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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re HANNAH W., a Person
Coming Under the Juvenile Court
Law.

B278258

(Los Angeles County
Super. Ct. No. CK90173)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JENNIFER W.,

Defendant and Appellant,

TIMOTHY D.,

Objector and Respondent.

APPEAL from the judgment of the Superior Court of
Los Angeles County, Veronica McBeth, Judge. Affirmed.

Neale B. Gold, under appointment by the Court of Appeal, for Defendant and Appellant Jennifer W.

Karen B. Stalter, under appointment by the Court of Appeal, for Respondent Timothy D.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Jeanette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent Los Angeles County Department of Children and Family Services.

Jennifer W. appeals from jurisdictional findings and disposition orders declaring her daughter, Hannah W., a dependent of the juvenile court, and removing the child from her custody. Jennifer W. argues there was insufficient evidence to support the court's findings that her mental illness placed Hannah W. at substantial risk of physical harm, and that placing Hannah W. with her father would not be detrimental to the child's well-being. We affirm.

FACTUAL AND PROCEDURAL HISTORY

A. Referral and Detention

1. Events preceding the filing of the section 300 petition

On July 14, 2016, the Los Angeles County Department of Children and Family Services (DCFS) received a referral alleging Jennifer W. (Mother) had called law enforcement to report that she heard voices instructing her to “spit on” and “kill” her then seven-year-old daughter, Hannah W. Mother was subsequently

transported to a medical facility and placed on a 72-hour psychiatric hold. (See Welf. & Inst. Code, § 5150.)¹

An officer who had responded to Mother's call informed DCFS she had told law enforcement personnel she was "afraid of hurting her daughter . . . because of . . . [the] voices" she was hearing. The officer also reported that Mother had said "the devil" was trying to control her, and that her neighbor was using "black magic" to hurt her and Hannah.

DCFS interviewed Mother at the medical facility where she was being held. Mother stated that she had contacted the police because she had been hearing voices, and believed "the devil was telling [her] to spit on Hannah." Mother said she had been hearing voices for the past several months, and normally "cope[d]" with the voices "by praying or calling a friend." On the day of the incident, however, she had elected to call the police because "the voices became very strong," and she "could not bear it." Mother informed DCFS that Hannah's father, Timothy D. (Father), was currently permitted to have monitored visits with the child. Mother further asserted, however, that Father had falsified documents in family court, and should not be trusted.

DCFS also spoke with an emergency room physician who had treated Mother. Although the physician was unable to provide a full medical diagnosis, he believed Mother was exhibiting symptoms of "Paranoia Schizophrenia." The physician also reported that Mother had told medical staff she believed Father was abusing Hannah.

¹ Unless otherwise noted, all further statutory citations are to the Welfare and Institutions Code.

DCFS also interviewed Hannah, who had been placed with her maternal aunt, Deborah R.² Hannah stated that although Mother talked to herself several times a day and acted “weird,” she had never abused Hannah, and always provided sufficient food and clothing.

DCFS interviewed Father at his home, where he lived with his then fiancé (now wife) Frankye C. and her nine-year-old son. Father told DCFS he had monitored visits with Hannah, but was currently seeking a family court order awarding him joint custody of the child. Father stated that he had also asked the family court to evaluate Mother’s mental health due to her recent behavior. Father explained that Mother had thrown out \$500 of clothing he had purchased for Hannah because she believed it was “cursed in ‘voodoo dust.’” Father also claimed Mother had falsely accused him of harming the child.

2. Section 300 petition and detention

On July 20, 2016, DCFS filed a petition alleging Hannah fell within the jurisdiction of the juvenile court under section 300, subdivision (b). The petition contained a single count asserting that Mother had “mental and emotional problems, including auditory hallucinations and delusions” that placed Hannah at substantial risk of harm. The count also alleged Father “knew of the mental and emotional problems of mother and failed to protect the child.”

In support of the petition, DCFS filed a detention report that contained a summary of its initial interviews with family

² DCFS’s reports refer to Deborah R. as Hannah’s “Maternal Aunt” and her “Maternal Great Aunt.” For the purposes of this appeal, we will refer to Deborah R. as the child’s maternal aunt.

members and other individuals involved in the case. The report indicated Mother had three prior child welfare referrals related to Hannah. In 2011, the juvenile court had sustained an allegation that Mother had physically abused Hannah by “spank[ing]” her with a “wooden back scratcher,” which resulted in “multiple bruises on minor’s arms and lower legs.” In May of 2013, DCFS received a second referral alleging Mother was physically abusing the child, but the allegation was deemed inconclusive. A third referral in 2016 for “general neglect” was “evaluated out.”

