Filed 10/16/17 In re Josiah T. CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JOSIAH T. et al., Persons Coming Under Juvenile Court Law.	B277531 (Los Angeles County Super. Ct. No. DK15234)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. BRANDON S., Defendant and Appellant.	

APPEAL from orders of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

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

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

Brandon S. (father) appeals from the juvenile court's jurisdictional and dispositional orders regarding his two sons, Josiah and Cesar.[1] He challenges the juvenile court's jurisdictional findings based upon his commission of domestic violence, drug use, and failure to protect his children from their mother's mental health issues. He argues the dispositional order removing Josiah and Cesar from his custody was not supported by substantial evidence. He also argues the juvenile court's orders requiring him to attend parenting classes and submit to random drug testing constituted an abuse of discretion. We disagree and affirm.

FACTUAL AND PROCEDURAL SUMMARY

Appellant is the presumed father of Cesar (born in September 2015) and Josiah (born in December 2011). Appellant, the children, and their mother moved to California from Ohio in April 2015.

The family came to the attention of the Department of Children and Family Services (DCFS) in January 2016 when the children's mother was involuntarily hospitalized at Long Beach Community Hospital due to psychiatric issues. Mother called paramedics after inflicting superficial cuts on her wrists. The children were in appellant's care during this incident.

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[1] Court reports and minute orders refer to the child as "Cesar," although his birth certificate uses the spelling "Ceasar."

During her hospitalization, mother was diagnosed with depression. She reported appellant had beaten her two or three days earlier and showed a hospital social worker bruising on her thigh, arm, and breastbone. Based on this report, DCFS commenced an investigation of the family.

During the investigation appellant stated that police had been called to the family home three times in the month leading up to mother's hospitalization due to her screaming. He said that in the four days prior to her hospitalization, mother had been screaming at him, hallucinating, and acting depressed. He later clarified that by "hallucinating," he meant she was "hallucinat[ing] about [him] cheating on her." Prior to her hospitalization, appellant believed mother had bipolar disorder, depression, and posttraumatic stress disorder (PTSD), but he was not aware of any diagnosis from a medical professional.

Appellant generally left the children in mother's care when he went to work. He also left them in her care when he went to smoke marijuana with his friends. Appellant stated he believed mother did not pose a danger to the children.

During the investigation, mother told the social worker that she and appellant had used drugs in the home and that domestic violence was a recurring issue in their relationship. The children's maternal grandmother told a social worker that she once witnessed appellant smoke marijuana outside his home in Ohio and go back inside under the influence when Josiah was home.

DCFS filed a Welfare and Institutions Code section 300[2] petition in January 2016, making several allegations relating to

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[2] All further statutory references are to Welfare and Institutions Code section 300, unless otherwise indicated.

appellant's conduct. First, that appellant had committed domestic violence in a manner which placed the children at substantial risk of physical harm, as defined in section 300, subdivision (a). Second, that the domestic violence committed by appellant constituted neglect under section 300, subdivision (b)(1). Third, that appellant had used drugs in a manner that rendered him incapable of providing regular care to his children under section 300, subdivision (b)(1). And, fourth, that appellant had failed to protect his children from mother's mental health issues by allowing her to reside in the home and have unlimited access to the children.

The DCFS petition also alleged mother had depression, bipolar disorder, and PTSD and had attempted suicide by cutting her wrists and ingesting pills. It furthered alleged her drug use and mental illness placed the children at risk of substantial harm under section 300, subdivision (b)(1).

Based on this petition and supporting evidence, the juvenile court detained the children in late January 2016. A jurisdictional hearing followed in early February 2016.

At the jurisdictional hearing, mother recounted nine past incidents of domestic violence at the hands of appellant. The children were present in the home during all nine incidents, but awake during only two of them. Appellant had twice punched mother in the face as she held the infant Cesar. Josiah witnessed domestic violence and saw bruises on mother's body.

When mother and appellant had lived in Ohio, appellant had choked her while she was pregnant with their son Cesar. Appellant was drunk and high on marijuana during this incident. Appellant called police to report a heated argument but denied he

was violent. Mother filed a police report alleging appellant had choked her.

