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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re I.S. et al., Persons Coming
Under the Juvenile Court Law.

B271799
(Los Angeles County
Super. Ct. No. DK15322)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ROSA A.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Emma Castro, Referee. Affirmed.

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

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

INTRODUCTION

Rosa A. (mother) appeals from the juvenile court's jurisdictional findings under Welfare and Institutions Code section 300, subdivision (b)¹ that her sons, 11-year-old I.S. and nine-year-old A.S., were at risk of harm due to: (1) mother's inability to care for and supervise I.S. and A.S. and to provide them with the basic necessities; (2) step-father Jose C.'s (step-father) alcohol abuse and mother's failure to protect I.S. and A.S. from stepfather; and (3) mother's emotional abuse of I.S. and A.S. Mother contends that insufficient evidence supports those findings. Mother further contends that, because insufficient evidence supports the jurisdictional findings, the dispositional orders must be reversed. We hold that substantial evidence supports the finding that mother's inability to provide care and supervision placed I.S. and A.S. at risk of serious physical harm and therefore affirm.

BACKGROUND

On February 22, 2016, the Los Angeles County Department of Children and Family Services (Department) filed a first amended section 300 petition that alleged, as ultimately amended and sustained, as follows:

"b-1:

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

“The children I[S.] and A[S.]’s mother, Rosa [A.] is unable to provide care and supervision of the children and provide the children with basic necessities. On 01/24/2016, the mother requested the children’s removal from her care. The mother’s inability to provide care and supervision of the children endanger [sic] the children’s physical health and safety and place [sic] the children at risk of serious physical harm and damage.”

“b-5:

“The children I[S.] and A[S.]’s step-father Jose C[.], has a history of and is a current abuser of alcohol which renders him incapable of providing regular care of the children. Step-father C[.] has an extensive criminal history for public intoxication with his most recent arrest being on 2/6/16. The mother failed to protect the children in that she continued to allow step-father Jose C[.] to reside with the children and have unlimited access to them. Such acts by the step-father Jose C[.] and the failure to protect by the mother places the children at risk of physical and emotional harm, damage and danger.”

“b-8:

“The children I[S.] and A[S.]’s mother Rosa [A.] has emotionally abused the children. Such emotional abuse consisted of the children’s mother Rosa [A.] accusing the father Nelson [S.] of sexual misconduct in 2012 and on prior occasions. Mother has subjected the children to medical examinations based on her allegations. Furthermore, mother Rosa [A.]’s allegations of abuse to the children by their father Nelson [S.] remain unsubstantiated. Further, the children have demonstrated mental and emotional problems, including [sic] depression, assaultive behavior and psychiatric hospitalization. These false allegations may be a sign of mother’s undiagnosed mental illness.

Such conduct by the children's mother places the children at substantial risk of suffering serious physical harm."

According to the Department's January 27, 2016, Detention Report, mother took I.S. and A.S. to the emergency room at Beverly Hospital on January 23, 2016, and told the medical staff that she was homeless and could no longer care for I.S. and A.S. Mother said that she was unable to "handle her children due to their behavioral issues." A hospital social worker attempted to assist mother with housing support, but mother declined.

While at the hospital, mother spoke with a Department social worker. Mother said: "I feel I'm in crisis. My situation is very stressful. I'm homeless. I have no place to live. I want you to take the kids and put them somewhere." Mother said she had a job, but had been homeless since June 2015. Mother had been given hotel vouchers in July 2015, but had "reached the limit." Mother "had Section 8," but it expired in December 2015 because she had not found a place to live with the money allotted. The family had never been to a homeless shelter and instead lived in motels, cars, restaurants, and rooms. Whenever the social worker asked mother about her housing situation, mother talked about how badly behaved her children were. When the social worker asked mother about her children's behavior, mother stated that the children were always fighting and cursing and did not listen to her.

