

Filed 6/16/17 In re E.C. CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SEVEN

In re E.C., a Person Coming Under the
Juvenile Court Law.

B276682

(Los Angeles County
Super. Ct. No. DK15031)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JASMIN C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Terry T. Truong, Juvenile Court Referee. Affirmed.

Lori N. Siegel, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Peter Ferrera, Deputy County Counsel, for Plaintiff and Respondent.

Jasmin C. (Mother) appeals from the juvenile court's jurisdiction findings and disposition order, declaring her child, E.C., a dependent of the court pursuant to Welfare and Institutions Code¹ section 300, subdivision (b), and ordering the removal of the child from Mother's care and custody. Mother argues that the evidence was insufficient to support the juvenile court's finding that E.C. was at a substantial risk of harm based on Mother's history of substance abuse, and that removal of E.C. from Mother's custody was the only reasonable means to protect the child from the risk of harm. We affirm.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. Juvenile Dependency History

Mother and DS. (Father) are the parents of E.C., a boy born in December 2015. At the time of E.C.'s birth, Mother was 14 years old and Father was 24 years old. Mother had been a dependent of the juvenile court since June 2014 based on findings that she has been abandoned by her mother and then by her paternal grandmother, and sexually and physically abused when left in the care of her maternal aunt. On June 25, 2014, Mother ran away from her group home placement in Los Angeles County. Mother was missing until September 25, 2015, when she and Father were arrested in Sonoma County.

During the time Mother was a runaway, she was detained on several occasions by Sonoma County law enforcement and

¹ All further statutory references are to the Welfare and Institutions Code.

transported to a local children's shelter. Mother often provided false names to law enforcement officers and staff at the children's shelter, and she repeatedly ran away from the shelter before she could be taken back to Los Angeles County. On one occasion in October 2014, Mother reported to the police that she had been physically abused by Father, and during an intake at the shelter, she admitted that she had used crystal methamphetamine and marijuana the previous night. In November 2014, the police responded to Father's home based on a report that he had fired a gun at his father during an argument. Father told the police that he was addicted to crystal methamphetamine and used the drug on a daily basis. Mother was living with Father at the time and provided a false name to the police. In January 2015, Mother was detained for shoplifting and taken to the children's shelter. Mother reported that she had been raped by unidentified gang members, became pregnant, and subsequently had a miscarriage. Later that month, the police responded to a call that Father was involved in a physical altercation with individuals whom Mother claimed had held her against her will. Mother was taken to the hospital and disclosed that she had used heroin once and had not used methamphetamine for a month. In August 2015, Father was involved in a fight with another man, and after striking the man with a knife, he and Mother fled the scene.

On September 25, 2015, Mother and Father were arrested by Sonoma County police. Father had attempted to shoplift at a department store and then threatened the store employee with a knife. He was arrested and charged with robbery. Mother gave a false name to the police and was detained at the Sonoma County juvenile hall. At the time, Mother was six months pregnant with E.C. and had not received any regular prenatal care.

In December 2015, Mother gave birth to E.C. in Sonoma County. The baby had a normal birth weight and no complications were reported. On December 28, 2015, Mother and E.C. were released from the hospital and taken to the children's shelter. Sonoma County Child Protective Services obtained a protective custody warrant for E.C., and the Sonoma County juvenile court ordered that the child be transported to Los Angeles County. On December 29, 2015, a case social worker with the Los Angeles County Department of Children and Family Services (DCFS) accompanied Mother and E.C. to Los Angeles. The social worker observed that Mother was attentive toward E.C. and appeared to be taking very good care of the child. Staff at the children's shelter also reported that Mother had bonded with E.C. and provided all of his care. At the time of E.C.'s birth, Father was incarcerated at San Quentin State Prison, where he was serving a three-year sentence for robbery.

II. Section 300 Petition

On January 4, 2016, the DCFS filed a dependency petition on behalf of E.C. pursuant to section 300, subdivisions (b) and (d). The petition alleged that Mother had a history of running away from her placement, engaging in unsafe behavior and criminal activity, and abusing methamphetamine, heroin, marijuana, and alcohol. The petition alleged that Father had a history of abusing methamphetamine, engaging in violent physical altercations with Mother and other individuals, and sexually abusing Mother. The petition further alleged that the conduct of both parents rendered them incapable of providing E.C. with regular care and supervision, and placed the child at risk of serious physical harm and sexual abuse.

