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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re H.G., et al.,

Persons Coming Under the
Juvenile Court Law.

B295165

(Los Angeles County
Super. Ct. No. 18CCJP07092)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

VERONICA P.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Pete R. Navarro, Commissioner. Affirmed.

Anne E. Fragasso, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

Veronica P. (Mother) appeals from a jurisdiction/disposition order declaring her children, H.G., J.G., M.G., and S.G., to be dependent children of the court under Welfare and Institutions Code¹ section 300, subdivisions (a) and (b), and removing them from her custody. She contends the trial court erred, in that there was no substantial evidence that the children were currently at risk of harm from Mother. We affirm.

BACKGROUND

On November 2, 2018, the Department of Children and Family Services (DCFS) filed a section 300 petition on behalf of H.G. (born in 2012), J.G. (born in 2013), M.G. (born in 2015), and S.G. (born in 2018). The petition alleged the family's home was unclean and unsanitary, the children were dirty and unkempt, and mother had a history of mental and emotional problems, including diagnoses of depression and anxiety. (§ 300, subd. (b)(1); count b-1.)

In its detention report, DCFS stated that, on October 31, 2018, Mother called a suicide hotline due to feeling depressed and overwhelmed. The suicide hotline called law enforcement and requested a welfare check. Law enforcement evaluated Mother and determined she did not meet the criteria to be placed on a

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

hospital hold. The responding officers reported to a children's social worker (CSW) that Mother denied having thoughts of hurting or killing herself or anyone else.

The CSW interviewed Mother outside the police station. Mother told the CSW she suffered from depression and that she recently had been feeling a lot of anxiety and stress. Mother stated that she tried to get help the previous day at the hospital. She sought medication for her depression but the hospital wanted to admit her, which it could not do since she had all the children with her. Mother stated that she did call a suicide hotline the prior night, but only told the hotline worker she felt overwhelmed and depressed. Mother told the CSW she had no thoughts of hurting herself or others. Mother said the hospital told her she was "suffering from postpartum as [she was then] pregnant."

Mother told the CSW that Father was involved in their lives but only lived with the family "sometimes"; at other times he lived with his mother. She stated Father drank too much and suffered from post-traumatic stress disorder and depression.

The oldest child, H.G., told the CSW that Father "use[d] to live with them" but left the previous day. She said she was often hungry because there was nothing in the house to eat. She liked living with her parents but did not like the fighting and yelling. H.G. also reported that Father hit her, J.G. and M.G. with a belt and his hand on the children's arms or buttocks, which hurt sometimes. According to H.G., Mother did nothing to protect the children from Father because, when he hit them, it was "because we are in trouble." H.G. stated that Father drinks alcohol.

J.G. stated Father would hit Mother, which caused both Mother and S.G. to cry. J.G. admitted he was scared sometimes as a result. He reported Father would hit him using a belt or his

hand, which hurt. J.G. stated that Father hit him, H.G. and M.G.

Father denied he had ever hit the children using a belt, but did spank the children on their buttocks using his hand. The investigator noted Father's statement conflicted with H.G.'s and J.G.'s report that Father punished them by hitting them with a belt. Father denied he and Mother engaged in domestic violence or that he had ever hit her.

Father admitted he smoked marijuana "a long time ago," and drank alcohol, "but not all the time." During the interview, Father stated he was willing to submit to drug testing, but then failed to respond to phone calls from DCFS and did not make himself available for testing. Father also provided a bottle of pain medication he was taking, but the pills were prescribed to Mother and not Father. DCFS expressed concern that Father was a current substance abuser and was self-medicating.

Mother admitted that after the children were removed from her, she used methamphetamine and went to the hospital. Mother stated this was the first time she used the drug. She told the investigator she was seeing a therapist and doing fine, but could not take any medication because she was pregnant.

Mother stated that Father used methamphetamine a long time ago, but currently only drank alcohol. She denied ever witnessing Father hit the children. When asked about domestic violence, Mother stated, "Yes, we have domestic violence but it's verbal. But this was before [S.G. was born] and his mom had the kids. It has gotten out of hand because we both drink. [Father] has never hit me on the face. He only grabbed me and we argue. The kids have seen me cry before but then [Father] leaves."

When the investigator interviewed Mother, she observed that Mother's eyes were swollen and red. Mother attributed it to feeling sick with a cold. She stated she had been at the hospital the night before for a fever but was unable to provide any documents evidencing her hospital visit. Mother told the investigator she just needed sleep.

