give "her the tools to be able to recognize this in the future."

5. Juvenile Court's Findings and Orders

On December 12, 2018, the juvenile court assumed jurisdiction over the children. The juvenile court rejected mother's credibility. It concluded that mother knew or should have known of father's use of methamphetamine. The juvenile court emphasized that father was awake for three consecutive days.

For disposition, the juvenile court allowed the children to remain in mother's custody. The court required mother to attend an Al-Anon program and conjoint counseling with father. Mother's counsel did not object or request a different disposition.

The court removed the children from father's custody. The court ordered that father's visits be monitored. It further ordered that father participate in a full drug and alcohol program, a parenting class, conjoint counseling with mother, and individual counseling.

This timely appeal followed. Only mother is a party to the appeal.

DISCUSSION

Mother contends: (1) substantial evidence did not support the juvenile court's jurisdictional findings against father or her; and (2) the juvenile court's dispositional orders were an abuse of discretion.

A. Substantial Evidence Supported the Allegations that Father Abused Methamphetamine and Posed a Risk to the Children

“ ‘In reviewing the jurisdictional findings and the disposition, we look to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] 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.’ (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Mother argues that no substantial evidence supported jurisdiction based on father's substance abuse. According to mother, “insufficient evidence established Father had an ongoing substance abuse problem that continued to endanger the children at the time of the [jurisdictional] hearing.” (*Italics omitted.*) We disagree.

Substantial evidence supported the finding that father's substance abuse continued to place the children at risk at the time of the hearing. (See *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1218–1219.) The children were in father's custody when father was under the influence of methamphetamine and appeared paranoid, disoriented, and

was unable to answer simple questions. The jurisdictional hearing occurred less than two months after this incident. At the jurisdictional hearing, father did not dispute that he abused substances, and there was evidence that he had used multiple substances and was unable to function in public. Father acknowledged taking higher doses of methamphetamine than he previously used at the same time he was responsible for his children's care. Father acknowledged using methamphetamine because of peer pressure. He was arrested for being under a controlled substance in public. Significantly, at the time of the jurisdictional hearing, father had not yet enrolled in a substance abuse program.

This case is distinguishable from *In re L.C.* (2019) 38 Cal.App.5th 646 in which this court recently reversed a juvenile court's assumption of jurisdiction over a legal guardian who used methamphetamine outside the presence of the child while the child was in the care of another adult. Additionally, before the jurisdictional hearing, the legal guardian enrolled in a controlled substances class and arranged for his own drug tests to show that he had stopped using methamphetamine. (*Id.* at pp. 650–651.) In contrast, here, the children were in father's care while he was under the influence of methamphetamine. Further, although father agreed to participate in a substance abuse program, he had not enrolled in one at the time of the jurisdictional hearing.

B. No Substantial Evidence Supported the Findings that Mother Failed to Protect the Children at the Relevant Time

Mother also argues that insufficient evidence established she failed to protect the children from father's drug use.

Respondent argues that mother knew or should have known of father's substance abuse.

Dependency law's focus is on the protection of children. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491.) Thus, generally, if there is jurisdiction based on one parent's conduct, we need not address whether jurisdictional findings as to the other parent are well-founded. (*In re J.C.* (2014) 233 Cal.App.4th 1, 3.) Here, however, we choose to address whether substantial evidence supported the jurisdictional findings against mother because the finding that she was an offending parent could prejudice her in future dependency proceedings. (*Id.* at pp. 3–4; *In re Drake M.* (2012) 211 Cal.App.4th 754, 763; cf. *In re J.S.* (2011) 199 Cal.App.4th 1291, 1295; *In re Daisy H.* (2011) 192 Cal.App.4th 713, 716.)

The time of the jurisdictional hearing is the relevant time frame for assessing risk to dependents in juvenile court. (*In re Israel T.* (2018) 30 Cal.App.5th 47, 51.) At the time of the jurisdictional hearing, mother had required father to move out of the family home until he completed a substance abuse program. Mother's undisputed, voluntary conduct in requiring father to leave the home demonstrated that she would protect her children, even at the expense of her relationship with father. Assuming mother knew of, or should have known of father's use of methamphetamine earlier, there was no evidence at the time of the jurisdictional hearing that mother posed a risk to the children. No substantial evidence demonstrated mother was unable to provide regular care for the children, who remained in her custody.

C. The Juvenile Court’s Dispositional Order Fell Within Its Broad Discretion

For the first time on appeal, mother challenges the juvenile court’s dispositional order. “Apart from the statutory limitation on its authority to remove a child from a custodial parent with whom the child was residing at the time the dependency petition was filed (see § 361, subd. (c)), the juvenile court enjoys wide discretion to make any orders necessary to protect the dependent child (§ 361, subd. (a)), including ‘all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child’ (§ 362, subd. (a)) and those orders directed to the parents of a dependent child that it ‘deems necessary and proper for the best interests of or for the rehabilitation of the minor’ (§ 245.5).” (*In re Destiny D.* (2017) 15 Cal.App.5th 197, 207.) “[T]here need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order.” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311.)

Significantly, mother did not challenge the juvenile court’s disposition in the juvenile court, and has thus forfeited a challenge to the order on appeal. (*In re T.G.* (2015) 242 Cal.App.4th 976, 984; *In re S.B.* (2004) 32 Cal.4th 1287, 1292.) Mother received the disposition she desired; the children remained in her custody. Her counsel acknowledged mother’s need to attend Al-Anon meetings to recognize signs of substance abuse. Mother makes no argument concerning the requirement that she attend conjoint counseling with father, the only other dispositional order regarding her.

Mother argues that the juvenile court abused its discretion by “ordering continued juvenile court intervention in the family” According to mother, “the limited resources of the

dependency court and county agencies should be reserved for those situations, where the child is placed with a non-parent, or previously noncustodial parent, and ongoing services are necessary to protect the child from a substantial risk of harm.” That argument is based on an incorrect premise. Jurisdiction was necessary to protect the children from risk created by their father.

DISPOSITION

The juvenile court’s finding pursuant to section 300 that mother failed to protect the children is reversed. In all other respects, the juvenile court’s jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.