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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re S.M., a Person Coming Under
the Juvenile Court Law.

B278584
(Los Angeles County
Super. Ct. No. DK11849)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.S.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los
Angeles County, Natalie Stone, Judge. Affirmed.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

Tarkian & Associates, Arezoo Pichvai, for Plaintiff and Respondent.

D.S. (father) appeals from a jurisdictional finding declaring his daughter, S.M., a ward of the court under Welfare and Institutions Code section 300, subdivision (b).¹ Father contends substantial evidence does not support the jurisdictional finding against him, but he does not challenge the jurisdictional finding against mother. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Los Angeles County Department of Children and Family Services (Department) filed a dependency petition in June 2015 when K.M. (mother) prematurely gave birth to her fourth child after she was shot in the street. Mother tested positive for cocaine upon admission to the hospital. At the time, mother's children, including S.M., lived with maternal grandmother and wished to remain in her care. The children were nine, five, and two years old. They required constant care and supervision due to mother's drug

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

use, criminal history,² and homelessness. Mother was uncertain who fathered her children because she solicited sex with unknown men to support her drug habits. Mother was unsuccessful in completing drug rehabilitation programs prior to the children's removal.

A first amended petition was filed in August 2015, this time listing D.S. (father) as the alleged father of S.M. (but not the other children), and providing his last known home address. In addition to repeating the allegations against mother, the amended petition alleged that S.M. was at a substantial risk of harm because of father's "long-standing criminal history" and conduct.

The Department's reports enumerate prior investigations dating back to 2006. In May 2010, the Department investigated general neglect allegations for mother and father after father forcibly removed S.M. from mother's care. Maternal grandmother stated that father had issues controlling his anger. She accused father of spanking S.M.'s brother, who stated that he saw father hit mother and swear at the children.

Father's criminal history includes arrests dating back to 2004 when father was a juvenile. The arrests were for attempted grand theft, robbery, kidnapping with intent to commit robbery or rape, attempted burglary, hit-and-run,

² Numerous reports in the record reflect mother's criminal history dating back to 2011, including arrests for possession of narcotics, domestic violence, violating a protective order, and false personification of another.

evading a peace officer, burglary, concealed weapon on a person, and conspiracy to commit a crime.

When she was six years old, S.M. did not recall any relationship she had with father. S.M. was nervous when asked about father, stating that she did not want to get to know him and that she was scared someone would take her away. S.M.'s older brother recalled father as "mean" because he "used to whip him with the belt" and "held a knife in his hand and told the child, [] 'You better show respect and do what I say or I will cut you.'" S.M.'s brother said he was so scared of father that he would urinate in his pants. S.M. had nightmares that father took her away in the middle of the night. S.M. did not want to reunify with father.

A jurisdictional hearing on the amended petition was held on August 19, 2015. Father was not present because he was not properly notified. Mother signed a waiver of rights form, after which the court found she knowingly and voluntarily waived her rights, and sustained the allegations of the petition. While initially completing substance abuse treatment, mother failed to return to therapy and was in violation of reunification orders. Given mother's absenteeism, the Department recommended permanent placement to maternal grandmother.

Father filed a section 388 petition, alleging he did not receive notice of the August 19, 2015 jurisdictional hearing. The court granted the petition and held a jurisdictional hearing only as to father on September 22, 2016. The parties stipulated that father would testify to having a

criminal history beginning in 2012 for possession of a firearm, a 2013 conviction for burglary involving a hit and run, and that no other arrest or conviction exists for father since 2013. The court found S.M. to be a ward under section 300, subdivision (b) because father's criminal history and "alarming facts about violent conduct" admitted into evidence placed S.M. at risk. The court ordered reunification services as to father, including a parenting class, conjoint counseling with S.M. when appropriate, and individual counseling to "address case issues and anger management." Father filed a timely appeal.

DISCUSSION

Jurisdictional Findings

“[A] jurisdictional finding good against one parent is good against both. More accurately, the minor is a dependent if the actions of either parent bring [her] within one of the statutory definitions of a dependent. [Citations.] This accords with the purpose of a dependency proceeding, which is to protect the child, rather than prosecute the parent.’ [Citations.]” (*In re X.S.* (2010) 190 Cal.App.4th 1154, 1161.) “For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. [Citations.]” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 (*I.A.*); accord, *In re Alysha*

S. (1996) 51 Cal.App.4th 393, 397.)

Appellate courts may address specific jurisdictional findings where jurisdiction over the children would still be warranted on other grounds. (See *In re Briana V.* (2015) 236 Cal.App.4th 297, 308–311; *I.A., supra*, 201 Cal.App.4th at pp. 1490–1492.) However, courts will only “exercise [] discretion and reach the merits of a challenge to any jurisdictional finding when the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction’ [citation].” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762–763 (*Drake M.*).)

Father does not challenge the validity of the disposition order as to S.M. Instead, he contends he has a “legitimate interest in avoiding the establishment of dependency jurisdiction as to him” because “he may risk permanently losing custody” of S.M. A jurisdictional finding alone does not inevitably lead to the permanent loss of custody. Father’s argument is about prejudice is speculative, and we decline to exercise our discretion.

Father further claims to have suffered prejudice because he was ordered to participate in family reunification services, including parent education, individual counseling to address case issues and anger management,³ and conjoint

³ Father takes issue with a criminal history printout contained in the Department’s reports that were entered into

counseling with S.M. We disagree and decline to exercise our discretion on father's jurisdictional claim.

Father's requested relief would not "have a practical, tangible impact on his position in the dependency proceeding." (*I.A., supra*, 201 Cal.App.4th at p. 1492). The order requiring father to participate in reunification services fell within the broad discretion of the court, even if no jurisdictional findings were made as to him individually. "A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established." (*Ibid.*) Such orders comport with the goals set forth in section 300.2 and section 362, subdivisions (a) and (d), all of which serve to ensure the safety, protection, and

evidence at the hearings because they were not "certified" or "conformed." We reject this argument. The court may receive into evidence any legally admissible and relevant evidence, including hearsay evidence furnished to the court via written report by the county welfare department. (§ 355, subds. (a), (b).) Counsel stipulated at the hearing that father would testify that he had a criminal history involving serious crimes, and the record includes specific incidents warranting reunification orders. Notwithstanding, father failed to object to the Department reports on either admissibility or relevance, effectively waiving any argument against using the criminal history to support reunification services. (See *In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1181.) Contrary to father's argument, the printouts do not "indicate" that father was *convicted* for all of his reported arrests.

physical and emotional well-being of a dependent child. These sections afford courts “broad discretion to determine what would best serve and protect the child’s interest.” (*In re Corrine W.* (2009) 45 Cal.4th 522, 532; accord, *In re Nolan W.* (2009) 45 Cal.4th 1217, 1229 [“reunification plans must be “appropriate for each family and be based on the unique facts relating to that family””].) Father’s undisputed history of criminal convictions, his lack of contact with S.M., and S.M.’s attitude toward father all justify the disposition orders, even if the jurisdictional order was reversed as to father.

DISPOSITION

The jurisdictional finding relating to S.M. as a dependent child under Welfare and Institutions Code section 300, subdivision (b), is affirmed.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

LANDIN, J.*

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