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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re J.L. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.R.,

Defendant and Appellant.

B289083

Los Angeles County
Super. Ct. No. 17LJJP00244

APPEAL from a judgment of the Superior Court of
Los Angeles County, Nancy Ramirez, Judge. Affirmed.

Zaragoza Law Office and Gina Zaragoza, under
appointment by the Court of Appeal, for Defendant and
Appellant.

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

INTRODUCTION

Mother, L.R., appeals from a judgment declaring her five children dependents of the juvenile court under Welfare and Institutions Code section 300, subdivision (b).¹ She contends the evidence was insufficient to show her past violent confrontations with the children's fathers put the children at current risk of suffering serious physical harm. Although mother at times appropriately involved law enforcement to respond to domestic violence incidents, the evidence showed she had been the aggressor on other occasions, and the juvenile court found her continuing conflicts with the children's fathers posed an ongoing risk to the children. Substantial evidence supports the court's finding. We affirm.

FACTS AND PROCEDURAL BACKGROUND

Consistent with our standard of review, we state the facts in the light most favorable to the juvenile court's findings, drawing all reasonable inferences in favor of the court's judgment. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133 (*T.V.*); *In re Heather A.* (1996) 52 Cal.App.4th 183, 193 (*Heather A.*))

Mother has five children, born between 2010 and 2016.² The children's fathers are T.L., J.T., C.C., and M.C.³ When the Los Angeles Department of Children and Family Services (the

¹ Statutory references are to the Welfare and Institutions Code unless otherwise designated.

² J.L. (born January 2010), Ja.T. (born July 2011), twins Ju.R. and Je.R. (born May 2014), and Ja.R. (born July 2016).

³ T.L. is J.L.'s father. J.T. is Ja.T.'s father. C.C. is the twins' father. M.C. is Ja.R.'s father.

Department) began its investigation, all of the children lived with mother and none of the fathers lived in the home.

On October 6, 2017, T.L. (father of mother's oldest child, J.L.) showed up at mother's home, apparently intoxicated. He rang mother's doorbell "nonstop" until she answered the door, at which point T.L. burst through the door, pushed mother to the floor, got on top of her, and "bear-hugged her while saying he missed her and wanted to be in a relationship with her." J.L. was in the living room and mother's three youngest children were asleep in a bedroom.⁴ During the struggle, T.L. struck mother in the lower lip with either his fist or elbow. Mother was unable to free herself due to T.L.'s superior strength. She yelled for J.L. to call the police. The child ran to a neighbor's home, and the neighbor contacted law enforcement. T.L. eventually let mother up, and fled the home before a sheriff's deputy arrived. The deputy contacted the Department to report the domestic violence incident.

Mother told the investigating social worker that she had obtained a restraining order against T.L. in 2016. She also had a restraining order against his girlfriend. She said T.L. showed up at her home and "did the same thing" two weeks earlier. A friend, who was with mother at the time, drove her to the sheriff's station. Personnel at the station confirmed mother had a restraining order and told her to call law enforcement if anything else happened. Before that incident, mother had not seen T.L. for about eight months. She had been pregnant with his child earlier in the year, but the pregnancy ended in a

⁴ The record does not indicate where Ja.T. was during the incident. Ja.T. denied witnessing the incident.

miscarriage. She had known T.L. for 10 years and lived with him for four years. They were never married.

The social worker interviewed mother's two oldest children, seven-year-old J.L. and six-year-old Ja.T. Neither child reported or showed signs of physical abuse and both appeared to be well cared for. When asked if he was ever scared for mother's or his own safety, J.L. said he was afraid his father would hurt mother. J.L. initially denied seeing his father hurt mother, but later acknowledged that mother had called out for help because his father was on top of her. He said he did not know exactly what happened, but remembered going to the neighbors to ask them to call the police. He said the police had been to the home before, but he did not know why.

Ja.T. also initially said she had never witnessed mother argue or fight with anyone. But when asked if she was scared for her mother, Ja.T. responded that she was scared "the baby's father would hurt mother because 'sometimes he hits my mom.' " The social worker understood the "baby's father" to refer to one-year-old Ja.R.'s father, M.C. Ja.T. said she did not remember when M.C. hurt mother, but "she did remember seeing him punch mother in the face once before." Mother had obtained a domestic violence restraining order against M.C. in February 2016.