The detention report also showed Father had an extensive criminal history that included an arrest for willful child cruelty in 1993, and a felony conviction for robbery in 1996. Father’s only reported criminal activity since 2001 consisted of an arrest for pandering in September of 2015, which had been dismissed without charges being filed.

In its assessment and recommendation, DCFS concluded that Mother was suffering from an “untreated mental health [illness]” that placed the child at “high” risk of harm. DCFS recommended that Hannah remain placed with her maternal aunt, and that both parents receive monitored visitation and reunification services.

The court found DCFS had made a prima facie showing Hannah was a person described in section 300, subdivision (b), and scheduled a jurisdiction and disposition hearing on August 18, 2016. The court also found Timothy D. to be the child’s presumed father, and ordered DCFS to prepare a “pre-release investigation” assessing the suitability of his home for placement.

B. Hannah's Release to Father

On July 27, 2016, DCFS submitted its pre-release report. The report stated that DCFS had interviewed Father and Frankye C. at their home, where they had resided for the past five years. Father stated that he was self-employed as a music agent, and also did construction work. Frankye owned a tax preparation business.

At the time of the interview, three of Hannah's half-siblings (ages nine, five and four) were visiting Father. DCFS reported that during its two hour visit, the three children played "peacefully" together in a separate room, and had behaved "very well." Father spoke to the children "respectfully," and they "followed [his] directions."

Father informed DCFS he wanted Hannah to live with him and Frankye, and believed they could provide the child with "structure and stability." Father explained that Hannah would be able to attend a "good school," "socialize with her siblings" and have her "own bed."

Father said he did not have a relationship with Mother. Although he had previously "attempted to communicate with [M]other regarding [Hannah's] upbringing, [Mother] ha[d] not been open to doing so." Father informed DCFS Mother had obtained full custody of Hannah because he had failed to comply with the court's orders in a prior dependency matter. He expressed regret for his past noncompliance, and stated that he understood he would be required to follow any orders the court might impose in this case. He also said the family court had recently permitted him to have unmonitored visits with Hannah.

Father also acknowledged his criminal history, admitting that he had been arrested for pandering and driving with a

suspended license in 2015. Father stated that the pandering charge had been dropped, and that he was on summary probation for driving without a license. Father also disclosed that he had served seven years in prison for a robbery he had committed in 1996. He had been released from the conditions of his parole supervision in 2006, and had not been arrested again until 2015. Father also addressed his child cruelty arrest from 1993, explaining that he had been pulled over because his then three-old son was sitting in the front passenger seat of the car without a car seat.

Frankye informed DCFS she also had “an extensive criminal history” for “drug related charges.” She stated, however, that she had not been to prison since 2000, and had been sober for the past 10 years. Father and Frankye asserted that despite their criminal histories, they had become productive, effective parents, and were willing to submit to random drug testing.

In its assessment and evaluation, DCFS found no “safety concerns” in Father’s home, which the agency described as “clean,” “clutter free” and “orderly with adequate furnishing.” DCFS also found that Father and Frankye shared a “strong partnership,” communicated effectively and appeared “committed to raising their . . . children in a structured and stable home.” DCFS nonetheless recommended that the court should not release Hannah to Father until the agency was able to obtain more information about some of his prior arrests, including his recent pandering charge.

On July 27, 2016, the juvenile ordered DCFS to place Hannah with Father.

