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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re PRECIOUS R., et al., Persons
Coming Under the Juvenile Court
Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent.

v.

ANGELES R., et al.,

Defendants and Appellants.

B277742

(Los Angeles County
Super. Ct. No. DK16703)

APPEAL from orders of the Superior Court of Los Angeles
County. John Parker, Judge. Affirmed.

Patricia K. Saucier, under appointment by the Court of
Appeal, for Defendant and Appellant Angeles R.

Jesse McGowan, under appointment by the Court of
Appeal, for Defendant and Appellant Thomas A.

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

Appellant Thomas A. (father) appeals from the juvenile court's findings and orders establishing dependency jurisdiction over his children Hector (born Dec. 2014) and Ariel (born Jan. 2016) under Welfare and Institutions Code section 300, subdivisions (b) and (d),¹ removing the children from his custody, and releasing them to their mother, Angeles R. (mother). The court also assumed jurisdiction over mother's two older children, Precious (born October 2008) and Miguel (born Mar. 2011).

Father contends the evidence was insufficient to support the jurisdictional findings that he possessed child pornography, that the children were at risk of sexual abuse, and that he had a substance abuse problem. Father also challenges the dispositional orders removing Hector and Ariel from his custody.

Mother challenges the jurisdictional finding that she failed to protect her children from father's substance abuse. We affirm the juvenile court's findings and orders.

BACKGROUND

Detention and section 300 petition

On April 21, 2016, the Internet Crimes Against Children Division of the Los Angeles Police Department contacted the Los Angeles County Department of Children and Family Services's (the Department's) Multi-Agency Response Team to conduct an independent investigation into allegations of child endangerment.

The investigating officer, Detective Keller, informed the Department's responding social worker that child pornography videos depicting female children between the ages of 8 and 11 had been downloaded to an internet protocol address associated with electronic devices owned by father through an internet connection maintained by the paternal grandmother. At the time, the family resided in the home of the paternal grandmother

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

and her minor children, a 16-year-old boy and a seven-year-old girl.

One of the downloaded videos depicted a naked, nine-year-old girl tied to a bed being sexually assaulted by multiple males. In addition, father's information had been used to establish subscription accounts at internet sites such as Photobucket and meetme.com. Detective Keller further reported that many people had been seen coming and going from the family home, causing officers to suspect that drugs were being sold from the home.²

The responding social worker conducted separate interviews of the family members. Mother told the social worker that she knew law enforcement officers were investigating pornography, but that to her knowledge, no one viewed pornography in the home. When the social worker told mother that child pornography had been traced to the home and that father was the primary suspect, mother appeared surprised and said she had no idea or indication that father would be capable of viewing child pornography. The social worker explained that the basis for the Department's concern was the similarity in ages between the children in the home and the children in the videos. Mother confirmed that the paternal grandmother paid for the internet connection in the home but said that everyone on the property had access to that connection. She denied seeing anyone in the home viewing child pornography.

When asked about the large numbers of people seen coming and going from the home, mother responded that only friends or family members came to the home. She said that tenants rented a house in the back of the paternal grandmother's property and

² The information provided by Detective Keller to the social worker and summaries of the social worker's April 2016 interviews of the family members were included in the Department's April 26, 2106 detention report.

that they also had many friends and family members who came to visit. Mother denied using any drugs but admitted that father uses medical marijuana and that he had a medical marijuana card.

The social worker spoke separately with father, who said he understood the police were investigating someone viewing child pornography on the property using his digital address. Father denied downloading or watching any child pornography or seeing anyone else in the home viewing any type of pornography. He said he had no cell phone, and that although he owned a computer, he used it only to listen to music. Father further stated that he is the only person who has access to his computer or his email address.

Father admitted smoking marijuana regularly but said that he only did so outside the home. He denied any other drug use or drug sales by anyone from the home. Father explained that the large number of people seen coming and going from the home were friends who often came to visit. When asked how the family was able to afford several large screen televisions in the home and expensive cars parked on the driveway, father said that he was employed in construction and that although he was worked only one or two days a week, the work paid well. Father said the paternal grandmother supplemented the family income by renting out a trailer in the back of the property.

