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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re Z.E., a Person Coming
Under the Juvenile Court Law.

B292757
(Los Angeles County
Super. Ct. No.
17CCJP02569A)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

R.E.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Robin R. Kesler, Juvenile Court Referee. Affirmed.

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Aileen Wong, Senior Deputy County Counsel, for Plaintiff and Respondent.

In this juvenile dependency case, the juvenile court declared four-year-old Z.E. (daughter) a dependent of the court. On appeal, daughter's father, appellant R.E. (father), challenges the juvenile court's jurisdictional findings, which were based on his alleged conduct. Father claims the juvenile court improperly considered certain evidence and the properly considered evidence was insufficient to support the court's findings. We conclude substantial evidence supports the juvenile court's jurisdictional finding based on father's sexual abuse of daughter. We decline to exercise our jurisdiction to consider the remaining jurisdictional findings. Accordingly, we affirm.

BACKGROUND

1. The Family

Daughter is father's youngest child. She was three years old when her mother H.L. (mother) died and these proceedings began. According to father, he is a retired college professor and "is receiving disability pension due to a hostile work environment." Mother was from China and had come to the United States to attend school. She was considerably younger than father, who had been her professor. Daughter is the only child of father and mother.

In addition to daughter, father has three older children. His oldest son O.E. is now an adult. Throughout most of his life,

O.E. has exhibited aggressive behaviors and was in and out of hospitals, residential facilities, and juvenile hall. O.E.'s mother is father's ex-wife Mina. Father also has a minor son A.E. and a minor daughter I.E. with another ex-wife, Maria. A family law order awarded Maria and father joint custody of A.E. and I.E. and overnight visits with father every other weekend.

2. Previous Dependency Proceedings

Prior to the instant proceedings, and dating back to 2001, respondent Los Angeles County Department of Children and Family Services (Department) had received approximately 20 referrals concerning father and, most often, his son O.E. All but one of the referrals were deemed unfounded or inconclusive. One referral related to O.E. was substantiated, a voluntary family reunification case was opened, and eventually O.E. was placed in a residential school in Utah. The notes from that case indicate father was uncooperative with the Department and other community agencies, and O.E.'s "behaviors may have been affected by the mental health status of the father." Although most of the referrals were unfounded or unsubstantiated, the Department repeatedly reported father was uncooperative during its investigations of the many referrals.

3. Events Preceding Current Dependency Proceedings

On December 14, 2017, mother died after falling from the top of a six-story parking garage in the middle of the night. Father and daughter were with mother on the top of the parking garage and were there when mother fell. Father told the police the family kept odd sleeping hours and had gone to the laundromat late that night. They parked on the top level of the garage so that daughter could run up and down the stairs until she was tired. Father said mother got out of the car and was

unhappy with the way he had parked the car. When he turned around, mother was “over the edge.” Shortly after 1:00 in the morning, father called 911 to report mother had fallen. Police arrived a few minutes later and found father and daughter still in the garage. Although police were unsure whether mother was pushed, fell, or jumped off the parking garage, father was arrested on suspicion of murder and daughter was taken into protective custody.

That afternoon, daughter sat for a forensic interview. When asked what mother and father did when they were mad, daughter stated, “ ‘mom just fall . . . mom fell on floor.’ ” Daughter stated father was with mother when she fell, he was holding her hand, and said “ ‘don’t go down.’ ” Daughter also told the interviewer “mother said she would go down with herself and her father asked mother not to go down” and father “held her mother’s ears.” When asked what happened before mother got out of the car, daughter stated mother was upset and did not want father to “ ‘turn the song on.’ ” Mother got out of the car and said, “ ‘I’ll be right back.’ ” Daughter stated, “ ‘she wanted to fall my mom.’ ” Daughter reported father cried in the car, said he was tired, and said “ ‘fucking shit.’ ”

A Department social worker also spoke with daughter but was unable to obtain a meaningful statement because of daughter’s limited three-year-old verbal skills. Nonetheless, the social worker found daughter to be appropriately dressed and groomed and developmentally on track. Daughter indicated she was happy at home with mother and father, and mother and father were nice to each other. Daughter did not report mother was sad or unhappy.