At a January 4, 2016 detention hearing, the juvenile court found that there was prima facie evidence that E.C. was a person described by section 300, and ordered that the child be detained from Mother. The court granted Mother unmonitored visits with E.C., and ordered her to submit to on-demand drug and alcohol testing. The court also ordered the DCFS to look into placing Mother and E.C. in the same whole family foster home. The jurisdiction hearing was set for March 1, 2016.

On January 28, 2016, Mother's counsel advised the juvenile court that Mother had been placed in a whole family foster home that also was available to care for E.C., and requested that the child be placed with Mother in that home. In a February 8, 2016 report addressing Mother's request, the DCFS stated that it had interviewed Mother's foster parent, who reported that her home was a licensed whole family foster home that could accommodate both Mother and E.C. Mother's foster parent also explained that she had no concerns about Mother absconding with E.C. if the child was placed in her home because Mother was fearful of losing custody of the child and was making an effort to change her lifestyle. The DCFS requested, however, that E.C. remain in his current placement because Mother had been a runaway for a significant period of time and the agency was concerned that she might leave with E.C. if they were placed in the same home. The DCFS noted that Mother was only 14 years old, had been living without the benefit of any structure, and needed therapeutic services because she had been sexually exploited by Father. The DCFS believed that maintaining the current arrangement would allow Mother to balance her life as a 14-year-old girl while easing into the responsibilities of being a young mother. At a hearing held on February 8, 2016, the juvenile court ordered that E.C. be

placed in the same foster home as Mother on the condition that Mother not take the child outside the home without first notifying the foster parent of her plans.

III. Jurisdiction/Disposition Report

In its February 23, 2016 jurisdiction/disposition report, the DCFS advised the juvenile court that it had been unable to place E.C. in the same foster home as Mother because the home where Mother was placed had not been approved for an additional child. Mother's foster parent was in the process of obtaining the necessary license to have E.C. placed in her home. In the meantime, Mother was visiting E.C. Monday through Friday for four hours each day. Mother's foster parent reported that Mother was caring and attentive toward the child, was responsive to his cries and receptive to learning what each cry meant, and exhibited appropriate concern about his health. Mother had not shown any signs of impatience with E.C., and she did not have to be instructed to tend to his needs because she was focused on him. The foster parent also reported that Mother had not been in communication with Father, and that she appeared to be content spending her time with E.C. rather than socializing with her peers outside the home.

In an interview with the DCFS, Mother indicated that she left her prior foster care placement because she did not want to wait for the relative placement process to be completed, and another foster youth had told her that life would be better outside the foster care system. Mother met Father in Sonoma County shortly after she ran away from her placement, and she began having a sexual relationship with him when she was 13 years old. Mother maintained, however, that Father did not know her true

age at the time because she had convinced him that she was 18 years old when their sexual relationship began. Mother denied that Father ever forced her to engage in sexual activity against her will, and insisted their relationship was consensual. She reported that another man had forced her to prostitute herself on one occasion and that Father had paid the man \$500 to leave her alone. Mother acknowledged that Father had been affiliated with gangs in the past and had been involved in violent physical altercations in her presence. Mother denied, however, that there was any history of domestic violence between them. Mother also admitted that she was detained by law enforcement and sent to a children's shelter on several occasions, and that she ran away from the shelter each time so that she could return to Father. Mother stated that she would use false names because she did not want to return to Los Angeles unless she was placed with relatives. Mother also stated that, once she became pregnant, she wanted to remain with Father.

Mother reported that she had two pregnancies as a result of her sexual relationship with Father. The first pregnancy resulted in a miscarriage, and the second pregnancy was with E.C. According to Mother, she began using methamphetamine when she was four months pregnant with E.C., and she used the drug at least twice a week for a period of two months. Mother stated that Father was not aware of her substance abuse, but she also said that Father was upset at her for using drugs while she was pregnant and threatened to leave her if she did not stop. Mother admitted that she smoked marijuana and consumed alcohol at various times in the past, but denied doing so during her pregnancy. She denied that she ever used heroin. Mother indicated that Father used methamphetamine but never in her

presence. Mother also stated that Father had admitted to her that he was using drugs and that they both had agreed to stop. Mother continued her drug use, however, which caused arguments between her and Father. Mother stated that she ultimately stopped using drugs because of her pregnancy. During the first six months of her pregnancy with E.C., Mother did not seek regular prenatal care, but rather received sporadic medical assessments when she was detained by the police and placed in temporary shelter care. Mother began receiving regular prenatal care during the last three months of her pregnancy when she was placed in juvenile hall.

