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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.A., a Person Coming
Under the Juvenile Court Law.

B279691
(Los Angeles County
Super. Ct. No. DK19069)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

G.A.,

Defendant and Appellant.

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

Nicole Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, and Sarah Vesecky, Deputy County
Counsel, for Plaintiff and Respondent.

* * * * *

G.A. (mother) appeals from the juvenile court's order
asserting dependency jurisdiction over her child J.A. We
affirm.

FACTUAL BACKGROUND

J.A. was born in 2009. From the time he was an infant,
he lived with and was cared for by his maternal grandparents,
whom he referred to as “mom” and “dad.” According to
maternal grandfather, he and maternal grandmother had
taken J.A. in because J.A.'s mother was using
methamphetamine. They considered seeking legal
guardianship, but had decided against it in case mother got
“cleaned up” and wanted to care for J.A. again.¹

On August 30, 2016, DCFS was notified that maternal
grandmother was behaving erratically while dropping J.A. off
at school, including telling school employees that she was
homeless, her life was in danger, and she was being followed.
When DCFS investigated, numerous witnesses, including J.A.,
mother, maternal grandfather, and maternal great-

¹ The juvenile court deemed P.Q., an Arizona resident, to
be J.A.'s alleged father. P.Q. told Los Angeles County
Department of Children and Family Services (DCFS) he had
not seen or been involved with J.A. since he was an infant.
The court ordered that custody be taken from P.Q. based on his
history of illicit drug use. P.Q. is not a party to this appeal.

grandparents, reported that maternal grandmother had been behaving strangely, including setting fire to piles of clothing in the backyard of maternal grandparents' house and accusing maternal grandfather of witchcraft and of having sex with J.A.'s mother. This had led to conflict between the maternal grandparents, including an incident in which maternal grandfather had thrown some books in maternal grandmother's direction while J.A. was watching.

Maternal great-grandmother told DCFS she had taken J.A. to live with her because of the conflict between the maternal grandparents. Maternal great-grandmother said that mother was "completely aware of the situation" but "does not do anything to help." Maternal great-grandmother said she would "keep [J.A.] safe" and "not allow [maternal grandmother] or mother" to visit her home or take J.A.

Maternal grandfather said mother was currently living at a motel with her boyfriend, and was "aware of the situation" with maternal grandmother. He did not think J.A. would be safe with mother or maternal grandmother. He said mother "steals things for money." He suggested to DCFS another relative who might care for J.A.

On September 8, 2016, maternal grandmother was involuntarily hospitalized for 72 hours out of concern that she was a danger to herself and others.

The investigating social worker scheduled a meeting with mother for September 16, 2016. Mother did not appear for the meeting, nor did she submit to a requested drug test. She came to the DCFS office several days later. She told the social worker that maternal grandparents "took over [J.A.'s] care" after he was born because mother "wanted to continue

living her life.” She said she was aware that this was no longer an appropriate plan given maternal grandmother’s behavior, and therefore mother had instructed maternal grandfather to take J.A. to live with maternal great-grandmother instead.

Mother said she wanted to “step up” and care for J.A., but first needed “to get herself stable.” Mother mentioned services that DCFS could offer her to help find housing. She wanted J.A. to stay with maternal great-grandmother “as this is the plan that [mother] ha[d] already made for [him].”

When interviewed by a dependency investigator on October 26, 2016, mother again said it was her decision to have maternal great-grandmother take over J.A.’s care. She repeated her desire to one day take care of J.A. herself: “I want to be able to have a job, take him to school, provide a roof over his head.”

PROCEDURAL BACKGROUND

DCFS filed a juvenile dependency petition under Welfare and Institutions Code section 300 et seq.² Paragraph b-1 of the first amended petition alleged that mother had “made an inappropriate plan for the care and supervision of the child” by leaving J.A. in the care of maternal grandmother, who “began to demonstrate mental and emotional problems.” The petition alleged that “mother knew” of these problems and “failed to take action to sufficiently protect the child.”³

² All statutory references are to the Welfare and Institutions Code.

³ Paragraph b-2 of the petition contained allegations regarding mother’s history of drug abuse. These allegations were dismissed. Paragraph b-3 contained allegations

DCFS recommended that custody be taken from the parents with family reunification services provided to mother. DCFS said placement with the maternal great-grandparents was not a viable option at that point because maternal great-grandfather “ha[d] an extensive criminal history with a pattern of arrests and convictions related to child safety issues.”⁴ DCFS reported that it was pursuing the possibility of a waiver to allow placement with maternal great-grandparents.