O.E. was at the family home when mother died. He had recently moved back home after being away for some time. A Department social worker spoke with O.E. O.E. stated he was not close with either mother or father and had not seen his biological mother Mina since he was young. He kept to himself. O.E. said there was no domestic violence in the home, and no one had expressed suicidal ideations. O.E. was not worried father might physically hurt anyone in the home. O.E. reported it was common for father, mother, and daughter to go to bed late and sleep long into the morning.

The Department decided to place daughter and O.E. with Maria and her family. A Department social worker interviewed Maria, her husband G.R., A.E., and I.E. Maria stated she had a positive coparenting relationship with father. Their two children A.E. and I.E. visited father regularly and neither had reported anything concerning about father or his relationship with mother or daughter. Maria denied any history of domestic violence. G.R. was a detective with the Los Angeles Police Department. He said he had not heard any reports from I.E. or A.E. of problems or distress in father's home or between father and mother. I.E. and A.E. similarly reported no indications of trouble in father's home or between mother and father. I.E. stated she was happy to visit father and felt safe in his home. She was close with mother and cried knowing she had died. I.E. said that, during her last visit with father, she and mother were planning where to put the Christmas tree and mother was deciding what gifts to get for everyone.

4. Dependency Petition

On December 18, 2017, a few days after mother's death, the Department filed a two-count petition under Welfare and

Institutions Code section 300, subdivisions (b) and (g)¹ on behalf of daughter. Both counts of the section 300 petition alleged daughter was at serious risk of harm because mother had died and father was incarcerated, leaving no one to care for daughter.

The detention hearing was held the next day. Although the juvenile court found prima facie evidence showing daughter was a child described by section 300, the court determined there were reasonable services available to prevent daughter's detention from father, who was no longer incarcerated. Over the Department's objection, the juvenile court released daughter to father under Department supervision. The juvenile court also ordered father to make both his home and daughter available for frequent unannounced Department visits, as well as to sign necessary releases for mental health providers and to follow up with treatment or service providers.

5. Further Investigation

The Department continued its investigation. Department social workers met with and interviewed family members and others who knew the family, as well as reviewed documents, including police reports. The Department's investigation raised four areas of concern: father's alleged sexual abuse of daughter, father's alleged mental and emotional issues, father's alleged domestic violence against mother and his ex-wives, and father's alleged emotional abuse of daughter.

a. *Father's Alleged Sexual Abuse of Daughter*

In early February 2018, the maternal grandmother told a Department social worker that, when visiting mother, she frequently saw father use "his big hand to rub [daughter] vagina

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

to buttock and pull apart the skin, calling it a massage” and father “would laugh while doing this.” Maternal grandmother stated father treated daughter “like a doll, playing with her.” Maternal grandmother also reported father frequently took off all of daughter’s clothes “to get sun bath.” The maternal aunt told the social worker she suspected sexual abuse in light of what maternal grandmother saw and because father kept “a lot of ‘perverted sexual things,’ watches violent and sexually explicit videos at home.”

A detective investigating mother’s death, Bob Torrance, reported the police found father’s old handwritten journal in his car the night mother died. The journal was titled, “Dreams Sunday, May 7, 2006 – Tuesday August 19, 2008,” and described pedophilic-type ideations.

In early February 2018, daughter told a Department social worker father touched her vagina and butt “only when he cleans her when she goes ‘poo poo and pee pee.’” During a forensic examination a few weeks later, daughter denied being scared of anyone, including father. Daughter said she liked father, she did not know the difference between a good and bad touch, and her “mom and dad” touch her in her private area when she “go[es] poop.” The forensic examiner was unable either to confirm or to negate sexual abuse.