The paternal grandmother told the social worker that the internet connection in the home was in her name, that she knew law enforcement was involved because of pornography, but that she knew nothing about it. When the social worker informed her that child pornography was involved and that father was the primary suspect, the paternal grandmother began to cry. The paternal grandmother denied that drugs were being sold from the home but admitted that she had previously been arrested and

jailed on drug-related charges. She further admitted maintaining a relationship with the father of her children, who had been deported after being arrested for a drug-related crime. The paternal grandmother denied being a current drug abuser and agreed to submit to a drug test. She said that she was aware of father's marijuana use but that she did not know if he was abusing any other drugs.

The family's child welfare history included two referrals in 2014 alleging that father and mother smoked marijuana in front of the children, verbal altercations between father and the paternal grandmother, and general neglect of the children, who were purportedly locked in the bedroom all day and left unattended by the parents. Both referrals were closed as inconclusive. Father had a criminal history that included a 2011 arrest for robbery, arrests in 2013 and 2015 for possession of a controlled substance, and multiple arrests and warrants for driving with a suspended license.

The social worker observed that the children appeared to be healthy and developmentally on target. The social worker interviewed Precious, who said she felt safe in the home and denied any abuse. The social worker nevertheless assessed the children as being at high risk in light of the law enforcement investigation of child pornography in the home and the similarity in ages between the children in the downloaded pornographic videos and the children in the home. Because mother was willing to protect the children, the Department recommended that the children remain in mother's custody on condition that father leave the residence.

On April 26, 2016, the Department filed a petition under section 300, subdivisions (b) and (d) alleging that father had engaged in criminal conduct that placed the children at risk of being sexually abused by downloading and viewing child

pornography in the children's home, that mother knew or reasonably should have known of father's conduct and failed to protect the children, and that father's sexual abuse of the children and mother's failure to protect the children placed them at risk of harm. The petition further alleged that father had a history of substance of abuse and was a current abuser of marijuana, rendering him unable to provide regular care and supervision; that on prior occasions in 2015 and 2016, father was under the influence of marijuana while the children were under his care and supervision; that the children were of a young age requiring constant care and supervision; and that mother knew of father's substance abuse and failed to protect the children.

At the detention hearing held on April 26, 2016, the juvenile court ordered the children detained from father and released to mother. The court accorded father monitored visits to take place two times per week for two hours per visit.

Jurisdiction and disposition report

For the Department's June 16, 2016 jurisdiction/disposition report, the social worker re-interviewed the family members. Precious denied being touched inappropriately by anyone or seeing any videos or photographs of unclothed people. She said she liked living with father and the paternal grandmother.

Father again denied downloading or viewing child pornography. He told the social worker that a former tenant named Omar, who had rented a room in the paternal grandmother's home, watched pornography on a cellular phone father had given him. According to father, Omar asked father for a prepaid cellular phone, mother obtained the phone at father's request, and father gave the phone to Omar, who used it to watch pornography. Father claimed that he linked his email address to the cell phone before he gave the phone to Omar so that father could use the phone as a backup if needed, but that father had

never used that phone. Father further claimed that he allowed Omar to use father's computer, sometimes for days at a time, and that Omar could have watched child pornography on the computer as well. Father said that Omar moved out of the home a month before the police investigation but left the cell phone behind. Father said he put the phone away without ever checking its contents. Father did not know Omar's current whereabouts.

In the Department's jurisdiction/disposition report, the social worker expressed skepticism regarding father's explanation of events, noting that father had not mentioned Omar during the April 2016 interview and that he had previously denied owning any cellular telephones. Father had also previously claimed that no one else had access to his computer and his email account.

Father told the social worker during the June 2016 interview that he started smoking marijuana at the age of 14, and that he had a medical marijuana card but the card had expired. He said he smokes twice a week, that he does so on the way home from work, and that he waits 30 minutes for the odor to dissipate before entering the house.

Mother told the social worker that father smoked marijuana two days a week, that he smoked in the backyard, and that when he finished smoking, father would enter the house to be with mother and the children. She said father never smoked in front of the children. Mother said father keeps his marijuana somewhere in the house, but she did not know where.