The social worker reported that she asked mother several times and in several different ways why she wanted to give up her children. Mother always answered that she was homeless. The social worker said that there were many homeless families and they did not usually ask the Department to take their children. When the social worker asked mother what she feared

would happen if the Department did not take her children, mother responded: “I can’t handle my kids no more. I’m scared I will just run away. Abandon them. I want them to be in a safe place. This is not easy for me, but I feel like that. Have mercy on them. I know people from church but they are not helping me. The people I know, they close their hand to me; they see me on the streets, people see me and they treat me like a leper.”

Mother said that I.S. and A.S.’s father, Nelson S. (father), had “disappeared” and would not help the family even though he knew they were homeless. I.S. and A.S. had spent part of the summer with father, but father called mother and told her to pick them up because he could not handle them.

Mother informed the social worker that I.S. had been placed on a psychiatric hold, but could not provide many details. Mother appears to have been referring to a January 3, 2016, psychiatric hold placed on I.S. after he threatened to walk into traffic. According to mother, I.S. was diagnosed with depression, and his doctor recommended he be placed on “all these medications” after he was released from the psychiatric hold. Mother stated that I.S. did not have any prescriptions, saying: “I don’t like him to be on medications. I don’t think that’s good.” The doctor also recommended I.S. receive therapy for six months. Mother told the social worker she believed I.S. would benefit from the therapy.

The social worker asked I.S. if he knew why he was at the hospital. He responded: “At first, she said she wanted to take us to the hospital. She said she had no choice. We don’t have a home. My mom says she wants to turn us in. Last night we were fighting with her. I was, like, kicking her and my brother was saying bad words.” I.S. said he was kicking his mother because

he was mad. He added that he and his brother fought frequently. I.S. explained that someone at the family's church told mother she could take him and A.S. to the hospital and leave them. Later that day, the children were placed in a foster home.

The family had a prior history with the Department, including a July 2012 referral alleging father had sexually and physically abused I.S. and A.S. The reporting party stated that mother had called the police concerning the allegation. An officer responded to the home and interviewed mother, father, and the children. Mother told the officer that she saw father in the children's bedroom masturbating in the children's presence. Mother said that father's back was to the children and he was covered by a blanket. Mother also told the officer that father had shown the children pictures of a naked woman on a computer. Father stated that he had shown the children "art." The police took the computer to determine what was on it. The children denied to the officer that father had touched them. Finding no evidence of a crime, the police did not pursue a case against father.

A social worker met with the family concerning mother's claims of father's sexual abuse. Father and the children denied allegations. The Department closed the referral.

According to the Department's January 27, 2016, Addendum Report, on January 26, 2016, the children's foster mother reported to the social worker that I.S. and A.S. fought over everything. When the foster mother attempted to intervene by placing her hand on I.S.'s shoulder, he yelled at her and told her not to touch him. Whenever the foster mother attempted to "re-direct" the children, they would claim she was violating their rights.

On January 27, 2016, the Department filed a section 300 petition. On January 29, 2016, the juvenile court detained I.S. and A.S. from mother and father. The Department filed the operative amended section 300 petition on February 22, 2016.

In its February 23, 2016, Jurisdiction/Disposition Report, the Department reported that I.S. admitted to a social worker that he would become aggressive when he was angry. He stated that he only fought with his brother, whom he hit and at whom he threw “things.” The social worker asked I.S. why he was in foster care. I.S. responded that his family was homeless and mother had “problems.” I.S. said that mother had taken him and A.S. to the hospital and said she could not handle them anymore.

When asked by the social worker why he was in foster care, A.S. responded: “We fight a lot. My mom couldn’t take it anymore so she took us to Beverly Hospital and gave us up. When we fight we hit each other.”

Mother said she took I.S. and A.S. to the hospital because I.S. and A.S. argued every day, did not want to go to school, and did not want to bathe. Mother stated: I.S. “would attack us. He would hit me.” Mother also added that she was homeless, separated from step-father, and did not know what to do. She was overwhelmed by stress and desperate. Mother explained: “It was a cry for help. I needed help for the boys.”

