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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re JASMINE C., a Person Coming Under  
the Juvenile Court Law.

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LOS ANGELES COUNTY DEPARTMENT  
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

KANDACE C.,

Defendant and Appellant.

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B235501

(Los Angeles County  
Super. Ct. No. CK87256)

APPEAL from an order of the Superior Court of Los Angeles County,  
Jacqueline H. Lewis, Referee. Affirmed.

Linda J. Vogel, under appointment by the Court of Appeal, for Defendant and  
Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County  
Counsel, and Judith A. Luby, Principal Deputy County Counsel, for Plaintiff and  
Respondent.

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## INTRODUCTION

Kandace C. (Mother) appeals from a juvenile court order sustaining allegations of a dependency petition and making jurisdictional findings pursuant to Welfare and Institutions Code section 300, subdivision (b).<sup>1</sup> We find that substantial evidence supports the allegations of the petition that Mother suffered from mental and emotional problems and that her daughter Jasmine W. suffered or was at substantial risk of suffering physical harm or illness. We affirm the jurisdictional finding and the adjudication order.

## FACTUAL AND PROCEDURAL HISTORY

*Section 300 Petition:* Jasmine C. was four months old on April 1, 2011. The identity of Jasmine's father was unknown. The family came to the attention of the DCFS on November 24, 2010, when it was reported that Jasmine was an alleged victim of Mother's general neglect. Mother had a history of bipolar disorder and it was a concern that Mother lacked the ability to care for children. Nine years previously, maternal grandparents obtained custody of Mother's two other children, who were placed with those grandparents under legal guardianship. Maternal grandmother stated that they were concerned when Mother gave birth to Jasmine because Mother had not taken care of her other two children and now had a newborn.

On December 2, 2010, a CSW talked to Mother, who was staying at a friend's home until she could find her own place. Mother said her parents made the child abuse report and were angry because Mother would not let them see Jasmine and because Mother chose not to conform to their Jehovah Witness religion. Mother felt her parents were trying to prevent her from being a good mother. Mother denied being bipolar and said she was never diagnosed with and had never taken any medication for mental illness. She refused to participate in an assessment to rule out mental health concerns, stating that there was nothing wrong with her and she never had any mental illness. Mother stated that she did not know the identity of Jasmine's father. With regard to Jasmine, Mother stated that Jasmine was a normal baby and ate every three to four hours.

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<sup>1</sup> Unless otherwise specified, statutes in this opinion will refer to the Welfare and Institutions Code.

When informed that the CSW would contact her to complete the investigation, Mother said there was no reason for the CSW to come back, that Jasmine was fine and that she was not neglecting her. Between December 10, 2010 and February 1, 2011, the CSW made several unsuccessful attempts to contact Mother by phone, unannounced visits, and letters. On February 2, 2011, the CSW met Mother, stated that the referral was still open, and again asked Mother to participate in an assessment to determine if the family needed any services. Mother again stated that she had no mental health concerns and had never been diagnosed with mental health issues, and blamed the DCFS involvement on her father.

The CSW observed that Jasmine appeared to be small for her age. The child weighed eight pounds, three ounces on her last medical visit. The CSW suggested that Mother contact the doctor to ensure that Jasmine was developing age appropriately. The CSW stated that she would follow up with the doctor and request the assessment.

Mother was assessed on February 10, 2011. The assessor reported that when she arrived at Mother's home she appeared confused, guarded, and watchful, and constantly asked why the assessor was in the home and why the assessment needed to be conducted. Mother had unrealistic expectations for Jasmine, stating that Jasmine was ready to crawl when her infant was only two months old and that Jasmine was already talking. The weather was cold and Jasmine had no socks or pants on and no blankets were in the living room. The assessor had concerns about Mother's understanding and intellectual functioning. Mother reported not knowing why her parents had legal guardianship of her older children, stated that her mother was out to get her and "will try everything to steal my daughter from me." Mother showed no emotions and was disengaged, avoided eye contact, responded with short, slow answers, looked confused, and would "daze off" during the interview. Mother struggled to comprehend the questions, and her answers contradicted themselves. Mother expressed no clear plan about how she would raise Jasmine and had unrealistic expectations about Jasmine and her living situation. The assessor felt further investigation was needed to determine Mother's mental health, and recommended a program to educate Mother on child development and parenting of a

newborn, an in-home program to track her progress and interactions with Jasmine, and a thorough psychological evaluation.

