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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

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

B283129

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

(Los Angeles County
Super. Ct. No. DK20527)

Plaintiff and Respondent,

v.

S.S.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Natalie Stone, Judge. Affirmed.

Emery El Habiby, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Mother S.S. appeals the juvenile court's jurisdictional findings and dispositional orders concerning her daughter B.M. (Minor). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Minor was born in 2012. Her parents, S.S. and David M., have been engaged in a highly contentious custody dispute since Minor's early infancy. In Minor's first four years, the family had at least 17 referrals to the Department of Children and Family Services alleging that Father sexually and/or physically abused the Minor.

In October 2016, DCFS was informed that Minor had reported that her father touched her genitals, although the caller, who had ongoing contact with the family, believed that Minor was being coached by Mother. When DCFS interviewed Minor, she stated that her mother told her to say that her father touched her inappropriately. She said she liked going to her father's home but that her mother did not want her to go there. She told DCFS that her father did not actually touch her genitals.

DCFS conducted an extensive investigation into the allegations and determined that many, if not all, of the calls reporting abuse were "orchestrated by [M]other telling others, often mandated reporters[,] her concerns or by having [Minor] tell mandated reporters that she was being abused." DCFS concluded that Minor was a victim of emotional abuse by Mother: "The family has 17 previous referrals within the last 4 years. The child has repeatedly been subjected to multiple interviews (by DCFS, doctors, custody evaluators, and family members) and physical exams regarding sexual and physical abuse from father. DCFS determined that [Minor] is a victim of psychological

trauma due to being coached by her mother to retell false scenarios of alleged sexual abuse by her father.”

After a contested hearing, the juvenile court determined that Minor came within juvenile court jurisdiction under Welfare and Institutions Code¹ section 300, subdivision (c) (emotional abuse). The court extensively discussed the evidence that led to its conclusion: Mother had told Minor to say that her father was “bad,” “mean,” and sexually abusive; subjected Minor to at least six physical examinations for sexual and physical abuse in two years; rejected Minor’s pediatrician’s repeated reassurances that there was no evidence of abuse, preferring to believe that there was a problem; led Minor to have so much anxiety about removing any clothing in the presence of her father that she refused to remove her jacket on a hot day and slept with her shoes on during overnight visits; fabricated or grossly exaggerated events in order to claim sexual abuse by Father; excused and failed to stop her family’s aggressive attempts to convince preschool staff that Father was abusing Minor; and systematically attempted to alienate Minor from Father. The court found that Mother’s actions stunted Minor’s social and emotional development, that she exhibited symptoms of depression and withdrawal, and that she acted aggressively toward her peers. The court specifically found that the Minor’s problematic behaviors were the result of the conflict between the parents and Mother “constantly trying to convince everyone, including the child, that the father is sexually abusive towards her.”

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

The court determined that Minor came within juvenile court jurisdiction under section 300, subdivision (c) (emotional abuse). She was placed with her father, who is non-offending. Mother appeals.

DISCUSSION

Mother contends that the evidence before the juvenile court was insufficient to support the court's jurisdictional findings.²

I. Parental Fault

Although we ordinarily review the juvenile court's jurisdiction and disposition findings for substantial evidence (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433), Mother argues for de novo review of her allegation that the evidence of parental fault was insufficient because her argument concerns the proper interpretation of a statute and its application to undisputed facts.

Mother begins with the formulation of the conditions for jurisdiction under section 300, subdivision (c) as set forth by the Court of Appeal in *In re Roxanne B.* (2015) 234 Cal.App.4th 916, 921: "The statute . . . sanctions intervention by the dependency

² Mother included in her reply brief numerous references to psychological information about divorce and parental alienation gleaned from the Internet. Mother neither demonstrated that the information was part of the record on appeal nor requested judicial notice of the information set forth on those websites. We grant County Counsel's motion to strike from Mother's reply brief all references to the websites https://en.wikipedia.org/wiki/Parental_alienation_syndrome and <https://children-and-divorce.com/effects-of-divorce-on-children.html>.