The DCFS also spoke with Shannen Fraley, a social worker with the Sonoma County Child Protective Services. Fraley first became familiar with Mother in mid-2015 when Mother was detained by the police and provided false identification. Fraley later learned Mother's true identity, but it was difficult to locate her because she would flee whenever she was detained and sent to the local children's shelter. Mother was known to associate with adult gang members in the area, and she often was with Father when she was detained by the police. Fraley reported that Father was warned multiple times about his relationship with Mother, and that he must have known Mother was under 18 because she did not look any older than her true age. Father had a history of violence toward transients and other gang members, and another youth at the children's shelter had reported that Father was physically abusive toward Mother.

Fraley explained that, once Mother became pregnant, she was offered prenatal care each time she was detained. Mother also was warned about the risks to her unborn child if she refused the available services. Mother received two prenatal

checks during the time she was at the children's shelter. When Mother was arrested in September 2015, she was very thin and appeared to be in poor physical condition. Her health improved, however, after she was placed in juvenile hall and provided with regular meals and prenatal care. In an interview with Fraley, Mother admitted she and Father had used methamphetamine, but claimed she had stopped using drugs when she learned she was pregnant. Fraley reported that Mother showed substantial growth after she was placed in juvenile hall and gained insight into the negative repercussions of continuing her relationship with Father. Fraley remained concerned, however, about Mother's continued stability once she was returned to foster care and whether Mother would be tempted to leave again under the strain of caring for a newborn baby.

In its report, the DCFS noted Mother had engaged in a pattern of unhealthy choices after she left her placement, including abusing drugs during her pregnancy, failing to obtain regular prenatal care, repeatedly refusing to cooperate with law enforcement and child protective services, and consistently providing false information about her age and identity. The DCFS also stated that Mother likely was the victim of sexual exploitation by Father, but she continued to defend him and to insist that their relationship was consensual and appropriate. In addition, the DCFS noted that Mother repeatedly denied or minimized Father's history of abusive behavior, and spoke in a detached manner about the physical violence he had committed in her presence. The DCFS explained that, given Mother's lack of maturity, loyalty to Father, and history of running away, there was a substantial risk that Mother would abscond with E.C. if she were allowed to have unmonitored access to the child. The

DCFS also stated that Mother's focus at that time should be on receiving therapeutic services, attending school, and developing an age-appropriate routine for herself. The DCFS recommended that E.C. be declared a dependent of the juvenile court and remain placed in foster care, and that Mother be granted family reunification services.

The jurisdiction hearing was continued to May 18, 2016. In addendum reports filed prior to the hearing, the DCFS advised the juvenile court that E.C. was placed in the same foster home as Mother on March 2, 2016. The baby was developing normally and appeared to be doing well in his new placement. Mother was attending a continuation school twice a week and participating in weekly individual therapy. Her therapist did not disclose any specific details about the in-home sessions, but generally reported that Mother was reflective about her past and focused on making better choices for herself and her child in the future.

During a May 10, 2016 interview with the DCFS, the foster parent for both Mother and E.C. was asked to assess Mother's parenting capacity based on her personal observations. The foster parent replied: "She's 14 and learning how to take care of a baby. She's learning but would I turn the baby completely over to her? Not at this time." According to the foster parent, Mother had learned the basics of caring for E.C. and was participating in all aspects of his day-to-day care, such as preparing his bottles, feeding him, bathing him, changing his diapers, and putting him down for naps. Mother was very nurturing toward E.C., and when she knew how to perform a task, she would do so readily. When asked to identify areas where Mother needed to improve, the foster parent replied: "Patience. When he cries a little bit she'll give him a pacifier. If he tantrums then she gets excited.

