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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re GENEVIEVE A., A Person Coming  
Under Juvenile Court Law.

B262785

(Los Angeles County  
Super. Ct. No. DK08151)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JOHN A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickam, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Jessica Paulson-Duffy, Deputy County Counsel, for Plaintiff and Respondent.

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Appellant John A. (father) appeals from an order<sup>1</sup> declaring his daughter, Genevieve A., a dependent child of the court under Welfare and Institutions Code section 300, subdivision (b).<sup>2</sup> We affirm the order.

### **FACTUAL AND PROCEDURAL SUMMARY**

On October 30, 2014, Los Angeles County Sheriff's deputies served a warrant for weapons and drugs on father's residence (father was target of the warrant). The property contained two houses and a detached garage. The paternal grandparents lived in one house and the paternal aunt lived in the other. Father and mother were detained in the detached garage with their daughter, four-month-old Genevieve. They confirmed that they were living in the detached garage.

The garage was divided into four rooms: a laundry room (containing a bed); a den with two overturned couches and an entertainment center; a room containing a crib; and a nonoperable bathroom. Deputies observed that the garage did not have running water and that a stench of dog feces and urine emanated from the nonoperable bathroom, where two adult pit bulls and four puppies were being housed. The pit bulls were aggressive, the garage floor was covered in piles of dirty clothes, the laundry room had dog feces and urine, the bed was dirty, the mattress and walls were covered in graffiti, and the crib was filled with dirty clothes. Prescription marijuana containers and ammunition reportedly were found within reach of Genevieve (no weapons were found). Mother was arrested for child endangerment and father was arrested for child endangerment and vandalism. After determining Genevieve could not be left at the residence, the deputies contacted the Department of Children and Family Services (department).

A department social worker responded to the home and spoke to father. Father acknowledged using medical marijuana for insomnia and said that he keeps the marijuana

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<sup>1</sup> The notice of appeal states that appellant also appeals the order requiring him to enter a drug and alcohol program. Because appellant's opening brief makes no separate argument as to that order, we do not address it.

<sup>2</sup> Subsequent statutory references are to the Welfare and Institutions Code.

on a bedside table. Father reported that the ammunition was in the garage because he had attempted to purchase a gun but decided against it after he was told there would be a 10-day wait period. Regarding the condition of the home, father reported that mother was lazy at times and had not cleaned it for several days. As for the dogs, father explained that he is a dog breeder, and the dogs were only housed in the bathroom at night. Mother reported that she cleaned the home on a daily basis, and, at one point, denied there was anything wrong with the condition of the home.

In the juvenile dependency petition filed on November 4, 2014, the department alleged a failure to protect under section 300, subdivision (b).<sup>3</sup> The petition included three counts alleging that the condition of the garage, presence of ammunition and marijuana, and father's drug use placed Genevieve at risk of physical harm.<sup>4</sup> The court

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<sup>3</sup> Section 300, subdivision (b) provides: "The 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, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse."

<sup>4</sup> The first count alleged: "On 10/30/2014, the child, Genevieve [A.]'s mother, . . . and father, John [A.] placed the child in a detrimental and endangering situation in that ammunition and marijuana were within access of the child. On 10/30/2014, the mother was arrested for Child Endangerment. Such a detrimental and endangering situation established for the child by the parents endangers the child's physical health and safety and creates a detrimental home environment for the child and place[s] the child at risk of physical harm[,] damage[,] and danger." The second count alleged: "On 10/30/2014, the child, Genevieve [A.]'s home was found in a filthy[,] hazardous[,] and unsanitary condition. Such condition[s] included, but was not limited to[,] the home had no running water and an inoperable toilet. A foul odor permeated the home and there were dog feces throughout the home. Such a filthy, hazardous and unsanitary home environment established by the . . . mother . . . and the father, John [A.], endangers the child's physical health and safety and creates a detrimental home environment for the child, and place[s] the child at risk of physical harm and damage." The third count alleged: "The child, Genevieve [A.]'s father, John [A.] has a history of

found the petition was supported by a prima facie showing and supported removing Genevieve from the parents.

In the prerelease investigation report filed for the November 21, 2014 hearing, the department provided a home assessment for the paternal grandparents' home. At the time of the assessment, father and mother were residing at that home. The social worker reported that the home was appropriately furnished, clean, and in good condition; the utilities were in working condition; and the kitchen was equipped with working appliances. The social worker did not observe drugs or drug paraphernalia in the home and observed the bathroom and floors in the converted garage were clean and did not smell of dog feces. Father and mother reported that they did not intend to live in the garage again.

