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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B290934

(Los Angeles County
Super. Ct. No. 18LJJP00122)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Stephen Ipson, Juvenile Court Referee.

Affirmed in part, reversed in part, and remanded.

Janette Freeman Cochran, under appointment by the Court
of Appeal, for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Sally Son, Deputy County Counsel, for Plaintiff and Respondent.

Defendant and appellant S.A. (Mother) is the mother of two children: six-year-old K.B. and five-year-old S.B. (collectively, the Minors).¹ In dependency proceedings, the juvenile court found Mother was unable to provide regular care and supervision to the Minors due to mental and emotional problems (including depression, bipolar disorder, and post-traumatic stress disorder) for which she failed to consistently seek treatment. The juvenile court removed the Minors from Mother's custody, placed them with their father B.B. (Father), and granted Mother monitored visitation once per month. We consider whether substantial evidence supports the juvenile court's jurisdiction finding and removal order.

I. BACKGROUND

A. *Pertinent Family History*

1. *The 2014 sustained dependency petition*

Mother has a history of mental illness that occasioned Los Angeles County Department of Children and Family Services (Department) intervention in the past. As pertinent here, Mother pled no contest in 2014 to an amended petition alleging she suffered from depression, which, if not adequately treated, hindered Mother's ability to provide appropriate care for her children and exposed them to a substantial risk of harm.² The

¹ These were the Minors' ages at the time the dependency proceedings commenced.

² Mother appealed the jurisdiction and disposition orders in that dependency proceeding. We held Mother had forfeited her right to challenge the jurisdictional finding but conditionally reversed it for the limited purpose of ensuring the Department's

2014 petition, which the juvenile court sustained, specifically alleged Mother had been hospitalized for depression in 2010 and that “[a]s recently as March 2014, [Mother] made concerning statements regarding being overwhelmed, suicidal ideation, and being afraid she might hurt her children.” Later in 2014, the juvenile court terminated dependency jurisdiction and issued an order giving Mother physical custody of the Minors with joint legal custody to Mother and Father.

2. Nevada dependency proceedings in 2017

Father moved to Nevada in 2016. By early 2017, Mother and the Minors were living there as well.

In January of that year, Mother took K.B. to the hospital with concerns Father had hit K.B. with a hammer and sexually assaulted him.³ According to Mother, K.B. had been asking “who poked me,” and saying “oww” when urinating. The exam was

compliance with the Indian Child Welfare Act; we also held the disposition order was mooted by the juvenile court’s return of the Minors to Mother’s custody. (*In re K.B.* (Aug. 18, 2015, B259716) [nonpub. opn.].) At Mother’s request, we judicially notice our prior opinion.

³ This was not Mother’s first sexual abuse allegation against Father; Mother alleged Father had sexually abused S.B. three times in 2015. The Department investigated the three resulting child welfare referrals, each of which was closed with an “inconclusive” finding. At another point during 2015, the Department received a referral indicating Mother wanted the Department to take the Minors because she could no longer care for them. The referral was closed because the situation stabilized and there was already an open case for the Minors.

normal and the supervising physician found no signs of injury. Mother took K.B. back to the hospital the following month, this time alleging he had been raped by Father. According to Mother, the hospital found a healing rectum tear but told her it was more consistent with a hard stool.

In March 2017, Mother told K.B.'s therapist she wanted to turn the Minors over to the Nevada Department of Family Services (NDFS) because she was feeling overwhelmed and did not want to be one of those mothers who "drowns their children." She stated she was not currently taking any medication but wanted to be referred for a mental health evaluation.

An NDFS specialist met with Mother the following day; Mother was very emotional and cried at several times during the meeting. Mother reported she had previously been diagnosed with post-traumatic stress disorder (PTSD) and bipolar depression. She indicated she had been prescribed medication to treat these conditions, specifically Celexa and Latuda, but acknowledged she was not currently taking any medication. Mother felt depressed and as though she were a slave to her children. She agreed she needed mental health services, that it would be in her best interest to have an assessment, and that it was in the Minors' best interest to be placed in protective custody to allow her an opportunity to address her mental health needs.