She has to know patience and not get upset. Not yell at him or say stop that or be quiet.” The foster parent expressed her belief that Mother would “be a good mom in time,” but could not give an estimate as to when that might occur.

The addendum reports also addressed Mother’s compliance with the on-demand drug and alcohol testing. According to the DCFS, on January 14 and February 4, 2016, Mother was provided with written instructions on the testing procedures, which stated that she needed to call a designated telephone number on a daily basis to find out if a test was scheduled. She signed the instructions confirming her receipt on both occasions. Mother tested negative for drugs and alcohol on February 5 and 25, 2016, but did not show up for tests on February 10 and 22, 2016. Mother told the case social worker that she missed those tests because she did not know she had to call in on a daily basis. On March 2, 2016, Mother signed an affidavit acknowledging that the case social worker had reviewed the drug testing process with her and that she understood the process. Mother tested negative for drugs and alcohol on March 7, 2016, but did not show up for a test on March 23, 2016. Mother claimed that she missed the March 23 test because she forgot to call the testing site, and admitted that she was not calling in on a consistent basis. Mother tested negative for drugs and alcohol on April 1 and 26, 2016.

The DCFS reported that Mother’s overall progress was promising. She had developed a strong support system to help her address the trauma she had experienced in the past, and she exhibited signs of maturity through her school attendance and participation in weekly therapy. Mother also was learning to manage the day-to-day routine of caring for a baby, and she had

mastered certain caretaking tasks. The DCFS expressed concern, however, that Mother continued to struggle with the emotional burden of being a parent, and that she needed to find a balance between managing her own frustrations as a teenage girl with her duties as a mother of a young child. The DCFS agreed with the foster parent's assessment that "the foundation is there for being a good mother, but that additional time is needed for [Mother] to develop some of the skills she is still lacking." The DCFS continued to recommend that E.C. be declared a dependent of the juvenile court and remain in his foster care placement, and that Mother receive family reunification services.

IV. Jurisdiction and Disposition Hearing

On May 18, 2016, the juvenile court held a jurisdiction and disposition hearing for E.C. The court admitted into evidence the various reports filed by the DCFS. The parties stipulated that, if Mother were called to testify, she would deny she had a history of using heroin, marijuana, or alcohol. Mother also would testify that she believed her relationship with Father was consensual at the time because he did not know her true age, but she had no intention of having a future relationship with him.

Mother's counsel asked the juvenile court to dismiss the counts in the dependency petition that pertained to her alleged conduct and to order that E.C. be returned to her custody. Under the arrangement proposed by Mother's counsel, Mother and E.C. would continue to reside in the same whole family foster home, and Mother voluntarily would participate in hands-on parenting classes and submit to drug and alcohol testing. Father's counsel asked the court to dismiss the counts in the petition that related to his alleged conduct and to order family reunification services

for Father. Counsel for E.C. requested that the counts based on Mother's alleged conduct be dismissed, that the counts based on Father's alleged conduct be sustained, and that E.C. be placed in the home of Mother on the condition that she remain in her current placement and continue to submit to drug and alcohol testing. Counsel for the DCFS asked the court to sustain the petition as pled and to order that E.C. remain suitably placed in the same whole family foster home as Mother. Counsel for the DCFS also requested that the court grant family reunification services to Mother, but deny services to Father.

Following the argument of counsel, the juvenile court sustained the section 300 petition filed on behalf of E.C. as amended. With respect to Mother, the court found that Mother had a history of illicit drug and alcohol use which rendered her incapable of providing E.C. with regular care and supervision and placed the child at risk of harm. With respect to Father, the court found that Father had a history of substance abuse, that he had sexually abused Mother by engaging in sexual intercourse with her when he knew or should have known that she was under the age of 18, and that Father's illicit drug use and sexual abuse placed E.C. at risk of harm. The court dismissed the remaining counts based on Mother's alleged conduct in running away from her prior foster care placement and Father's alleged conduct in engaging in violent physical altercations.