system in two situations: (1) when parental action or inaction causes the emotional harm, i.e., when parental fault can be shown; and (2) when the child is suffering serious emotional damage due to no parental fault or neglect, but the parent or parents are unable themselves to provide adequate mental health treatment. [¶] In a situation involving parental ‘fault,’ the petitioner must prove three things: (1) the offending parental conduct; (2) causation; and (3) serious emotional harm or the risk thereof, as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior.’ [Citation.]” Noting that Family Code section 3027.5, subdivision (a), provides that in family law proceedings a parent’s custody or visitation rights cannot be limited solely because the parent reported suspected sexual abuse or acted lawfully and based on a reasonable belief to determine if the child had been sexually abused, Mother posits that no “offending parental conduct” could be found here because she sincerely believed her allegations of sexual abuse.

Section 300, subdivision (c), provides that a child comes under the jurisdiction of the juvenile court if “[t]he child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care.” Mother cites no authority for the proposition that section 300, subdivision (c) contains an exception for serious emotional damage inflicted by a parent if the parent’s beliefs are sincerely held, and we are aware of no such authority. To the contrary, jurisdiction is appropriate under section 300, subdivision (c) if a parent’s delusions cause the child to suffer

serious emotional damage or to be at substantial risk of serious emotional damage. (See, e.g., *In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1320-1321 [jurisdiction warranted where parent's delusions about child's health placed child at substantial risk of developing severe emotional problems].) Family Code section 3027.5, subdivision (a), which does not apply in dependency proceedings (Fam. Code, §3021), does not establish otherwise.

In her reply brief, Mother argues that her behavior was merely “the natural result of a tense family atmosphere and bitter custody dispute caused by the divorce,” and she suggests that the court improperly took jurisdiction because it believed, improperly, that one parent speaking negatively about the other in a divorce offers a basis for dependency jurisdiction for emotional abuse. This is not an argument that the evidence was insufficient to support the findings; it is an invitation to disregard the juvenile court's reasons for taking jurisdiction, reweigh the evidence, and substitute our judgment for that of the juvenile court. This we cannot do. (*In re Tania S.* (1992) 5 Cal.App.4th 728, 733 [substantial evidence standard of review requires the court to examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and to defer to the trial court on issues of credibility of the evidence and witnesses].) Mother has not established any error.

II. Causation

Mother next challenges the jurisdictional finding by claiming that as a matter of law, causation was not established here because the juvenile court found that she was indirectly responsible for most of the referrals to DCFS, and indirect

responsibility is insufficient as a matter of law to establish the requisite causation under section 300, subdivision (c). Because Mother “was not the proximate cause of the 17 referrals made to DCFS, the causation element of subdivision (c) was not proven,” she asserts. She notes that as a mandated reporter and a mother, she had an obligation to share her concerns with medical professionals. Mother contends that the standard of review is de novo, because her argument about causation concerns the interpretation of a statute and its application to undisputed facts.

Mother’s argument has no merit. The question before the juvenile court was not whether Mother was directly or indirectly responsible for the many referrals made to DCFS, but whether Mother’s conduct caused Minor to suffer or to be at substantial risk of suffering serious emotional damage, and the court found that Mother’s conduct had emotionally harmed Minor. Specifically, based on the evidence presented at the hearing, the court found that Mother had fabricated or grossly exaggerated events in order to claim that Father sexually abused Minor; coached Minor to lie that her father abused her; subjected her to an excessive number of physical examinations for sexual and physical abuse; categorically rejected all evidence that Minor was not being abused, and made excuses for and failed to intervene against her family’s attempts to persuade preschool staff that Father was abusing Minor. The court found not only that Mother caused Minor such anxiety about her father that she wore a jacket on a hot day and slept at her father’s home without removing her shoes, but also that Mother’s course of conduct had impaired Minor’s social and emotional development. Minor demonstrated aggression toward her peers and exhibited symptoms of depression and withdrawal. Mother has not

challenged these findings or their evidentiary support; indeed, she does not even acknowledge them in her argument about causation. Accordingly, Mother has failed to establish that the evidence of causation was insufficient as a matter of law.