Shortly thereafter, NDFS filed a dependency petition. The petition alleged Mother experiences symptoms of "Post-Traumatic Stress Disorder and/or Bi-Polar Disorder and/or Depression and/or other mental health conditions, which are inadequately treated and impair her ability to care for" the Minors. It further alleged Mother was not currently taking any medication, wanted to be referred for an evaluation, and wanted

to turn the Minors over to NDFS “because she was feeling overwhelmed with parenting and/or did not want to be one of those mothers who drowns their children.”

After filing the dependency petition, NDFS initially opted against placing the Minors with Father, in part because he had been diagnosed with schizophrenia. After further assessment, however, NDFS released the Minors to Father’s custody. A month later, a Nevada juvenile hearing officer found there were no safety concerns regarding Father’s ability to care for the Minors and recommended the dismissal of the petition with custody of the Minors to Father.

Before that happened, however, the Nevada court became aware of the earlier California dependency proceedings. The Nevada court ultimately concluded California had continuing jurisdiction over the custody and dependency matters and closed the case. The Minors were then returned to Mother’s custody and the three of them returned to California.

B. The Initiation of the Current Dependency Proceedings

1. Additional referrals after Mother and the Minors return to California

In September 2017, the Department received a referral stating Mother had informed the reporting party that Father raped K.B. in 2016. The Department concluded the allegation was unfounded.

The following month, the Department received another referral alleging Father had sexually abused K.B. While at school, K.B. had gone to the restroom twice in about thirty minutes and then asked to go a third time. The teacher sent an adult to the restroom with K.B. On the way back, K.B. stated, “I

pee so much because my dad put his hands down there and then I peed on myself and then blood came out. My mom said what happened? So I can't be around my dad anymore."

During the Department's investigation of this referral, Mother did not want to talk to the Department, nor did she want the Department talking to the Minors. Mother said the Department was not doing anything to put Father in jail after the same allegations kept resurfacing. Father denied the allegations and said Mother had trained the Minors on what to say. The Department closed the referral as inconclusive.

Just three months later, in January 2018, the Department received another child abuse referral regarding K.B. Mother took K.B. to an appointment in order to request services for him. Mother told the service provider K.B. was autistic and had said Father poked him in the bottom and hit him with a hammer. While at the service provider's location, K.B. ran up to a security guard and said, "My dad hurt me, will you take him to jail? Why has nothing been done about dad?" K.B. also told the referring party that Father hurt him, but K.B. did not provide any other details. Around the same time, Mother also alleged Father's wife⁴ had put S.B.'s arm in an oven, causing a burn.

2. The Department's preliminary investigation

The Department began an investigation in response to the January 2018 referral. A social worker made an unannounced visit to Mother's address on file, a home owned by the maternal aunt. An in-home care provider answered the door and informed

⁴ The record alternately refers to Father's significant other as his girlfriend or his wife.

the social worker that Mother was not present.⁵ The care provider told the social worker that she was a mandated reporter and had no concerns for the Minors based on what she had observed, adding that the Minors always seemed “really happy” and she believed Mother was a good mother to the minors.

A Department social worker later made contact with Mother by phone and Mother said she did not understand why the Department was questioning her parental capacity. Mother said she might retain an attorney and agreed to let the social worker know the next day whether she was going to do so and whether she would meet with the social worker.

During their subsequent conversation, the social worker asked Mother if she would be willing to meet. Mother said she was not sure because she did not trust the Department. Mother stated “you guys make money off taking children.” She reiterated that she did not understand why the social worker was trying to assess her. Mother also stated she wanted the social worker to bring someone with a psychology or clinical background to the meeting. When the social worker told Mother she could have someone with such a background attend the meeting if it were scheduled in the Department’s offices, Mother told the social worker she was uncomfortable with that location and ultimately declined to meet with the social worker.