Mother later recanted her statement, resulting in a reduction in charges against appellant from domestic violence to disorderly conduct. Appellant was directed to attend an anger management program, which he completed. In a letter to DCFS in January 2016, mother wrote that she had lied when she recanted her statement. She explained that she had recanted out of fear that, without appellant, she would be unable to support her children.

Appellant consistently denied committing domestic violence against mother.

Mother testified that, on seven occasions, she and appellant used methamphetamine together in the bathroom while the children were asleep in another room. Appellant encouraged her drug use by "put[ting] the pipe toward[s] [her] mouth." Appellant denied using drugs with mother or coercing her to use drugs.

Mother claimed appellant used marijuana every day. Appellant disagreed, saying he only used it "once in a while" for anxiety. He said he was attempting to obtain a medical marijuana card. Mother agreed that appellant was never high on marijuana while in their children's presence, but stated he was present at home while under the influence. Appellant said he only used marijuana outside the home and was never under the influence in the presence of his children.

Before the hearing, both parents expressed their desire that the family stay together. By the time of the jurisdictional hearing, mother had moved back to Ohio for financial reasons. She testified she did not intend to return to California. Both parents testified they did not intend to resume their romantic

relationship. By the time of the jurisdictional hearing, appellant had tested negative for drugs twice. Mother denied having bipolar disorder or PTSD and that she had attempted suicide or ingested a large quantity of pills.

At the jurisdictional hearing, the juvenile court struck the allegations regarding the mother's PTSD, bipolar disorder and attempted suicide. The court found the remaining amended allegations true, and asserted jurisdiction over Josiah and Cesar under section 300, subdivisions (a) and (b)(1).

By the time of the dispositional hearing, appellant had tested negative for drugs six times. A DCFS investigator testified that appellant told her he had smoked marijuana after the detention hearing and would be "cleaning his system" so that he could pass a drug test. Appellant denied saying this.

Prior to the dispositional hearing, mother sent appellant a series of harassing text messages. Appellant did not respond to these messages. At the dispositional hearing in April 2016, he denied contacting the mother since February 2016.

At the dispositional hearing, the court ordered Josiah and Cesar removed from parental custody. Despite mother's statement that she did not plan to move back to California, her attorney requested relocation assistance to help her move to Los Angeles, which the court granted. The court required appellant to attend parenting classes, individual counseling, anger management and domestic violence programming, as well as to submit to random drug testing. This appeal followed.

DISCUSSION

I

Appellant does not challenge the juvenile court's finding that his children are subject to jurisdiction under section 300

subdivision (b)(1) due to his commission of domestic violence. He also does not challenge the court's jurisdictional findings based on mother's conduct. Nevertheless, appellant argues that his challenge to the jurisdictional findings is still justiciable. We agree.

"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.)

However, we have discretion to reach the merits of a challenge to a jurisdictional finding if the finding serves as the basis for dispositional orders also challenged on appeal. (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.) In this case, appellant challenges jurisdictional findings which form the basis for dispositional orders also challenged on appeal. For this reason, we exercise our discretion to review the challenged jurisdictional findings on the merits.

II

A. *Domestic Violence*

Appellant first argues the juvenile court erred as a matter of law in finding his children were subject to jurisdiction under section 300, subdivision (a). He argues the finding was improper because the children were not physically harmed by any domestic violence he committed against the mother. We disagree.

The proper interpretation of a statute and the application of the statute to undisputed facts are questions of law, which we review de novo. (*In re R.C.* (2011) 196 Cal.App.4th 741, 748.) Appellant argues that section 300, subdivision (a) does not apply in domestic violence cases where children are not intentionally physically harmed. It is undisputed that Josiah and Cesar were not physically harmed by appellant's domestic violence.