Father denied sexually abusing daughter.

b. *Father’s Alleged Mental and Emotional Issues*

As to his mental health, father admitted he was diagnosed as bipolar. He said he saw a psychiatrist “as needed, about 2–3 times a month,” his psychiatrist “dictates what I do,” he “can’t sleep without [his] medication,” and he had been on medication for 15 years. He said he took Seroquel, Xanax, and

Benzodiazepine. Father refused to sign “any release as to content.” He said he had “a sleep hygiene issue and is not ordinarily functioning until 2pm.” During the Department’s investigation, father communicated with Department personnel in a “rude, condescending, an[d] uncooperative manner.” He refused to provide much, if any, background information to the Department and refused to allow the Department of Mental Health to assess daughter, stating she did not need mental health services.

Detective Torrance reported father “was acting really inappropriately” on the night mother died. Detective Torrance said father showed no signs of grieving or any emotion at all, did not rush to mother’s body after she fell, and gave no reason why mother would have jumped to her death, other than to say, “everyone has secrets.” Detective Torrance described father’s home as “stage one of a hoarder’s house” and “really dirty [with] 10 inches of trash everywhere.” Father told the detective he had a sleeping problem and slept until noon.

Another detective investigating mother’s death, Fred Kat, interviewed the maternal grandmother and maternal aunt, both of whom lived in China. The maternal aunt told Detective Kat mother had said she was “very afraid of [father] because [he] is a very vindictive and violent person with mental issues, and that he is constantly taking medications.” The maternal grandmother told Detective Kat that, during her visits to the family home, she observed father to sleep all day and go out all night, sometimes without wearing shoes. Maternal grandmother also stated the family’s apartment was very messy, and mother had confided in her that father might have installed listening devices in the apartment. Maternal grandmother and maternal aunt reported

similar things to a Department social worker. They asked the social worker not to tell father they had spoken with the social worker because they were worried father might harm daughter in retribution. They said father was “very unforgiving and paranoid” and they believed he was mentally unstable.

The assistant principal at one of O.E.’s schools told a Department social worker that “father comes across very confrontational” and “questions everything.” One of O.E.’s counselors stated father did not “seem to trust or listen to wom[e]n” and once called her a “moron.” Another counselor similarly stated father did not “do well with women,” “was extremely condescending,” and yelled a lot. She avoided him because he was so difficult.

Some of father’s former students posted comments about him on the Web site “RateMyProfessors.” Between 2005 and 2014, there were 54 comments, five of which were negative. Some commentators described father as “full of wisdom and humor” while others found him “strange and vulgar” and often distracted from the class topic. One comment reported father “talked about his sex life with his ex-wife during class” and more than one comment stated father “flirted with his female students.” The Department summarized the comments as stating father “is unprofessional, rude, has a temper, very aggressive, he likes to talk about sex, his children, and his Asian wives, he talks about his sex life, his custody battles, and flirts with students. There were some positive comments about him as a professor as well.”

A.E. and I.E. told a Department investigator father slept until noon or later, while mother and daughter woke up hours earlier. They both laughed when asked if father’s home was

clean. They said the apartment was “cluttered and unorganized, stuff is on the floor as opposed to put away.”

c. *Alleged Domestic Violence*

The maternal aunt told Detective Kat mother had said she wanted to leave father. According to maternal aunt, mother said father threatened to kill mother and all of her family members, including those in China, if she left him. Mother took father’s threat seriously and was genuinely afraid. Mother said she would leave father, but she had to do it gradually. Mother told the maternal aunt she believed father posed a threat to her life and she had purchased a life insurance policy without father’s knowledge. Mother also told the maternal aunt that father watched sadistic and crime shows and had bragged he could outsmart the police and get away with any crime. The maternal grandmother told Detective Kat that, during her visits to the family home, she observed father to be very controlling and to yell in such a way that maternal grandmother was scared for her life and mother’s life. Maternal grandmother also reported mother had said she wanted to visit China in 2018, but father did not want her to go. He yelled at her and mother believed he confiscated her passport so that she could not make the trip.