The Department interviewed Father by phone and he denied Mother’s allegations against him, explaining she had made false allegations against him in the past. Father stated he

⁵ The maternal aunt later informed the Department that Mother did not reside in the home but used the address as her mailing address.

had been diagnosed with schizophrenia and explained he is “really low on the spectrum,” sees a therapist monthly, and takes medication. He did not think the Minors were scared of him, and he was concerned for their psychological development because he thought Mother was brainwashing them. Father stated he would be willing and able to care for the Minors if the Department determined Mother was incapable of doing so.

In an in-person interview with S.B., Department social workers observed she was clean, well-groomed, and free of marks and bruises. S.B. told the social workers she was “happy with” Mother and not scared of her. She denied ever being sexually abused. S.B. said Father “is evil” and “tries to hurt us,” “whipped us with a belt 400 times a day,” and “does weird things” like “eat[] from the trashcan.” When asked if she knew the difference between the truth and a lie, S.B. said she knew the difference and stated she was telling the truth. When asked if Father’s wife had burned her arm or elbow by putting it in the oven, S.B. said yes, explaining she was minding her own business and sitting in her room when Father’s wife snatched her and put her in the oven.

The social workers interviewed K.B. and he said Father “is not good” and denied having a dad, explaining he doesn’t “have a human daddy” and “God is my Dad.” K.B. said Father “whooped” him, slapped him in the face, hurt his feelings, and hurt his heart. When asked, K.B. said Father hit him with a hammer, but he denied Father ever poked him in his bottom. K.B. stated he was happy with Mother. K.B. had a small scar on one arm, small bumps on his right leg, and a small bump in his ribcage area, which he said were from a fall while playing. K.B. said Mother had not caused the marks, though he also reported Mother

spanks him “everywhere” with her shoe and hand when he gets in trouble.

A Department social worker also interviewed additional family members. Father’s wife denied putting S.B.’s arm in the oven. She said instead that she had taken the Minors to the park, where S.B. sustained a scrape while playing on a slide. The *paternal* grandmother told the social worker that Mother is “harmful with the children” and keeps telling the Minors to say Father is hitting them. The paternal grandmother further stated Mother has threatened the Minors’ lives when she is stressed and opined Mother has mental health issues that need to be addressed. The *maternal* grandmother said Mother loves the children, is a good mother, and provides for all of their needs. The maternal grandmother acknowledged, however, that Mother had been diagnosed with PTSD and been prescribed medication; the maternal grandmother was uncertain if Mother was currently taking any medication. The maternal aunt (a former Los Angeles County probation officer) told the Department that Mother suffers from PTSD as a result of her relationship with Father and, to her (the aunt’s) knowledge, the only services Mother had received in connection with the PTSD diagnosis was “therapy in the past.” The maternal aunt said she had no concerns the Minors were being abused or neglected, opined Mother was “enlightened” and “resilient,” but acknowledged Mother might benefit from some services and support.

In addition to the various initial interviews, the Department obtained and reviewed electronic records of

suspected child abuse reports from the Palmdale Sheriff's Office.⁶ The reports indicated Palmdale Sheriff's Office deputies conducted welfare checks of the Minors on two separate occasions. On the first occasion, the responding deputy observed the children were free of marks or bruises and their home was clean, well-kept, and stocked with sufficient food. On the second occasion, the responding deputy made similar observations but Mother asked the deputy to leave the home immediately and said she would have a panic attack unless the deputy did so (the deputy complied).

3. *The Department seeks and obtains a removal order*

Believing that Mother had failed to cooperate with the investigation, that Nevada's dependency system had detained the children from Mother in March of 2017 due to Mother's mental health problems, and that Mother had an extensive mental health history and it was unknown whether she was addressing it, the Department sought and obtained an order authorizing removal of the Minors from Mother's custody.

