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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re D.B., a Person Coming Under the Juvenile Court Law.	B285377 (Los Angeles County Super. Ct. No. DK21998)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. M.D., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, the Honorable Debra Losnick, Juvenile Court Referee. Affirmed.

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

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

M.D. appeals from the juvenile court's jurisdiction finding under Welfare and Institutions Code section 300, subdivision (a),[1] and disposition order removing her 12-year-old daughter, D.B., from her custody. M.D. argues substantial evidence does not support the juvenile court's jurisdiction finding. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Investigation, Petition, and Detention*

In March 2017 the Los Angeles County Department of Children and Family Services received a referral stating M.D. physically abused D.B. The Department conducted an investigation and found that on February 28, 2017 M.D. and D.B. had a physical altercation because D.B. missed school. M.D. called the police, and D.B. reported to the officer who responded that M.D. punched her in the head and mouth, leaving a bump on her head. The officer did not detect any visible injuries on D.B. and determined D.B. was the "aggressor." M.D. told the officer she would hit D.B. again.

The Department learned that M.D. and D.B. had another fight on March 7, 2017. D.B. flagged down a police officer outside her house and reported to the officer that M.D. hit her with "her

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[1] Statutory references are to the Welfare and Institutions Code.

hands or fists balled up" and that she sustained a bump on her head and scratches on her body. The officer did not detect any visible injuries on D.B. M.D. asked the police to take D.B. "or she would hurt her."

D.B. told a Department social worker that she tried to cut herself because M.D. hits her. D.B. added, "This isn't something that happens a little bit. It happens a lot." The Department social worker observed a "long scratch" on D.B.'s left leg. M.D. told the Department social worker that D.B. physically abused her and that she was "the victim." M.D. denied hitting D.B. and claimed she pushed D.B. in self-defense. M.D. stated that D.B. was "incorrigible" and that she could not care for D.B. because of D.B.'s behavioral and emotional problems.

The Department filed a petition alleging D.B. came within the jurisdiction of the juvenile court under section 300, subdivisions (a), (b), and (c). The juvenile court detained D.B. and placed her in a foster home.

B. *Jurisdiction and Disposition*

For the jurisdiction and disposition hearing, the Department submitted a report that summarized the February and March 2017 incidents. The Department's reports included a statement from D.B. that a year ago M.D. hit her with her fist and dragged her down the stairs. In a last minute information report, the Department stated that D.B. was hospitalized for attempting to harm herself shortly after the juvenile court had detained her and that the hospital staff noted D.B.'s "trigger" for hurting herself was "abuse and trauma by parent."

At the jurisdiction hearing, D.B. testified she was afraid of M.D. "most of the time." D.B. stated she began having "physical conflicts" with M.D. when she was 11 years old. M.D. forced D.B. to do chores and hit her with a closed fist when she refused. D.B.

described an incident where M.D. choked her, dragged her down the stairs, and "kept on socking" her in the face, causing a "big bump." D.B. testified that on another occasion M.D. hit her, and D.B. ran away because she "couldn't take it." D.B. testified that, because of M.D.'s abuse, she "start[s] flinching a lot" when people get close to her or put their hands in her face.

M.D. testified she never punched D.B. in the face, choked her, or pulled her down the stairs. M.D. stated she never hit D.B. and only defends herself against D.B.'s physical assaults. M.D. admitted she told the police that she did not want to have D.B. live with her and that, if the police did not take D.B., she and D.B. "would end up . . . killing each other."

The juvenile court sustained the petition,[2] finding D.B. was a person described by section 300, subdivision (a), and dismissed

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[2] The sustained amended a-1 allegation was: "On 03/07/17 . . . [the mother] . . . physically abused the child by grabbing the child's shirt and repeatedly striking the child with the mother's fists and hands. The mother pushed the child. On an additional occasion on or about March 2017, the mother physically abused the child, inflicting a bump on the child's head and marks to the child's back, right eye[,] and left leg. On numerous additional occasions, the mother repeatedly struck the child with the mother[']s fists and hands. Additionally, the child has also hit the mother during these altercations. Such physical abuse was excessive and caused the child unreasonable pain and suffering. The child is fearful of the mother and does not want to remain in the care of the mother due to the mother's physical abuse of the child. The mother has indicated she is not willing to have the child returned to her home. Such physical abuse of the child by the mother endangers the child's physical health and safety and creates a detrimental home environment, placing the child at risk of serious physical harm, damage, danger and physical abuse."

the remaining allegations. The court removed D.B. from M.D.'s custody, placed her in the care of the Department for suitable placement, and ordered reunification services. M.D. timely appealed.