C. Jurisdiction and Disposition

1. Jurisdiction and disposition report

On August 15, 2016, DCFS filed a “Jurisdiction/Disposition Report” summarizing additional interviews it had conducted with family members. DCFS interviewed Hannah at Father’s home. Hannah stated that she was happy living with Father, and wanted to remain in his custody. Although Mother “talked to people when no one is present,” Hannah was not afraid of her mother, and felt comfortable living with her. Hannah stated that Mother had recently thrown away clothing Father had purchased for Hannah, claiming that the clothes were covered in “dust.” When asked if she attended school, Hannah stated: “I wanted to go to school. Sometimes [Mother] let me go. I watched television and played with my toys most of the time.” DCFS reported that Hannah’s most recent school records showed she had a grade point average of 0.58. DCFS also spoke with Father, who expressed love for Hannah, and stated that he wanted to provide a safe home for her. Although Father believed Hannah should maintain a relationship with Mother, he also believed that Mother needed to get help for her mental problems. Father stated that Mother “superimposed her thinking and paranoia onto the child,” telling Hannah “everyone is a molester.” Father played DCFS a recent telephone conversation he had recorded between Mother and Hannah. During the call, Mother asked Hannah a series of sexually-explicit questions, including whether Father was putting his “penis in her mouth,” and whether Frankye was forcing Hannah to put her “fingers into her vagina.”

Father explained that he had not complied with the juvenile court’s orders in 2014 because he did not feel he had

done anything wrong. He believed Mother had engaged in the wrongful conduct, and that he was being punished for it. With respect to his prior criminal history, Father explained that he had grown up in Compton, California, and became “involved in the gang life style.” He asserted, however, that he was now committed to staying “out of trouble.”

DCFS also interviewed Mother, who admitted she had asked Hannah whether Father and Frankye were molesting her. Mother explained that she had asked the sexually-explicit questions because she was “having disturbing” thoughts that the child was being subjected to sexual abuse. DCFS reported that Mother had previously made sexual abuse allegations against Father in family court, claiming that he wanted unmonitored visits with Hannah so that he could molest the child.

Mother denied she had ever heard voices, explaining that she had only experienced “wrong thoughts,” like wanting to “spit[] in[to] her daughter’s food.” Mother claimed the police had assured her she could not “get in trouble for having wrong thoughts . . . , only . . . if [she] acted on it.” Mother also stated that on the day she called the police, she had “voluntarily” traveled to the hospital with the police to receive treatment for “anxiety and stress.” Mother said she did not believe she had required medical treatment that day, and did not “hav[e] any mind problems.” Mother acknowledged she had received a prescription for medication during her hospitalization, but claimed the medicine was not working. She denied experiencing any form of paranoia or delusions, and said she had no desire to harm herself or others.

When asked about Hannah’s statements regarding dust on the child’s clothing, Mother said, “years ago . . . [Father] had]

sprinkled something on her tongue” that still caused her to “feel weird.” Mother further explained that when Hannah visited Father, she would come home with dust on her clothing, which would then get on the furniture.

DCFS also spoke with the child’s maternal aunt, Deborah R., who said she wanted Mother to get “help,” and that Hannah should be “with the father.” Deborah R. confirmed Mother had thrown away clothing Father had bought for Hannah because she believed there was “voodoo dust” on the clothing. Deborah R. also said Mother had been “moving from place to place,” “would not enroll the child in school and . . . refused to allow the child to play with other kids in the neighborhood.” Deborah R. also said Hannah was forced to stay in “the house all the time,” and frequently had “matted” hair and dirty clothes. Deborah R. said Mother did not believe she needed the medication she had been prescribed at the hospital, and was not taking it.

In its recommendation and assessment, DCFS reported that Hannah appeared to be safe and comfortable in Father’s home. DCFS also concluded that Mother was “unable or unwilling to recognize the importance of complying with her mental health case plan,” and did “not understand” how her “medication . . . non compliance . . . impact[ed] . . . her quality of life [and] . . . her ability to care for a developing child.”

DCFS recommended that the court sustain the petition against both parents, and order the child removed from Mother’s home. DCFS explained that it was unable to recommend “continue[d] release” to Father because it had not received the police report describing the details of his 2015 arrest for pandering.

2. Last minute information regarding the pandering arrest

On August 17, 2016, DCFS filed a last-minute information with a copy of the police report regarding Father's arrest in 2015. Father told DCFS the arrest had been a "mistake," explaining that although the incident occurred outside his office building, he had not engaged in pandering, and was not charged.

Based on the information in the police report, DCFS opposed Hannah's placement with Father, asserting that his "criminal behavior . . . threatens and compromises the child's emotional well being." DCFS also filed an amended section 300 petition that added a count under subdivision (b), alleging Father's criminal history placed the child at substantial risk of harm.

At the jurisdiction hearing, Mother requested that Hannah be removed from Father based on his "long history of criminal convictions and arrests." Father's counsel, however, argued that most of his criminal history was "very old, and that his more recent arrest for pandering had been "rejected" by the district attorney. Counsel also indicated that Father was willing to testify as to what had occurred on the night of his arrest.