After the Department removed the Minors, Mother went to the Department's office, reviewed a copy of the removal order, and stated it was "a lie." Mother suggested the Minors be placed with the maternal aunt, at which point the social worker informed Mother that Father had rights as well. Mother became upset and stated, "you want to give them back so he [can]

⁶ The date of the reports themselves is unclear, but the Department reviewed the reports in February 2018.

continue to rape them.” Mother asked to speak to a supervisor, but she left before doing so.

The Department released the Minors into Father’s custody. Father picked them up from the Department’s office, where the Minors hugged Father and appeared comfortable in his presence. Neither showed any signs of fear.

C. The Dependency Petition and Ensuing Proceedings

The Department filed a single-count dependency petition alleging the Minors were at substantial risk of suffering serious physical harm. The petition alleged the Minors were at risk because Mother has mental and emotional problems including “Depression, Bipolar Disorder, Post Traumatic Stress Disorder, and suicidal and homicidal ideations” that render Mother unable to provide regular care and supervision for the Minors. It further alleged Mother was not enrolled in therapeutic services to address her mental and emotional problems, periodically failed to take her prescribed psychotropic medication, and previously had been involuntarily hospitalized due to her mental health issues.

The Department prepared a detention report that contains, among other things, a section entitled “Reasonable Efforts and/or Prior Intervention/Services Offered.” That section asserts reasonable efforts were made to prevent or eliminate the need for the Minors’ removal, but there was no text added under a subheading that reads “Pre-placement Preventive Services were provided but were not effective in preventing or eliminating the need for removal of the child from the home.” The only other information in the reasonable efforts section of the detention report was a list indicating the Department had completed

interviews with Father, Mother, the Minors, and “multiple collateral contacts regarding the family.”

At the detention hearing, the juvenile court found the Department had made a prima facie case for detaining the Minors. The court further found there was substantial danger to the Minors’ physical or emotional health, there were no reasonable means to protect them without removal from Mother’s custody, and reasonable efforts had been made to prevent or eliminate the need to remove them. The court ordered the Minors were to remain released to Father under the Department’s supervision.

In advance of the jurisdiction and disposition hearing, a Department social worker arranged for a face-to-face interview of Mother. She maintained she had no problems that prevented her from caring for the Minors. She conceded she had been diagnosed with PTSD in 2014, post-partum depression in 2012, and depression in 2010, but she claimed she did not have a bipolar disorder. She also acknowledged she had attended therapy for two years, from 2014 to 2016; had attended two or three “crisis therapy” sessions since then; and had been prescribed medication (including Celexa) on multiple occasions. But Mother stated she had been told her symptoms—panic attacks and depression—were “situational” and, in her view, she “deal[t] with things pretty well” and the mental health issues “don’t limit [her] function at all.” When the social worker asked whether Mother was in therapy or seeing a psychiatrist, Mother said, “Not regularly right now, I have to[o] many concerns.”

Mother denied having suicidal and homicidal thoughts, and she further denied ever threatening to harm herself or her children. When the conversation turned to Father, Mother

asserted the children were not safe with him because he is “a pedophile.” Mother also recounted for the social worker what she represented was the Minors’ allegation that Father puts the Minors “in a bird cage.”

In addition to Mother, the Department re-interviewed other members of the family. Father stated the dependency petition’s mental health allegations against Mother were accurate. K.B. stated he loves Father and Mother, and wanted to see Mother. S.B. did not provide any pertinent statement. The maternal grandmother told a social worker that the Minors were taken from the safest place, which was with their Mother, but the social worker believed Mother had coached the maternal grandmother on what to say.

A Department report prepared for the jurisdiction and disposition hearing listed the following “reasonable efforts” it had made (i.e., efforts to avoid the need to remove the Minors from Mother’s custody): “Notices and copy of the petition were provided via first class mail to the parents”; “Father and children were interviewed”; “CLETS requests were submitted and received”; “RAPS were requested and pending”; “[NDFS] records were requested and received.” The report additionally stated “[i]t is unclear if [Mother] is being treated for her mental health as she has not cooperated with the Department and in records provided from [NDFS] she also would not state her mental health history or diagnosis.”

