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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION FOUR**

In re M.G., a Person Coming  
Under the Juvenile Court Law.

B296920

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Los Angeles County  
Super. Ct. No.  
18CCJP05925

Plaintiff and Respondent,

v.

L.C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of  
Los Angeles County, Victor G. Viramontes, Judge. Affirmed.

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

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

## INTRODUCTION

LaBarron C. (father) challenges the juvenile court's jurisdictional findings under Welfare and Institutions Code<sup>1</sup> section 300, subdivisions (a) and (b)(1). Father contends there was insufficient evidence to establish his daughter was at substantial risk of serious physical harm due to his physical abuse, his failure to ensure his daughter's participation in mental health services, or his substance abuse issues.

Father also challenges the court's dispositional order, in which the court declared his daughter a dependent of the court, removed her from his custody, and placed her in the care of Luz A. (Luz), her maternal second cousin. Father argues the court erred in removing M.G. from his custody and in declining to place his daughter in the custody of her paternal grandparents.

We conclude substantial evidence supports the court's jurisdictional findings and removal order, and that the court did not abuse its discretion in denying father's request to place M.G. with her paternal grandparents. Thus, we affirm.

## BACKGROUND

Father and Laura L. (mother)<sup>2</sup> are the parents of M.G., who was seven years old when the case was initiated. Since she was two months old, M.G. has been cared for by Luz, as mother "was on drugs" and could not provide consistent care for M.G. At the time, father was not involved in M.G.'s life.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Mother is not a party to this appeal.

On August 8, 2016, Luz reported mother's substance abuse to the Department of Children and Family Services (Department). On September 16, 2016, the Department filed a petition alleging mother was "incapable of providing regular care and supervision of [M.G.]," as mother "ha[d] a 17-year history of illicit drug use," was "a current user of PCP and marijuana," and had been "under the influence of illicit drugs while [M.G.] was in [her] care and supervision."

Mother asked father to participate in the proceedings on the 2016 petition. Ultimately, the court sustained the petition, placed M.G. in father's custody, granted mother monitored visits, and terminated jurisdiction.

Despite being granted full custody of M.G., father allowed her to continue residing with Luz until February 2018, when he took M.G. into his care. Subsequently, father and Luz became involved in a dispute over who should have custody over M.G., which was heard in probate court. In April 2018, M.G. was returned to Luz, when Luz was granted temporary guardianship. On August 3, 2018, however, Luz's petition for legal guardianship was denied and M.G. was again placed in father's care.

On August 16, 2018, M.G. began crying at school because she "thought that she was in trouble due to an incident . . . involving another student." M.G. stated that if father found out she had gotten in trouble at school, she would also get in trouble at home. She "then mentioned [father] slammed her against a gate last night." M.G.'s report prompted a referral to the Department.

On August 23, 2018, two Department social workers met with M.G. at school. While speaking with the social workers, M.G. "started to cry . . . and stated that she knew [they] were

there because [father] pushed her into the gate because he was mad at her for drinking his alcohol,” which she had mistakenly believed was water, as it was in a water bottle.

M.G. told the social workers that on prior occasions, “she has thought about hurting herself,” as she did not want to be with father. M.G. stated she “would hurt herself by stabbing herself.” M.G. also related that she currently felt “like hurting herself” and “want[ed] to run in front of a car.” In light of M.G.’s comments, school personnel called the Los Angeles Unified School District’s Mental Health Evaluation Team (MHET team) to assess her.

M.G. informed the MHET team she “has thought of hurting herself before and has access to a knife in the kitchen at home in the drawer to stab herself.” Based on her comments, the MHET team “determined [M.G.] was a threat to herself as she had a plan to hurt herself and ha[d] access to execute this plan.” Consequently, M.G. was taken to a hospital, where she was placed on a 72-hour psychiatric hold.

On September 14, 2018, the Department filed a petition under section 300, subdivisions (a) and (b)(1). The petition alleged M.G. was at substantial risk of serious physical harm due to: (1) father’s “physical abuse” and mother’s failure to protect M.G. from father’s harmful conduct (counts a-1 and b-2); (2) father’s “fail[ure] to ensure [M.G.’s] participation in psychological services” (count b-1); (3) father’s “current abus[e] of alcohol and marijuana” (count b-3); and (4) mother’s “current abus[e] of marijuana and PCP” (count b-4).