On March 1, 2011, the CSW contacted Mother about results of the assessment and explained Mother would benefit from voluntary services from the DCFS. Mother said she did not need or want any services and she was doing well on her own.

On March 11, 2011, the CSW told Mother that an appointment was made for Jasmine at the Failure to Thrive Clinic at UCLA. Mother responded that there was nothing wrong with Jasmine, and that she had changed her milk and she was doing better and gaining weight. After the CSW explained the benefits of taking Jasmine to the Failure to Thrive Clinic, Mother agreed to attend and did attend the appointment on March 15, 2011. After the appointment, a representative of the Failure to Thrive Clinic, Olga De Jesus, contacted the CSW, stating that she was concerned about how Mother fed Jasmine, by mixing milk in a pitcher. De Jesus wanted to make a home visit to Mother's home for an assessment of how Mother fed Jasmine and prepared the milk. On March 16, 2011, the CSW informed Mother that Jasmine had been diagnosed with failure to thrive and it was reported that Mother was not mixing Jasmine's formula appropriately. Mother responded that Jasmine had always been small. The CSW explained that there were concerns about Jasmine's weight and the DCFS wanted to follow Jasmine to ensure she was getting the best possible care and that she was healthy.

Also on March 16, 2011, the CSW received a report from the Failure to Thrive Clinic, indicating that Jasmine was diagnosed with failure to thrive due to inadequate mixing of formula. De Jesus of the Failure to Thrive Clinic informed the CSW that Mother would not schedule a home visit at her current residence because she did not live there permanently.

On March 29, 2011, Mother attended a Team Decision Meeting. Mother stated that she had not been diagnosed with any mental health issues, but was hospitalized for post-partum depression at Del Amo Hospital for a month after her second child was born. Mother stated that she stayed with friends from place to place, had turned down homeless assistance from the Department of Public Social Services, and did not need housing

assistance and was trying to do things on her own. Regarding Jasmine's failure to thrive, Mother stated that Jasmine had a "gestational problem," and that the doctor had a concern that Jasmine was underweight when she was just 11 days old. The CSW assessed the family as one in which the risk was too high for Jasmine to remain with Mother without preventative services, and recommended that the family receive Court Family Maintenance Services to ensure that Mother completed all medical appointments and follow-up recommendations, that Mother participate in courses for child development and parenting a newborn, and that the juvenile court order an Evidence Code section 730 evaluation of Mother's mental health.

On April 1, 2011, the DCFS filed a non-detained section 300 petition alleging that Jasmine was a person described by section 300, subdivision (b) [child suffered or risked suffering serious physical harm or illness by parent's failure to supervise or protect the child adequately and to provide the child with adequate food, clothing, shelter, or medical treatment, and by the parent's inability to provide regular care for the child due to the parent's mental illness], in that Mother was previously diagnosed with mental and emotional problems, including a diagnosis of psychosis, Mother had depression, suicidal thoughts, auditory and visual hallucinations, increased anxiety and paranoia, and placed Jasmine in a detrimental and endangering situation when the child was diagnosed with Failure to Thrive and Mother missed doctor's appointments.

On April 1, 2011, the juvenile court found that a prima facie case was established that Jasmine was a person described by section 300, subdivision (b), ordered Jasmine released to Mother pending the next hearing, and ordered the DCFS to provide family maintenance services, shelter referrals, and transportation assistance.

