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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re L.R., a Person Coming Under
the Juvenile Court Law.

B284154
(Los Angeles County
Super. Ct. No. DK21396)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Julie Fox Blackshaw, Judge. Affirmed.

Linda J. Vogel, 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.

Appellant A.R. (Father), the presumed father of L.R. (born in February 2015) and of K.R. (born in November 2011), challenges the sufficiency of the evidence supporting the juvenile court's jurisdictional order and finding under Welfare and Institutions Code section 300, subdivision (b)(1),¹ that his criminal background endangered L.R.'s health and safety and placed the child at risk of serious harm.² Father maintains there is no evidentiary basis to sustain the jurisdictional allegations against him. As we shall explain, we disagree and therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Father and the children's mother S.R. (the mother) had been in a relationship since 2011. The Department of Children and Family Services (DCFS) records indicated that the family had four prior child welfare referrals. A referral in 2014, before L.R. was born, alleged that K.R. was inhaling the marijuana that the mother smoked. At the time, the mother and K.R. were already under a voluntary family maintenance plan. DCFS initiated another voluntary family maintenance case in May 2014, after the mother and Father left the three-year-old K.R. at home alone without adult supervision. According to that report, the mother and Father had been detained by police because they had been riding in a car with a loaded gun; at the

¹ Further statutory references are to the Welfare and Institutions Code.

² Although both L.R. and K.R. were subjects of the dependency petition, only L.R. is the subject of this appeal.

time, Father had been recently released from prison³ and his possession of a weapon violated the terms of his parole. About six months later, while the mother was pregnant with L.R., Father committed a number of residential burglaries that resulted in his incarceration and effectively left the mother without housing or support to care for K.R. and the newborn L.R.

In April 2016, while Father was in jail, DCFS received another referral that while holding L.R., the mother had engaged in an altercation with another person. In June 2016, DCFS received another referral that the mother allowed the children to witness incidents of domestic violence between her and a male companion.

On February 9, 2017, DCFS filed a juvenile dependency petition that alleged under section 300, subdivisions (a) and (b)(1), that the mother had exposed the children to incidents of the violence and assaultive behavior. The petition also alleged, under section 300 subdivision (b)(1), that the mother had made an inappropriate plan for the children by leaving them with their maternal grandmother, who had a substance abuse history and was a current user of drugs. The first amended petition, which named Father as L.R.'s alleged father, alleged that Father "has a history of criminal convictions consisting of first degree burglary. Said criminal history of the father, endangers the [child]'s physical health and safety and places the child at risk of serious physical harm, damage and danger."

The court ordered the children detained. The court found Father to be the alleged father of L.R. and deferred finding

³ In 2012, Father committed two burglaries and was sentenced to a two-year consecutive term in prison; in 2014, he was released on parole.

Father's paternal status as to K.R., based on the mother's report that another man was K.R.'s biological father.⁴

The dependency investigator obtained information about Father's criminal background that disclosed that in addition to his 2013 burglary convictions, Father had been arrested for a series of residential burglaries while on parole in 2014, and in April 2016, a jury convicted him of six counts of residential burglary. In addition, in 2016, while in prison, Father was charged with possessing a weapon.

In March 2017, the DCFS investigator interviewed Father in jail. Father stated that he and the mother were currently just friends. Regarding the dependency allegations, Father denied awareness of the mother's violent conduct, but he was concerned about the mother's decision to leave the children with the maternal grandmother. Father had not, however, made any effort to arrange for other relatives to assume or assist with L.R.'s care even though they lived in the area.⁵

On April 11, 2017, the court sustained the allegations in the petition pertaining to the mother and the children and found Father to be the presumed father of both children. On May 11, 2017, the juvenile court proceeded with the adjudication hearing as to Father. The court sustained the allegation that Father's burglary convictions constituted grounds for dependency

⁴ When the social worker initially met with the mother, she stated that Father was the biological father of L.R. and that K.R.'s biological father was a man named K.M.

⁵ Once the proceedings were underway, the dependency investigator spoke with a paternal aunt who expressed interest in placement of the children but did not have her own housing.

jurisdiction over L.R.⁶ under section 300, subdivision (b)(1). The court explained that “[e]ven though the father has not lived with [L.R.], it is precisely because of his criminal lifestyle that he hasn’t lived with [L.R.], and he hasn’t provided any parental support for this child which has resulted in [L.R.] being in the custody of the mother who has subjected this child to risk. . . . [¶] So the court really has no reason to believe that, once [Father] is released or even during his period of incarceration, he can provide the appropriate parental support and guidance and protection for his children given his choice—his continued choice to live a life of continued crimes.”

The court proceeded with the disposition as to both children. The court received in evidence a letter offered on Father’s behalf describing Father’s voluntarily participation in programs while in jail. DCFS asked the court to make a detriment finding against Father with respect to K.R., who was not named in the sustained petition, and to remove both children from Father. Counsel for Father indicated that Father was in agreement with the case plan and did not ask that Father be granted custody of either child.