M.C. denied hitting mother, but claimed mother had slashed his tires outside the home of his female acquaintance. His acquaintance, M.T., corroborated the report. According to M.T., mother had "stuck [M.C.'s] tires with a knife" when mother was pregnant with his child, Ja.R. M.T. said mother "socked" M.C. when he confronted her about it, but M.C. did not retaliate, because "his friends held him back from doing anything so that he wouldn't go to jail." Consistent with M.T.'s account, a criminal

history report showed that in May 2016, when mother was pregnant with Ja.R., mother was arrested and later convicted of exhibiting a deadly weapon, not a firearm, in violation of Penal Code section 417. M.T. also reported that mother had thrown canned goods at her in a grocery store, and that mother regularly drove by her residence looking for M.C.⁵

Mother's criminal history report also revealed that, two days after the recent attack by T.L., mother was arrested for domestic violence. Mother said the district attorney rejected the charges, which stemmed from an altercation she had with C.C., the father of her three-year-old twins, Ju.R. and Je.R., and C.C.'s wife. The parties gave varying accounts of what precipitated the incident, but all agreed it occurred when mother went to C.C.'s home to retrieve the twins after leaving them at his house earlier that day.⁶ C.C. told mother the children were not there, but mother refused to leave his porch. Mother and C.C.'s wife began to argue, and mother attempted to spray mace through the doorway. According to C.C., he grabbed mother's arm to prevent her from spraying mace into the house, at which point mother

⁵ Mother's prior child welfare history contained an allegation stemming from a February 2017 incident in which mother reportedly got into a fight and threw cans at a woman in a grocery store while caring for Ja.R. Consistent with M.T.'s statement, the report stated mother was arrested for the assault. The allegation was ultimately deemed inconclusive.

⁶ According to C.C., mother had left the three-year-olds on his porch when no one came to answer the door, and his father later saw them walking down the street, apparently alone. All parties agree the children ended up at mother's brother's house, although the record does not indicate how they got there.

started stabbing him in the face with her keys. He said mother caused two puncture wounds to his head, one to his cheek, a laceration to his chest, and another puncture under his eye. C.C.'s wife called the police and mother was arrested.

Mother admitted stabbing C.C. with her keys, but said he had punched her in the stomach during the altercation. She also said she was pregnant with C.C.'s child, and claimed C.C.'s wife started the altercation because mother and C.C. had been "sneaking around behind his wife's back." Mother admitted she spent two days in jail after the arrest, but said she was held on a warrant for an unrelated incident.

Mother agreed to participate in an up-front assessment to help the Department determine whether it should open a dependency case.⁷ The assessor reported that "mother appears to minimize the domestic violence and her role in the situation." The assessor observed "mother downplays the impact mother's

⁷ According to the Department's "Info Sheet for Adult Parents and/or Adult Caretakers," an up-front assessment is a voluntary assessment focusing "specifically on caretaker capacity." The assessments are "conducted by assessors who are clinicians or who are under the supervision of a clinician," and consist of interviews, generally two hours in length. The assessments are meant to "provide valuable input that may help social work staff make better decisions on behalf of the families, including the appropriateness of [Department] services or other services." The assessments "may also provide the social worker with information to indicate that [the Department] does not need to open a case." (*Up-Front Assessment (UFA): Info Sheet for Adult Parents and/or Adult Caretakers* (Aug. 30, 2011) <[http://lacdcfs.org/reunitingfamilies/docs/Up-Front%20Assessments%20\(UFA\)%20Info%20list.pdf](http://lacdcfs.org/reunitingfamilies/docs/Up-Front%20Assessments%20(UFA)%20Info%20list.pdf)> [as of Oct. 12, 2018].)

actions and behaviors have on her children,” and found mother “appears to be in denial” about the harm her ongoing confrontations with the children’s fathers could cause to the children.

The Department filed a petition to declare mother’s five children dependents of the juvenile court under section 300, subdivisions (a) and (b). The three counts under each subdivision alleged that (1) mother and T.L. had a history of domestic violence in the children’s home, including the most recent incident on October 6, 2017, and mother’s failure to protect the children placed them at risk of serious physical harm; (2) mother and C.C. had a history of violent altercations, including the most recent incident on October 8, 2017, which placed the children at risk of serious physical harm; and (3) mother and M.C. had a history of violent altercations, including an incident when M.C. struck mother in the face in Ja.T.’s presence, and mother’s failure to protect the children from the violence posed a substantial risk of serious physical harm.

On January 19, 2018, the juvenile court held a combined jurisdiction and disposition hearing. The court struck all counts alleged under section 300, subdivision (a), finding the Department failed to establish the children were at risk of suffering non-accidental physical harm. As for the counts under section 300, subdivision (b), the court sustained the counts concerning mother’s altercations with T.L. and C.C., and struck the count alleging violence between mother and M.C.