After their initial placement in foster care, I.S. and A.S.’s caregiver asked for the children to be re-placed after I.S. became aggressive with and hit his caregiver and A.S. The boys were placed in a group home. I.S. explained to the social worker that when he became angry, he hit and screamed and could not control his behavior.

Esmeralda S., father's wife, discussed with the social worker the children's violence. Esmeralda S. said: "I have seen [I.S.] try to hit me and my husband. The boys are out of control. When they come over I have to hide the knives and other things because when we turn around they are chasing each other with knives or scissors. I have to hide my snow globe because [I.S.] has tried to use it to hit his brother. [I.S.] more than [A.S.] becomes aggressive and it's scary."

According to mother, I.S. had exhibited aggressive behavior toward others since he was in preschool. I.S.'s teachers told him that he would hit other children. Mother said: "The school has always told me he was aggressive but I never took it like I had to do something about it." A.S. had become physically aggressive toward I.S. two years prior. When I.S. was verbally or physically aggressive toward A.S., A.S. responded in kind.

Mother said that I.S. was diagnosed with "major depression and defiant bipolar" when he was hospitalized. Mother did not approve of I.S. taking medications and thus was "trying to get him into counseling" prior to detention. For the past two years, I.S. had heard voices and had "visual hallucinations" that mother attributed to horror movies I.S. watched with his older brother, A.A. I.S. was placed on psychiatric holds twice in January 2016,² and had been assigned a therapist.

² According to the Department's March 9, 2016, Multidisciplinary Assessment Team Summary of Findings Report (MAT Report), mother said that I.S. first was placed on a 72-hour hold after he became physically aggressive with her. I.S. was placed on a second hold after he became aggressive and pushed A.S. down three to four stairs. Both times, the police were called to help address the situation.

At the end of January 2016, A.S. was placed on a seven-day psychiatric hold due to his aggressive behavior toward I.S. and his inability to control his rage.³ A.S. was diagnosed with “major depressive disorder, recurrent, severe” and prescribed medication. A.S. was assigned a therapist.

As to step-father, I.S. said: “[H]e’s a drunk. He drinks bud light. He tried to stop drinking when he was living with us. He would try to use any excuse to go out and drink. He would drink out of the house. My mom and him argue about this all the time.” A.S. also reported that step-father drank “a lot.” According to A.S., step-father did not drink in the home and mother did not like step-father’s drinking.

Mother reported that she and step-father had separated for a while beginning in September 2015, but that they were back together. Mother stated that step-father “sometimes . . . would take off and drink,” but never drank in the house or around I.S. and A.S. Step-father admitted that he had an alcohol problem.

With respect to mother, father told the social worker: “Something is wrong with her She was abused as a child and she thinks every man is out to abuse her children. She would always accuse me of either looking at the kids inappropriately or wanting to do something to them. She’s sick. I know before she had been given some pills for depression but she never took them. I am honestly afraid of her because of all of her accusations.”

³ According to the MAT Report, in an incident in March 2016, A.S. removed his seatbelt and threatened to jump from a moving car, stating he wanted to kill himself. The police were called, and a psychiatrist evaluated A.S. and determined that he did not meet the criteria for a psychiatric hold.

At the combined jurisdiction/disposition hearing, the juvenile court admitted the Department's January 27, 2016, Detention Report; January 27, 2016, Addendum Report (misidentified as a "Last Minute" report); February 23, 2016, Jurisdiction Report; and March 9, 2016, MAT Report. I.S., A.S., and father testified. Mother's stipulated testimony was admitted.

The juvenile court sustained, as further amended, the first amended section 300 petition. In sustaining the first amended petition, the juvenile court noted mother's repeated statements at the hospital and to the Department's social worker that she was unable to care for I.S. and A.S. and was afraid she would abandon them.