The maternal grandmother and maternal aunt made similar statements during interviews with a Department social worker. They also reported once seeing a bruise on mother’s leg. Mother told maternal aunt father had hit her. Maternal grandmother also explained to the social worker father never told the family about mother’s death. Instead, mother’s former classmate broke the tragic news to mother’s family. Following mother’s death, father was not responsive to maternal

grandmother's or other family members' attempts to contact daughter or to inquire as to her well-being.

A few news articles written about mother's death indicated neighbors often heard mother and father arguing at home. One article reported that on one occasion, father kicked mother out of their apartment and mother waited outside for hours before father allowed her back inside.

Maria told a Department investigator father was a "bully," "very intimidating and condescending," "vindictive," and she tried "to minimize contact with" him. Maria said father emotionally abused her when they were together and, once after they separated, he physically abused her. On that one occasion, father pushed Maria and hit her in the face while she was holding their son A.E. Afterward, father coached A.E. to say he had not hit Maria. However, others had witnessed the altercation and reported what had happened. Maria stated father stopped paying child support for their two children only a couple months after entry of their family law order in 2007, but when he did pay, he wrote derogatory comments on the payment receipts. A.E. and I.E. believed father and mother respected each other.

Father denied any history of domestic violence.

d. *Father's Alleged Emotional Abuse of Daughter*

During the underlying dependency investigation, father was heard to say in daughter's presence things like, "I don't know where my wife's body is," and to refer to mother as "my dead wife." Father also steadfastly refused mental health services for daughter despite the fact she had witnessed her mother's death.

The maternal grandmother told Detective Kat father did not love daughter, treated her poorly, and often yelled at her. On

one instance, when daughter was one year old, maternal grandmother saw father pour a bucket of water on daughter's head for no reason and laugh hysterically about it. Daughter cried and maternal grandmother was heartbroken and "shocked . . . to the core" to see daughter mistreated.

6. Amended Petition and Detention

A few months later, on March 1, 2018, the Department filed an amended petition (petition). The petition included the original count b-1, which addressed mother's death and father's incarceration (although father was no longer incarcerated), and added six new counts. The new counts alleged father had a history of domestic violence with his ex-wives, father threw mother from the parking garage in daughter's presence, father did not follow court orders and refused to allow daughter to be assessed by mental health professionals, in 2014 father and O.E. had a physical altercation in daughter's presence, father has a history of physical altercations with O.E., father has a history of mental and emotional issues, including diagnoses of bipolar and anxiety, father neither takes his medication as prescribed nor receives regular mental health treatment or services, father did not attend to daughter's mental health needs after mother's death, father emotionally abused daughter, and father sexually abused daughter.

In its detention report, the Department explained father was refusing to comply with court orders. The Department stated, father "is not allowing [Department] social workers to interview the children in private. Father is denying therapy for children. Father is not making himself available for phone calls. Father is not making the children available for frequent unannounced visits [as ordered by the court]. . . . Social workers

are unable to assess for child safety and wellbeing. Social workers are unable to link the family and children to court ordered services such as counseling and Family Preservation. Father is not following the court orders to allow both children . . . to participate in therapy after [daughter] witnessed her mother's death."

On March 5, 2018, the juvenile court ordered daughter detained from father and granted father monitored visits.

7. Continued Investigation

In its March 2018 jurisdiction and disposition report, the Department reiterated much of what had already been reported. The Department summarized father's extended and combative history with the Department, as well as father's continued refusal to cooperate with the Department in the instant proceedings. The Department noted, "Father has not followed through with any court orders. The father does not make himself available for phone calls, the father has refused Family Preservation, the father has refused mental health services for both children [daughter and O.E.], and the father has only made the children available to social workers with police presence or at one previously scheduled visit." The Department also summarized father's history of physical abuse toward daughter's half siblings (especially O.E.) and ex-wife Maria, father's apparent difficulty in communicating with women, father's messy and at times unsanitary home, and father's mental health issues.