Turning to disposition, the juvenile court declared E.C. a dependent of the court pursuant to section 300, subdivision (b), and ordered that the child be removed from parental custody and remain suitably placed in the same whole family foster home as Mother under the supervision of the DCFS. In denying the request that E.C. be returned to Mother's custody, the court

explained: “I am not at a place where I am comfortable releasing [E.C.] to [Mother]. I’ve got individuals working with her, and my understanding is that [Mother] is doing what she needs to do. She is learning to be a parent, but I am just not there with allowing her to have full control, care, supervision, custody of [E.C].” Mother was ordered to participate in family reunification services, including on-demand drug and alcohol testing, individual counseling, and parenting education. Father was denied family reunification services. Following the jurisdiction and disposition hearing, Mother filed a timely notice of appeal.

DISCUSSION

I. Jurisdictional Finding

On appeal, Mother challenges the sufficiency of evidence supporting the juvenile court’s jurisdictional finding as to Mother under section 300, subdivision (b). Mother specifically contends the evidence was insufficient to support a finding that her prior drug and alcohol use placed E.C. at a substantial risk of harm at the time of the jurisdiction hearing. We conclude the juvenile court’s exercise of jurisdiction over E.C. based on Mother’s history of substance abuse was supported by substantial evidence.

A. Applicable Law

Section 300, subdivision (b) provides, in pertinent part, that a child comes within the jurisdiction of the juvenile court if “[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 or guardian to adequately supervise or protect the child. . . .” (§ 300, subd. (b).) “The three

elements for a section 300, subdivision (b) finding are: ‘(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) “serious physical harm or illness” to the [child], or a “substantial risk” of such harm or illness.’ [Citation.] The third element . . . effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future. . . . [Citations.]” (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1395-1396.) “Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing [citations], the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child [citation]. The court may consider past events in deciding whether a child currently needs the court’s protection. [Citation.] A parent’s “[p]ast conduct may be probative of current conditions” if there is reason to believe that the conduct will continue.’ [Citations.]” (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383-1384.)

Generally, a parent’s use of drugs or alcohol, standing alone, is insufficient to support dependency jurisdiction under section 300, subdivision (b). (*In re Drake M.* (2012) 211 Cal.App.4th 754, 764 [“the mere usage of drugs by a parent is not a sufficient basis on which dependency jurisdiction can be found”]; *In re James R.* (2009) 176 Cal.App.4th 129, 137 [“[t]he mere possibility of alcohol abuse . . . is insufficient to support a finding [a child is] at risk of harm within the meaning of section 300, subdivision (b)”].) Rather, to support a finding of jurisdiction based on a parent’s drug or alcohol use, the DCFS must “present evidence of a specific, nonspeculative and substantial risk to [the child] of serious physical harm.” (*In re Destiny S.* (2012) 210

Cal.App.4th 999, 1003.) A parent's substance abuse problem can place a child at a substantial risk of harm if it interferes with the parent's ability to provide the child with proper supervision or care. (*In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1384-1385 [mother's continuous substance abuse and attempts to conceal it placed infant daughter at substantial risk of harm]; *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1219-1220 [father's persistent drug use rendered him incapable of providing regular care for young child]; *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451-452 [father's use of marijuana while children were in his care posed risk of physical harm to children].)

We review a juvenile court's jurisdictional findings for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) Substantial evidence is "evidence that is reasonable, credible, and of solid value." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401.) Under this standard of review, we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the juvenile court on issues of credibility of the evidence and witnesses. (*In re A.J.* (2011) 197 Cal.App.4th 1095, 1103.) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the juvenile court's order, resolving all conflicts in support of its determination and drawing all reasonable inferences to uphold its ruling. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1124.) If there is substantial evidence to support the juvenile court's order, we must uphold the order even if other evidence supports a contrary conclusion. (*In re N.M.* (2011) 197 Cal.App.4th 159, 168.)

B. The Jurisdictional Finding as to Mother Was Supported by Substantial Evidence

In this case, the juvenile court sustained the following amended count in the section 300 petition filed on behalf of E.C. “The child [E.C.’s] mother, Jasmin [C.], has a history of illicit drugs and alcohol use which renders the mother incapable of providing the child with regular care and supervision. The child is of such a young age as to require constant care and supervision and the mother’s history of substance abuse interferes with providing regular care and supervision of the child. The mother’s history of substance abuse endangers the child’s physical health and safety and places the child at risk of harm.”