The juvenile court held its jurisdiction and disposition hearing in May 2018. It admitted into evidence the Department’s reports and attachments but declined to admit Mother’s exhibits (a report from Children’s Hospital of Los Angeles and a Las

Vegas Metropolitan Police Department report) on hearsay grounds.

In arguing the matter, the Department reviewed the family's dependency history and asked the juvenile court to sustain the petition as pled because Mother was not participating in services to address her mental health issues. Mother's attorney asked the court to dismiss the petition because the Department's evidence of mental health problems was stale and there was no current risk to the Minors. The attorney for the Minors argued in favor of sustaining the petition, telling the court he believed the Minors were at "very, very serious risk" because Mother had coached the children to "distort reality" and had been inconsistent in seeking treatment for her mental health issues.

The juvenile court sustained the petition without elaboration of its reasons on the record. The court then invited argument on the appropriate disposition. The Department asked the court to continue the Minors' placement with Father and order services for both parents. Mother's attorney expressed concern about visitation, explaining Father's continued residence in Nevada would make visitation, especially monitored visitation, difficult. The juvenile court found by clear and convincing evidence that there would be substantial danger to the health, safety, and well-being of the Minors if returned to Mother and removed them from Mother's custody, placing them with Father. The court further stated, without elaboration, "[r]easonable efforts were made to prevent and eliminate the need for removal." As to visitation, the court ordered Mother to have one monitored visit per month at the Department's offices (plus Skype and

phone communication), with Father responsible for transporting the Minors to California for the visit.

II. DISCUSSION

Substantial evidence supports the juvenile court's decision to assume jurisdiction over the Minors. Mother had been diagnosed with mental health issues, previously indicated she was worried she would harm the Minors, and was not currently seeking mental health treatment or taking previously prescribed medication despite various indicia (including her own admission just over a year before the jurisdiction hearing) that she needed such treatment. These facts provided an adequate basis for the juvenile court to find there was a substantial risk of serious physical harm to the children and to compel Mother, as the court did, to undergo a psychiatric evaluation, participate in mental health counseling, and take any prescribed psychotropic medication.

At the same time, we find the record bereft of adequate support for the juvenile court's order removing the Minors from Mother's custody. The record indicates the Minors were in good health and had not suffered harm; rather, the thrust of the dependency petition at issue (and the petition sustained in 2014, for that matter) was that the Minors were at *risk* of harm from Mother's *untreated* mental health issues. Once the juvenile court assumed jurisdiction and ordered such treatment under the Department's supervision, there is no substantial evidence indicating removal was justified to protect against harm from untreated mental health issues. Indeed, the juvenile court did not make the statutorily required findings on the record to support its judgment that removal was necessary under the

circumstances (Welf. & Inst. Code,⁷ § 361, subd. (e)) and it is impossible to imply findings that would support the juvenile court's judgment because the Department reports provide no meaningful information on any efforts made to avoid the need to remove Minors from Mother's custody.

*A. The Juvenile Court's Jurisdiction Finding Is
Supported by Substantial Evidence*

“In reviewing a challenge to the sufficiency of the evidence supporting the [juvenile court's] jurisdictional findings . . . , we determine if substantial evidence, contradicted or uncontradicted, supports them. “In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court.” (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193 [*Heather A.*].) “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.]”” (*In re I.J.* (2013) 56 Cal.4th 766, 773; *In re F.S.* (2016) 243 Cal.App.4th 799, 813 (*F.S.*).)