DCFS remained concerned that the parents were both using drugs or alcohol and were codependent on one another. DCFS believed Mother was minimizing her mental health struggles and had not been forthcoming about her own history with the department and the domestic violence in her relationship. Initially, Mother denied any domestic violence and then reported that Father had only grabbed her arms and pushed her. DCFS was concerned that Mother reported in 2013 that Father was abusive and that she was so scared of him she wanted a restraining order. When Mother learned that she would be referred to a victim's group and Father to a perpetrator's group, Mother began blaming herself and stating she was also abusive. On December 21, 2018, Mother contacted the investigator to ask for a restraining order against Father. When the investigator advised Mother to make a police report and request a temporary restraining order, mother responded that she wanted to wait until after the court hearing since she did not want to be stressed about it. DCFS expressed concern that Mother was not willing to obtain a restraining order and was not forthcoming about the abuse. DCFS recommended the children remain in suitable placement until Mother stabilized her mental health and maintained her sobriety.

On December 31, 2018, DCFS filed a first amended petition under section 300 to add counts for serious physical harm, failure

to protect from physical harm and substance abuse, and abuse of sibling (*id.*, subds. (a), (b)(1), and (j)). Additionally, DCFS alleged both parents admitted using alcohol, Father admitted using marijuana in the past, and Mother admitted using methamphetamine on October 31, 2018, the night the children were removed from her care.

At the jurisdiction and disposition hearing, the court found “ample evidence” to support jurisdiction under section 300 and sustained counts for serious physical harm (counts a-1 and a-2), and failure to protect from domestic violence, mental illness and substance abuse (counts b-1 through b-6). It struck the words “including a diagnosis of [d]epression and [a]nxiety” from count b-2, modified count b-6 to read “history of alcohol abuse,” and struck count j-1 (abuse of sibling) in its entirety.

Proceeding to disposition, the court found by clear and convincing evidence that remaining in the home with Mother would pose a substantial risk of danger to the children’s physical health and safety and their physical and emotional well-being. The court declared the children to be dependents of the court and ordered them placed with their maternal great aunt.

Mother timely appealed.

DISCUSSION

Mother challenges the juvenile court’s jurisdictional findings involving her conduct as unsupported by substantial evidence. She also argues that, even accepting the jurisdictional findings, the court erred in ordering removal of the children from her custody.

I. Justiciability

Before reaching the merits of Mother’s position, we must first decide whether this matter is justiciable—i.e., whether this

court can provide “‘effective’ relief—that is, the prospect of a remedy that can have a practical, tangible impact on the parties’ conduct or legal status.” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1490.)

It is well established that because the juvenile court’s primary concern is the protection of children, a jurisdictional finding based on the conduct of one parent is sufficient regardless of the conduct of the other parent. “It is commonly said that the juvenile court takes jurisdiction over children, not parents.” (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1491.) Thus, once the juvenile court finds that a child comes within the descriptions set forth in section 300, the child is subject to the court’s jurisdiction. (*Ibid.*) Further, once dependency jurisdiction has been established, a jurisdictional finding that involves the conduct of a particular parent is not a prerequisite for the juvenile court to enter orders binding on that parent. (*Id.* at p. 1492.)

Since a jurisdictional finding that involves one parent is sufficient, an appellate court can decline “to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence.” (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.) Here, any decision we may render in favor of Mother would not result in a reversal of the court’s order asserting jurisdiction. The juvenile court would still be entitled to assert jurisdiction on the basis of the unchallenged allegations regarding Father’s conduct. In any case, because Mother challenges the disposition as well as the jurisdiction decision, we will exercise our discretion to consider Mother’s jurisdictional challenge. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.)

II. Jurisdictional Findings

“A child may be adjudged a dependent of the court under subdivision (b)^[2] of section 300 if the ‘child has suffered, or there is a substantial risk 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.’ (§ 300, subd. (b)(1).) . . . ‘The three elements for jurisdiction under section 300, subdivision (b) 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, however, 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 (e.g., evidence showing a substantial risk that past physical harm will reoccur).” ’ [Citation.] Evidence of past

² Although the juvenile court sustained counts under both subdivisions (a) and (b) of section 300, there is a degree of overlap in the counts. We focus on subdivision (b), because the counts under this subdivision involved the allegations of physical altercations, physical abuse, mental and emotional problems, and drug and alcohol abuse. Subdivision (a) involved only allegations of abuse and physical altercations. “‘When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the [trial] court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.’ [Citation.]” (*In re Drake M.*, *supra*, 211 Cal.App.4th at p 762.)

conduct may be probative of current conditions. [Citation.] To establish a defined risk of harm at the time of the hearing, there ‘must be some reason beyond mere speculation to believe the alleged conduct will recur. [Citation.]’ [Citation.]” (*In re D.L.* (2018) 22 Cal.App.5th 1142, 1146.)