At the adjudication hearing held on February 26, 2019, the juvenile court dismissed the allegation regarding mother’s failure to protect M.G. from father’s physical abuse, finding mother

neither knew nor had reason to know of the abuse. With respect to all of the other allegations, the court sustained the petition and exercised jurisdiction over M.G.

Proceeding to disposition, the court found, by clear and convincing evidence, M.G. would face substantial danger to her health and emotional well-being if she were to remain with either of her parents. The court also found there were no reasonable means to protect M.G.'s physical and emotional health short of removal.

Consequently, the court ordered M.G. removed from both parents. The court granted father monitored visits and ordered father to participate in random or on-demand weekly drug testing, as well as individual counseling.

At a hearing held on February 27, 2019, the court ruled on the matter of M.G.'s placement. The court denied father's request to have M.G. placed with her paternal grandparents and ordered M.G. placed with Luz. Father timely appealed the dispositional order.

## **DISCUSSION**

### **I. Challenges to Jurisdictional Findings**

As an initial matter, we observe father does not appeal the court's jurisdictional findings concerning mother; he only challenges the jurisdictional findings related to him. Under these circumstances, we note we are not required to address father's challenges to the court's jurisdictional findings, as we can affirm the court's exercise of jurisdiction over M.G. based on its unchallenged findings pertaining to mother. (See *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451 ["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 juvenile 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."].) Nevertheless, because the court's jurisdictional findings related to father may be used against him in future dependency proceedings, we exercise our discretion to consider the merits of father's challenges to these findings. (See *In re Jonathan B.* (2015) 235 Cal.App.4th 115, 119.)

Under section 300, subdivision (a), the juvenile court may exercise jurisdiction over a child if it finds "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." (§ 300, subd. (a).) "For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm." (*Ibid.*)

Pursuant to section 300, subdivision (b)(1), the juvenile court may exercise jurisdiction over a child if it finds "[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)(1).)

In evaluating whether a child faces a risk of harm under section 300, the court may consider past events, as "[a] parent's past conduct is a good predictor of future behavior. [Citation.]" (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) To establish a risk of harm at the time of the hearing, however, "[t]here must be

some reason beyond mere speculation to believe the alleged conduct will recur. [Citation.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 136.)

We review a juvenile court’s jurisdictional orders for substantial evidence. (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 992 (*Yolanda L.*)). Under this standard, “we view the record in the light most favorable to the juvenile court’s determinations, drawing all reasonable inferences from the evidence to support the juvenile court’s findings and orders.” (*Ibid.*) “We do not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts. [Citation.]” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228 (*Dakota H.*)).

“Substantial evidence must be of ponderable legal significance. It is not synonymous with ‘any’ evidence. [Citation.] The evidence must be reasonable in nature, credible, and of solid value. [Citation.]” (*Dakota H., supra*, 132 Cal.App.4th at p. 228.) “. . . “The ultimate test is whether it is reasonable for a trier of fact to make the ruling in question in light of the whole record.” [Citation.]’ [Citation.]” (*Yolanda L., supra*, 7 Cal.App.5th at p. 992.) “The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the finding or order. [Citation.]” (*Dakota H., supra*, 132 Cal.App.4th at p. 228.)

#### **A. Physical Abuse Allegations**

Father contends the juvenile court erred in sustaining the petition with respect to counts a-1 and b-2, as there was insufficient evidence to demonstrate M.G. suffered, or was at risk of suffering, serious physical harm due to physical abuse by father. In support of his argument, father relies on *In re Isabella*

*F.* (2014) 226 Cal.App.4th 128 (*Isabella F.*). We disagree with father's argument.

In *Isabella F.*, the court reversed the juvenile court's jurisdictional findings, reasoning that although the minor had received scratches during an altercation with her mother, her injuries did not constitute "serious physical harm" under section 300, subdivision (a). (*Isabella F.*, *supra*, 226 Cal.App.4th at pp. 132, 138-39.) Moreover, the court found the minor was not at substantial risk of harm in the future, as the minor reported her altercation with her mother "was an isolated incident, and there [was] nothing in the record to suggest otherwise." (*Id.* at p. 139.)

We find the present case is distinguishable from *Isabella F.* in that, here, although the record does not demonstrate father inflicted serious physical harm on M.G. in the past, the record contains sufficient evidence to support a finding that M.G. is at substantial risk of suffering serious physical harm due to physical abuse by father in the future. Specifically, as discussed below, the record reflects father has engaged in multiple acts of physical and verbal aggression directed towards M.G. Father, however, refuses to acknowledge the impropriety of his actions, and thus is unlikely to break from this pattern of conduct.

