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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re IAN G., a Person Coming
Under the Juvenile Court Law.

B297458
(Los Angeles County
Super. Ct. No. 19CCJP00603)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

N.N.,

Defendant and Appellant.

APPEAL from the jurisdictional and dispositional orders of the Superior Court of Los Angeles County, Pete R. Navarro, Commissioner. Affirmed.

Emery El Habiby, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and William D. Thetford, Principal Deputy County Counsel, for Plaintiff and Respondent.

Mother challenges the juvenile court's jurisdictional findings and dispositional orders with respect to her son, Ian. The juvenile court based dependency jurisdiction over Ian on emotional harm, including posttraumatic stress disorder and anxiety, caused by mother's unsubstantiated claims that father's relative was sexually abusing Ian. The juvenile court found that mother's claims caused Ian to undergo multiple and unnecessary hospital examinations for sexual abuse. Although the juvenile court permitted mother to retain custody over Ian, it also ordered that she undergo a psychological evaluation and attend a parenting class and individual counseling.

On appeal, mother challenges the juvenile court's jurisdictional and dispositional orders regarding the psychological evaluation and attending the parenting class. We conclude that substantial evidence supported dependency jurisdiction over Ian: Multiple social workers and a doctor, whom the juvenile court credited, observed serious anxiety, hyperventilating and posttraumatic distress disorder caused by mother's multiple claims of sexual abuse by father's relative; medical professionals and others commented on the unfounded basis for mother's sexual abuse accusations and the resulting unnecessary medical examinations; and mother defied court orders regarding father's visitation.

Given these jurisdictional findings, we conclude the juvenile court did not abuse its discretion in ordering a parenting

class and psychological evaluation for mother. Because subsequent events demonstrate that mother has already received the ordered psychological evaluation, her challenge to that order is moot.

For all these reasons, we affirm.

BACKGROUND

Mother has three children; only Ian is identified in this dependency proceeding. Ian's younger half brother lives with mother, and Ian's adult half sister lives in El Salvador. In 2018, Mother and Ian's father (father) were involved in a family law proceeding. The family law court granted mother full legal and physical custody of Ian. As part of that proceeding, the family law court allowed father unmonitored visitation two days a week for six hours. Mother wanted father's visits to be monitored.

Prior to the dependency proceedings, mother had obtained a restraining order identifying father as the person to be restrained. Father denied that his relationship with mother included domestic violence. He claimed that mother's restraining order was based on false allegations. The current dependency proceeding does not involve allegations of domestic violence.

Prior to the dependency proceedings, Ian received speech therapy, occupational therapy, and emotional therapy. After dependency proceedings commenced, Ian had an inflammation of the tip of his penis and was prescribed a topical antibiotic ointment. There was evidence that this condition is common in uncircumcised males; the infection did not, by itself, suggest that Ian had been sexually abused. Subsequently, Ian required surgery on his penis because of an infection. There was no indication that the surgery was the product of abuse. Mother and father were present for the surgery.

1. *Welfare and Institutions Code section 300 petition*

Los Angeles County Department of Children and Family Services (DCFS) filed a Welfare and Institutions Code section 300 petition on January 29, 2019.¹ At that time, Ian was two years old. The petition alleged mother repeatedly made unsubstantiated reports that Ian was sexually abused when he visited father. The petition also alleged mother required Ian to undergo multiple investigations and medical examinations. As a result, Ian has suffered anxiety, depression, withdrawal, and aggressive behavior towards himself and others.

Ian's father was not named in the petition.

2. *Mother believed that paternal aunt sexually abused Ian and that father physically abused Ian*

Mother recounted Ian's claim, after visiting father, that father hit him. Mother reported that Ian sometimes returned home with scratches after visiting father. She also claimed that when Ian would return from a visit with father, Ian referred to her as a whore. Mother also stated that father told Ian to hit her. Mother also observed that Ian was "anxious and disorganized" when he returned from visiting father.

Mother further reported that when Ian visited father, paternal aunt would touch him sexually. Ian's babysitter said Ian told her that paternal aunt had touched him on his private parts.