We review the juvenile court’s jurisdictional findings for substantial evidence. (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Mother argues no substantial evidence of risk of harm to her children existed at the time of the jurisdiction and disposition hearing. Instead, according to Mother, the family was “in temporary crisis because of a confluence of factors,” including her pregnancy, her obligation to care for four small children with no outside support, Father’s recovery from a gunshot wound, and Mother’s postpartum depression.

We find that Mother’s characterization of the facts presented to the juvenile court merely glides over the surface of a much deeper pool. The record contains substantial evidence of domestic violence between the parents. H.G. told the CSW her parents screamed at each other, Father slapped Mother in the face, and Father threw his keys at Mother, causing her to bleed. H.G. was scared after observing the violence and the fighting made S.G. cry. J.G., too, reported Father would hit Mother, which caused Mother and S.G. to cry. Mother, herself, acknowledged that Father “grabbed” her when they argued, and she and Father engaged in verbal domestic violence that “got[] out of hand because we both drink.” Even more troubling was Mother’s inquiry to the CSW about a restraining order against Father on December 21, 2018, a mere 24 days prior to the January 14, 2019 jurisdiction/disposition hearing. Additionally, the instances of domestic violence in the home were not new.

Substantiated allegations made in a 2013 referral described physical abuse of Mother by Father in H.G.'s presence. At that time, Mother reported she wanted to leave Father "but is afraid of him." Children's exposure to domestic violence can be a basis for jurisdiction under section 300. (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 600-601.)

Facts supporting allegations that a child is described by section 300 are cumulative, and courts must consider all the circumstances affecting the child, wherever they occur. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) The focus of section 300 is on averting harm to the child, and a current risk of harm can be shown by evidence of past conduct, if there is a reason to believe the conduct will recur. (*Ibid.*; *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1394.) Given Mother's failure to protect the children from the abusive relationship between Mother and Father, we conclude that the juvenile court's finding that H.G., J.G., M.G., and S.G. were still at risk of harm was supported by substantial evidence. Having determined the juvenile court was presented with substantial evidence of Mother's failure to protect the children from domestic violence, we need not reach the question of whether Mother's alleged mental illness further supported the finding of jurisdiction. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

III. Disposition

Once jurisdiction is established, " "[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 focus of the statute is on averting harm to the child.' [Citation.] The court may consider a parent's past conduct as well as present

circumstances.”’ [Citation.]” (*In re Lana S.* (2012) 207 Cal.App.4th 94, 105.)

Under section 361, subdivision (c)(1), the finding of potential detriment must be by clear and convincing evidence. “ ‘Clear and convincing evidence requires a high probability, such that the evidence is so clear as to leave no substantial doubt.’ [Citation.] [¶] . . . [J]urisdictional findings are prima facie evidence the child cannot safely remain in the home. (§ 361, subd. (c)(1).) The parent need not be dangerous and the child need not have been actually harmed before removal is appropriate. [Citations.]” (*In re A.E.* (2014) 228 Cal.App.4th 820, 825-826.) Our review, however, is for substantial evidence. (*In re R.T.*, *supra*, 3 Cal.5th at p. 633.)

Mother contends no substantial evidence existed to support the juvenile court’s order removing her children from her custody. She points to her agreement to all of the conditions imposed by the court (i.e., participation in a domestic violence program for victims, a drug and alcohol program including weekly random testing, a parental program, individual counseling for case issues, and a mental health evaluation), as well as statements by H.G. and J.G. that they liked living with their parents, in support of her argument that “[n]o evidence supports a finding of detriment to the children.”

Mother surmises that the juvenile court “may have been concerned about a continuation of the behavior that brought the family to the court’s attention,” and decries any attempt by the court to remove physical custody “ ‘based on pure speculation.’ ” (*In re Steve W.* (1990) 217 Cal.App.3d 10, 22.)

We disagree that the juvenile court engaged in any impermissible speculation. Mother’s argument against the

disposition disregards compelling evidence presented to the juvenile court that, notwithstanding her agreement to cooperate with family reunification services and other intervention methods, the evidence of domestic violence between the parents continued to place the children at substantial risk of harm. That evidence, alone, was sufficient to find potential detriment under section 361, subdivision (c)(1). Even more troublesome, however, was Mother's inquiry regarding, but failure to procure, a restraining order against Father just prior to the jurisdiction/disposition hearing. Ongoing domestic violence in a household where children are living, by itself, "is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194.)

Based on our review of the entire record, we find there is substantial evidence to support the disposition order.

DISPOSITION

The order is affirmed.

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ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

BENDIX, J.