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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B277074

(Los Angeles County  
Super. Ct. No. DK15805)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent.

v.

ESTHER P.,

Defendant and Appellant.

APPEAL from jurisdictional findings and dispositional  
order of the Superior Court of Los Angeles County. Nichelle  
Blackwell, Juvenile Court Referee. Affirmed.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephanie Jo Reagan, Principal Deputy County Counsel for Plaintiff and Respondent.

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Esther P. (mother) appeals from jurisdictional findings and a dispositional order entered pursuant to Welfare and Institutions Code<sup>1</sup> section 300. Mother argues the juvenile court's jurisdictional findings (§ 300, subds. (b) & (j)) regarding her four children were not supported by substantial evidence. In a related claim, mother contends the juvenile court's dispositional order requiring a plan of family maintenance services was erroneous because (a) it was based on an unsupported jurisdictional finding, and (b) it was unnecessary given the parents had already agreed to a voluntary case plan.

We affirm the jurisdictional findings and dispositional order. The findings are supported by substantial evidence. Mother's arguments regarding the propriety of the dispositional order are forfeited, and nonetheless meritless.

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

## **PROCEDURAL BACKGROUND**

On February 29, 2016, the Los Angeles County Department of Children and Family Services (the department) filed its section 300 petition. The petition stated mother and William J. (father) had four children: Sophia, age 7, Joshua, age 6, Isabella, age 4, and Kimberly, age 3. The department alleged all four children were under the juvenile court's jurisdiction pursuant to section 300, subdivisions (b) and (j).

Identical allegations were made for counts b-1 and j-1. The department alleged the following. Joshua has special medical needs because he suffers from lumbar spina bifida and a neurogenic bladder. Joshua also has a stoma. Since September 2015, mother and father failed to: schedule recommended medical appointments for Joshua; obtain necessary medical supplies for his stoma; and enroll Joshua in available services designed to provide medical supplies as well as assist with Joshua's medical needs. On February 6, 2016, Joshua suffered a second degree burn to his leg. The parents failed to seek medical treatment for Joshua's injury. The ongoing medical neglect by the parents endangered Joshua's physical health and safety. The parents' ongoing neglect also placed Joshua's siblings "at risk of serious physical harm, damage, danger, and medical neglect."

The department did not seek to detain the children. The juvenile court found a section 300 prima facie showing had been made, ordered the children released to the parents, and required family maintenance services be provided.

On April 14, 2016, the parents signed a voluntary case plan agreement. The family intended to move to Sacramento and to initially stay with the paternal grandparents. The department recommended the petition be dismissed without prejudice and jurisdiction terminated with an executed section 301 contract.

On April 19, 2016, the case was scheduled for a jurisdictional hearing. That day, the department received a referral alleging the maternal uncle abused Joshua and Sophia. Specifically, the referral alleged the two children were hit with a hanger, a shoe, and a belt. The court informed the parties it was not inclined to adopt the department's recommendation and would continue the matter for further investigation into the allegations concerning the maternal uncle. The court continued the jurisdictional hearing to May 6, 2016.

On May 6, 2016, the department indicated the results from its investigation of the alleged maternal uncle's abuse were pending. The department also recommended: the petition be sustained; the family receive family maintenance services; the parents be allowed to move to Sacramento with the children; and the case be transferred to Sacramento. The juvenile court

ordered the department to expedite inspection of the paternal grandparents' home and to coordinate with the children and family services department in Sacramento. The court permitted the parents to move to Sacramento contingent on a positive inspection of the residence.

The department filed two last minute informations indicating it had (1) concluded its investigation of the alleged abuse and found the results inconclusive, and (2) determined the paternal grandparents' home was acceptable. The department recommended the petition be sustained and the case transferred to Sacramento County. On May 26, 2016, the juvenile court gave the parents permission to move the family to Sacramento and reside with the paternal grandparents.

On June 15, 2016, the juvenile court held the contested adjudication hearing (mother and father waived their personal appearances). The juvenile court sustained the petition on both counts. The court found each child was a dependent of the court and placed them in the "home of parent" under the department's supervision. The court ordered: the department to provide family maintenance services; the parents to participate in a program of developmentally appropriate parenting education and family preservation; and mother to undergo psychological assessment and participate in individual counseling.

On July 18, 2016, the juvenile court transferred the case to Sacramento County.