Dependency jurisdiction under section 300, subdivision (a) is appropriate in domestic violence cases where, "through exposure to a parent's domestic violence, a child suffers, or is at substantial risk of suffering, serious physical harm inflicted nonaccidentally by the parent." (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599 (*Giovanni F.*).) This includes cases in which children have not suffered past physical injury. In *Giovanni F.*, a father choked and punched his children's mother while he was driving a car in which they were passengers. (*Id.* at p. 597.) Although the children were not harmed, they were placed at substantial risk of harm by this behavior, as the father was driving distractedly with only one hand on the steering wheel. (*Id.* at pp. 600-601; *see also In re M.M.* (2015) 240 Cal.App.4th 703, 719-721 (*M.M.*) [finding jurisdiction under § 300, subd. (a) proper even though child was not actually harmed by domestic violence].) Appellant is incorrect in his assertion that lack of past injury to a child renders subdivision (a) inapplicable. The juvenile court did not err in finding otherwise.

To the extent that appellant more generally challenges the jurisdictional finding under section 300, subdivision (a) as the basis for the court's dispositional orders, we review his challenge for substantial evidence, drawing all reasonable inferences in favor of the court's findings without reweighing credibility or

resolving evidentiary conflicts. (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

We find substantial evidence to support the court's jurisdictional finding under section 300, subdivision (a). There was evidence that appellant choked mother while she was pregnant with Cesar and that he punched her on two occasions while she held Cesar. Although Cesar was not actually injured, he was placed at substantial risk of injury by these actions. (See *M.M.*, *supra*, 240 Cal.App.4th at pp. 719-721 [finding a risk of substantial physical harm where father was holding child while the parents physically fought].) Appellant could have caused miscarriage or other fetal harm by choking his pregnant girlfriend. (*Id.* at p. 720 [finding jurisdiction under § 300, subd. (a) where, among other things, father had beaten mother while she was pregnant with the child].) Cesar was at risk of being struck when appellant swung at mother, which could have caused mother to drop him. This conduct cannot be described as accidental. (*In re Giovanni F.*, *supra*, 184 Cal.App.4th at p. 600 ["Domestic violence is nonaccidental"].) Appellant was fortunate that Cesar was uninjured by his commission of this physical violence. The court correctly found that Cesar was subject to jurisdiction under section 300, subdivision (a).

Josiah also was placed at substantial risk of physical harm by appellant's domestic violence. In *M.M.,* the court found that a child was placed at substantial risk of physical harm since the child was at the parent's feet as the parents physically fought and objects were thrown. (*M.M.*, *supra*, 240 Cal.App.4th at p. 720.) Although it is unclear whether Josiah was as close to the parents' physical altercations as the child in *M.M.*, he was in the zone of danger. The evidence indicated he was in the same room where

violent altercations took place. Courts analyzing domestic violence-based dependency cases under subdivision (b)(1) have stressed the physical danger to which children are exposed when parents fight in the home. (See *In re Heather A.* (1996) 52 Cal.App.4th 183, 194 [finding that "children were put in a position of physical danger from this [domestic] violence, since, for example, they could wander into the room where it was occurring and be accidentally hit by a thrown object, by a fist, arm, foot or leg, or by [the mother] falling against them"], disapproved on other grounds in *In re R.T.* (2017) 3 Cal.5th 622, 628; accord *In re E.B.* (2010) 184 Cal.App.4th 568, 576.)

Appellant argues this analysis fails to distinguish between subdivisions (a) and (b)(1), rendering subdivision (b)(1) "unnecessary and redundant." But there is no reason appellant's conduct cannot be described under both subdivisions. The juvenile court found appellant nonaccidentally committed domestic violence in Josiah's presence. These actions constituted both the creation of a substantial risk of physical harm under subdivision (a) and neglect under subdivision (b)(1). We conclude that the court's finding, that Josiah and Cesar are children described by subdivision (a), was supported by substantial evidence.

Jurisdiction over both Josiah and Cesar also was proper under subdivision (b)(1), as "domestic violence in the same household where children are living *is* neglect." (*In re Heather A.*, *supra*, 52 Cal.App.4th at p. 194 [affirming jurisdictional finding under subd. (b)(1) where father repeatedly abused mother, once in the presence of the children]; see also *In re T.V.* (2013) 217 Cal.App.4th 126, 134-135 [finding a child who witnessed domestic violence between parents subject to jurisdiction under subd.

