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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B287661
(Los Angeles County
Super. Ct. No. DK24098)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

K.N.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Marguerite D. Downing, Judge. Dismissed.

Caitlin Christian, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, and Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent.

This case involves an appeal from a juvenile court's order assuming jurisdiction over mother's three children. Jurisdiction was based on Welfare and Institutions Code¹ section 300, subdivisions (a) and (b). Identical allegations involving domestic violence and physical abuse were alleged under subdivisions (a) and (b). Mother does not challenge any factual allegation; the facts are undisputed. She requests this court reverse the findings under subdivision (a) even though she admits the identical allegations were proper under subdivision (b)(1). The issue is nonjusticiable because we can grant mother no effective relief. We dismiss the appeal from the juvenile court's jurisdictional and dispositional orders.

FACTUAL AND PROCEDURAL BACKGROUND

The Department of Children and Family Services (DCFS) filed a section 300 petition in July 2017. It identified mother and father's three children, ages 5, 4, and 1.

The juvenile court sustained the following allegation under section 300, subdivisions (a) and (b)(1):² "The

¹ Undesignated statutory citations are to the Welfare and Institutions Code.

² Section 300, subdivision (a) provides: "The 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. 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,

children[']s] . . . mother . . . and father . . . have a history of engaging in violent altercations in the presence of the children. On 4/2/17, the mother repeatedly struck the father's face with the mother's hands and fists, and scratched the father. The mother brandished a butcher knife. The father grabbed the mother's arms and grabbed the knife from the mother. In June of 2017, the mother bit the father's leg, inflicting a bite mark on the father's leg, struck the father, and pushed the father. The mother forced the mother's hand into the father's mouth and scratched the inside of the father's mouth, causing the father's mouth to bleed. The father sustained scratches on the father's neck. On prior occasions, the parents engaged in altercations, resulting in law enforcement responding to the father's home. On a prior occasion, the mother destroyed the father's clothing by pouring bleach on the father's clothing. On prior occasions, the parents pushed each other. On a prior occasion, the parents scratched each other's vehicles with keys. On a prior occasion, the father grabbed the mother's ear. The father has a criminal

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. For purposes of this subdivision, 'serious physical harm' does not include reasonable and age-appropriate spanking to the buttocks if there is no evidence of serious physical injury."

Section 300, subdivision (b)(1) provides in pertinent part: "The 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 by the inability of the parent or guardian to provide regular care for the child due to the parent's . . . substance abuse."

history of a conviction of Battery [on a spouse or significant other]. The violent conduct between the mother and father, endangers the children's physical health and safety, and places the children at risk of serious physical harm, damage, and danger."

The court sustained the following allegations under section 300, subdivision (a) and (b)(1). Mother "physically abused the child [M.M.] by striking the child's buttocks with a belt, a sandal, and the mother's hand. On a prior occasion, the mother repeatedly struck the child [M.M.]'s leg. On a prior occasion, the mother struck the child [M.M.]'s eye. On a prior occasion, the mother struck the child [M.M.], inflicting a bruise on the child's body. On prior occasions, the mother flicked the child [M.M.] with her fingers. Such physical abuse was excessive and caused the child unreasonable pain and suffering. The father, [J.M.], knew or should have known of the mother's physical abuse of the child [M.M.], and failed to protect the child. The physical abuse of the child . . . by the mother and the father's failure to protect the child . . . endangers the child's physical health, safety and well-being, and places the child and the child's siblings . . . at risk of serious physical harm, damage, physical abuse and failure to protect."

The court sustained the following allegation under section 300, subdivision (b)(1): Mother "has a history of substance abuse and is a current user of marijuana, which renders the mother incapable of providing regular care and supervision of the children. The children are of such a young age as to require constant care and supervision and the mother's substance abuse interferes with providing regular care and supervision of the children. The mother's substance abuse

endangers the children's physical health and safety, and places the children at risk of serious physical harm and damage."

The juvenile court sustained the following allegation under section 300, subdivision (b)(1): Father "has a history of substance abuse and is a current user of marijuana, which renders the father incapable of providing regular care and supervision of the children. On 7/14/17, the father had a positive toxicology screen for marijuana. On prior occasions, the father possessed, used, and was under the influence of marijuana while the children were in the father's care and supervision. The children are of such a young age as to require constant care and supervision and the father's substance abuse interferes with providing regular care and supervision of the children. The father's substance abuse endangers the children's physical health and safety, and places the children at risk of serious physical harm and damage."

The juvenile court struck other allegations in the petition. The juvenile court ordered mother to participate in random drug testing. The juvenile court ordered mother attend parenting classes and individual counseling to address the case issues. The juvenile court granted mother monitored visitation.

DISCUSSION

Mother does not challenge any factual allegation supporting jurisdiction. Nor does she challenge the juvenile court's dispositional order. Mother argues that the juvenile court's findings should be upheld only under section 300, subdivision (b). She argues that the identical findings under section 300, subdivision (a) should be reversed. According to mother, the subdivision (a) findings prejudice her because they may lead to her inclusion in the Child Abuse Central Index under Penal Code section 11164.

Mother presents no justiciable controversy. As *In re I.A.* explains, an appeal must present a justiciable controversy. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489.) “An important requirement for justiciability is the availability of ‘effective’ relief—that is, the prospect of a remedy that can have a practical, tangible impact on the parties’ conduct or legal status.” (*Id.* at p. 1490.) The issue mother raises presents no “genuine challenge to the [juvenile] court’s assumption of dependency jurisdiction.” (*Id.* at p. 1491.) The allegations supporting jurisdiction are undisputed, and it is undisputed that the juvenile court correctly assumed jurisdiction under section 300 subdivision (b). “As a result, any order we enter will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief.” (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1491.)

Mother fails to show she faces a different consequence because the juvenile court referenced section 300, subdivision (a) in addition to sustaining identical allegations under section 300, subdivision (b). The Child Abuse and Neglect Reporting Act does not apply only to physical abuse but also applies to neglect. (Pen. Code, § 11165.2.) Additionally, mother fails to address the fact that the unchallenged section 300, subdivision (b) allegations indicate that the children are at risk of “serious physical harm” and “physical abuse” and that mother physically abused M.M. Therefore, mother demonstrates no prejudice from the juvenile court’s order sustaining the identical allegations under subdivisions (a) and (b).

This is not a case in which mother challenges all of the allegations demonstrating her unfitness. It differs from *In re Daisy H.* (2011) 192 Cal.App.4th 713 in which this court

considered a father's challenge to jurisdiction after dependency proceedings had been terminated because effective relief for father was achieved by reversing the juvenile court's jurisdictional and dispositional orders. (See also *In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763 [considering challenge to jurisdictional findings when they affected father's status as an offending or nonoffending parent].) Nor is this case one in which mother challenges underlying pernicious allegations; she challenges no allegation. (Cf. *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.)

DISPOSITION

The appeal is dismissed.

BENDIX, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.