A juvenile court may assert jurisdiction over a child where “[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, or the willful or

⁷ Undesignated statutory references that follow are to the Welfare and Institutions Code.

negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left" (§ 300, subd. (b)(1); see also *In re R.T.* (2017) 3 Cal.5th 622, 629 [first clause of section 300, subdivision (b)(1) "requires no more than the parent's 'failure or inability . . . to adequately supervise or protect the child'"].) "Although 'the question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm' [citation], the court may nevertheless consider past events when determining whether a child presently needs the juvenile court's protection. [Citations.] A parent's past conduct is a good predictor of future behavior." (*In re T.V.* (2013) 217 Cal.App.4th 126, 133; see also *F.S.*, *supra*, 243 Cal.App.4th at pp. 814-815.)

Mother contends there is insufficient evidence to support the jurisdiction findings because there was no evidence she was diagnosed with bipolar disorder and because all of the Department's evidence was stale (from 2014) and there was no evidence of any current risk to the Minors. Both arguments are contradicted by substantial evidence in the record.

Viewing the record in the light most favorable to the juvenile court's decision (*Heather A.*, *supra*, 52 Cal.App.4th at p. 193), there is indeed evidence that Mother had been diagnosed with a bipolar disorder. Though she denied it in her most recent Department interview, Mother told NDFS she had been diagnosed with bipolar depression during an interview just over a year earlier, in 2017. The juvenile court was entitled to credit her earlier statement rather than the one she made to the Department, particularly in light of Mother's willingness to speak

to NDFS and her reluctance to meet with the Department.⁸ Mother's contention that her prior statement should be disregarded because the Nevada court never got to the point of sustaining a dependency allegation against her (it dismissed the proceedings when it discovered the California dependency case) ignores the salient point: the admission is what matters for our purposes. Furthermore, even apart from the dispute about the bipolar diagnosis, there is no dispute that Mother had been diagnosed with the other mental and emotional problems, namely, depression and PTSD.

The record also demonstrates the 2018 petition was not based solely on stale evidence; to the contrary, the court's jurisdiction findings were predicated on evidence establishing a current risk to the Minors. In 2017 and 2018, Mother admitted she was neither taking prescribed medication nor availing herself of any therapeutic services. In March of 2017, Mother told K.B.'s therapist she wanted to turn the Minors over to NDFS because she was feeling overwhelmed and did not want to be one of those mothers who "drowns their children." She agreed with the NDFS specialist that she needed mental health services, and that it was in her best interests to undergo an assessment. However, there is no indication Mother actually underwent an assessment following the discussion with NDFS. Indeed, when Mother was

⁸ Mother also contends, citing *In re Sergio C.* (1999) 70 Cal.App.4th 957, 960, that the Department needed to investigate her alleged bipolar diagnosis to support the allegation, arguing this is a situation where investigation is required because the custodial parent "flatly denied any issues." Mother's admission of the diagnosis to NDFS contradicts her assertion that she "flatly denied" having a bipolar diagnosis.

later interviewed by the Department in 2018, she was still “[n]ot regularly” seeing a psychiatrist or in therapy because she “ha[d] to[o] many concerns.” There was no evidence she was taking any medication, or that any physician had confirmed it was safe for Mother to be off the medication previously prescribed. And repeatedly in 2017 and 2018, Mother continued to make unsubstantiated sexual abuse allegations against Father (and appeared to be coaching the Minors to make other odd statements, e.g., that Father kept them in a “bird cage”).

Thus, while Mother is correct that “harm may not be presumed from the mere fact of mental illness of a parent,” (*In re James R.* (2009) 176 Cal.App.4th 129, 136, disapproved on another ground in *In re R.T.*, *supra*, 3 Cal.5th at pp. 628-629), the record demonstrates more than the “mere fact” of Mother’s mental illness. It demonstrates, absent juvenile court involvement, Mother was not consistently seeking treatment for her mental health issues and had stopped taking previously prescribed medication. The paternal grandmother expressed concern that Mother might harm the children without mental health support services and even the maternal aunt, who was quite supportive of Mother, acknowledged Mother might benefit from services and support. Considered as a whole, there was sufficiently current information to justify the juvenile court’s decision to assume jurisdiction; the court was not required to wait until the Minors were seriously injured to assume jurisdiction and take steps to protect them. (*In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216 (*Christopher R.*).