Mother took Ian to the emergency room on the following dates: February 15, 2017; June 7, 2017; December 13, 2017;

¹ Undesignated statutory citations are to the Welfare and Institutions Code.

March 18, 2018; June 7, 2018; August 7, 2018; August 14, 2018; December 14, 2018; December 20, 2018; December 26, 2018; January 3, 2019, and January 14, 2019. As a result of mother's accusation that paternal aunt sexually abused Ian, Ian underwent an examination at a rape center. The examiners could neither confirm nor negate sexual abuse.

DCFS represented that mother had refused to comply with court orders giving father unmonitored visitation.² DCFS reported mother's statement that "she knew she was not following [c]ourt orders." DCFS added, "[M]other continues to minimize her actions and the effects it has on the child. Furthermore, the mother continues to disregard the [c]ourt orders and has indicated she will face the consequences as she feels her actions are in the best interest of the child. The mother does not believe she needs any services and blames the father and paternal relatives for the negative behaviors she sees in the child."

3. *Other evidence contradicted mother's accusations of physical and sexual abuse*

Prior to the current dependency case, DCFS investigated 11 referrals regarding Ian. The referrals concerned similar allegations that father physically abused Ian and that paternal aunt sexually abused Ian. DCFS did not substantiate any prior referral. While investigating the current proceeding, a social worker disagreed with mother's assessment that Ian touched his genitals in a sexualized manner. A social worker "did not observe

² The juvenile court recognized there was a pending family law case. The court ordered mother to comply with visitation orders issued by the family law court.

any marks or bruises on Ian indicating abuse or neglect.” Ian’s special education teacher observed no sexualized behavior.

Ian’s physician, Dr. Jonathan Uniat, reported he saw no indications of abuse. Ian’s physician “did not have any concerns.” He described Ian’s penile infection as “fairly common for uncircumcised children still in diapers.” The physician explained that the infection was not indicative of sexual abuse. Dr. Uniat, however, was concerned about mother’s repeated accusations requiring Ian to undergo numerous tests and investigations that were “not good for Ian.” (Boldface omitted.)

A hospital social worker reported that mother frequently brought Ian to the hospital regarding claims of abuse. A preschool social worker reported Ian exhibited anxiety; the social worker, however, never observed sexualized behavior by Ian. The social worker hypothesized that Ian’s anxiety stemmed from concern over mother’s and father’s acrimonious relationship.

Father denied leaving Ian under anyone else’s supervision. Father reported mother repeatedly falsely accused him of engaging in inappropriate conduct with Ian. Father denied Ian exhibited sexualized behaviors. Father reported that paternal aunt never spent time alone with Ian. Father was frustrated that mother required Ian to undergo “unnecessary exams and treatments.” Father’s girlfriend supported his observations.

4. *Evidence Ian suffered emotional abuse*

Mother reported that Ian regularly awoke in the middle of the night crying and screaming. Mother recounted that Ian’s therapist diagnosed him with anxiety and that Ian hyperventilates when he becomes anxious. In an assessment to determine Ian’s school, the school district concluded Ian was “experiencing a lot of anxiety symptoms.” Dr. Uniat also reported

that Ian was anxious. As noted above, Dr. Uniat worried about the number of investigations and examinations Ian had undergone.

A police officer, who observed approximately 50 exchanges of Ian between mother and father, related he was concerned how mother's and father's conduct affected Ian. The officer stated Ian's parents were " 'poking' " each other and were " 'both ridiculous.' " A social worker also observed Ian's anxiety and hyperventilating.

Therapist Alba Sanchez at the Violence Intervention Program reported Ian had been diagnosed with posttraumatic stress disorder. Apparently, the clinician who provided that diagnosis was not interviewed. According to a DCFS social worker, mother's and father's conflict may have caused Ian's posttraumatic stress disorder.