With respect to father's prior acts of physical aggression, M.G. has reported father "pushed her into a gate" when he got angry with her. M.G. also stated father "pushed her on another occasion," in which "she fell and scraped her knee." Consistent with M.G.'s statements, Luz reported M.G. told her father "has pushed her into a gate and pushed her to the ground." Luz also related M.G. told her father has "grabbed [M.G.] by the shirt."

Moreover, M.G. has reported father occasionally "grabs her roughly by the arm" and "grabs [her] arm really tight." In



interviews with the Department, mother and Luz corroborated M.G.'s reports; mother stated she has seen father "snatch[] [M.G.'s] hand" and "grab [M.G.'s] arm," and Luz stated she has seen him "yank" M.G.'s arm.

Regarding father's acts of verbal aggression, M.G. reported father "often threatens" her and has "threatened to hit [her] if [she] didn't stop crying." Likewise, mother stated father is "verbally abusive" and that she has heard him "tell[] [M.G.] to stop crying or he is going to whoop her."

Notwithstanding M.G.'s reports, father has consistently denied pushing, threatening, or otherwise "put[ting] his hands on [M.G.]" And, when others have expressed concerns to father about how he treats M.G., father has responded defensively. Mother stated that when she tried to talk to father about his grabbing M.G.'s arm and threat to "whoop" her, father "start[ed] to yell and curse and say[] that everyone baby's [sic] [M.G.], and that no one is going to tell him how to raise her." Andrea G. (Andrea), M.G.'s therapist, stated father "does not have self-awareness" about his interactions with M.G. and "gets defensive" when she makes suggestions to him about his parenting techniques.

Additionally, Andrea stated she was "concerned about [father's] temper." Andrea stated father "struggles with his anger," that she was uncertain about whether he tries to control his temper at home, and that "he could easily lose his temper." Consequently, she "expressed concern about [M.G.] having unmonitored visits with [him.]"

On this record, the juvenile court could reasonably infer father has an aggressive temperament, which has led him to engage in acts of physical and verbal aggression directed towards

M.G. on several occasions in the past. Father, however, lacks self-awareness about the impropriety of his conduct and has not been open to discussion or receptive to feedback regarding his parenting techniques and his interactions with M.G. Under these circumstances, the court could reasonably conclude father may engage in acts of physical aggression towards M.G. in the future, and thereby place her at substantial risk of serious physical harm. Thus, substantial evidence supports the court's jurisdictional findings pertaining to father's physical abuse.

### **B. Medical Neglect Allegations**

Father contends the court should not have sustained the petition on count b-1, as the record does not demonstrate father's failure to ensure M.G.'s participation in psychological services placed her at substantial risk of serious physical harm. We disagree.

Before being placed with father in August 2018, M.G. had been attending therapy with Andrea for several months. Father was aware M.G. had "been seeing a therapist way before [he] came into her life." When placing M.G. with father, the probate court ordered M.G.'s therapy be continued.

After M.G. was placed in father's custody, however, Andrea reported M.G. missed her sessions, which prompted Andrea to contact father on August 21, 2018. While father stated a preference for keeping M.G. in therapy with Andrea, and Andrea provided father with two appointment options and asked him to call her back to book an appointment, father did not contact her to do so.

Two days after Andrea spoke with father, M.G. was placed on a 72-hour psychiatric hold when she expressed thoughts of suicidal ideation and self-harm at school. About a week and a

half after M.G.'s release, however, Andrea reported father still had not made an appointment for M.G. to be seen, and although father had left Andrea "an urgent message," he did not answer when Andrea returned his call. Andrea also stated that when she left another message for father providing two possible appointment times, father "never called back and never brought [M.G.] to be seen." Indeed, father did not make an appointment for M.G. to see Andrea until September 12, 2018, the date on which the Department informed him of its concerns about M.G.'s "mental health needs not being met."

Based on this evidence, the juvenile court could reasonably conclude father failed to ensure M.G.'s participation in psychological services in the past, and is unlikely to maintain her participation in these services on a consistent basis in the future, despite being aware of M.G.'s mental health issues. Considering M.G.'s recent expression of suicidal ideation and thoughts of self-harm, the court could reasonably infer father's failure to ensure M.G.'s regular participation in psychological services would place her at substantial risk of serious physical harm. Accordingly, substantial evidence supports the court's jurisdictional findings regarding father's medical neglect.