The court informed the parties it wanted more information about how the pandering incident had been resolved, and ordered Father to provide a livescan. The court rescheduled the jurisdiction hearing on September 26, 2016.

3. Jurisdiction and disposition hearing

On the morning of the jurisdiction hearing, DCFS filed a last minute information reporting that Father's livescan results did "not reflect [an] arrest for pandering" in 2015. After receiving

the information, the court heard argument regarding jurisdiction and disposition.

Mother's counsel argued there was no evidence her mental illness placed Hannah at risk of harm. According to counsel, Mother's actions showed she had tried to protect the child by self-reporting her auditory hallucinations to police. Hannah's counsel, however, requested that the court sustain the petition against Mother, asserting that her mental health issues appeared to be "ongoing." In support, counsel noted that the record contained evidence showing Mother had recently asked the child inappropriate questions regarding sexual abuse, and thrown out the child's clothes. Hannah's counsel argued Father should be dismissed from the petition because he did not have custody of the child when the incident occurred, and most of his arrests and convictions "date from the early 80s and 90s." DCFS argued the court should sustain the petition against both Mother and Father, asserting that Father had known of Mother's mental health issues and done nothing to protect Hannah.

The court sustained the petition against Mother, and struck all allegations regarding Father. The court explained that the record showed Father had raised questions about Mother's mental health in the family court, and that all of his prior convictions were "irrelevant" because they were very old. On the issue of disposition, the court ordered Hannah removed from Mother's custody, and placed with Father.³

³ On May 8, 2017, the court entered a subsequent minute order terminating jurisdiction over Hannah, and entering a family law order awarding Father sole physical and legal custody of the child. Mother has filed a separate appeal of that order.

DISCUSSION

A. Substantial Evidence Supports the Juvenile Court's Jurisdictional Findings

Mother argues there is insufficient evidence to support the juvenile court's jurisdictional finding that her mental illness placed Hannah at substantial risk of physical harm.

1. Governing law and standard of review

Section 300, subdivision (b)(1), allows a child to be adjudged a dependent of the juvenile court when “[t]he 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 . . . to adequately supervise or protect the child . . . or by the inability of the parent . . . to provide regular care for the child due to the parent's . . . mental illness, developmental disability, or substance abuse.” Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing, the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383 (*Kadence P.*); *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216.)

We review a challenge to the sufficiency of the evidence supporting the juvenile court's jurisdiction findings for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) Under this standard “[w]e review the record to determine whether there is any substantial evidence to support the juvenile court's conclusions, and we resolve all conflicts and make all reasonable inferences from the evidence to uphold the court's

orders, if possible.” (*Kadence P.*, *supra*, 241 Cal.App.4th at p. 1384; accord, *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.)

2. Substantial evidence supports the court’s jurisdictional finding

Mother does not dispute there is substantial evidence she suffers from a mental illness, but contends “there is no[t] sufficient evidence her child is at risk of physical or emotional harm caused by that mental illness.” Mother argues the evidence shows only that she was having “bad thoughts,” and then responded appropriately by contacting law enforcement and accepting psychiatric care.

Mother’s arguments fail to address the nature of her “bad thoughts.” DCFS’s reports indicate Mother told law enforcement she was hearing voices that were instructing her to spit on Hannah, and to kill the child. Mother also told the police she was concerned she might harm the child, and that the “devil” was speaking to her.

The record also contains evidence Mother had experienced other forms of delusional thoughts that caused her to engage in abnormal conduct. Several witnesses reported Mother had thrown out clothing Father bought for Hannah because she believed the clothing was covered in “voodoo dust.” Mother also admitted she had “disturbing thoughts” about Hannah being sexually abused, which caused her to ask the child a series of sexually-explicit questions.

Finally, although Mother contends she is now addressing her mental issues through counseling, DCFS’s reports indicate she did not believe she needed her medication, and had stopped taking it. Mother also told DCFS she did not believe she had any

mental problems, and did not believe she had needed to go to the hospital on the day she called the police.