A letter dated January 11, 2019 from the Violence Intervention Program recited that mother participated in family therapy with Ian to address Ian's posttraumatic stress disorder. This diagnosis followed mother's report of the following symptoms: "sad mood . . . , fearful of closed bathroom door in the home and new places, began to play with feces and attempted to rub on his face, hyperactive activity . . . , aggressive behavior , difficulty falling asleep, reduced appetite."

5. *The juvenile court found mother’s belief of sexual abuse by paternal aunt had no basis in reality and sustained the petition*

Following the combined jurisdictional and dispositional hearing,³ the juvenile court stated: “[W]hen I first saw this case it smacked [of] run-of-the-mill family law custody battles, but upon a careful analysis of this case, it’s more than that. . . . The evidence supports a finding that the . . . mother embraces almost a chronic obsession with finding that father and others have physically and sexually abused the child. The mother has taken the child on multiple occasions for unnecessary examinations.” The juvenile court found Dr. Uniat’s report credible and persuasive. The juvenile court also found there was “no basis [in] reality” to conclude that father or father’s family members sexually molested Ian. The juvenile court sustained the petition and assumed jurisdiction over Ian.

6. *Juvenile court’s dispositional orders*

The juvenile court allowed Ian to remain in mother’s custody. The juvenile court permitted father overnight visits every other weekend and daytime visits twice weekly. Over mother’s objection, the juvenile court ordered her to undergo a psychological evaluation. Over mother’s objection, the juvenile court also ordered mother to attend a parenting class and individual counseling.

³ Mother did not testify at the combined jurisdictional and dispositional hearing.

STANDARDS OF REVIEW

“ ‘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 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.)

The juvenile court has broad discretion to fashion a dispositional order. (*In re Daniel B.* (2014) 231 Cal.App.4th 663, 673.) The dispositional order cannot be reversed “ ‘absent a clear abuse of discretion.’ ” (*Ibid.*)

DISCUSSION

A. Substantial Evidence Supported the Juvenile Court’s Jurisdictional Order

Pursuant to section 300, subdivision (c), a child comes under the jurisdiction of the juvenile court, if “[t]he child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward

self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. A child shall not be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.” (§ 300, subd. (c).)

“The statute thus sanctions intervention by the dependency system in two situations: (1) when parental action or inaction causes the emotional harm, i.e., when parental fault can be shown; and (2) when the child is suffering serious emotional damage due to no parental fault or neglect, but the parent or parents are unable themselves to provide adequate mental health treatment. [¶] In a situation involving parental “fault,” the petitioner must prove three things: (1) the offending parental conduct; (2) causation; and (3) serious emotional harm or the risk thereof, as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior.’” (*In re Roxanne B.* (2015) 234 Cal.App.4th 916, 921.)

There was substantial evidence of mother’s deleterious conduct causing Ian serious emotional harm or putting him at risk of serious emotional harm. Mother repeatedly subjected Ian to unnecessary invasive examinations to prove sexual abuse based on her false accounts of sexual abuse. Mother’s own statements demonstrated that Ian suffered from anxiety, and already as a toddler, he was diagnosed with posttraumatic stress disorder. Mother refused to recognize the consequences of her conduct and even defied court orders concerning visitation. Dr. Uniat’s evaluation, which the juvenile court credited,

supported the inference that mother's conduct caused Ian emotional harm.

Mother's contrary arguments are unpersuasive. Mother contends she did not engage in offending conduct because she acted on a "sincere" belief. The lack of "sincerity" of mother's belief is not an element DCFS was required to demonstrate under the pertinent statute. The question is whether she engaged in conduct harmful to Ian or conduct that placed him at substantial risk of harm. (§ 300, subd. (c); see *In re R.T.* (2017) 3 Cal.5th 622, 629.)

Mother further argues that "[a]ny emotional distress suffered by Ian was caused by the parents' separation and custody battle." (Boldface omitted.) Even crediting mother's assertion, evidence that mother was unable to moderate her obsessive conduct to prevent Ian from suffering posttraumatic stress disorder and anxiety was sufficient to trigger dependency jurisdiction. (*In re Christopher C.* (2010) 182 Cal.App.4th 73, 84 [conflict between parents that places child at substantial risk of suffering serious emotional harm supports dependency jurisdiction].) Mother ignores the substantial evidence that Ian suffered anxiety from the unnecessary examinations. To recap, Dr. Uniat reported that mother's conduct caused Ian anxiety, and the juvenile court found Dr. Uniat's statements credible and persuasive.