On April 7, 2011, the CSW and Failure to Thrive nurse De Jesus visited Mother's home, and observed that Mother had tied a cloth around Jasmine's neck because of a rash. De Jesus advised Mother not to wrap anything around Jasmine's neck because that would not help heal the rash. As of April 8, 2011, Jasmine weighed 12.6 pounds. On April 12, 2011, Mother told a CSW that she did not take Jasmine to a medical appointment that day because no one picked her up for the appointment. Mother said she

should not have to take the bus to appointments and that the DCFS should provide transportation. Mother agreed to reschedule the appointment, and she and Jasmine appeared for that appointment on April 19, 2011. The doctor reported that Jasmine's weight had improved significantly, related to correct preparation of her infant formula, and that Mother followed dietary recommendations.

*Adjudication and Disposition:* The DCFS jurisdiction/disposition report of April 29, 2011, reported that Jasmine continued to live with Mother at a family friend's residence.

The maternal grandfather stated that Mother was hospitalized several times since she was 16 years old, had chronic mood swings, and often spiraled out of control when she was not on her medication. Maternal grandfather stated that Mother went to St. Francis Mental Health for two or three weeks seven or eight years previously. When she was 16 years old, Mother went to Del Amo Hospital where she was medicated for mood swings; to Paramount Mental Health in Long Beach when she was 18 years old; and to Hawthorne Mental Health two years previously. Maternal grandfather stated that Mother had been taken to the hospital by ambulance many times. Maternal grandfather stated that Mother told her parents she was bipolar, although Mother denied she had ever been diagnosed with any mental health conditions or prescribed any psychotropic medications. The maternal grandfather questioned how a bipolar person who did not take her medication could raise Jasmine.

Mother denied that she had not taken Jasmine to doctor's appointments, stated that she mixed her formula and fed her correctly, and said that the clinic could not explain why Jasmine was diagnosed as failure to thrive. No records were found of Mother being admitted to La Casa Mental Health, Los Angeles Metropolitan Medical Center (with which Hawthorne Mental Health was affiliated), or Del Amo Hospital. Mother's mental health history was still being investigated.

Mother was currently looking for work, and reported no income for the previous year. She denied any personal or family history of substance abuse, mental illness, or domestic violence.

Jasmine had been diagnosed with failure to thrive. Mother resisted cooperating with the DCFS but complied with making or rescheduling appointments, while expressing that she did not understand why the appointments were necessary. Mother also resisted the advice and opinion of medical professionals. The DCFS believed, however, that with court and DCFS supervision, Jasmine could remain safe as long as her medical appointments were made and she was making progress.

For a May 25, 2011, hearing, the DCFS reported that after initially denying any memory of her hospitalization, Mother told a CSW that she remembered being hospitalized because she was acting out and dealing with problems with her family, who, she said, did not let her grow up and become her own woman. Mother stated that this occurred [awhile] ago now and things have changed. I don't feel I need anything now." Mother's mental health records from St. Francis Hospital showed that Mother was psychiatrically hospitalized from November 29 to December 2, 2002 for depression, suicidal thoughts, auditory and visual hallucinations, a history of psychotropic medications, anxiety, and paranoia. The records indicated that the patient, a single mother, could not handle her two-year-old son's tantrums. The diagnosis was "unspecified psychosis." Mother also stated that a boyfriend was abusing her physically and emotionally. Mother was prescribed risperdol and seroquel. Mother said this hospitalization was for anxiety and post-partum depression, because she felt she was not bonding with her baby. Mother denied having auditory and visual hallucinations, and denied that she wanted to choke herself. Mother added that she did not remember the specifics of her hospitalization. The CSW stated that given the prior hospitalization, the removal of Mother's two older children from her custody, and concerns for Jasmine's safety, the DCFS recommended that Mother undergo an Evidence Code section 730 evaluation or equivalent psychiatric evaluation.

By July 21, 2011, Mother was not enrolled in treatment programs and was not willing to participate in such programs. Mother said she planned to move out of state but did not know when or where she was moving. Mother refused to allow the CSW into her house on a visit during May, although she let the CSW in the following day. Mother had

displayed behaviors indicative of diminished mental health, and Mother's failure to seek services could result in Mother's mental health worsening, placing Jasmine at increased risk of neglect or abuse.