B. The Removal Order Was Unjustified

Before removing a child from a parent's physical custody, a juvenile court must find clear and convincing evidence there is or would be "substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor" if the child were returned home, and that there are no reasonable means to protect the child without removal. (§ 361, subd. (c)(1).) "A removal order is proper if it is based on proof of (1) parental inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent." (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163 [focus of the statute is on averting harm to the child].) We review a removal order for substantial evidence. (*Christopher R.*, *supra*, 225 Cal.App.4th at p. 1216.)

Mother contends that even if dependency jurisdiction was warranted, there is still insufficient evidence to support the juvenile court's decision to remove the Minors from her custody. She emphasizes the Department provided no evidence of reasonable efforts it undertook to avoid removal and the juvenile court failed to consider viable alternatives to removal. In a three-paragraph argument, the Department defends the removal order, arguing "[t]he same substantial evidence supporting the juvenile court's jurisdictional findings also supports the order removing the [Minors] from Mother's care"

Contrary to the Department's suggestion, our holding that substantial evidence supports the juvenile court's jurisdiction findings does not predetermine the question of whether the removal order was proper. The legal standards for both determinations are not the same (*In re Ashly F.* (2014) 225 Cal.App.4th 803, 811 (*Ashly F.*); *In re Henry V.* (2004) 119

Cal.App.4th 522, 531), and the record evidence is undisputed (including the two welfare checks by deputy sheriffs and the observations of social workers themselves) that the Minors were in good health and had not yet suffered harm. The question is therefore whether there is substantial evidence for the juvenile court's conclusion that—even after assuming jurisdiction over the children—there were no reasonable means by which the Minors' physical health could be protected without removing them from Mother's custody. (§ 361, subd. (c)(1).)

In answering that question, we would normally look first to the facts cited by the juvenile court for why alternatives short of removal appeared insufficient; a recitation of such facts is required by the removal statute. (§ 361, subd. (e) ["The court shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home The court shall state the facts on which the decision to remove the minor is based"].) We cannot do so here, however, because the juvenile court provided no explanation at all for its removal and reasonable efforts findings. Nor can we imply findings for why the court may have believed measures short of removal were insufficient because the Department reports provide no evidence of any meaningful reasonable efforts that were undertaken, or considered but for some reason rejected. (See generally *Ashly F.*, *supra*, 225 Cal.App.4th at pp. 809-810 [requirement for discussion by the child welfare agency of its reasonable efforts to prevent or eliminate removal and a statement by the court of the facts supporting removal play important roles in the dependency scheme].) Rather, the reports simply recite the steps taken by the Department in its investigation (e.g., interviewing the

parents and giving notice of the petition)—steps that we venture to say would be taken in just about every investigation.

Our own examination of what is available in the record leaves us convinced removal was unjustified under the circumstances here. There are good indications that Mother's mental health problems only pose a risk to the Minors' safety when she is not participating in treatment and that, when she is, there is no substantial danger to their physical health, safety, and well-being. Indeed, this is the very determination underlying the dependency court's termination of jurisdiction in the 2014 case involving the same mental health problems. With the juvenile court again assuming jurisdiction over the Minors, we see no evidence justifying a conclusion that Mother would disobey the court's orders to participate in mental health treatment services. Indeed, the juvenile court could have enlisted the Department's help without need of removing the Minors—ordering, for instance, unannounced visits and/or in-home services. (See, e.g., *Ashly F.*, *supra*, 225 Cal.App.4th at p. 810.) The disposition instead settled on by the juvenile court, removing the children to live with Father in Nevada with one in-person visit per month for Mother, is unsupported by substantial evidence.

DISPOSITION

The juvenile court's jurisdiction finding is affirmed. The order removing the Minors from Mother's custody is reversed and the matter is remanded for a new disposition hearing.

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BAKER, Acting P. J.

We concur:

MOOR, J.

KIM, J.