After hearing argument, the court indicated that Father was noncustodial as to L.R., but custodial as to K.R. And, although the court found that Father was non-offending as to K.R., it made detriment findings “for the same reasons that [it] sustained the [section 300, subdivision (b)(1)] count that [Father] has lived a life of crime including during the time that [K.R.] was living with him.” The court concluded that it was appropriate to

⁶ Because the allegation concerning Father had been pled only as to L.R., DCFS asked the court to amend the allegation according to proof as to K.R. The court denied the request, indicating that it was interpreting the allegation to apply only to L.R., and not to K.R.

remove the children from Father, both as a noncustodial and a custodial parent. The court ordered Father to participate in a parenting course and in individual counseling to address case issues.

Father filed a notice of appeal.⁷

DISCUSSION

When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.) An appellate court will not consider an issue raised by an appellant if the court "cannot render any relief to [an appellant] that would have a practical, tangible impact on his position in the dependency proceeding." (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492.)

Here, Father does not assert that the court erred in exercising jurisdiction over L.R. based on the other section 300 allegations involving the mother nor does he challenge any of the disposition orders. Thus, L.R. will remain a dependent child of the court and the juvenile court will be able to adjudicate parental rights regardless of the outcome of this appeal. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762; *In re I.A., supra*, 201 Cal.App.4th at pp. 1491-1492.) Father acknowledges that the juvenile court has a basis for jurisdiction based on the

⁷ Before the appeal was fully briefed, DCFS filed a motion to dismiss the appeal on the ground that it was nonjusticiable and we denied the motion.

sustained allegations against the mother. Father, however, contends that substantial evidence did not support the jurisdictional findings that his criminal lifestyle placed L.R. at risk of harm, and he, thus, requests that this court exercise its discretion to consider the merits of his claim because the finding will prejudice him in future custody or family law proceedings. (See *In re Drake M.*, *supra*, 211 Cal.App.4th at pp. 762-763 [observing that appellate courts may review jurisdictional findings, even though jurisdiction is proper under other jurisdictional allegations when the challenge finding could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings].)

Assuming that the jurisdictional findings might adversely affect Father in future proceedings, we conclude that sufficient evidence supported the jurisdictional findings as to Father.

Section 300, subdivision (b)(1) authorizes dependency jurisdiction when “[t]he 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.” (§ 300, subd. (b)(1).) We review jurisdictional orders for substantial evidence. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1649.) Under that standard, we view the record as a whole in the light most favorable to the juvenile court’s orders and we indulge every inference and resolve all conflicts in favor of the court’s decision. (*Ibid.*) Further, we affirm the order if supported by substantial evidence even if other evidence supports a contrary conclusion. (*In re L. Y. L.* (2002) 101 Cal.App.4th 942, 947.)

Substantial evidence supports the section 300, subdivision (b)(1) allegation concerning Father. The allegation here is similar to the challenged section 300, subdivision (b) allegation affirmed in *In re James C.* (2002) 104 Cal.App.4th 470, 479, in which the appellate court determined that the father's criminal history and incarceration endangered the children's physical and emotional health and safety and placed them at risk of physical and emotional harm and danger. The court held that "[b]ecause the father was incarcerated, he was not able to adequately protect the children [and] the father was unable to supervise the children. While the father claims that his incarceration should not be used as evidence of 'willful or negligent' failure to adequately protect or supervise his children from these conditions, there is no evidence that he made any arrangements to have anyone even make inquiries about the supervision of the youngsters while he was incarcerated. . . . All arrangements for the children's care had been made by the department. The father also did not offer any evidence that he had made any alternative arrangements for the children once their circumstances were made known to him. . . . The juvenile court could infer that the father was either unable or unwilling to arrange for the care of the children." (*Id.* at p. 483-484.)

As in *In re James C.*, *supra*, 104 Cal.App.4th 470, here the evidence shows that Father's on-going criminal activities (and incarceration) led to his inability to care and provide support for L.R. In November 2014, knowing that the mother was pregnant, Father committed four burglaries and was arrested; he was aware that his incarceration would leave the mother to care for K.R. and a newborn, L.R., without his support. The record also indicates that Father was aware that the mother and the children lacked stable housing, but there is no indication that Father made any effort or offered to arrange for them to stay

even temporarily with paternal relatives in the area, or offered the mother and the children assistance. DCFS—not Father—attempted to find paternal relative placements for the children. And once DCFS became involved with the family, there is no indication Father followed up with the mother or the DCFS social worker concerning the welfare of the children. Thus, substantial evidence supported the jurisdictional finding against Father.

DISPOSITION

The juvenile court's jurisdictional order is affirmed.

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ROTHSCHILD, P. J.

We concur:

CHANEY, J.

BENDIX, J.