In March 2018, the Department reported it had located an adult half sister of O.E. O.E.'s half sister had not spoken with her mother Mina (also O.E.'s mother) in about 10 years. She did not want anyone to know her address or phone number. She told a Department social worker she was 12 or 13 years old when she

lived with father and Mina. O.E.'s half sister reported father was both physically and emotionally abusive toward her mother. She said father drank a lot and, when he drank, he became physical with her mother. On one occasion, O.E.'s half sister heard father and Mina arguing and she saw father "holding her mother down on the ground." She described father as "different and weird."

The Department's March 2018 report also noted father had refused to authorize medical providers to release information on either father's or O.E.'s mental health issues or treatment. The Department also reported father refused to explain or provide documentation explaining what medical condition prevented him from waking up before 1:30 p.m. each day. In addition, it was reported daughter woke up each morning between 10:00 and 11:00. Given the difference between daughter's and father's sleep schedules, the Department expressed its concern that if daughter were in father's custody, there were hours every day when daughter would be unsupervised.

As of June 2018, father continued to be uncooperative, refused to return Department phone calls, and refused to authorize release of daughter's medical information. The police investigation into mother's death remained pending. Father had monitored visits with daughter, who appeared to enjoy their visits. However, on one occasion after a visit, daughter became irritated and uncomfortable when a Department social worker asked her about father. Daughter told the social worker to stop asking questions because " 'father told her not to answer questions' " and he " 'gets mad.' "

After her detention from father, daughter began therapy twice a week. Daughter's therapist indicated to a Department social worker daughter displayed over-sexualized behaviors.

Maria, who was fostering daughter, also stated daughter had displayed over-sexualized behaviors. One time daughter told the therapist “father kisses her on her butt,” then immediately said “just kidding.” Another time daughter had a picture of Maria and asked whether Maria’s husband kissed her “‘pec pec,’” which means vagina in Tagalog. When asked where she got such an idea, daughter responded, “‘ok ok daddy said it,’” then changed the subject. Maria reported daughter had an imaginary friend named Curvey, who was a girl. Daughter told stories about Curvey, which included Curvey’s dad kissing Curvey’s butt and vagina. Curvey did not like it when her dad kissed “‘pec pec.’” Daughter said, “Curvey punched her dad’s face and he died.” Maria also stated daughter drew pictures of people and would say, “‘this is kissing vagina.’” Maria said daughter drew a picture of father’s penis, then said father did not get mad when she sees it. Maria believed daughter felt guilty about being happy because daughter said things like, “I like you but don’t tell my dad” “because he will get mad.” Maria said daughter was going to bed at 8:00 p.m. and waking up at 7:30 a.m.

At a June 2018 hearing, daughter’s counsel successfully asked the juvenile court to limit father’s educational and developmental rights for daughter. Counsel explained father had refused to provide information necessary to enroll daughter in daycare and had refused services for daughter. Father believed daughter did not need services. As a result, Maria and her husband had been unable to enroll daughter in day care or to obtain services for her. Over father’s objection, the juvenile court limited his educational and developmental rights and granted those to Maria and her husband.

In an August 2018 report for the court, the Department reported daughter was doing well with Maria and her family. Maria told a Department social worker daughter was “doing great,” was enrolled in preschool, and “loves it.” However, Maria stated after visits with father, daughter said she does not want to go to school. Maria also told the social worker daughter had stopped talking about her private parts and other people’s private parts. Similarly, daughter had stopped telling sexualized stories about Curvey. Instead, daughter talked about Curvey “living in a beautiful house and going to school.” Daughter’s therapist also reported daughter was making fewer sexually inappropriate comments.