Mother argues that the jurisdictional finding based on her prior substance abuse was not supported by substantial evidence because she stopped using drugs or alcohol when she found out that she was four months pregnant with E.C., and the child was born healthy without drugs or alcohol in his system. The record reflects, however, that Mother made a number of inconsistent statements about her substance abuse history, including what drugs she used, for how long she used them, and when she finally stopped. In October 2014, for instance, Mother told the staff at the children’s shelter in Sonoma County that she recently had used both methamphetamine and marijuana. In January 2015, she disclosed to a doctor during a sexual assault exam that she had used heroin on one occasion and had not used methamphetamine for a month. When Mother was placed in juvenile hall in September 2015, she told the social worker with the Sonoma County Child Protective Services that she had used methamphetamine in the past, but stopped using the drug when she found out that she was four months pregnant with E.C.

In a February 2016 interview with the DCFS, however, Mother stated that she began using methamphetamine when she was four months pregnant with E.C., and that she used the drug for a period of two months. While Mother claimed that she did not use methamphetamine often, she admitted to using the drug at least twice a week. Mother further recounted that Father was upset with her for using drugs while she was pregnant and that he threatened to leave her if she did not stop. In the interview with the DCFS, Mother also stated that she used marijuana and alcohol prior to becoming pregnant. At the May 2016 jurisdiction hearing, on the other hand, Mother denied she had any history of using heroin, marijuana, or alcohol. Therefore, contrary to Mother's claim on appeal, the evidence did not conclusively show that she stopped using drugs or alcohol when she learned that she was four months pregnant with E.C. Rather, the evidence presented by the DCFS reasonably could support a finding that Mother had a history of using methamphetamine, marijuana, and alcohol, that she was using methamphetamine on a regular basis when she found out she was pregnant with E.C., and that she continued using methamphetamine until the sixth month of her pregnancy when she was arrested and placed in juvenile hall.

Mother also asserts that the evidence failed to establish that her prior drug or alcohol use posed a current risk of harm to E.C. at the time of the jurisdiction hearing. Mother reasons that there was no evidence that she used drugs or alcohol following E.C.'s birth, and that the record demonstrated that she provided exemplary care for the child during their visits and when they were placed in the same foster home. It is true that, at the time of the jurisdiction hearing, Mother had made substantial progress in learning how to be a parent to E.C. As reported by

her foster parent, Mother was nurturing toward E.C., was eager to learn how to properly care for him, and was actively involved in the child's daily routine. The evidence also showed, however, that Mother was a very young parent at the age of 15, that she lacked emotional maturity, and that she was still learning how to respond appropriately to E.C.'s needs. In addition, the evidence showed that, during the dependency proceedings, Mother missed three of eight on-demand drug and alcohol tests. As this court has explained, a missed drug test is "properly considered the equivalent of a positive test result." (*In re Christopher R.*, *supra*, 225 Cal.App.4th at p. 1217.) While Mother claimed that she missed two of the tests because she did not know she needed to call the testing site on a daily basis, the record demonstrated that, prior to those tests, Mother had been given written instructions on the testing procedures, including the daily call-in requirement. Moreover, Mother missed a third test not long after she signed an affidavit acknowledging that the case social worker had again reviewed the testing procedures with her. After the third missed test, Mother stated that she simply forgot to call the testing site on that occasion, but also admitted that she was not following the call-in procedure on a consistent basis.

From this evidence, the juvenile court reasonably could have found that Mother's stated explanations for missing certain on-demand drug tests were not credible, and that the missed tests reflected that Mother had an unresolved substance abuse problem. The juvenile court also reasonably could have found that Mother's conflicting statements about the nature and extent of her drug and alcohol use, including during her pregnancy with E.C., showed that she continued to lack insight into how her substance abuse negatively impacted her child and placed him at

a substantial risk of harm. On this record, the juvenile court's jurisdictional finding based on Mother's history of substance abuse was supported by substantial evidence.

II. Disposition Order

Mother also challenges the juvenile court's disposition order removing E.C. from her custody and placing the child in the same foster home as Mother under the supervision of the DCFS. Mother contends the evidence was insufficient to support a finding that E.C. would be in substantial danger if returned to Mother's custody and that removal of the child was the only reasonable means to protect him from harm. We conclude there was substantial evidence to support the disposition order.