Finally, mother argues that no substantial evidence showed that Ian suffered serious emotional harm. This argument ignores her own statements to social workers and service providers. Mother described Ian as suffering from chronic anxiety, causing him to act aggressively and to hyperventilate. Mother reported that Ian regularly awoke in the middle of the night crying and

screaming. Dr. Uniat reported that Ian was anxious. As set forth above, others confirmed mother's and Dr. Uniat's observations about Ian's anxiety and hyperventilating. At the age of two, Ian was diagnosed with posttraumatic stress disorder. For all these reasons, there was substantial evidence of existing emotional harm to Ian, as well as continuing conduct by mother putting him at risk of suffering serious emotional damage.

Finally, mother's argument that *In re John W.* (1996) 41 Cal.App.4th 961 (*John W.*) and *In re Brison C.* (2000) 81 Cal.App.4th 1373 (*Brison C.*) compel a different result is not based on a view of the evidence in the light most favorable to the juvenile court's order. In *John W.*, the court explained: "Child custody disputes between divorced parents, neither of whom pose a risk of real detriment to the child, should not be waged at taxpayers' expense in the juvenile courts." (*John W.*, at p. 965.) The principle does not apply here because the juvenile court found, and substantial evidence revealed, that mother's unsubstantiated multiple accusations of sexual abuse caused Ian actual emotional harm and continued to pose a real risk of serious emotional harm to Ian.

In *Brison C.*, Brison's parents were involved in an acrimonious divorce proceeding. (*Brison C.*, *supra*, 81 Cal.App.4th at p. 1376.) The evidence showed "that Brison, an otherwise reasonably well-adjusted child who performed well at school and displayed no serious behavioral problems, despised his father, and desperately sought to avoid visiting him." (*Ibid.*) The fact that Brison did not want to visit his father did not demonstrate that he was at risk of substantial emotional harm. (*Ibid.*) The court reversed a jurisdictional order because: "[T]he record here lacks significant evidence of behavior indicative of

severe anxiety, depression, withdrawal or untoward aggressive behavior.” (*Id.* at p. 1380.) In contrast, the record here contains substantial evidence that Ian suffered from severe anxiety and aggressive behavior. Mother’s reliance on *Brison C.* therefore is misplaced.

B. The Juvenile Court’s Disposition Was Not an Abuse of Discretion

The only dispositional orders mother challenges on appeal are the juvenile court’s order to submit to a psychological evaluation and to attend a parenting class. Mother asserts the juvenile court abused its discretion in issuing these orders.

Because mother submitted to a psychological examination on May 17, 2019 and the evaluator’s report has been filed with the juvenile court, mother’s appeal of the order requiring her to submit to such an examination is moot. (*In re Andres G.* (1998) 64 Cal.App.4th 476, 484 [when psychological examination ordered by court completed, appellate challenge moot].)

We conclude the juvenile court acted well within its discretion in requiring mother to attend a parenting class. DCFS recommended that Ian could remain in mother’s custody only if safety interventions mitigated the danger to him from mother’s irrational beliefs. The juvenile court could reasonably have concluded that mother needed parenting classes to learn to care for Ian in a manner that did not jeopardize his wellbeing. At the time of the combined jurisdictional and dispositional hearing, mother had demonstrated no ability to parent Ian in a manner consistent with his interest in maintaining a relationship with both his parents. Moreover, her parenting style was causing Ian severe anxiety. Mother never acknowledged that her conduct jeopardized her son’s wellbeing. A parenting class was not only

within the court's discretion, but also was critical to mother learning skills to reduce the risk of further emotional harm to Ian.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.
NOT TO BE PUBLISHED.

BENDIX, J.

We concur:

JOHNSON, Acting P. J.

WEINGART, J.*

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