Mother said she had never seen father view any pornography and did not believe he would watch child pornography. She thought that a former tenant named Omar had done so. Mother said that Omar was using a cell phone she and father had obtained for him to watch child pornography. She

said she had also observed Omar looking at 15-year-old girls and whistling at them, which she found inappropriate. Mother also said that father would allow Omar to use father's laptop computer and that she thought Omar may have been viewing pornography on the laptop as well.

The paternal grandmother said she did not know whether father had been viewing child pornography and that she had never seen him do so. She said father uses marijuana, that he smoked every other day and that he did so outside of the house.

The paternal grandmother's 16-year-old son, Hector A., told the social worker that he had never seen any pornography on father's phone or computer and that he never saw father do anything strange. The paternal grandmother's other child, seven-year-old R.A., said she was never alone and that she did not look at father's phone or computer.

Father's positive drug test and amended section 300 petition

On June 24, 2016, father tested positive for marijuana, amphetamine, and methamphetamine. Father told the social worker, "I messed up." He said he went clubbing with friends the night before the positive drug test, smoked what he thought was simply marijuana, and "didn't know that they put something else in the weed." Father said he "knew it wasn't just weed" when he "started feeling different." He claimed it was the first time he had used methamphetamine.

On July 12, 2016, the Department filed a first amended petition adding an allegation regarding father's recent methamphetamine use and his positive drug test for methamphetamine, amphetamine, and marijuana.

Adjudication and disposition

In a last minute information for the court filed on August 19, 2016, the Department reported that father had completed 7

out of 10 parenting classes, was participating in a parent support group, and had two negative drug tests on July 8 and 21, 2016. Father was also reportedly seeing a therapist for sexual assault crisis services.

At the adjudication hearing held on August 19, 2016, the juvenile court received the Department's reports into evidence without objection. After hearing argument from the parties, the court struck the allegations in the petition under section 300, subdivisions (b) and (d) that mother had failed to protect the children from child pornography on the ground that there was no evidence she had been aware of it. The juvenile court amended the allegations regarding father's downloading and viewing of child pornography under section 300, subdivision (b) to clarify that father's conduct placed the children at risk of sexual abuse but that no actual sexual abuse had occurred. The court sustained the allegations regarding father's substance abuse and mother's failure to protect the children from father's substance abuse. The amended allegations state in relevant part:

"b-1 On prior occasions, . . . father . . . engaged in criminal conduct that places the children at risk of being sexually abused by downloading and watching child pornography in the children's home. Such failure to protect the children by . . . father endangers the children's physical health and safety and places the children at risk of serious physical harm, damage, danger, and failure to protect."

"b-2 [Father] has a history of substance abuse and is a current abuser of marijuana, amphetamine, and methamphetamine which renders . . . father unable to provide regular care and supervision of the children. On 6/24/2016, Father tested positive for marijuana, amphetamine, and methamphetamine. On prior occasions in 2015 and 2016, . . . father was under the influence of marijuana, while the children

were in . . . father's care and supervision. The children Hector and Ariel are of such a young age requiring constant care and supervision and . . . father's substance abuse interferes with providing regular care and supervision of the children. The mother failed to protect the children when the mother knew of . . . father's substance abuse. Such substance abuse by . . . father and the mother's failure to protect the children endanger the children's physical health and safety and place the children at risk of serious physical harm, damage, and failure to protect."

"d-1 On prior occasions . . . father . . . engaged in criminal conduct that places the children at risk of being sexually abused by downloading and watching child pornography in the children's home. Such sexual abuse of the children by . . . father endanger[s] the children's physical health and safety and place the children at risk of serious physical harm, damage, danger, sexual abuse, and failure to protect."

The juvenile court sustained the petition as amended and declared the children dependents of the court. The court ordered the children to remain placed with mother and prohibited father from residing in the home. The court accorded father reunification services and mother family maintenance services. This appeal followed.

DISCUSSION

I. Standard of review

We review the parents' challenge to the sufficiency of the evidence supporting the juvenile court's jurisdictional findings under the substantial evidence standard. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450.) The substantial evidence standard also applies to father's challenge to the court's dispositional order. (*In re Hailey T.* (2012) 212 Cal.App.4th 139, 145-146.)