A. Applicable Law

Section 361, subdivision (c) permits the removal of a child from the custody of his or her parent if the juvenile court finds by clear and convincing evidence that "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being" of the child if he or she were returned home, and "there are no reasonable means by which the [child]'s physical health can be protected without removing" the child from the parent's custody. (§ 361, subd. (c)(1).) "A removal order is proper if based on proof of parental inability to provide proper care for the child and proof of a potential detriment to the child if he or she remains with the parent. [Citation.] 'The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.' [Citation.] The [juvenile] court may consider a parent's past conduct as well as present

circumstances. [Citation.]” (*In re N.M.*, *supra*, 197 Cal.App.4th at pp. 169-170.) An appellate court reviews a disposition order removing a child from parental custody for substantial evidence. (*In re D.G.* (2012) 208 Cal.App.4th 1562, 1574.)

B. The Disposition Order Was Supported by Substantial Evidence

Viewing the evidence in the light most favorable to the juvenile court’s order, the evidence was sufficient to support a finding that Mother’s conduct posed a substantial risk of harm to E.C. and that removal from Mother’s custody was the only reasonable means to protect the child from harm. The record reflects that Mother had a history of running away from her foster care placement. She was only 13 years old when she left her placement in Los Angeles and began a sexual relationship with Father, who was 10 years older than Mother and knew or should have known she was underage. During her pregnancy with E.C., Mother was offered prenatal care whenever she was detained by the police and sent to a children’s shelter. However, Mother repeatedly ran away from the shelter so that she could return to living a transient lifestyle with Father, and she did not obtain regular prenatal care until she was arrested during her sixth month of pregnancy. Although Mother did not have contact with Father after she was placed in juvenile hall and he was incarcerated in state prison, she remained protective of him during her February 2016 interview with the DCFS, minimizing his culpability in their inappropriate sexual relationship and maintaining that the relationship was consensual because she lied about her age. The record also showed that Mother regularly used methamphetamine during her pregnancy with E.C., made

inconsistent statements about the extent of her substance abuse, and missed multiple on-demand drug tests during the pendency of these proceedings. Given Mother's history of running away, her prior drug use and missed drug tests, and her continued lack of insight into her conduct, the juvenile court reasonably could have found that there was a substantial risk that Mother would be unable to provide then five-month-old E.C. with regular care and supervision if the child were returned to her custody.

Mother argues that the disposition order was not supported by substantial evidence because the record showed that she had developed into a nurturing and devoted parent who was able to meet all of E.C.'s day-to-day needs. Mother also asserts that there were reasonable alternatives to removal such as family maintenance services for Mother while she and E.C. continued to reside together in the same whole family foster home. It is true that, as of the jurisdiction and disposition hearing, Mother had made substantial progress in addressing the issues that brought E.C. within the jurisdiction of the juvenile court. Mother was stable in her foster care placement, was attending a continuation school, and was participating in weekly individual therapy. The foster parent for Mother and E.C. reported that Mother was a very loving and nurturing parent and was actively participating in all aspects of E.C.'s care. The foster parent also reported, however, that Mother lacked patience when E.C. cried, that she easily got upset, and that she needed to learn to "not yell at him or stay stop that or be quiet." While praising Mother's effort, the foster parent believed she was not ready to assume custody of E.C. because she was still adapting to her role as a parent and learning the basics of caring for an infant.

It is true, as Mother asserts, that her mere status as a teenage parent is not a sufficient basis to support the removal of E.C. from her custody. However, the record reflects that Mother is not simply a young parent. She is also a dependent child of the court with a history of running away from her placement and abusing drugs and alcohol while living on the streets. Mother's recent efforts in complying with her case plan and learning how to properly care for E.C. are commendable. Nevertheless, E.C. is a very young child and completely dependent on his caregivers to meet his basic needs. Additionally, at the time of disposition, Mother had achieved only a very short period of stability and was still struggling with the emotional burden of being a young parent. On this record, the juvenile court reasonably could conclude that Mother's history of substance abuse continued to pose a substantial risk of harm to E.C., and that such risk could only be obviated by removing E.C. from Mother's physical custody and placing him in the same foster home as Mother under the supervision of the DCFS. The juvenile court's removal order was therefore supported by substantial evidence.

DISPOSITION

The juvenile court's jurisdictional findings and disposition order are affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.