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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B287630

(Los Angeles County
Super. Ct. No.
DK24616A-B)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANTONIO A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Daniel Zeke Zeidler, Judge. Affirmed.

Cristina Sanchez, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Acting Assistant County Counsel, Stephen D. Watson, Deputy
County Counsel, for Plaintiff and Respondent.

* * * * *

Antonio A. (father) argues that substantial evidence does not support the juvenile court's exercise of jurisdiction over his two children. We reject this argument, and affirm.

FACTS AND PROCEDURAL BACKGROUND

I. Facts

Father and Erika A. (mother) were married in 2003, and had three children—Genevieve, Antonio (born 2006), and Mary Jane (born 2007). In 2016, a speeding motorist struck mother's car, killing Genevieve and severely injuring Mary Jane.

Mother was understandably traumatized by the death of her daughter. She became moody, started acting strangely, would "cr[y] all the time," and regularly locked herself in her bedroom. She also started drinking, and her drink of choice was vodka.

In May 2017, mother took Antonio and Mary Jane to the local social services office; while there, mother smelled strongly of alcohol, swayed on her feet so much that she knocked over Mary Jane, and pulled Mary Jane's hair. After mother returned home that same day, she "cuss[ed]" and "scream[ed]" at father before going outside to sit in her car "with only a bra on." Father explained to the home school teacher who witnessed the events at their home that mother "had been drunk all day" and "had been drinking heavily" since Genevieve's death. He also told the teacher that mother had pulled Mary Jane's hair earlier in the day and had punched her in the jaw as well, and Mary Jane said her "jaw hurts."

A few weeks later, on June 7, 2017, mother took Mary Jane to her physical therapy appointment and, while there, passed out in Mary Jane's wheelchair. Father told the physical therapist that mother had been drinking heavily.

Around mid-June 2017, father told his therapist that mother "drank heavily every day" and that he was concerned for the children's safety while he was at work because mother "was neglectful of the children's care."

Mother submitted to a drug and alcohol test on June 2, 2017 and on July 20, 2017; both tests came up negative for all substances.

II. Procedural History

The Los Angeles County Department of Children and Family Services (Department) filed a petition asking the juvenile court to exercise dependency jurisdiction over Antonio and Mary Jane on the grounds that (1) mother "physically abused . . . Mary Jane by striking and pulling [her] hair," and father "failed to protect" her, which placed both Mary Jane and Antonio at substantial risk of serious physical harm (rendering dependency jurisdiction appropriate under Welfare and Institutions Code section 300,¹ subdivisions (a), (b), and (j)), (2) mother is a "current abuser of alcohol which renders [her] incapable of providing regular care for the child[ren]," and father "failed to protect the children when [he] knew of the mother's alcohol abuse," which placed both children at substantial risk of serious physical harm (rendering dependency jurisdiction appropriate under section 300, subdivision (b)), and (3) mother has "mental and emotional problems including depression which render [her] unable to

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

provide regular care of the children,” and father “failed to protect the children when father knew of . . . mother’s mental health,” which placed both children at substantial risk of serious physical harm (rendering dependency jurisdiction appropriate under section 300, subdivision (b)).

The juvenile court held the jurisdictional and dispositional hearing in November 2017. Mother entered a plea of no contest to the last two allegations. The parties stipulated to submit father’s October 2017 statements to the Department as his testimony. In those statements, father said that mother had only drank “a little” in the past and that she had completely stopped drinking. The juvenile court found the second and third allegations—regarding mother’s substance abuse and mental illness as well as father’s failure to protect the children from the same—to be true and dismissed the allegations arising from mother’s physical abuse of Mary Jane. The court ordered the children removed from mother and placed in the home of father.

Father filed a timely notice of appeal.

DISCUSSION

Father asserts that the juvenile court’s jurisdictional findings are not supported by sufficient evidence. We review such an assertion for substantial evidence, asking only whether a reasonable trier of fact could make the challenged findings while viewing the evidence in the light most favorable to those findings. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1124.)

To exert jurisdiction under section 300, subdivision (b)(1) as pertinent to this case, the juvenile court must find that (1) “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness” (2) “as a result of” (a) “the inability of the parent . . . to provide regular care for the

child due to the parent's or guardian's mental illness . . . or substance abuse" or (b) "the failure or inability of [the] parent . . . to adequately . . . protect the child." (§ 300, subd. (b)(1).)

Substantial evidence supports both the juvenile court's findings supporting jurisdiction in this case. More specifically, substantial evidence supports the findings that (1) mother suffers from substance abuse issues and mental illness, (2) mother's substance abuse issues and mental illness place Antonio and Mary Jane at substantial risk of serious physical harm, and (3) father knew of mother's substance abuse and mental illness as well as the risk they entail but nonetheless failed to protect both children from that risk. Each of these findings is supported by father's statements to the home school teacher, to the physical therapist, and to his own therapist that mother "had been drinking heavily," that she had hit Mary Jane, and that he was consequently concerned for both children's welfare when they were left in mother's care. The first two findings are also supported by mother's no contest plea, which at a minimum constitutes an in-court admission that she was suffering from substance abuse issues and mental illness and that they placed both children at risk. (*Oregel v. American Isuzu Motors, Inc.* (2001) 90 Cal.App.4th 1094, 1101 ["The testimony of a single witness can provide substantial evidence"]; accord, *In re Troy Z.* (1992) 3 Cal.4th 1170, 1180-1182 [parent's no contest plea to dependency jurisdiction precludes a substantial evidence challenge by the same parent].)