Under that standard, “the issue is whether there is evidence, contradicted or uncontradicted, to support the finding. In making that determination, the reviewing court reviews the record in the light most favorable to the challenged order, resolving conflicts in the evidence in favor of that order, and giving the evidence reasonable inferences. Weighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn from evidence are the domain of the trial court, not the reviewing court. Evidence from a single witness, even a party, can be sufficient to support the trial court’s findings. [Citations.]” (*Alexis E.*, at pp. 450-451.)

II. Substantial evidence supports the jurisdictional findings

A. Child pornography

Section 300, subdivision (d) authorizes the court to assume dependency jurisdiction if a child “has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian.” Penal Code section 11165.1 defines “sexual abuse” as “sexual assault” or “sexual exploitation.” Sexual assault includes any act of annoying or molesting a child prohibited by Penal Code section 647.6. (Pen. Code, § 11165.1, subd. (a).) A parent may annoy or molest a child by invading their privacy with any sexually motivated conduct, even if there was no actual touching. (*In re D.G.* (2012) 208 Cal.App.4th 1562, 1571.) Sexual exploitation is defined by the statute to include downloading, streaming, or accessing through any electronic or digital media, images or a video recording of a child engaged in obscene sexual conduct. (Pen. Code, § 11165.1, subd. (c)(3).)

Section 300, subdivision (b) authorizes the dependency court to assume jurisdiction over a child when the child has suffered, or is at substantial risk of suffering serious physical

harm as a result of the parent's failure or inability to adequately supervise or protect the child.

Father challenges the sufficiency of the evidence to support the juvenile court's finding that he downloaded and viewed child pornography. He contends the evidence consisted solely of conclusory statements by Detective Keller, lacking any foundational basis and unsupported by an accompanying police report or any other evidence that father had downloaded child pornography in the home. Father further contends that even assuming there was sufficient proof that he had downloaded and viewed child pornography, there was no evidence that the children were sexually abused or at substantial risk of sexual abuse or serious physical harm.

Detective Keller's statements to the social worker, included in both the detention report and jurisdiction/disposition report, were received into evidence by the juvenile court without objection by father or any other party. Those statements constitute admissible and competent evidence sufficient to support the juvenile court's findings that father downloaded and watched child pornography in the children's home. (§ 355, subd. (b); *In re Alexis E.*, *supra*, 171 Cal.App.4th at pp. 450-451 [evidence from a single witness can be sufficient to support juvenile court's findings].)

Although father denied downloading or viewing any child pornography, he made conflicting statements as to whether he owned any cellular telephones on which pornography could be viewed and whether anyone else had access to his personal computer and email address. In April 2016, father told the social worker that he did not own any cell phones and that he was the only person who had access to his computer and email address. In June 2016, however, for the first time father disclosed that a former tenant, Omar had lived in the home, and that father had

allowed Omar to use father's computer for days at a time. Father claimed that Omar had asked him for a prepaid cell phone, that father had obtained a cell phone, linked it to his own email account, and then gave the phone to Omar, who used it to watch pornography. Father further claimed that Omar moved out of the home the month before the police investigation but left the cell phone behind. Father said he kept the phone but never looked at its contents.

In light of father's inconsistent statements, the juvenile court was entitled to discount father's denials that he had downloaded child pornography onto his electronic devices. The juvenile court could also have found father's conflicting statements about his cell phone ownership and access to his email account and computer to be corroborating evidence that supported Detective Keller's statements. (See *In re B.D.* (2007) 156 Cal.App.4th 975, 984.) Resolving conflicts in the evidence, assessing the credibility of witnesses, and evaluating the weight of the evidence are matters exclusively within the province of the juvenile court. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.) Substantial evidence supports the juvenile court's jurisdictional findings that father downloaded and viewed child pornography.

Substantial evidence also supports the juvenile court's determination that father's conduct placed the children at substantial risk of sexual abuse. The Department's Multi Agency Response Team, a specialized team of social workers trained to work in collaboration with law enforcement agencies to service children in high risk homes, responded to a law enforcement request to investigate potential child endangerment. The social worker who responded to the family home and who prepared the detention report and the jurisdiction/disposition report was a member of Multi Agency Response Team. The detention report explained that law enforcement experts in the field have

concluded that people who view images of child pornography are more likely to become sexual predators than those who do not engage in such behavior. The detention report also stated that children often will not disclose sexual abuse and may even deny such abuse because of fear, embarrassment, or loyalty or attachment to the suspect.