### **C. Substance Abuse Allegations**

Father contends the court erred in sustaining the petition on count b-3, as the record lacks evidence to demonstrate there was a nexus between father's substance abuse and a substantial risk of serious physical harm to M.G. Again, we disagree.

M.G. reported father "drinks beer and alcohol all the time every day" and stores alcohol in the refrigerator in his home. M.G. also related that on one occasion, she accidentally consumed alcohol father had placed into a water bottle. Moreover, M.G.

stated father has smoked marijuana in front of her more than once.

Father's substance abuse has resulted in his arrest on at least three occasions. In 2007, father was arrested for driving under the influence after he was stopped for making a prohibited right turn, and law enforcement observed him exhibit "signs/symptoms of alcohol/marijuana use." At the time of his arrest, the police officer observed father's license was suspended as a result of a prior DUI conviction. In 2016, father was arrested for driving under the influence after law enforcement observed him drive his vehicle onto the sidewalk. Lastly, Luz stated father was arrested on an unspecified date after he "came to her residence extremely intoxicated, demanding to visit with [M.G.]"

On this record, the juvenile court could appropriately conclude father regularly consumes alcohol and marijuana while M.G. is under his care, despite his reported participation in Shields for Families groups and a program with Mothers Against Drug Driving. Given father's arrests in connection with his substance abuse, the court could reasonably infer father's substance abuse was "not . . . confined to [his] private moments alone" and could "spill[] over into areas that will pose a substantial risk of physical harm to [M.G.]" (*In re L.W.* (2019) 32 Cal.App.5th 840, 846, 850, 852 [affirming jurisdictional findings where record reflected mother smoked cocaine in her child's presence and had been arrested for driving under the influence twice].) Accordingly, substantial evidence supports the court's jurisdictional findings concerning father's substance abuse.

## **II. Challenges to Dispositional Order**

### **A. Removal from Father's Custody**

#### **1. Informal Supervision**

Section 360, subdivision (b) provides: “If the court finds that the child is a person described by Section 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child’s parent or guardian under the supervision of the social worker for a time period consistent with Section 301.” (§ 360, subd. (b).)

Father contends the juvenile court erred in removing M.G. from his custody because, rather than declaring M.G. a dependent of the court and ordering her removal, the court could have ordered informal supervision under section 360, subdivision (b). As the Department correctly points out, however, father has forfeited this argument, as neither he nor his counsel requested informal supervision under section 360, subdivision (b) in the juvenile court proceedings. (See *In re S.B.* (2004) 32 Cal.4th 1287, 1293.) Rather, with respect to disposition, father’s counsel only asked the court to return M.G. to father’s custody outright or, alternatively, to grant father unmonitored visits or monitored visits in a non-therapeutic setting, and place M.G. with her paternal grandparents.

#### **2. Evidence in Support of Removal Findings**

The juvenile court may remove a child from the custody of a parent if it finds, by clear and convincing evidence, “[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without

removing the minor from the minor's parent's . . . physical custody." (§ 361, subd. (c)(1).) We review a court's findings in support of a removal order for substantial evidence. (*In re Alexander C.* (2017) 18 Cal.App.5th 438, 446.)

Though it is not entirely clear, father also appears to contend removal was improper because there was insufficient evidence to support the juvenile court's finding that no reasonable means short of removal were available to protect M.G. from harm. Father suggests a court order requiring him to complete his "group alcohol sessions," attend conjoint counseling with M.G., and transition M.G. from Andrea to a therapist closer to his home would have been an adequate alternative to removal. We are not persuaded.

As discussed above, father was largely non-responsive to Andrea's attempts to assist him in making therapy appointments for M.G. following M.G.'s placement in his custody. Similarly, while father expressed willingness to participate in a child family team (CFT) meeting facilitated by the Department, the Department was unable to contact father to complete the CFT engagement process. Further, although the Department's Multi-Disciplinary Assessment (MAT) assessor tried to contact father on three occasions to seek his participation in the MAT process, the assessor was unable to reach him. Based on father's pattern of non-responsiveness to requests by the Department and others, the court could reasonably conclude father's compliance with a court order requiring him to transition M.G. to a different therapist and participate in services would be questionable at best. (*In re T.V.*, *supra*, 217 Cal.App.4th at p. 133 ["A parent's past conduct is a good predictor of future behavior. [Citation.]."])