The juvenile court declared I.S. and A.S. dependents of the juvenile court. It ordered the children removed from mother's custody and placed in father's custody. The juvenile court ordered reunification services for mother, and that she undergo a psychological evaluation. It further ordered monitored visits for mother.

DISCUSSION

I. Jurisdiction

Mother contends that insufficient evidence supports the juvenile court's jurisdictional findings. We disagree.

A. Standard of Review and Relevant Principles

On appeal, we review the juvenile court's finding of jurisdiction for substantial evidence. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) "The term 'substantial evidence' means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion; it is evidence which is

reasonable in nature, credible, and of solid value. [Citation.]” (*Ibid.*) “The issue of sufficiency of the evidence in dependency cases is governed by the same rules that apply to other appeals.” (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.) An appellate court does not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. (*Ibid.*; *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564 [issues of fact and credibility are questions for the trier of fact].) Instead, the reviewing court draws all reasonable inferences in support of the juvenile court’s findings, considers the record most favorably to the juvenile court’s order, and affirms the order if it is supported by substantial evidence, even if other evidence supports a contrary conclusion. (*In re L.Y.L.*, *supra*, 101 Cal.App.4th at p. 947.)

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

B. Application of Relevant Principles

Pursuant to section 300, subdivision (b)(1) a child comes within the jurisdiction of the juvenile court when “[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” We hold the evidence supports the

juvenile court's finding that mother was unable to supervise I.S. and A.S. adequately, thus placing them at a substantial risk of suffering serious physical harm.

Mother took I.S. and A.S. to Beverly Hospital and attempted to leave them there. At the hospital, mother told a social worker: "I can't handle my kids no more. I'm scared I will just run away. Abandon them. I want them to be in a safe place." Mother told the social worker that I.S. and A.S. had been physically aggressive toward each other for at least two years. I.S. had behavioral issues since he was in preschool. I.S. had been placed on psychiatric holds after walking into traffic and after pushing A.S. down the stairs, and had suffered auditory and visual hallucinations for the prior two years. A.S. likewise had been placed on a psychiatric hold due to his aggressive behavior, and he had threatened to jump out of a car while claiming he wanted to kill himself. Prior to attempting to leave I.S. and A.S. at the hospital, mother failed to seek any treatment for their apparent serious mental health issues. That mother might "run away" and "abandon" I.S. and A.S. if her life became more problematic placed I.S. and A.S. at a substantial risk of suffering serious physical harm. Mother's failure to obtain treatment for I.S.'s and A.S.'s apparent serious mental health issues placed I.S. and A.S. at a substantial risk of suffering serious physical harm (e.g., I.S. had walked into traffic and A.S. had threatened to jump from a moving car), and that ongoing failure continued to expose them to such risk of harm.

Mother argues that "[h]er actions in taking the children to Beverly Hospital were motivated by her intense desire to get help for the boy's serious problem and to keep them safe. . . . She wanted the children to be evaluated and receive services." That

may be true, and mother should be commended for taking I.S. and A.S. to the hospital to obtain help for their apparent serious mental health issues. However, implicit in mother's statements to the social workers at the hospital when so doing, and even in her arguments on appeal, is mother's recognition that I.S. and A.S. would not be safe if the juvenile court did not assume jurisdiction over I.S. and A.S.

In addition to challenging the juvenile court's b-1 jurisdictional finding, mother also challenges the sufficiency of the evidence in support of the juvenile court's b-5 and b-8 jurisdictional findings. Because we have affirmed the juvenile court's b-1 jurisdictional finding, we do not need to reach the merits of mother's challenges to the other bases of jurisdiction. (*In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451.)

II. Disposition

Mother contends that we should reverse the dispositional orders because substantial evidence does not support the jurisdictional findings. Because mother does not challenge the dispositional orders other than as a consequence of the jurisdictional findings, and because we held above that substantial evidence supports the juvenile court's b-1 jurisdictional finding, we affirm the dispositional orders.

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

KIN, J.*

We concur:

TURNER, P. J.

KRIEGLER, J.

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