The Department’s August 2018 report also stated father’s visits with daughter were going “very well” and father and daughter enjoyed their time together. However, at a July 2018 visit, seven months after mother’s death, father brought a woman he referred to as his “lady friend” to a visit with daughter at a local park. The monitor had not been informed a guest would be at the visit. Father insisted his lady friend did not need clearance and, in any event, could be in a public park. Father refused to discuss his relationship with his lady friend. The Department and daughter’s therapist both expressed concerns that if father and his lady friend were romantically involved, “It could be very confusing and potentially upsetting for [daughter] who is still grieving the loss of her mother.”

8. Father’s Section 355 Objections

In April 2018, prior to adjudication, father filed written section 355 objections to the Department’s March 2018 jurisdiction and disposition report. In general, father objected to the report as “hearsay without preparer [Department

investigator and social worker] Amy Reitsma present for cross examination.” Among other things, father objected specifically to statements made by both the maternal grandmother and maternal aunt as inadmissible hearsay.

At a June 2018 hearing prior to adjudication, the juvenile court deferred ruling on father’s section 355 objections. The court stated, “I deferred ruling on the 355 objections to the statements by the maternal grandmother and maternal aunt. And with respect to the other statements that were objected to, I stated that those statements would not serve as the sole basis for taking jurisdiction.”

9. Adjudication and Removal

After a few continuances and after being transferred to a new judicial officer, the adjudication and disposition hearing was held on August 27, 2018. Hearing no objection, the juvenile court admitted into evidence the Department’s March 2018 jurisdiction and disposition report, among other things. Department investigator Reitsma, who had prepared the Department’s reports for the court, testified at the hearing and reiterated much of what had already been reported. She testified she did not see the journal found in father’s car the night mother died. She heard of the journal through her interviews with the investigating police officers as well as from reviewing police reports. At the hearing, the juvenile court also admitted into evidence printouts father claimed showed various prescriptions he had filled at a pharmacy between the years 2015 and 2018.

During closing argument, father’s counsel raised father’s previously filed section 355 objections to statements made by the maternal grandmother and maternal aunt. The judicial officer hearing the matter stated she did not know the status of those

objections because she had not been privy to the court's prior order on the objections. Father's counsel responded, "I will withdraw that because that is aside," to which the court stated, "Strike that portion." Father's counsel proceeded to argue why maternal grandmother lacked credibility.

At the conclusion of the hearing, the juvenile court sustained four counts of the petition. In particular, the court sustained count b-2 relating to father's domestic violence with mother and his ex-wives, count b-5 relating to father's mental and emotional issues and his failure to address them adequately, count c-1 related to father's emotional abuse of daughter, and count d-1 related to father's sexual abuse of daughter. The court dismissed the remaining counts. With respect to the sexual abuse allegations, the juvenile court stated it would be difficult to sustain count d-1 if the pieces of evidence were "taken individually." The court continued, however, that considering the evidence together sufficiently supported count d-1. The court stated, "the listing of all of the indicators of [sexual] abuse is: [daughter] is drawing a penis, she is drawing breasts, she is mentioning her father kissing her pek pek, kissing her butt. The maternal grandmother stated witnessing father massaging [daughter's private parts]. . . . The child was talking about sucking on boobs; she invented [Curvey] that the father kisses the butt, and while the diary of father entitled "Dreams" is really remote in time, it is just very tangential, . . . by itself, has no meaning; it is only when you begin to put all of these other things together."

The juvenile court ordered daughter removed from father's care and custody. The court ordered family reunification services for father, including counseling, a psychological assessment, and

psychiatric evaluation. The juvenile court ordered a doctor other than father's current mental health providers to conduct the evaluation because "a fresh set of eyes" might "see if there is something else that his existing doctors are missing so we can get him as much help as possible and get the kids home sooner than later." The court noted, "I can't have a father sleep in the middle of the day, taking care of a three- and four-year-old." Father was granted monitored visits with daughter.