On July 19, 2011, a CSW suggested a voluntary family maintenance contract with Mother, who said she was not interested. Mother stated she was moving out of town soon and could not to complete a voluntary family maintenance contract.

In the August 11, 2011, adjudication, the juvenile court heard testimony from Allana Darter, a DCFS dependency investigator CSW. Darter identified the current risk to Jasmine as Mother's mental health issues that were undetermined at that time. The initial assessment in February 2011 identified mental health concerns that needed further psychological evaluation. Mother was described as guarded, meaning that she did not fully disclose what was occurring with Jasmine or with herself. Mother made more extreme statements, such as stating that the DCFS was out to get her and that the E. R. worker wanted Jasmine for herself. Initially Mother was noncompliant with attending to Jasmine's medical needs and mental health concerns made her reluctant to obtain a physician's help for Jasmine's failure to thrive. Mother did become more responsive after the DCFS became involved. More recently Jasmine had received the treatment she needed and her health had stabilized. Jasmine was not currently diagnosed with failure to thrive and was not receiving services from the failure to thrive clinic, because she did not need them. Mother had initially not disclosed her hospitalization in 2002 for mental health problems, which included depression, suicidal thoughts, thoughts about choking herself, auditory and visual hallucinations, a history of psychotropic medication, anxiety, paranoia, and inability to handle her two-year-old son's tantrums. Mother stated that she did not feel she had any current mental health problems. On March 29, 2011, and at later times, DCFS personnel asked Mother to have an additional psychological evaluation, but mother declined to do so, and also declined to participate in counseling. Although Mother complied with attending to Jasmine's medical needs after the juvenile court intervened, she had not become more compliant regarding her mental health issues. Mother's parents had obtained legal guardianship of Mother's two older children because



of concerns about Mother's mental health and ability to care for those children, and because Mother had left the home where they were all living.

Mother and Jasmine currently lived with a friend of Mother's.

The juvenile court stated that Mother had been hospitalized on more than one occasion for diagnoses that included psychosis, depression, suicidal thoughts, auditory and visual hallucinations, and increased anxiety and paranoia. When the DCFS received a referral about Jasmine and tried to investigate, Mother denied her prior mental health hospitalizations. When the CSW saw that Jasmine was very small and tried to help Mother, Mother insisted that Jasmine was fine and had no problems. When the DCFS set up an appointment with the failure to thrive clinic, Mother missed that appointment. The juvenile court found that Mother continued to have psychological issues that had caused her to resist DCFS assistance, and appeared disengaged from her surroundings. Mother was initially assessed as appearing to be detached and anxious, very little speech and slow responses, no memory of recent events, a guarded, suspicious, and frightened attitude, and sleep disturbances, poor memory, and fear of being harmed. Mother told the assessor that Jasmine, then aged two months, was ready to crawl and was already talking. In cold weather Jasmine wore neither socks nor pants and there was no blanket in the room. Mother expressed no clear plan how she would raise Jasmine, and had unrealistic expectations about Jasmine and about her living situation. The juvenile court stated that the diagnostic impression was schizophrenia paranoid type, which was added to the concerns about Mother providing medical care to Jasmine. Mother had been unwilling to provide any assurances that the mental health issues would not keep her from seeking appropriate care for Jasmine and for providing appropriate stability in Jasmine's living situation. These were the issues that caused Mother to sign over guardianship of her two older children to her parents in the previous probate case.

The juvenile court sustained the allegations of the petition, declared Jasmine a dependent child of the court under section 300, subdivision (b), and ordered custody of Jasmine to be with Mother under DCFS supervision while the case remained under juvenile court jurisdiction. The juvenile court ordered the DCFS to provide family

maintenance services and ordered Mother to have psychological/psychiatric evaluation and to participate in mental health counseling.

Mother filed a timely notice of appeal.

### ISSUE

Mother claims substantial evidence does not support the juvenile court's section 300, subdivision(b) findings that Mother suffered from paranoia in March 2011 and Jasmine suffered or was at risk of suffering serious physical harm or illness as a result.