## **FACTS**

### *Detention Report*

The department received a referral on October 23, 2015. The caller making the referral made the following allegations. Joshua suffered from lumbar spina bifida and a “speech delay.” He was wheelchair-dependent and had a hole (or stoma) in his stomach to help empty his bladder. Mother attempted to enroll Joshua in school without a current physical examination. In September 2015, mother was directed to have Joshua’s physician provide documents instructing school staff on how to treat the stoma but mother had not complied with the request. The child was unable to urinate and his bladder was leaking in the classroom.

The social worker conducted an unannounced visit to the family’s Los Angeles home on October 23, 2015. The family lived in a two-bedroom apartment with the maternal grandmother, the maternal grandfather, a maternal uncle, and a maternal aunt. The social worker observed Joshua’s stoma in the center of his pelvic area. The stoma was the means by which urine was

discharged from his body. Joshua wore diapers that had a tendency to become wet at the top due to the location of the stoma. The diaper leaked if it was not changed frequently.

Mother stated the family had been living in a Sacramento homeless shelter before returning to Los Angeles in July 2015. She found it difficult to adjust to living in Los Angeles and agreed to seek additional support from the Partnership for Families program.

In a separate interview with the social worker, father indicated he worked most of the day and mother took care of the children. Father was aware of Joshua's medical condition and believed school personnel did not know how to handle it.

On October 27, 2015, the social worker contacted the vice principal at Joshua's elementary school. The vice principal stated the school nurse had not received any instructions or supplies related to Joshua's care. As a result, Joshua's diaper constantly leaked at school. The vice principal confirmed mother had been given paperwork for Joshua's doctor to complete but she had not returned the completed forms to the school.

On October 29, 2015, the public health nurse for the department contacted the elementary school nurse. The school nurse stated Joshua needed an "in and out" catheter. However, mother had not provided the necessary materials to the school.

Joshua had been treated at the spina bifida clinic in Children's Hospital Los Angeles (the clinic). The public health nurse contacted the clinic but was told there was no pending appointment for Joshua, and that his last visit was in January 2011. In November 2015, the clinic was again contacted. The clinic coordinator stated mother had not responded to voicemail messages of November 3 and 4 requesting mother schedule an appointment for Joshua.

On November 9, 2015, the social worker and the public health nurse made a joint visit to the family's home. Mother stated Joshua received catheterization on Wednesdays and Thursdays when they lived in Sacramento. Mother confirmed Joshua was a member of California's Children Services (CCS), a statewide program providing children with medical supplies, while they lived in Sacramento. Mother knew she needed to re-apply in Los Angeles for these services but had not yet done so.

Joshua's wheelchair and brace were too small for him. Mother admitted she had not called the clinic to set up an appointment for Joshua. Mother was aware Sophia, Isabella, and Kimberly were not up to date on their immunizations—she claimed this was caused by Medi-Cal issues. Mother also stated the children all needed dental exams. Mother had been prescribed an anti-depressant but she had not taken it for six or



seven months because she believed the medication was ineffective.

Joshua visited the clinic on November 19, 2015. Following an examination, it was determined that Joshua required catheterization twice a day. The clinic provided catheterization supplies.

On December 10, 2015, the public health nurse contacted CCS and spoke with Joshua's case manager. According to the case manager, CCS did not receive a service authorization request from the clinic. A nurse's note from the clinic indicated mother was given catheters of different sizes. She was instructed to try them and, after determining the appropriate size, phone the clinic and provide that information. It was necessary for the clinic to have Joshua's catheter size in order to send the service authorization request.

On January 18, 2016, the social worker conducted an unannounced visit to the family home. Mother stated she had taken the children to the hospital for physical exams. She received Joshua's catheterization materials the prior week and provided the elementary school with supplies. Mother had an intake meeting with Partnership for Families at the beginning of the year.

On Tuesday, February 9, 2016, the vice principal at Joshua's elementary school called the social worker. The vice

principal stated Joshua had a two by three inch burn on the top of his right leg. Mother and Sophia both told the vice principal that Joshua accidentally burned himself—mother said the burn happened on Sunday morning and was caused by hot coffee. The vice principal believed the injury was likely accidental but also indicated it was blistering and may require medical attention.

Later that day, the social worker made another unannounced visit to the family home. Joshua stated he was watching television, on the previous Sunday, with the maternal grandfather. The maternal grandfather was drinking coffee from a tall thermos cup without a lid. Joshua grabbed the cup off of the table and spilled it on his right leg. The social worker examined the injury. The burn measured approximately three square inches. Half of the affected area was blistering. Mother treated the injury by cleaning the wound, applying ointment, and covering it with bandages. Mother did not seek medical attention because she did not believe it was necessary.