After filing an unsuccessful application for rehearing, father appealed the juvenile court's August 27, 2018 jurisdictional findings and dispositional orders.

DISCUSSION

1. Standard of Review

We review the juvenile court's jurisdictional findings for substantial evidence. (*In re Jonathan B.* (2015) 235 Cal.App.4th 115, 119.) We will affirm if there is reasonable, credible evidence of solid value to support the court's findings. (*Ibid.*)

“ “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.” ’ ” (*In re I.J.* (2013) 56 Cal.4th 766, 773.) Under this standard, our review “ begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to

substitute its deductions for those of the trier of fact.’ ” (*In re David H.* (2008) 165 Cal.App.4th 1626, 1633.) “We do not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts. [Citation.] The judgment will be upheld if it is supported by substantial evidence, even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence.” (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

However, “ ‘substantial evidence is not synonymous with *any* evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal. [Citation.] Furthermore, “[w]hile substantial evidence may consist of inferences, such inferences must be ‘a product of logic and reason’ and ‘must rest on the evidence’ [citation]; *inferences that are the result of mere speculation or conjecture cannot support a finding* [citations].” [Citation.] “The ultimate test is whether it is reasonable for a trier of fact to make the ruling in question in light of the whole record.” ’ ” (*In re David M.* (2005) 134 Cal.App.4th 822, 828.) “ ‘[I]f the word “substantial” [is to mean] anything at all, it clearly implies that such evidence must be of ponderable legal significance. Obviously the word cannot be deemed synonymous with “any” evidence. It must be reasonable . . . , credible, and of solid value’ ” (*Kuhn v. Department of General Services* (1994) 22 Cal.App.4th 1627, 1633; *In re I.C.* (2018) 4 Cal.5th 869, 892.)

2. Count d-1: Sexual Abuse

a. Applicable Law

As to father’s alleged sexual abuse of daughter (count d-1), the juvenile court exercised its jurisdiction under section 300, subdivision (d). Under that subdivision, a juvenile court may

assert dependency jurisdiction and declare a child a dependent of the court when “[t]he child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent.” (§ 300, subd. (d) (subdivision (d)).)

Section 11165.1 of the Penal Code (section 11165.1) defines sexual abuse to include a wide range of conduct, including “[t]he intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.” (§ 11165.1, subd. (b)(4).) Sexual abuse also includes “child molestation” as described in section 647.4 of the Penal Code. (§ 11165.1, subd. (a).) Penal Code section 647.4 prohibits conduct directed at a child or children that would cause a normal person to be unhesitatingly irritated or annoyed, provided the acts are motivated by an abnormal sexual interest in the child victim or children in general. (*People v. Phillips* (2010) 188 Cal.App.4th 1383, 1396; *People v. Thompson* (1988) 206 Cal.App.3d 459, 465.)

b. Substantial Evidence

Substantial evidence supports the juvenile court’s exercise of jurisdiction under subdivision (d). A number of statements and events support the court’s order sustaining count d-1. Daughter’s therapist reported daughter’s conduct and statements were not typical for a child her age. According to both the therapist and Maria, daughter exhibited over-sexualized

behaviors. For example, daughter asked whether Maria's husband kissed Maria on her "pec pec" or vagina, indicated "daddy" said those types of things, spoke of father kissing her on her butt, drew a picture of father's penis, played with an imaginary friend who did not like it when her imaginary father kissed her butt and vagina, drew pictures of people and said, "This is kissing vagina." Daughter also expressed distress at answering questions about father and revealed she did not want father to know she was happy in Maria's home because he would get mad. Additionally, as daughter spent more time in Maria's care, she and her imaginary friend no longer told sexualized stories. Daughter and her imaginary friend were both happy living with Maria and her family and attending school. In addition to daughter's statements and actions, the juvenile court mentioned maternal grandmother's statement that father rubbed daughter from vagina to buttock as well as father's old handwritten journal containing pedophilic ideations. In light of this record, we conclude substantial evidence supports the juvenile court's exercise of dependency jurisdiction under subdivision (d).