DISCUSSION

M.D. contends the jurisdiction finding under section 300, subdivision (a), is not supported by substantial evidence. M.D. also challenges the disposition order, but only on the ground that substantial evidence did not support the jurisdiction finding. We conclude substantial evidence supported the juvenile court's finding.

A. *Applicable Law and Standard of Review*

"[I]n dependency proceedings, the child welfare agency must prove by a preponderance of the evidence that the child who is the subject of the petition comes under the court's jurisdiction." (*In re N.M.* (2011) 197 Cal.App.4th 159, 168; see § 355, subd. (a); *In re I.J.* (2013) 56 Cal.4th 766, 773.) Section 300, subdivision (a), provides for juvenile court jurisdiction over a child if "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." "[T]he use of the disjunctive 'or' demonstrates that a showing of prior abuse and harm is sufficient, standing alone, to establish dependency jurisdiction under" section 300, subdivision (a). (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1435.) In addition, "a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the

parent or guardian that indicate the child is at risk of serious physical harm." (§ 300, subd. (a); accord, *In re Jonathan B.* (2015) 235 Cal.App.4th 115, 118; see *In re Isabella F.* (2014) 226 Cal.App.4th 128, 139 ["section 300, subdivision (a) may apply when a minor suffers less serious injuries but there is a history of repeated abuse" and where "there is a substantial risk the child will suffer serious physical harm in the future"].)

We review jurisdiction findings for substantial evidence. (*In re M.M.* (2015) 240 Cal.App.4th 703, 720.) "In considering a claim of insufficient evidence to support a jurisdictional finding, we review the evidence most favorably to the court's order—drawing every reasonable inference and resolving all conflicts in favor of the prevailing party—to determine if it is supported by substantial evidence. [Citation.] If it is, we affirm the order even if other evidence supports a contrary conclusion." (*In re N.M.*, *supra*, 197 Cal.App.4th at p. 168.) "We do not consider the credibility of witnesses or reweigh the evidence." (*In re Isabella F.*, *supra*, 226 Cal.App.4th at p. 138; see *In re M.M.*, at p. 721.) "On appeal, the parent has the burden of showing there is insufficient evidence to support the order." (*In re N.M.*, at p. 168.)

B. *Substantial Evidence Supports the Juvenile Court's Jurisdiction Finding Under Section 300, Subdivision (a)*

As noted, the juvenile court can exercise jurisdiction under section 300, subdivision (a), if a child has suffered serious physical harm or if there is a substantial risk the child will suffer serious physical harm. Here, there was substantial evidence of both.

D.B. testified M.D. hit her with a closed fist when she did not do her chores and on one occasion choked her, dragged her

down the stairs, and hit her repeatedly. The jurisdiction report and accompanying police reports documented two instances, within approximately one week of each other, where M.D. hit D.B. in the head and mouth. This evidence supports jurisdiction under section 300, subdivision (a). (See *In re N.M.*, *supra*, 197 Cal.App.4th at p. 169 [evidence the father "on numerous occasions" hit the child with a broom justified jurisdiction under section 300, subdivision (a)]; *In re Mariah T.* (2008) 159 Cal.App.4th 428, 438 [evidence the mother struck the child on the stomach and forearms supported jurisdiction under section 300, subdivision (a)]; see also *In re Cole C.* (2009) 174 Cal.App.4th 900, 916-917 [evidence the father used ice packs and cold showers to control the children's behavior supported the juvenile court's jurisdiction under section 300, subdivision (j)].)

M.D. argues the juvenile court's jurisdiction finding was not supported by substantial evidence because "[t]he sole evidence of physical abuse in this case came from D.B.'s statements." The implicit premise of M.D.'s argument is that a juvenile court may not make a jurisdiction finding based solely on the statements of a 12-year-old child. M.D., however, cites no authority for this premise. (See *In re S.C.* (2006) 138 Cal.App.4th 396, 408 ["[t]o demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error"].)