With respect to the count concerning T.L., the court found that although mother had taken appropriate steps to protect the children by involving law enforcement, T.L.’s ongoing “violent conduct” against mother continued to pose a substantial risk of

harm. Thus, the court struck the allegation that mother failed to protect the children, and sustained the count to conform to proof.

As for the count regarding C.C., the juvenile court explained it was “concerned about the totality of the circumstances showing that mother seems to have some unresolved issues that cause[d] her to be an aggressor on numerous occasions.” Although the children were not present for the altercation, the court noted the parents had ongoing contact, and that the latest altercation occurred in the context of a visit between C.C. and the twins. On that basis, the court found a sufficient nexus between the danger of ongoing violence and risk of harm to the children.

On disposition, the juvenile court adopted the Department’s proposed case plan to place the children with mother, and ordered mother to obtain services directed at addressing domestic violence and anger management issues.

DISCUSSION

The juvenile court assumed jurisdiction under section 300, subdivision (b) based on the risk of harm posed by mother’s past violent confrontations with the children’s fathers and the totality of the circumstances surrounding her interactions with the fathers and related individuals.

Jurisdiction under section 300, subdivision (b)(1) requires proof that a 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.” “Juvenile dependency proceedings are intended to protect children who are currently being abused or neglected, ‘and to ensure the safety, protection, and physical and emotional well-being of children who are at risk

of that harm.’ [Citation.] ‘The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.’ [Citations.] The focus of section 300 is on averting harm to the child.” (*T.V.*, *supra*, 217 Cal.App.4th at p. 133, italics omitted.)

“Exposing children to recurring domestic violence may be sufficient to establish jurisdiction under section 300, subdivision (b).” (*T.V.*, *supra*, 217 Cal.App.4th at p. 134; *In re Daisy H.* (2011) 192 Cal.App.4th 713, 717 [physical violence can support jurisdictional finding where violence is ongoing or likely to continue, and places child at risk of physical harm].) Ongoing domestic violence where children are present “is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.” (*Heather A.*, *supra*, 52 Cal.App.4th at p. 194.) “Domestic violence impacts children even if they are not the ones being physically abused, ‘because they see and hear the violence and the screaming.’” (*T.V.*, at p. 134; *Heather A.*, at pp. 192-194 [evidence of continuing violence between father and stepmother, where at least one incident occurred in presence of minors, was sufficient for jurisdictional finding].)

“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.” (*T.V.*, *supra*, 217 Cal.App.4th at p. 133, italics omitted.) Even “a single incident of harmful or potentially harmful conduct may be sufficient, in a particular case, to establish current risk depending upon present circumstances.” (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1026

(*J.N.*.) In assessing past conduct to determine whether a current risk exists, “a juvenile court should consider the nature of the conduct and all surrounding circumstances.” (*Id.* at p. 1025.) The court “should also consider . . . evidence of the parent’s current understanding of and attitude toward the past conduct that endangered a child, or participation in educational programs, or other steps taken, by the parent to address the problematic conduct in the interim.” (*Id.* at pp. 1025-1026.) “‘Facts supporting allegations that a child is one described by section 300 are cumulative.’ [Citation.] Thus, the court ‘must consider all the circumstances affecting the child, wherever they occur.’” (*T.V., supra*, 217 Cal.App.4th at p. 133.)

“In reviewing the sufficiency of the evidence on appeal, we consider the entire record to determine whether substantial evidence supports the juvenile court’s findings. Evidence is ‘ “[s]ubstantial” ’ if it is reasonable, credible and of solid value. [Citation.] We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court’s order, and affirm the order even if other evidence supports a contrary finding. [Citations.] The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order.” (*T.V., supra*, 217 Cal.App.4th at p. 133.)

Mother contends the evidence of past violent altercations with the children’s fathers was insufficient to establish a *current* risk of harm to the children. With respect to T.L., she argues there is no ongoing risk because she took appropriate protective action by obtaining a restraining order and calling the police when T.L. violated it. As for C.C., mother maintains the reported

altercation was an isolated incident, no children were present when it occurred, and there was no evidence of any other violence between them.