At the jurisdiction and disposition hearing, mother presented no witnesses or documents, and submitted to the section 300 petition “as amended and agreed to.” The court found the allegations in paragraph b-1 to be true, and declared J.A. a dependent child of the court. The court took custody from both parents and ordered reunification services for mother only. The court ordered DCFS to continue evaluating a waiver for maternal great-grandfather.⁵

Mother timely appealed.

regarding father’s history of drug abuse, which were found true. These rulings are not at issue in this appeal.

⁴ Among other things, maternal great-grandfather was arrested in 1990 and subsequently convicted for willful cruelty to a child. He told DCFS this stemmed from him being intoxicated when he took a grandchild to a park. He claimed that since that time he had been sober.

⁵ The transcript and minute order from the hearing refer to a paternal great-grandfather rather than maternal. This appears to be an error, given that the jurisdiction/disposition report only discusses the maternal great-grandfather, and the record contains no discussion or evidence regarding paternal great-grandfather. The parties apparently agree that the court meant to refer to maternal great-grandfather.

DISCUSSION

Mother argues that the evidence was insufficient to support the juvenile court's finding that she had failed to make an appropriate plan for J.A.'s care. We disagree.⁶

1. Applicable law

Section 300 governs the circumstances under which a juvenile court may assert jurisdiction over a child. As relevant to this appeal, the court may do so upon a finding that “[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).)

“ ‘In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. “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

⁶ DCFS argues that mother acquiesced to the jurisdiction of the juvenile court by agreeing to the amended section 300 petition, and in so doing invited the errors she now argues on appeal. DCFS also argues that, even if mother did not acquiesce to jurisdiction, the court nonetheless could assert jurisdiction based on the unchallenged allegations regarding father. Because we hold that sufficient evidence supports the juvenile court's order, we do not address these contentions.

court's determinations; and we note that issues of fact and credibility are the province of the trial court." [Citation.] "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.] "[T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could find [that the order is appropriate]." ' ' ' ' (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*)). Under the substantial evidence standard, "[t]he appellate court 'accept[s] the evidence most favorable to the order as true and discard[s] the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact.' " (*In re J.F.* (2014) 228 Cal.App.4th 202, 209 (*J.F.*)).

2. Analysis

Mother does not dispute that she left J.A. in the care of maternal grandparents, and that J.A. was no longer safe with maternal grandmother because of her mental and emotional problems. Mother asserts, however, that when she learned of the danger to J.A., she "was active in making a different plan for [J.A.'s] care" by directing maternal grandfather to take J.A. to live with maternal great-grandmother. Mother claims she "acted as swiftly as she could given the circumstances and, in fact, made an appropriate alternative plan for her son's care and supervision without DCFS having to instruct her to do so." Thus, she claims, the court's finding that she had made an inappropriate plan for J.A.'s care was "untrue."

The only evidence in the record supporting mother's claim that she "was active in making a different plan for

[J.A.'s] care" are her own statements to DCFS investigators that it was her decision to place J.A. with maternal great-grandmother. But her statements are called into question by other evidence in the record. Maternal great-grandmother said that, while mother was "completely aware of the situation" with maternal grandmother, mother "d[id] not do anything to help." Maternal great-grandmother said that she herself "had taken [J.A.] out of that environment," without reference to any involvement by mother or maternal grandfather. Indeed, far from working in cooperation with mother, maternal great-grandmother said she was "willing to protect [J.A.] from the grandparents and the mother," and would "not allow [maternal grandmother] or mother in her home or to take [J.A.] with them."

Similarly, maternal grandfather said nothing to DCFS about taking J.A. to live with maternal great-grandmother, or mother instructing him to do so. Instead, he suggested the name of another relative to care for J.A., and stated that J.A. was not safe in the care of mother, who was "currently residing in a motel with her boyfriend" and "steal[ing] things for money."

" "[D]raw[ing] all reasonable inferences from the evidence to support the findings and orders of the dependency court" ' ' ' (*I.J.*, *supra*, 56 Cal.4th at p. 773), we must conclude that the juvenile court did not find mother's statements sufficiently credible to establish that she had made an appropriate plan for her child. Thus, we "discard" mother's statements " 'as not having sufficient verity to be accepted by the trier of fact.' " (*J.F.*, *supra*, 228 Cal.App.4th at p. 209.) Absent those statements, the evidence was sufficient to

establish that mother was not involved in protecting J.A. despite her knowledge that maternal grandmother had serious mental and emotional problems. The juvenile court could reasonably conclude that mother had failed “to adequately supervise or protect [J.A.] from the conduct of the custodian with whom the child has been left.” (§ 300, subd. (b)(1).) The court properly asserted jurisdiction.

DISPOSITION

The order is affirmed.

FLIER, Acting P. J.

WE CONCUR:

GRIMES, J.

SORTINO, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.