The social worker informed mother that Partnership for Families had closed her case because of noncompliance. Mother attended only two appointments before her case was closed. Mother believed the reason the program was unable to reach her was because, on more than one occasion, she changed her telephone number.

The social worker transported Joshua to the hospital for a forensic examination. After Joshua was evaluated, it was determined that he had a second degree burn.

### *Jurisdiction/Disposition Report*

The family was the subject of six prior family referrals in Sacramento: one in 2011, three in 2012, one in 2013, and one in 2014. Following one referral, the family received family maintenance services under a voluntary plan from October to May 2012. During 2014, the family received in-home services.

On April 8, 2016, a social worker conducted an additional interview of the family. Mother stated she took Joshua to appointments when it was requested of her. She addressed the issue of whether she obtained the necessary medical supplies for Joshua as follows: “I brought diapers and wipes for the school, but the nurse was very demanding. I didn’t like her attitude . . . .” Mother stated she was unable to promptly obtain additional diapers and catheters because the supplies were provided by the clinic and her appointment at the clinic was not until February or March of 2016. Mother took Joshua for a magnetic resonance imaging test in March, a radiology appointment in February, and clinic appointments in February and March. Mother did not follow through with the Partnership

for Families referral because her children threw her two cell phones in water causing them to stop working.

Regarding Joshua's coffee burn, mother stated the maternal grandfather "loves extra hot coffee." After Joshua was burned, she "knew [she] was in big trouble . . . ." Mother described the injury as "an ugly, nasty burn" and wanted to take Joshua to the doctor, but did not do so because her parents told her to simply treat the wound with mayonnaise, mustard, or a tomato.

Father explained the family moved to Los Angeles for father to get a job. He acknowledged Joshua had no medical appointments in Los Angeles. However, he said Joshua had appointments in Sacramento that were not cancelled when they left because they planned on moving back to Sacramento. Father maintained it was difficult to get supplies for Joshua due to "unreliable" mail services and "confusion" about where the supplies were to be delivered. According to father, the school in Los Angeles did not have the "special care" Joshua required—he explained, "[The school] made it seem like we didn't have the supplies when they didn't have the supplies."

Father stated, when the family left Sacramento, there was no opportunity to inform Joshua's medical provider (Shriner's Hospital) of the move. Eventually, someone from Shriner's Hospital called the parents. Father asked the representative to

send Joshua's paperwork to Children's Hospital Los Angeles. But there was a problem as "they were confused [and] [i]t was a back and forth thing between the hospitals."

After Joshua was burned, father considered taking Joshua to the hospital but elected not to do so because (1) father did not drive, (2) he estimated transportation by ambulance would cost \$2,000, and (3) nobody wanted to help them take Joshua to the hospital. Father opted to treat the injury with "burn cream" he purchased from a drug store. Although father surmised there were "too many irresponsible people in the house," he also said he was not aware of much of what was happening in the home because his work schedule was "fluctuating."

Father's plan was still for the family to return to Sacramento. He had already paid a deposit for an apartment in Sacramento that would be available in May 2016. In the interim, the family would live with the paternal grandparents in Sacramento. Father had spoken to Joshua's Sacramento teacher who indicated the school would "welcome him back . . . ."

The social worker determined the children had recently received some medical care. Joshua was examined at the clinic and other facilities in March 2016. Joshua received a prescription for a new brace and was evaluated for a mobile stander. It was recommended that he follow up with a "sub-specialist." Joshua was current on his vaccinations. Sophia,

Isabella, and Kimberly had well-child exams in January and medical “hub” exams in March. Kimberly was referred to the early childhood clinic for an evaluation of increased tantrums. Sophia and Isabella received referrals for behavioral and mental health therapy. None of the children had a dental exam; mother was attempting to find a dentist near her residence.

## DISCUSSION

### *Jurisdiction*

“In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, 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.” [Citation.] “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.] “[T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that

a reasonable trier of fact could find [that the order is appropriate].” [Citation.]” [Citation.]” (*In re I.J.* (2013) 56 Cal.4th 766, 773; *In re M.W.* (2015) 238 Cal.App.4th 1444, 1453.)

“While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm. [Citations.]” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) “[T]he court may . . . 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. [Citation.] ‘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.’ [Citation.]” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133; see *In re Hadley B.* (2007) 148 Cal.App.4th 1041, 1050.)

Section 300, subdivision (b) grants jurisdiction over a child to a juvenile court as follows: “A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] . . . [¶] (b)(1) 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 the

willful or 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, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment . . . .”