The social worker who conducted an independent assessment of the family concluded that the children were at high risk of abuse. That conclusion was supported by Detective Keller's statements that child pornography videos had been downloaded to an internet protocol address associated with electronic devices owned by father, that most of the videos were of female children between the ages of 8 and 11, that one downloaded video depicted a bound and naked nine-year-old girl being sexually assaulted by multiple males, and that the children in the downloaded videos were in the same age range as the children who lived in the home.

Father's viewing of child pornography demonstrated that he had a sexual interest in children. "[O]ne can infer sexual interest in children from watching child pornography." (See *People v. Memro* (1995) 11 Cal.4th 786, 865 [sexually explicit photographs of young boys constituted evidence from which trier of fact could infer that defendant was sexually attracted to young boys and intended to act on that attraction].) Father's conflicting statements regarding his cell phone ownership, the presence of pornographic images on any cell phone he owned, and whether other people had access to his email account or personal computer further supported the social worker's assessment that the children were at risk of sexual abuse.

We reject father's argument that "[t]here is no possible way in which the downloading and viewing of child pornography by a parent could subject children in the same home to *physical* harm"

within the meaning of section 300, subdivision (b). That statute authorizes the juvenile court to assume jurisdiction if there is a *substantial risk* that the child will suffer serious physical harm. Risk of sexual abuse is risk of serious physical harm. “[S]ection 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. The subdivisions at issue here require only a ‘substantial risk’ that the child will be abused or neglected. . . . ‘The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.’ [Citation.]” (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

Downloading child pornography in the children’s home falls squarely within the statutory definition of sexual abuse under section 300, subdivision (d).) (§ 300, subd. (d); Pen. Code, § 11165.1; *In re D.G.*, *supra*, 208 Cal.App.4th at p. 1571.) Substantial evidence supports the juvenile court’s finding that father’s conduct placed the children at risk of sexual abuse and serious physical harm under section 300, subdivisions (b) and (d).

B. Substance abuse

Section 300, subdivision (b) accords the juvenile court jurisdiction over a child if 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 parent’s inability to adequately supervise or protect the child, or “by the inability of the parent . . . to provide regular care for the child due to the parent’s . . . substance abuse.” (§ 300, subd. (b)(1).)

Both parents challenge the sufficiency of the evidence supporting the juvenile court’s finding that father had a substance abuse problem. Father argues that the substance abuse finding must be supported by either a diagnosis by a medical professional or evidence of “life-impacting effects of drug use.”

Section 300 does not define the term “substance abuse,” and courts have applied various standards in an effort to formulate a workable definition. The court in *In re Drake M.* (2012) 211 Cal.App.4th 754 (*Drake M.*), proposed a definition of substance abuse based on the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (4th rev. ed. 2000) (DSM-IV-TR).³ (*Drake M.*, at p. 765.) The *Drake M.* court held that “a finding of substance abuse for purposes of section 300, subdivision (b), must be based on evidence sufficient to (1) show that the parent or guardian at issue has been diagnosed as having a current substance abuse problem . . . as defined in the DSM-IV-TR. (*Drake M.*, at p. 766.)

The court in *Drake M.* reasoned that although jurisdiction under section 300, subdivision (b), may be premised on a finding of substance abuse, such a finding does not necessarily mean that the parent is unable to provide regular care resulting in a

³ The DSM-IV-TR defines “substance abuse” as “[a] maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one (or more) of the following, occurring within a 12-month period: [¶] (1) recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; neglect of children or household); [¶] (2) recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use); [¶] (3) recurrent substance-related legal problems (e.g., arrests for substance-related disorderly conduct); and [¶] (4) continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about consequences of intoxication, physical fights).’ (DSM-IV-TR, p. 199.)” (*Drake M.*, *supra*, 211 Cal.App.4th at p. 766.)