### DISCUSSION

#### 1. *Section 300, Subdivision (b), the Allegations of the Petition, and the Standard of Review*

Section 300 sets forth the grounds for juvenile court jurisdiction over those who are declared dependent children of the court. Section 300, subdivision (b) states, in relevant part, that the juvenile court may adjudge a person to be a dependent child of the court 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 . . . to adequately supervise or protect the child . . . or by the inability of the parent . . . to provide regular care for the child due to the parent’s . . . mental illness, developmental disability, or substance abuse.”

The juvenile court sustained these allegations of the petition: “The child, Jasmine [C.’s] mother Kandace [C.] has previously been diagnosed with mental and emotional problems including a diagnosis of psychosis. Mother had depression, suicidal thoughts, auditory and visual hallucinations. Mother also had increased anxiety and paranoia. Mother’s paranoia has placed the child in a detrimental and endangering situation in 3/11 when the child was diagnosed with Failure to Thrive and the mother missed doctor’s appointments.”

A jurisdictional finding under section 300, subdivision (b) requires (1) a parent’s neglectful conduct in one of specified forms; (2) causation; and (3) serious physical harm or illness to the child or substantial risk of such harm or illness. (*In re James R., Jr.* (2009) 176 Cal.App.4th 129, 135.)

“The basic question under section 300 is whether circumstances at the time of the hearing subject the minor to the defined risk of harm.” (*In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1134.) This court reviews jurisdictional findings according to the substantial evidence test, and thus we review the evidence before the juvenile court in the light most favorable to its order. (*In re S. O.* (2002) 103 Cal.App.4th 453, 461.)

## *2. Substantial Evidence Supports the Jurisdictional Findings*

### *A. Substantial Evidence Supports the Finding that Mother Suffered From Mental and Emotional Problems*

Mother claims that substantial evidence does not support the finding that she suffered from a psychiatric illness or paranoia in March 2011 or at the time of the August 11, 2011, hearing.

Mother initially denied being bipolar and said she was never diagnosed with any mental illness, was never hospitalized, and had not taken medication for mental illness. She later admitted being hospitalized for a month for post-partum depression after her second child was born. Her father stated that Mother had been hospitalized several times since she was 16 years old, had chronic mood swings, often spiraled out of control when she was not on her medication, and Mother told her parents she was bipolar. Six months after Jasmine first came to DCFS attention, Mother remembered being hospitalized because of family problems. Hospital records showed that in 2002 Mother was psychiatrically hospitalized for depression, suicidal thoughts, auditory and visual hallucinations, a history of psychotropic medications, anxiety, and paranoia, with a diagnosis of “unspecified psychosis.” She was prescribed risperidol and seroquel.

When Mother was assessed on February 10, 2011, she appeared confused, guarded, and watchful, and repeatedly asked why the assessor was in the home and why the assessment needed to be conducted. Mother had unrealistic expectations for Jasmine, stating that Jasmine was ready to crawl and was already talking when she was only two months old. Mother reported not knowing why her parents had legal guardianship of her older children, and stated her mother was out to get her and would try to steal Jasmine

from her. Mother's affect was disengaged from her surroundings, and she looked confused and would "daze off" during the interview.

As of July 21, 2011, Mother was not enrolled in any treatment and was unwilling to participate in such programs. Mother displayed behaviors indicative of diminished mental health and her failure to seek mental health services could result in her mental health worsening.

Mother was reported to have made extreme statements, such as saying that the DCFS was out to get her and the E. R. worker wanted Jasmine for herself.

Mother similarly initially denied that Jasmine had any problems. On February 2, 2011, however, when Jasmine was two months and three weeks old, Mother reported that Jasmine weighed eight pounds, three ounces on her last medical visit. On March 11, 2011, when informed that the CSW had made an appointment for Jasmine at the Failure to Thrive Clinic, Mother responded that there was nothing wrong with Jasmine. Jasmine was diagnosed for failure to thrive and it was reported that Mother was not mixing Jasmine's formula appropriately. On March 29, 2011, Mother disclosed that a doctor had a concern that Jasmine was underweight when she was just 11 days old. By April 19, 2011, Jasmine's weight had improved significantly, which was related to the correct preparation of her infant formula and Mother's following of dietary recommendations.