Section 300, subdivision (j) applies as follows: “The child's sibling has been abused or neglected, as defined in subdivisions (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.”

Substantial evidence supports the juvenile court's findings of jurisdiction under section 300, subdivisions (b) and (j). As we explain, mother failed to provide the school with medical supplies, and mishandled Joshua's burn. But, apart from those specifics, routine neglect contributed to the risk of harm to the children.



### *The Lack of Medical Supplies and Joshua's Burn*

Mother was well-aware of the daily medical supplies needed for Joshua—he had received medical care in Sacramento and mother explained to the social worker that the child's diaper tends to get wet and, if it is not timely changed, it leaks. Nonetheless, Joshua was put in a position of having to sit through school with a stoma that was not properly maintained and was causing his diaper to become saturated to the point that it leaked. Sometime around mid-October 2015 (when the stoma was leaking and beginning to close), the school nurse told mother that Joshua needed a catheter and other supplies. However, it took mother approximately three months to provide the school with the materials needed to care for Joshua.

Joshua was also neglected when he was burned with coffee. Mother recognized the wound was “nasty” and was concerned that she would be “in big trouble.” Yet, she dismissed the idea of seeking immediate medical attention because her parents suggested home remedies. It was only after the social worker transported the parents and Joshua to the hospital (two days after the burn) that the wound was medically examined and determined to be a second degree burn.

### *Mother's Overall Parenting*

From a more general perspective, the evidence established mother's parenting placed the children in danger of physical harm. When mother was interviewed by the social worker in November 2015, none of the children were current with immunizations or dental exams. In the April 19, 2016, jurisdiction/disposition report, the social worker indicated the girls had seen a doctor in January but Joshua was not examined until March, and the children were still without dental care.

Although mother knew Joshua's services in Sacramento would not automatically transfer to Los Angeles, and that she needed to re-apply, she failed to do so until receiving that directive from the department. Mother allowed Joshua to attempt to function without a proper brace and wheelchair as the ones he had were too small. There was a considerable delay (approximately five months) between mother's initial interaction with the social worker and when mother finally (a) had Joshua medically examined, (b) obtained a prescription for a new brace, and (c) had Joshua evaluated for a mobile stander. Mother's decision to disregard the voicemail messages from the clinic requesting she schedule an appointment for Joshua forced Joshua to cope with his condition without appropriate medical care or supplies for an undue period time.

Mother could have, but did not, take steps to help her manage life. She stopped taking her anti-depressant medication, not because her doctor so instructed, but because she independently determined it was ineffective. Although she agreed to participate in the Partnership for Families program, and received a referral by the department to do so, the program ultimately closed her case because of “non-compliance [*sic*].”

For all of the above reasons, substantial evidence supports a finding that Joshua and his siblings were at substantial risk of serious physical harm because of mother’s neglect.<sup>2</sup>

### *Dispositional Order*

A challenge to a juvenile court’s dispositional order is reviewed for abuse of discretion. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.) As noted, the juvenile court ordered family maintenance services. Mother contends reversal is required because the dispositional order was based on unsupported jurisdictional findings and, in any event, the parents had previously agreed to a voluntary case plan that only required informal supervision. As we have already explained, the

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<sup>2</sup> For many of the same reasons (as well as others), there was sufficient evidence father’s neglect also created a substantial risk of harm to the children. We do not analyze that issue as father is not a party to this appeal.

jurisdictional findings are supported by substantial evidence. We now address the claim concerning parent's submission to a voluntary case plan.

Mother has forfeited the remaining component of her argument. With respect to the dispositional order, the only objection mother raised in the juvenile court was to the requirement that she receive a psychological assessment. Mother did not argue family maintenance services were unnecessary due to the parents' voluntary case plan. Accordingly, the claim on appeal is forfeited. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293; *In re Carrie W.* (2003) 110 Cal.App.4th 746, 755.)

Even if we consider the merits of the argument, there was no abuse of discretion. The guidance given by social workers was regularly disregarded by the parents. The parents were the subject of six prior referrals when they lived in Sacramento; for one such referral, the parents received voluntary case maintenance. We have previously set forth the reasons mother's parenting put the children at risk (all of which occurred after the parents' Sacramento referrals) and do not find it necessary to repeat the details. Even after the department began working with the family, there were substantial delays before the children received appropriate medical care and no child had a dental exam. The juvenile court could reasonably find a voluntary case

plan would not adequately protect the children from being exposed to a substantial risk of serious physical harm.

### **DISPOSITION**

The jurisdictional and dispositional order is affirmed.

KUMAR, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.