III. Severity of Emotional Harm

Mother argues that even if Minor was suffering emotional harm, she was not suffering serious emotional damage and was not at substantial risk of suffering serious emotional damage. Mother acknowledges that the juvenile court found that Minor exhibited behaviors typical of a child her age who suffered emotional abuse, such as “being mute, having a flat affect, being antisocial, being aggressive, and gazing off.” She does not challenge these findings but instead asserts, without supporting authority, that “these findings, alone,” do not constitute severe emotional damage, severe anxiety, depression, withdrawal, or untoward aggression. Mother then sets forth evidence in the record of instances in which Minor did not display a flat affect, was not mute, engaged in conversation, and appeared comfortable with and attached to each of her parents. She argues that being quiet, playing alone, and refusing to respond to other children was not sufficient evidence of serious emotional harm given that Minor was the subject of a custody dispute and attending a new school. She observes that Minor had not received a psychological diagnosis. Mother acknowledges that Minor had “‘really come out of her shell’” after being removed from Mother’s custody, but she argues that “this alone was not sufficient evidence the child had suffered ‘serious emotional harm’ or that her earlier period of withdrawal was ‘severe’ or otherwise not normal for the child of divorcing parents.” Mother

concludes that the totality of the evidence did not establish that Minor was suffering serious emotional harm.

Here again, Mother is in effect requesting that this court reweigh the evidence and reach a different conclusion than the juvenile court. Under the substantial evidence standard of review, however, we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. (*In re Tania S.*, *supra*, 5 Cal.App.4th at p. 733.)

The evidence before the juvenile court demonstrated that Minor was exhibiting behaviors typical of a child her age who had suffered emotional abuse. She demonstrated little or no affect; was non-responsive to her environment; behaved like a toddler despite being four years old; consistently clutched a doll and had an extreme reaction if it was taken away; poured sand over her head; isolated herself from her peers at preschool; behaved aggressively with other children, pulling their hair; smiled when instructed to stop the hair pulling; and did not respond to directions. Minor was at preschool for three days before she was heard to speak, and her flat affect and consistent gazing caused the school staff to be concerned at first that she might be drugged or sleep-deprived. While Minor continued to have challenges after her removal from Mother, she demonstrated “a dramatic change” for the better, and it now appeared that she might be able to transition to kindergarten rather than repeating a preschool year.

Mother’s own reports revealed the degree of Minor’s emotional distress and indicated that professional follow-up was needed for her. Mother rated Minor’s anxiety-related behaviors in the 99th percentile and reported that she displayed an

unusually great number of behaviors indicating worry, nervousness, and fear. Mother also reported that Minor had an extreme number of somatic complaints, engaged in odd behaviors, and seemed disconnected and disoriented. She related that Minor displayed many behaviors associated with depression. The evidence was sufficient to support jurisdiction under section 300, subdivision (c).

Mother next argues that the decision in *In re Brison C.* (2000) 81 Cal.App.4th 1373 compels reversal of the jurisdictional findings here, but the facts of the cases are very different. In *In Brison C.*, the court found that the minor displayed no signs of serious emotional damage and there was insufficient evidence to support a finding of a substantial risk of serious emotional damage because the parents had recognized the inappropriateness of their behavior and their negative comments about each other to the child. (*Id.* at p. 1381.) They were willing to change their behavior and had begun therapy. (*Ibid.*) The court found that there was no evidence that the parents were delusional or unable to express their frustration with each other in an appropriate manner. (*Ibid.*) Here, in contrast, nothing and no one could convince Mother that Minor was not being abused. She defended her family's inappropriate behavior and refused to recognize the detrimental impact her family's conduct was having on Minor. As the court stated, Mother "steadfastly denied that the custody dispute . . . was causing the child any harm." The court described Mother's attitude as "willful blindness. She refuses to listen to anyone who does not support her and her family's preconceived view that the father is sexually and physically abusing the child." Mother has not demonstrated any error by the juvenile court.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.