substantial risk of harm to the child. (*Drake M.*, *supra*, 211 Cal.App.4th at p. 765.) The court noted that “[c]ases finding a substantial physical danger tend to fall into two factual patterns. One group involves an *identified, specific hazard* in the child’s environment -- typically an adult with a proven record of abusiveness. [Citations.] The second group involves children of such tender years that the absence of adequate supervision and care poses an inherent risk to their physical health and safety. [Citations.]’ [Citation.]” (*Id.* at pp. 766-767.) With respect to the second group, the court in *Drake M.* held that “the finding of substance abuse is *prima facie* evidence of the inability of a parent or guardian to provide regular care resulting in a substantial risk of physical harm.” (*Id.* at p. 767.)

Other courts have been unwilling to accept the premise that a medical diagnosis or a determination that a person comes within one of the specific DSM-IV-TR categories is necessary to establish that the person is a current substance abuser. (See *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1218; *In re Rebecca C.* (2014) 228 Cal.App.4th 720, 725.) The court in *Christopher R.* held that a mother’s “use of cocaine while in the final stage of her pregnancy, combined with her admitted use of the drug in the past and her failure to consistently test or enroll in a drug abuse program, justified the juvenile court’s jurisdiction over her children.” (*Christopher R.*, at pp. 1218-1219.) In *Rebecca C.*, the court summarized the rule articulated in *Drake M.* as “the absence of a medical diagnosis of substance abuse, and a lack of evidence of life-impacting effects of drug use, will not support a finding that a parent has a substance abuse problem justifying the intervention of the dependency court.” (*Rebecca C.*, at p. 726.) The *Rebecca C.* court found that the mother’s use of drugs over a period of years, her involvement in the criminal court system and dependency system as a result of drug use, her

relapse following prior involvement in a drug program, her rationalization for the use of drugs, and her admission that she had a substance abuse problem was substantial evidence of a substance abuse problem. (*Id.* at pp. 726-727.)

Father contends the instant case is more similar to *Drake M.*, in which the court concluded that the evidence was insufficient to establish that the father's use of prescribed medical marijuana to treat chronic knee pain alone constituted substance abuse. The court in *Drake M.* based its conclusion on undisputed evidence showing that the father had been employed for many years, had no criminal history, did not operate a motor vehicle or care for the child within a minimum of four hours after ingesting marijuana, and did not use drugs to deal with social or interpersonal problems. (*Drake M., supra*, 211 Cal.App.4th at pp. 767-768.)

We find substantial evidence in the record to support the juvenile court's finding that father had a substance abuse problem that placed the children at risk of harm. That evidence included father's prior arrests for possession of a controlled substance, prior child welfare referrals alleging that the parents neglected the children and smoked marijuana in the presence of the children, father's admissions that he had used marijuana since the age of 14 and that he continued to use marijuana regularly, admissions by both parents that father entered the home while the children were present shortly after smoking marijuana, mother's statement that father kept his marijuana in the children's home and that she did not know where it was, and father's positive drug test for methamphetamine, amphetamine, and marijuana after the children were detained from him.

At the time of the adjudication, the children were ages seven (Precious), five (Miguel), 18 months (Hector), and five months (Ariel). Given the "tender years" of the children, as

described by the court in *Drake M.*, the finding of substance abuse is prima facie evidence of father's inability to provide regular care for them, resulting in a substantial risk of harm. (*Drake M.*, *supra*, 211 Cal.App.4th at p. 767.)

C. Mother's failure to protect the children from father's substance abuse

Substantial evidence supports the juvenile court's finding that mother failed to protect the children from father's substance abuse. The evidence showed that mother knew that father regularly used marijuana, that he stored his marijuana somewhere in the home, though she did not know where, that she allowed father to enter the home and interact with the children shortly after smoking marijuana, and that the children were all of "tender years." Substantial evidence supports the jurisdictional findings against mother.

III. Removal order

Father's challenge to the dispositional order removing the children from his custody is based solely on the ground that the juvenile court's assumption of jurisdiction was improper. Because substantial evidence supports those jurisdictional findings, the dispositional orders will not be disturbed on appeal.

DISPOSITION

The juvenile court's jurisdictional and dispositional findings and orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
CHAVEZ

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.*
GOODMAN

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