In sum, the record contains evidence that Mother heard voices telling her to spit on and kill her child; she called the police because she was concerned she might actually harm the child; she had previously experienced delusional thoughts that caused her to engage in abnormal conduct; and following her hospitalization, she declined to take her medication or acknowledge she was suffering from mental illness. Considered together, this evidence is sufficient to support the juvenile court's finding that Mother's mental illness placed the child at substantial risk of harm.⁴

B. Substantial Evidence Supports the Juvenile Court's Disposition Orders

Mother also challenges the juvenile court's disposition orders, contending there was insufficient evidence to remove

⁴ Mother contends this case cannot be distinguished from *In re James R., Jr.* (2009) 176 Cal.App.4th 129. In *James R.*, the reviewing court found there was insufficient evidence to support a finding that the offending parent's depression placed her children at substantial risk of harm. The evidence in that case, however, showed only that the parent had a history of "mental instability," and had been hospitalized after having a "negative reaction to taking ibuprofen and drinking beer." (*Id.* at p. 136.) Unlike this case, there was no evidence that the parent had heard voices directing her to kill her children, nor was there evidence that the parent had called police because she was worried that she might actually harm her children.

Hannah from her custody, or to conclude that placing Hannah with Father would not be detrimental to the child's well-being.⁵

1. *Substantial evidence supports the juvenile court's decision to remove Hannah from Mother's custody*

a. *Governing law and standard of review*

“Under section 361, subdivision (c)(1), a dependent child may not be taken from the physical custody of the parents with whom the child resides at the time the petition was initiated unless the juvenile court finds by clear and convincing evidence ‘[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor's parent's . . . physical custody.’ [Citations.]” (*In re John M.* (2012) 212 Cal.App.4th 1117, 1126 [citing and quoting § 361, subd. (c)(1)].) “The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of

⁵ DCFS contends Mother has “forfeited” this issue “by failing to raise the issue during the disposition hearing.” This argument is without merit. Although “points not urged in the trial court cannot [generally] be raised on appeal[,] . . . the contention that a judgment [or order] is not supported by substantial evidence . . . is an obvious exception to the rule.” (*Tahoe National Bank v. Phillips* (1971) 4 Cal.3d 11, 23, fn. 17.) This exception applies to appeals of removal orders. (See *In re R.V., Jr.* (2012) 208 Cal.App.4th 837, 848 [parent’s challenge to removal order “on the ground of insufficient evidence . . . is not forfeited even if not raised in the juvenile court”].)

the statute is on averting harm to the child.” (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.)

“In determining whether a child may be safely maintained in the parent’s physical custody, the court may consider the parent’s past conduct and current circumstances, and the parent’s response to the conditions that gave rise to juvenile court intervention. [Citation.] The court must also consider whether there are any reasonable protective measures and services that can be put into place to prevent the child’s removal from the parent’s physical custody.” (*In re Maria R.* (2010) 185 Cal.App.4th 48, 70.)

Although the burden of proof for removal is clear and convincing evidence, we review the juvenile court’s “substantial danger” findings for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762; *In re Joanna Y.* (1992) 8 Cal.App.4th 433, 439; see also *Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880-881 [“The ‘clear and convincing’ standard . . . is for the edification and guidance of the trial court and not a standard for appellate review. [Citations.] “The sufficiency of evidence to establish a given fact, where the law requires proof of the fact to be clear and convincing, is primarily a question for the trial court to determine, and if there is substantial evidence to support its conclusion, the determination is not open to review on appeal.” [Citations.]’ [Citation.]”].)

b. Substantial evidence supports the juvenile court’s decision to remove Hannah from Mother’s custody

Mother argues DCFS did not present sufficient evidence “that there was a threat of harm to [Hannah] had she remained in [Mother’s] custody.” As with her challenge to the court’s

jurisdictional findings, Mother argues that the evidence shows only that she contacted police to report her “disturbing thoughts,” and is now receiving treatment for her mental condition.

Again, however, Mother fails to address that her “disturbing thoughts” consisted of hearing voices telling her to kill Hannah, and that she called the police because she was concerned she might actually harm her child. Nor has Mother addressed evidence showing that after being released from her psychiatric hold, she declined to take her prescribed medication, and told DCFS she did not believe she had any mental health problems. The fact Mother reported hearing voices that were telling her to kill her child, and then declined to take medication or acknowledge any mental illness, is sufficient to support the court’s removal decision.

