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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re D.L., a Person Coming  
Under the Juvenile Court Law.

B293082

LOS ANGELES COUNTY  
DEPARTMENT OF  
CHILDREN AND FAMILY  
SERVICES,

(Los Angeles County  
Super. Ct.  
No. 18CCJP01153A)

Plaintiff and Respondent,

v.

JENNIFER L.,

Defendant and Appellant.

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

Lelah S. Fisher, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

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Jennifer L. (mother) appeals from the orders of the juvenile court declaring her daughter D.L. a dependent (Welf. & Inst. Code, § 300, subd. (b))<sup>1</sup> and denying mother reunification services under section 361.5, subdivision (b) (the by-pass statute). We affirm.

## **BACKGROUND**

### **I. D.L.'s detention from father**

D.L. (age 6) was living with her father, who is not a party to this appeal, his girlfriend, and the girlfriend's two children in 2018 when the Department of Children and Family Services (DCFS) received a referral alleging that father had been arrested after he engaged in a violent altercation with his girlfriend in the presence of one of her children. D.L. was visiting the paternal grandmother at the time. This violent incident was not the only one in which the police were called to the house. Also, D.L. described several incidents when she saw father hit his girlfriend and other times when father abused her. D.L. also stated that father drank alcohol and smoked, and that she saw him snort a white substance on multiple occasions.

The juvenile court detained D.L. and ordered her placed with father's girlfriend as there had not yet been an investigation into whether it was safe to place the child with either mother or maternal grandmother.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

## II. Mother

Mother's whereabouts were unknown when D.L. was detained. She had had minimal contact with D.L. for four years and had not attempted to have the child placed in her care. Father reported that D.L. rarely visited or had contact with mother except on some occasions when D.L. visited maternal grandmother. Neither father nor maternal grandmother knew how to reach mother.

Father's girlfriend explained that mother and father shared custody of D.L. and D.L. lived with mother for three months when the child was two years old. But, D.L. has lived with father since her third birthday. In the past three years, mother visited D.L. approximately 10 times. According to the girlfriend and the paternal grandmother, mother rarely provided financial support for D.L. Maternal grandmother also reported that mother was aware that father would leave D.L. for several days at a time to abuse drugs. The girlfriend dropped D.L. at mother's home when father disappeared, but mother did not allow the child to reside with mother, instead leaving D.L. with maternal grandmother until father picked her up a week later.

Mother had a dependency case in 2014 involving her son, A.L., after she left him with paternal grandparents without making a plan for his care. D.L. was residing with father at the time and so she was not included in A.L.'s dependency. DCFS explained that mother did not comply with her case plan in A.L.'s dependency, having failed to submit to drug tests, undergo counseling, or to make herself available to DCFS, and having visited with A.L. only sporadically. The juvenile court terminated mother's parental rights to A.L. in February 2017, before D.L. was detained.

DCFS had difficulty contacting mother to assess whether to place D.L. with her. Mother left a message with DCFS claiming that she could be reached through maternal grandmother, who instead stated that she only heard from mother when mother called. DCFS was finally able to schedule a meeting with mother to discuss the petition, but mother did not appear and the social worker could not leave messages on mother's telephone.

DCFS explained that although mother appeared for the detention hearing, she had not maintained contact with DCFS, appeared for a scheduled meeting, or attempted to set up a drug-testing or a visitation schedule. DCFS recommended against providing reunification services for mother.

### III. The adjudication and disposition

The juvenile court placed D.L. with maternal grandmother. Mother's whereabouts remained unknown after the juvenile court continued the adjudication hearing, even though maternal grandmother had informed mother that the social worker was looking for her. The social worker concluded that mother showed no interest in reunifying with D.L.

The juvenile court sustained the amended petition, which alleged as to mother that she endangered D.L.'s physical health, safety, and well-being, and placed her at risk of physical harm and damage because mother failed to provide D.L. with basic life necessities, including food, clothing, shelter, and medical care. The petition also alleged A.L.'s dependency because of mother's failure to provide for him, her failure to comply with court orders concerning A.L., and her failure to reunify with him. (§ 300, subd. (b).)

Mother remained out of contact with DCFS until she appeared at the disposition hearing where she submitted a

change of address indicating that she had moved into a halfway house two weeks earlier. The juvenile court denied mother reunification services pursuant to section 361.5, subdivision (b)(10) and (11), and outlined what mother would need to do to successfully move for a modification of the disposition order. Mother appealed.

## DISCUSSION

### I. Substantial evidence supports jurisdiction based on mother's conduct

Section 300, subdivision (b)(1) invokes the jurisdiction of the juvenile court and describes a child who “has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of . . . the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment.”

Under this statute, DCFS had the burden to “show[:] (1) the requisite neglect by mother; (2) causation; and (3) serious physical harm or a substantial risk of such harm. [Citation.] The third element includes a showing that the requisite risk of harm still exists at the time of the jurisdictional hearing.” (*In re A.R.* (2014) 228 Cal.App.4th 1146, 1151.) We review the entire record and, after resolving all conflicts in favor of DCFS and after drawing all reasonable inferences in support of the judgment, must determine whether the findings are supported by substantial evidence. (*Id.* at p. 1152.)