Additionally, the record reflects that even if father attended conjoint therapy with M.G. and completed his “group alcohol sessions,” father’s participation in these activities would have been insufficient to protect M.G. from harm. As discussed above, father has not been receptive to feedback about his parenting skills or his interactions with M.G. Moreover, Andrea reported that when she held a conjoint therapy session with M.G. and father, it “did not go well,” as father “did not acknowledge” M.G.’s expression of her needs. Further, despite father’s reported attendance at Shields for Families meetings, he has continued to consume alcohol and marijuana regularly in M.G.’s presence.

Accordingly, substantial evidence supports the court’s finding that there were no reasonable means short of removal to protect M.G. from harm.

#### **B. M.G.’s Placement**

Section 361.3, subdivision (a) provides: “In any case in which a child is removed from the physical custody of his or her parents pursuant to Section 361, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative[.]” (§ 361.3, subd. (a).) Under this section, “[p]referential consideration’ means that the relative seeking placement shall be the first placement to be considered and investigated.” (§ 361.3, subd. (c)(1).) Thus, preferential consideration “does not create an evidentiary presumption in favor of a relative, but merely places the relative at the head of the line when the court is determining which placement is in the child’s best interests.’ [Citation.]” (*Alicia B. v. Superior Court* (2004) 116 Cal.App.4th 856, 863 (*Alicia B.*)).

When deciding whether to place a child with the requesting relative, the juvenile court must consider the multitude of factors

set forth in section 361.3, subdivision (a). (§ 361.3, subd. (a).)  
“The linchpin of a section 361.3 analysis is whether placement with a relative is in the best interests of the minor. [Citation.]” (*Alicia B.*, *supra*, 116 Cal.App.4th at pp. 862-863.)

“We review a juvenile court’s custody placement orders under the abuse of discretion standard of review; the court is given wide discretion and its determination will not be disturbed absent a manifest showing of abuse. [Citations.]” (*Alicia B.*, *supra*, 116 Cal.App.4th at p. 863.) “The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.’ [Citations.]” (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319 (*Stephanie M.*))

Father contends the juvenile court erred in denying his request for M.G.’s placement with her paternal grandparents, as the Department “had assessed their home as appropriate under the section 361.3 factors[.]” We do not agree.

At the outset, we recognize M.G.’s paternal grandparents are “relatives” within the meaning of section 361.3, subdivision (a). (§ 361.3, subd. (c)(2).) Moreover, while Luz is related to M.G. as her maternal second cousin, no party contends Luz qualifies as a “relative” within the meaning of this statute.

As discussed above, the record demonstrates M.G. has specific psychological and emotional needs, as she experiences anxiety, has anger issues, and has expressed thoughts of suicidal ideation and self-harm. Both M.G.’s elementary school teacher and the Department’s MAT assessor also reported M.G. has certain educational needs, stating M.G. was under-performing



academically because she switched schools multiple times in 2018.

As of the date of the Department's assessment, M.G. has known her paternal grandparents for about two years and has occasionally spent time with them. Andrea reported, however, M.G. has stated she is "afraid" of her paternal grandmother, as she is "harsh" with M.G. By contrast, M.G. has been in Luz's care since she was two months old, and has repeatedly expressed a preference for residing with Luz. Luz has consistently played a key role in ensuring M.G.'s psychological and emotional needs are being addressed; in addition to being responsible for M.G.'s initial and continuing placement in therapy with Andrea, Luz has also worked directly with Andrea to improve her parenting skills so she may better address M.G.'s needs and behaviors.

In light of the evidence above, it appears that although the record reflects M.G.'s grandparents' home was appropriately furnished and clean, the juvenile court properly considered M.G.'s particular psychological, emotional, and educational needs, as well as the nature and extent of M.G.'s relationships with Luz and her paternal grandparents, in evaluating whether M.G.'s placement with her paternal grandparents was in her best interest, as required by section 361.3, subdivision (a). (§ 361.3, subds. (a)(1) & (6).) Accordingly, the court did not "exceed[] the bounds of reason" in denying father's request for M.G.'s placement with her paternal grandparents. (*Stephanie M.*, *supra*, 7 Cal.4th at pp. 318-319.)

**DISPOSITION**

The jurisdictional findings and dispositional order are affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

CURREY, J.

WE CONCUR:

MANELLA, P. J.

WILLHITE, J.