Indeed, the law is to the contrary: A child's statements alone can constitute substantial evidence. (See Evid. Code, § 700 ["every person, irrespective of age, is qualified to be a witness"]; *People v. Jones* (1990) 51 Cal.3d 294, 315 ["it is now well established that a child's testimony cannot be deemed insubstantial merely because of his or her youth"]; *People v. Catley* (2007) 148 Cal.App.4th 500, 507 [same].) D.B.'s statements that M.D. punched her on multiple occasions, each

time delivering multiple blows, was substantial evidence of physical abuse. (See Evid. Code, § 411 ["[e]xcept where additional evidence is required by statute, the direct evidence of one witness who is entitled to full credit is sufficient for proof of any fact"]; *In re S.A.* (2010) 182 Cal.App.4th 1128, 1148 ["'[t]he testimony of a single witness is sufficient to uphold a judgment'"]; *In re Sheila B.* (1993) 19 Cal.App.4th 187, 200 [same].)

That M.D. denied D.B.'s accusations and the results of the Department's investigation is not a basis for reversal. The juvenile court, not this court, assesses the credibility of witnesses, and the juvenile court found that M.D. "may have minimized" her role in the physical altercations with D.B. We defer to the juvenile court's resolution of conflicts in the evidence. (See *In re Giovanni F.* (2010) 184 Cal.App.4th 594, 600, fn. 5 ["[w]e must defer to the juvenile court on questions of credibility"]; *In re Albert T.* (2006) 144 Cal.App.4th 207, 216 [we "defer to the [juvenile] court on issues of credibility"]; see also *In re David H.* (2008) 165 Cal.App.4th 1626, 1633 ["the power of an appellate court asked to assess the sufficiency of the evidence 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"].)[3]

In re Isabella F., *supra*, 226 Cal.App.4th 128, cited by M.D., is distinguishable. In that case both the mother and the child

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[3] M.D. emphasizes that the police officers did not see any injuries on D.B. when they came to her house. The Department social worker, however, observed a long scratch on D.B.'s leg when she interviewed D.B. Moreover, the absence of visible injuries does not mean the physical abuse did not occur. (See *In re Veronica G.* (2007) 157 Cal.App.4th 179, 186 ["the children's testimony is not diminished merely because they did not happen to carry bruises on the day the abuse was discovered"].)

acknowledged the mother caused a gouge mark on the child's ear when attempting to discipline the child. The court held the evidence was insufficient to justify jurisdiction under section 300, subdivision (a), in part because the altercation was "an isolated incident." (*Id.* at p. 139.) In contrast, the evidence here was that M.D. hit D.B. "a lot" and inflicted a bump and other marks on D.B.'s body on several occasions. Rather than an isolated incident, M.D.'s physical conflicts with D.B. constituted "a history of repeated inflictions of injuries." (§ 300, subd. (a).)

There was also substantial evidence of a substantial risk of future physical harm to D.B. (See *In re J.K.*, *supra*, 174 Cal.App.4th p. 1439 ["[n]otwithstanding our conclusions concerning the allegations of prior abuse, sufficient evidence in the record also supported the allegations under [section 300, subdivision] (a), . . . that Father's abuse . . . placed [the child] at substantial risk of physical . . . harm"].) D.B. stated she feared M.D. "most of the time." M.D. told the police to take D.B. or "she would hurt her," expressed her inability to care for D.B., and stated that, if D.B. remained in her custody, she and D.B. would end up "killing each other." M.D. also "expressed to law enforcement that she would hit [D.B.] again and may hurt her if something was not done." M.D. stated "she was overwhelmed and could not care for the child due to what she believes are behavioral and emotional issues and did not express an interest in trying to rectify the situation so that the child may remain safely in the home . . . ." Thus, even if there were no substantial evidence that M.D. inflicted physical harm, there was substantial evidence that she would. (See *In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383 ["[a]lthough section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing [citations], the court need not wait until a child is seriously abused or injured to assume

jurisdiction and take steps necessary to protect the child"]; see also *In re Marquis H.* (2013) 212 Cal.App.4th 718, 726 ["the court is vested with broad discretion in determining whether 'there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally"].)

DISPOSITION

The jurisdiction finding and disposition order are affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.