2. Substantial evidence supports the juvenile court’s decision to place Hannah with Father

Finally, Mother argues there was insufficient evidence to support the juvenile court’s decision to place Hannah with Father, a non-offending parent. Mother does not challenge the court’s finding that Father was non-offending, but contends the evidence showed that placing Hannah with him would be detrimental to her well-being.

a. Summary of legal principles and standard of review

When the juvenile court removes a child from his or her custodial parent under section 361, the noncustodial parent may seek custody under section 361.2. Section 361.2, subdivision (a), provides: “When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a

parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.”

“The statute ‘evinces the legislative preference for placement with the noncustodial parent when safe for the child. [Citation.]’ [Citation.] It requires placement with a noncustodial, nonoffending parent who requests custody ‘unless the placement would be detrimental to the child.’ [Citation.]” (*In re C.M.* (2014) 232 Cal.App.4th 1394, 1401 (*C.M.*)).⁶ “The nonoffending parent does not have to prove lack of detriment. Rather, the party opposing placement with a nonoffending parent has the burden to show by clear and convincing evidence that the child will be harmed if the nonoffending parent is given custody. [Citation.]”

⁶ There is currently a split of authority whether a noncustodial parent must also be a nonoffending parent to be eligible for placement under section 361.2, subdivision (a). (Compare *In re V.F.* (2007) 157 Cal.App.4th 962, 970 [“section 361.2 applies to a noncustodial parent without regard to that parent’s status as an offending or nonoffending parent”]; *In re Nickolas T.* (2013) 217 Cal.App.4th 1492, 1505 [“We are not persuaded . . . that . . . a parent must be both ‘noncustodial’ and ‘nonoffending’ to be considered for placement under section 361.2”] with *In re A.A.* (2012) 203 Cal.App.4th 597, 608 [“the parent must be both nonoffending and noncustodial parent in order to be entitled for consideration under section 361.2”]; *In re John M.* (2013) 217 Cal.App.4th 410, 424-425.) We need not address that issue here because there is no dispute that Father qualifies as a nonoffending parent.

(*Id.* at p. 1402.) “We review the juvenile court’s finding that [the child] would not suffer detriment for substantial evidence.” (*In re Liam L.* (2015) 240 Cal.App.4th 1068, 1087 (*Liam L.*).

b. Substantial evidence supports the juvenile court’s finding that Hannah’s placement with Father would not be detrimental to her well-being

The record contains substantial evidence supporting the juvenile court’s finding that placing Hannah with Father would not be detrimental to her well-being. Hannah, then seven years old, informed DCFS she wanted to continue living with Father, and her counsel also favored placement with him. (See *C.M.*, *supra*, 232 Cal.App.4th at p. 1402 [“the child’s wishes . . . may be considered . . . in determining” detriment].) Father stated that he loved his daughter, and wanted to provide her a safe living environment. DCFS believed Father and his wife Frankye had a “strong partnership,” and were “committed” to raising their children in a “structured and stable home.” DCFS found no safety concerns in the house, which the agency described as “clutter-free,” “clean,” “orderly” and well-stocked with food. Father and Frankye are both employed, and do not use drugs. The court could reasonably conclude from this evidence that Father was a capable, loving parent with stable employment and home life. (See *Liam L.*, *supra*, 240 Cal.App.4th at p. 1087 [finding of no detriment supported by evidence showing father was “able and loving [parent] with a stable job and home life”].)

Mother, however, contends the trial court erred in placing Hannah with Father because he had an extensive criminal history. The court addressed these concerns at the hearing, explaining that most of Father’s arrests and convictions had occurred many years ago. His most recent conviction (for

robbery) occurred in 1996. The record indicates he completed his parole for that offense in 2006, and had no additional criminal activity until he was arrested for pandering in 2015. That arrest, however, did not result in any charges, and did not appear on Father's livescan. Father was also open about his criminal history, explaining that although he had been involved in gang activity earlier in his life, he had worked to become a productive citizen and parent. With respect to the more recent pandering incident, Father maintained the arrest was the result of a misunderstanding, and said he was willing to testify as to what had occurred that night.

Given that Father's last conviction occurred almost 20 years ago, and his only arrest within the past decade resulted in no charges, the juvenile court could reasonably conclude his criminal history was insufficient to establish that placing Hannah in his care would be detrimental to her physical or emotional well-being. (Cf. *Liam L.*, *supra*, 240 Cal.App.4th at p. 1087 [affirming finding of detriment where father had criminal history, but had "suffered no arrests" in four years prior to the disposition hearing].)

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.