Father raises what coalesce into two arguments to the contrary.

First, he contends that mother was not a "current" abuser of alcohol because mother ardently denied using any alcohol,

because neither child nor the paternal grandmother saw mother drinking alcohol, because father later asserted that mother had stopped drinking, because mother had two negative tests for alcohol, because mother had started taking counseling classes, because father's last report of mother's drinking (in July 2017) was four months before the jurisdictional hearing (in November 2017), and because mother's drinking was, at best, "situational" and had stopped when her situation changed.

None of these reasons calls into question the substantiality of the evidence supporting jurisdiction in this case. Mother's early ardent denials of alcohol use are undermined by her later admission to "drinking a sip once in a while" and are all but negated by her no contest plea to substance abuse. The children's and paternal grandmother's statements that they did not see mother drinking does not mean she was never drinking because father explained that mother spent most of her time locked in her bedroom, out of view. Father began to deny mother's drinking only after the Department got involved. The two "clean" tests establish only that mother had not consumed alcohol in the period immediately before those tests. Mother's enrollment and attendance at a few classes, the span of time between the last report of drinking and the jurisdictional hearing, and the allegedly "situational" nature of mother's drinking are not dispositive in light of mother's no contest plea, and the well-documented reality that serious substance abuse is a problem that does not disappear overnight and that short periods of sobriety do not establish its end. (*In re Clifton B.* (2000) 81 Cal.App.4th 415, 423-424 [200 days of sobriety insufficient]; *In re Amber M.* (2002) 103 Cal.App.4th 681, 686-687 [300 days of sobriety insufficient].) At best, father has shown that the

evidence of mother's substance abuse is conflicting, but this provides no basis for relief where, as here, we must "look[] only at the evidence supporting the [juvenile court's findings], and disregard[] the contrary showing." (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1527.)

Second, father asserts that there is insufficient proof of the causal link between mother's substance abuse and mental illness on the one hand, and risk to the children on the other hand. More specifically, he argues that the Department never "show[ed] with specificity how the minors were or would be harmed by" mother's afflictions. (*In re James R.* (2009) 176 Cal.App.4th 129, 137 (*James R.*)). For support, he cites *James R.*, and *In re A.L.* (2017) 18 Cal.App.5th 1044 (*A.L.*)

There was sufficient evidence of a causal link. As a legal matter, the cases seem to be divided over the specificity with which a causal link must be proven: Although *James R.* seems to require "specificity," the more recent decision in *In re Travis C.* (2017) 13 Cal.App.5th 1219, 1226, holds that the "inability to precisely predict how [a parent's mental] illness will harm [a child] does not defeat jurisdiction." Even if we demand some degree of specificity, it is present here. As noted above, mother admitted without reservation to a causal link between her substance abuse and mental illness and harm to the children. What is more, father told several individuals in May and June 2017 that mother drank heavily; was, while drunk, pulling Mary Jane's hair and punching her; and that this behavior caused father to be concerned about leaving the children with her when he was not also home. Father's own statements articulate the specific types of harm that could flow from mother's substance abuse and mental illness. Nor, as father suggests, does paternal

grandmother's proximity to the family home or her availability to help obviate the risk to the children in the absence of evidence that she would be present at all times.

The cases cited by father are factually inapt. In *James R.*, *supra*, 176 Cal.App.4th 129, the court held that the Department had failed to prove a causal link between a mother's mental illness and substance abuse and harm to the children where mother's suicidal ideation and drinking *stopped* when she gave birth to the children; where there was no evidence mother had been "regularly intoxicated"; and where the evidence indicated that father never left the children alone with mother. (*Id.* at pp. 136-137.) The facts here are different. In *A.L.*, *supra*, 18 Cal.App.5th 1044, the court held that the Department had failed to establish a causal link between mother's mental illness and harm to her children where the only incident where mother threw objects at her husband occurred when she stopped taking her medication; where she had resumed taking her medication; and where the father and teenage children had demonstrated an awareness of how to deal with mother's mental health issues. (*Id.* at pp. 1046-1051.) Mother's mental illness and substance abuse in this case stem from a more complex cause, have persisted for a longer period of time, and neither father nor the children have demonstrated an ability to manage her issues (because the children do not know of them and father presently denies they exist).

The circumstances that brought this case before the juvenile court are tragic. However, as the Department noted and the juvenile court found in exerting dependency jurisdiction over Antonio and Mary Jane, "[s]uch terrible circumstances have

created a home that possibl[y] has placed the children at risk of more physical and emotional harm.”

DISPOSITION

The jurisdictional order is affirmed.

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_____, J.
HOFFSTADT

We concur:

_____, P. J.
LUI

_____, J.
CHAVEZ