At the time of the adjudication, Mother had become compliant with attending to Jasmine's medical needs, but not regarding her mental health issues. Mother's parents had obtained legal guardianship of her two older children because of concerns about Mother's mental health and ability to care for those children and because Mother had left the home where they were living. Mother was unwilling to provide assurances that mental health issues would not keep her from seeking appropriate care for Jasmine and from providing stability in Jasmine's living situation.

Substantial evidence supported the allegation that Mother was previously diagnosed with mental and emotional problems including a diagnosis of psychosis, that Mother had depression, suicidal thoughts, auditory and visual hallucinations, and increased anxiety and paranoia, which placed Jasmine in a detrimental and endangering situation in March of 2011 when she was diagnosed with failure to thrive and Mother missed doctor's appointments.

*B. Substantial Evidence Supports the Finding That Jasmine Had Suffered or Was at Substantial Risk of Suffering Physical Harm or Illness*

Mother claims that substantial evidence does not support the finding that Jasmine had suffered or was at substantial risk of suffering serious physical harm or illness in March 2011 or at the time of the jurisdictional hearing.

Mother's ability to care for Jasmine was a concern because she had not taken care of her two older children, who were placed with grandparents under legal guardianship. Although Mother stated that Jasmine was a normal baby and was fine and she was not neglecting her, on February 2, 2011, when Jasmine was two months and three weeks old, she weighed eight pounds, three ounces on her last medical visit. Jasmine was diagnosed with failure to thrive, and it was reported that Mother was not mixing Jasmine's formula correctly. Mother denied problems with Jasmine's weight and failure to thrive, said she needed no help or services, and resisted the advice and opinion of medical professionals. When an assessor visited Mother on February 20, 2011, Jasmine was dressed inappropriately for cold weather and wore no socks or pants and no blankets were in the living room. By July 21, 2011, Mother continued to be unwilling to enroll or participate in any treatment programs, and said she planned to move out of state but did not know when or where she was moving. As of the August 11, 2011, jurisdictional hearing, Jasmine was no longer diagnosed with failure to thrive and did not need services from the failure to thrive clinic. Mother, however, continued to state that she had no current mental health problems and was unwilling to have an assessment or participate in counseling, and her mental health issues remained undetermined. This caused a risk to Jasmine based on Mother's previous neglect and failure to provide adequate care for

Jasmine and her lack of a plan to provide appropriate stability for Jasmine's living situation.

Substantial evidence supported the allegation that Mother had placed Jasmine in a detrimental and endangering situation, and that Jasmine had suffered or was at substantial risk of suffering serious physical harm or illness.

Mother argues that assumption of jurisdiction under section 300, subdivision (b) has been reversed for lack of substantial evidence, even when strong evidence of psychiatric illness was provided, when the record lacked evidence of neglect, causation, and serious physical harm or illness, or the substantial risk of such harm or illness, to the child. *In re Daisy H.* (2011) 192 Cal.App.4th 713, however, determined that although a mother described a father as paranoid and hallucinatory, no evidence linked these alleged mental disturbances to physical harm or a risk of physical harm to their children, and thus the evidence did not support jurisdiction under section 300, subdivision (b). (*Id.* at p. 718.) Here Mother's inadequate care and feeding of Jasmine was linked to her failure to thrive. In *In re James R., supra*, 176 Cal.App.4th 129, there was no evidence of harm to the children from the conduct of Mother (who had a negative reaction to taking eight ibuprofen with a few beers) or Father, no evidence that the parents' conduct created a substantial risk of serious harm to the children, and no evidence supporting a finding that the parents could not provide regular care for the children because of Mother's mental health problems or alcohol use. Here Mother's conduct—her inadequate care and feeding of Jasmine—did create a substantial risk of serious harm to Jasmine.

DISPOSITION

The order is affirmed.

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KITCHING, J.

We concur:

KLEIN, P. J.

CROSKEY, J.