The court ordered Genevieve released to her parents, pending the next hearing, on condition that they reside either in the paternal grandparents' home or department-approved housing.<sup>5</sup> Father was ordered to drug test clean with decreasing levels of marijuana.

At the jurisdictional hearing on February 27, 2015, the court merged the three counts in the petition into a single count, which provided: “The Child Genevieve [A.]’s father, John [A.], has a history of illicit drug use and is a current abuser of marijuana, which renders the father incapable of providing the child with regular care and supervision.” “In addition, on 10-30-14, ammunition was found within access to the

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illicit drug use and is a current abuser of marijuana which renders the father incapable of providing the child with regular care and supervision. On prior occasions, the father was under the influence while the child was in the father’s care and supervision. The father’s illicit drug use endangers the child’s physical health and safety and creates a detrimental home environment for the child and place[s] the child at risk of physical harm and damage.”

<sup>5</sup> The minute order states “on condition that parents [reside] in maternal aunt and uncle’s home or DCFS approved housing.” Respondent indicates that this was an error and was understood to mean the paternal grandparents’ home because no evidence indicates the parents lived anywhere but the paternal grandparents’ home during the course of the case.

child[.]” “and the child Genevieve [A.]’s home was found in a filthy, hazardous, and unsanitary condition. Such condition included, but was not limited to, the home had no running water and an inoperable toilet, a foul odor permeated the home, and there was dog feces throughout the home. Such circumstances on the parts of the mother . . . and the father, John [A.], endangered the child’s physical health and safety and create a detrimental home environment for the child and place the child at risk of physical harm and damage.”

The court found by a preponderance of the evidence that the remaining count, as amended, was true and found by clear and convincing evidence that substantial danger existed as to Genevieve’s physical and mental health. Genevieve was declared a dependent child of the court under section 300, subdivision (b), and ordered placed in the home of her parents, under the department’s supervision. The department was ordered to provide family maintenance and family preservation services and the parents were ordered to participate in a drug and alcohol program, weekly random and on-demand drug testing, parenting education classes, and counseling to address the case issues.

This timely appeal followed.

## **DISCUSSION**

We review a juvenile court’s jurisdictional findings for substantial evidence. (*In re E.H.* (2003) 108 Cal.App.4th 659, 669.) “Under this standard of review we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. [Citation.]” (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.) “[W]e must uphold the court’s [jurisdictional] findings unless, after reviewing the entire record and resolving all conflicts in favor of the respondent and drawing all reasonable inferences in support of the judgment, we determine there is no substantial evidence to support the findings. [Citation.]” (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1022.) “Additionally, we may not substitute our deductions for those of the trier of fact. [Citations.]” (*In re Albert T. supra*, at p. 216.)

Appellant argues that substantial evidence does not support the finding that, at the time of the hearing, Genevieve was a person described in section 300, subdivision (b). Section 300, subdivision (b) consists of three elements: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the minor, or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

There is sufficient evidence in the record to support the court’s finding. Father admitted to using marijuana and the unsanitary condition of the garage supports a finding that his drug use rendered him incapable of providing Genevieve with regular care and supervision. Furthermore, the risk that the parents’ neglectful conduct posed a harm to Genevieve is supported by evidence that the garage was filthy, did not have running water or an operable toilet, and there were marijuana containers and ammunition found within reach of Genevieve.

Although the parents were living in the home of the paternal grandparents at the time of the hearing and that home was found to be appropriate and clean, it had been less than four months since the department first responded to the call by deputies and found the condition of the garage to be detrimental and endangering to Genevieve. Father’s drug test results indicated decreasing levels of marijuana in his system but only the most recent test was negative for marijuana. Given the close proximity in time to the initial detention, the parents’ minimization of the condition of the garage at the time Genevieve was detained, and the fact that father’s decrease in drug use was a recent development, it was reasonable for the court to infer that, at the time of the hearing, Genevieve was at risk because there was a likelihood that the parents would revert to their old habits. Therefore, substantial evidence supports the court’s order declaring Genevieve a dependent of the court.

**DISPOSITION**

We affirm the order of the juvenile court.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

COLLINS, J.