Father argues the juvenile court erred in relying on statements made by the maternal grandmother. Father filed written objections to those statements under section 355, which he claims prohibited the juvenile court from relying exclusively on maternal grandmother's statements to sustain the subdivision (d) count. Although when making jurisdictional findings a juvenile court generally may admit and rely on hearsay evidence contained in a Department social study report (such as the Department's jurisdiction and disposition report), "[i]f a party to the jurisdictional hearing raises a timely objection to the

admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based” unless the Department demonstrates the hearsay evidence falls within one or more specified exceptions. (§ 355, subds. (b) & (c)(1).) The Department argues father forfeited his section 355 objections and, in any event, the record contains corroborating evidence supporting the juvenile court’s finding under subdivision (d).

We are not persuaded by father’s section 355 argument. Clearly, in exercising its jurisdiction under subdivision (d), the juvenile court did not rely exclusively on maternal grandmother’s statements. The record contains and the juvenile court cited ample evidence corroborating maternal grandmother’s statements. Many of daughter’s atypical statements and actions involved father kissing her vagina and butt or otherwise referenced the vagina and butt. Moreover, daughter’s statements and actions alone implicate father in sexually abusive behavior toward her. Thus, even ignoring maternal grandmother’s statements altogether, we would conclude substantial evidence supports the juvenile court’s order sustaining count d-1.²

Father also argues—apart from maternal grandmother’s statements—the evidence relied on to support the sexual abuse finding was inadmissible or insufficient and did not corroborate

² In light of this conclusion, we decline to decide whether father forfeited his section 355 objections. We also reject father’s argument that maternal grandmother did not describe an act of sexual abuse when she described father laughing while using “his big hand to rub [daughter] vagina to buttock and pull apart the skin calling it a massage.”

the actual act described by maternal grandmother. We disagree. Initially, the sustained count d-1 does not rely exclusively on the conduct described by maternal grandmother (i.e., father rubbing daughter “vagina to buttock”). Rather, that conduct is used as an example only in count d-1, which states father “sexually abused [daughter] *including but not limited to* rubbing the child’s vagina and buttocks.” (Italics added.) Thus, contrary to father’s position, evidence supporting sexual abuse by father beyond rubbing daughter’s vagina and buttocks was relevant. In addition, to the extent father invites us to reweigh the evidence or to make different reasonable inferences than those made by the juvenile court, this we cannot do. (*In re I.J.*, *supra*, 56 Cal.4th at p. 773; *In re David H.*, *supra*, 165 Cal.App.4th at p. 1633; *In re Dakota H.*, *supra*, 132 Cal.App.4th at p. 228.) Finally, father argues the juvenile court should not have considered evidence related to his handwritten journal. As with maternal grandmother’s statements, however, we conclude substantial evidence supports the juvenile court’s finding under subdivision (d) even in the absence of evidence pertaining to father’s journal.

3. Remaining Counts

Because we conclude dependency jurisdiction was proper under count d-1, we need not and do not reach the remaining counts involving father’s mental and emotional issues, history of domestic violence, and emotional abuse of daughter. A single basis for asserting dependency jurisdiction over daughter is sufficient to sustain the juvenile court’s exercise of that jurisdiction. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; *In re Ashley B.* (2011) 202 Cal.App.4th 968, 979 [“As long as there is one unassailable jurisdictional finding, it is immaterial that

another might be inappropriate”].) We decline to exercise our discretion to address the remaining counts.

DISPOSITION

The August 27, 2018 order is affirmed.
NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

CHAVEZ, J.

HOFFSTADT, J.