The evidence here shows that in the previous three years, during which D.L. lived exclusively with father, mother never attempted to have the child live with her or to contribute financially to D.L.'s care. She knew that father was abandoning D.L. for days at a time to abuse drugs. Yet, she chose not to

protect the child and refused to take D.L. in when father's girlfriend brought her to mother. Even when DCFS needed to remove D.L. from father's care because of his violence and drug abuse, mother was unreachable and did not attempt to return calls from the social worker. By repeatedly turning her back on D.L. when she knew that the child could not safely remain with father, mother willfully failed to even give her shelter, exposing her to harm at father's hands.

Mother contends, citing *In re Andrew S.* (2016) 2 Cal.App.5th 536, that there is no evidence that her failure to provide the necessities of life for D.L. caused the child harm because others, such as father and his girlfriend, saw to the child's needs. The argument overlooks the evidence that mother refused to help father provide necessities for the child, and ignores that mother knew full well that father was neglecting the child and that Eva could not care for her.

Mother's reliance on *In re X.S.* (2010) 190 Cal.App.4th 1154, is unavailing. There, the father did not know he was the biological father for eight months during which the child was being cared for by the mother. (*Id.* at p. 1160.) In contrast, mother here knew that D.L. was being neglected in father's custody and still mother refused to give the child shelter.<sup>2</sup>

Mother argues, even if she were unable to take physical custody of D.L., that she was working toward that goal by

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<sup>2</sup> Mother asserts that she brought D.L. to maternal grandmother when father was gone and so she did provide the child with a plan: leave her with maternal grandmother. But, this is almost exactly what mother did with A.L. She left the child with a grandparent without providing the child with food, clothing, or shelter.

entering a halfway house, and asking for reunification services to assist her in regaining custody. But, the juvenile court “may . . . consider past events when determining whether a child presently needs the juvenile court’s protection. [Citations.] A parent’s past conduct is a good predictor of future behavior. [Citation.] ‘Facts supporting allegations that a child is one described by section 300 are cumulative.’ [Citation.] Thus, the court ‘must consider all the circumstances affecting the child, wherever they occur.’ ” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) The circumstances here show that over the course of at least half of D.L.’s life, mother consistently neglected her and refused to care for her, and that this conduct is part of a pattern mother demonstrated toward her older child, A.L.

II. The juvenile court did not err in denying mother reunification services.

Mother contends that the juvenile court’s decision to bypass reunification was unwarranted because the problems leading to removal of D.L. are not the same as they were in A.L.’s case. Mother adds that the court abused its discretion by denying her reunification in light of D.L.’s desire to live with her and given father’s receipt of services.

Generally, when a child is removed from parental custody, the juvenile court is required to provide reunification services to the mother and statutorily presumed parent. (§ 361.5, subd. (a).) “The purpose of reunification efforts is to ‘eliminate the conditions leading to loss of custody and facilitate reunification of parent and child. This furthers the goal of preservation of family, whenever possible.’ ” (*Jennifer S. v. Superior Court* (2017) 15 Cal.App.5th 1113, 1120.)

Nonetheless, “it is also the ‘intent of the Legislature, especially with regard to young children[ ] . . . that the dependency process proceed with deliberate speed and without undue delay.’” (*Jennifer S. v. Superior Court, supra*, 15 Cal.App.5th at p. 1120.) Hence, “section 361.5, subdivision (b), exempts from reunification services ‘those parents who are unlikely to benefit’ from such services or for whom reunification efforts are likely to be ‘fruitless.’” (*Ibid.*)

The juvenile court denied mother reunification services under subdivision (b)(10) and (11) of section 361.5. These statutes enable the court to bypass reunification services if the court has previously terminated reunification services for, or parental rights over, a sibling or half-sibling of the child *and* the parent “has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling.” (§ 361.5, subd. (b)(10) & (11).) We review the juvenile court’s order denying reunification services for substantial evidence. (*Jennifer S. v. Superior Court, supra*, 15 Cal.App.5th at p. 1121.)<sup>3</sup>

Mother only challenges the second prong of the bypass provisions. She contends there is no evidence of the basis for A.L.’s dependency or that she failed to make reasonable efforts to correct the problem that led to the removal of, or loss of parental rights over, A.L. The allegations against mother in both D.L.’s and A.L.’s cases were that she left the children with grandparents without providing for them. The record is replete

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<sup>3</sup> Mother believes that we review the juvenile court’s denial of reunification services for abuse of discretion and cites *In re Angelique C.* (2003) 113 Cal.App.4th 509, at page 523. However, regardless of which standard of review we apply, the result is the same.



with evidence mother failed to treat the problem that led to A.L.'s removal; she replicated her conduct with D.L. by leaving her with a grandparent without providing for her. And, mother's failure to respond to DCFS after D.L. was detained demonstrates her continued disinterest in caring for the child. Moreover, as with A.L., mother has not been visiting D.L. Although mother moved into a halfway house, any effort toward addressing the problems that led to D.L.'s removal is too recent. She obtained this new address eight months after D.L. was detained and just two weeks before the disposition hearing. Nor has mother demonstrated, other than moving in, that she has actually addressed any issue that led to A.L.'s removal. There is no evidence that it would be in D.L.'s best interest to grant mother reunification services, and mother's consistent disinterest shows that services would likely be fruitless. The order denying mother reunification services was not error.

### **DISPOSITION**

The orders are affirmed.  
NOT TO BE PUBLISHED.

DHANIDINA, J.

We concur:

EDMON, P. J.

EGERTON, J.