Mother's arguments treat the most recent altercations as isolated incidents, while ignoring the broader circumstances that persuaded the juvenile court to find a current risk of harm. When the Department received the most recent domestic violence referral, mother had active restraining orders against two of the fathers, T.L. and M.C., for past acts of domestic violence, and she had a third active civil harassment restraining order against T.L.'s ex-girlfriend. Mother obtained the restraining order against T.L. in September 2016, suggesting there had been violence in the relationship prior to that date. Despite the restraining order and the past violence that authorized it, mother continued to have a physical relationship with T.L. in 2017, resulting in her pregnancy earlier that year. The violence recurred in October 2017, when T.L. attacked mother at the children's home. Based on this evidence, the trial court could reasonably infer that mother had confrontational relationships with numerous people in the children's lives and, though she took appropriate action in response to the most recent altercation, she did not consistently enforce the restraining orders that were in place to protect her and the children.

More important, the juvenile court was rightly concerned that mother had "unresolved issues that cause[d] her to be an aggressor on numerous occasions." Two days after the attack by T.L., mother instigated a violent altercation with C.C. and his wife that resulted in mother's arrest. The incident began with an argument over the twins, whom mother had left at C.C.'s house for a visit with their father. It escalated into violence after

mother attempted to spray mace through the doorway of C.C.'s home at his wife.

As the juvenile court found, the incident fit into a broader pattern in which mother acted as the aggressor in conflicts with the children's fathers and their female friends or wives. Apart from the latest altercations involving T.L. and C.C., the evidence showed mother had also been arrested for exhibiting a deadly weapon, after M.C. confronted her about slashing his tires with a knife while she was pregnant with his daughter. And, there was evidence that mother attacked M.C.'s female friend in a grocery store, by throwing canned goods at the woman, while Ja.R. was present. This evidence distinguishes the current case from those other cites, which involved *nonoffending* custodial parents who took appropriate actions to protect the children from the noncustodial parent's endangering conduct. (Cf. *In re A.G.* (2013) 220 Cal.App.4th 675, 686 [where mother's mental illness made her incapable of caring for children, but father had always properly cared for them, "juvenile court should have dismissed the petition, staying the order until Father obtained from the family court an award of custody to him"]; *In re Phoenix B.* (1990) 218 Cal.App.3d 787, 793 [where father provided appropriate care and child's welfare was not endangered by placing the child with him, there was no basis for assuming dependency jurisdiction based on mother's mental illness]; *In re M.W.* (2015) 238 Cal.App.4th 1444, 1454 [notwithstanding mother's failure to obtain a protective order, single incident of domestic violence by the noncustodial father, occurring more than seven years before jurisdiction hearing, insufficient to support jurisdiction where there was no evidence that violence had recurred].)

Finally, in assessing whether the present circumstances justified jurisdiction, the juvenile court was obliged to consider mother's "current understanding of and attitude toward the past conduct that endangered [the children], [and her] participation in educational programs, or other steps taken, . . . to address the problematic conduct in the interim." (*J.N., supra*, 181 Cal.App.4th at pp. 1025-1026.) Here, the evidence suggested mother did not appreciate the risks posed by her recurring violent confrontations with children's fathers and related individuals. Mother's two oldest children reported they were scared mother might be harmed by the fathers against whom she had restraining orders. But when confronted with their statements, mother denied that her children were affected by the violence and objected that the social worker's questions were misleading. She also minimized her responsibility, arguing she could not control the fathers' actions and that she did not have time to take classes that might help her avoid future confrontations. Those responses were consistent with the Department's up-front assessment, which found mother tended to minimize and downplay the effect domestic violence had on the children, while denying the risks posed by her ongoing confrontations with the children's fathers.

In view of mother's current attitude toward these past violent confrontations, her role in instigating some of the altercations, and her oldest children's initial reports of violence occurring in the home, the juvenile court reasonably found dependency jurisdiction was warranted to address a current risk of substantial physical harm. (See *In re John M.* (2013) 217 Cal.App.4th 410, 418-419 [year-old domestic violence incident sufficient to support jurisdiction, even though child was not

present, where parents had a history of engaging in physical and verbal altercations, suggesting current risk that father could engage in angry and violent behavior]; *T.V., supra*, 217 Cal.App.4th at pp. 136-137 [evidence supported jurisdiction and removal based on current risk posed by domestic violence where father “had not successfully addressed his anger issues” and “denied responsibility for the violence”].)

As for the disposition order, mother argues it must be reversed because there was insufficient evidence to support jurisdiction. Because we conclude the juvenile court properly took jurisdiction of the case, mother has not met her burden of demonstrating reversible error. (See *T.V., supra*, 217 Cal.App.4th at p. 133.)

DISPOSITION

The judgment is affirmed.

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EGERTON, J.

We concur:

EDMON, P. J.

DHANIDINA, J