(b)(1)].) In this case, there was evidence that appellant committed domestic violence in the home at least nine times, including occasions when both children were present in the room. Cesar was not only present but in the middle of the physical altercation between the parents. Josiah witnessed his mother being abused and saw her bruises. Appellant's commission of domestic violence in the children's presence constituted the kind of parental neglect that subdivision (b)(1) seeks to deter.

The juvenile court's jurisdictional findings with respect to appellant's domestic violence subdivisions (a) and (b)(1) are affirmed.

B. *Drug Use*

Appellant next argues the juvenile court's jurisdictional finding under subdivision (b)(1) based upon his drug use is not supported by substantial evidence. We disagree.

Dependency jurisdiction can be properly found over a child who has suffered, or who is at substantial risk of suffering, serious physical harm due to "the inability of the parent or guardian to provide regular care for the child due to the parent's . . . substance abuse." (subd. (b)(1).) Courts have applied different tests to determine whether a parent is a "substance abuser" under subdivision (b)(1). (Compare *Drake M.*, *supra*, 211 Cal.App.4th at pp. 766-767 [utilizing factors enumerated in the Am. Psychiatric Assn. Diagnostic & Statistical Manual of Mental Disorders (4th ed. 2000) (DSM-IV-TR) to analyze parental substance use] with *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1218-1220 [finding that even parents who do not meet the DSM-IV-TR test may be classified as substance abusers and that "persistent and illegal use" of drugs can suffice].)

One test utilizes the factors employed by psychologists to diagnose substance abuse contained in the DSM-IV-TR, which include: "'(1) recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g.,. . . neglect of children or household) . . . 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).'" (*Drake M.*, *supra*, 211 Cal.App.4th at p. 766.)

Under this definition, the juvenile court could properly find that appellant was a substance abuser at the time of the jurisdictional hearing. There was evidence of "recurrent substance use," with appellant using marijuana daily and methamphetamine on at least seven occasions.[3] This recurrent use had "result[ed] in a failure to fulfill major role obligations at . . . home" including "neglect of children." Appellant was under the influence of marijuana when he committed domestic violence against his pregnant girlfriend. This was neglectful conduct under subdivision (b)(1). Appellant also encouraged mother to use methamphetamine with him while their children slept in another room. In doing so, he created a situation in which both parents

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[3] The DCFS petition does not refer to appellant's methamphetamine use specifically, as it does to the mother's methamphetamine use. The petition does refer to appellant's "history of illicit drug use," which we understand to include past use of methamphetamine. We construe the juvenile court's order in the manner most supportive of its validity. (*Southern Pacific Pipe Lines, Inc. v. State Bd. of Equalization* (1993) 14 Cal.App.4th 42, 57 [courts "'should interpret judgments in such a manner as to make them valid"'].)

were under the influence while the children were in their care. Also, appellant exhibited "continued substance use despite having persistent . . . interpersonal problems . . . exacerbated by the effects of the substance," such as "arguments" and "physical fights" with mother.

Even aside from the DSM-IV-TR criteria, appellant could qualify as a substance abuser for purposes of the statute if "persistent and illegal" drug use prevented him from providing regular care to his children. (*In re Christopher R.*, *supra*, 225 Cal.App.4th at p. 1220.) Here, we have decided, the evidence indicated appellant's drug use was persistent. His use of methamphetamine was illegal. Although he claimed he was trying to obtain a medical marijuana card, he had not obtained one, making his marijuana use also illegal. (*Ibid.* [finding that purported failed efforts to obtain a medical marijuana card could not remedy parent's illegal use of marijuana].) Under *Christopher R.*, this evidence is sufficient to classify appellant as a "substance abuser."

Where children are of "tender years," requiring constant supervision, a finding of substance abuse is prima facie evidence of a parent's inability to provide regular care under subdivision (b)(1). (*Drake M.*, *supra*, 211 Cal.App.4th at p. 767.) Here, both children were under the age of six at the time of the jurisdictional hearing. (*Christopher R.*, *supra*, 225 Cal.App.4th at p. 1219 [finding that children age six or younger are children of "'tender years'"].) In addition, Josiah presumably requires greater care and supervision than an average young child due to his severe autism.

There also is evidence to support the juvenile court's finding that appellant's drug use rendered him an incapable parent. His

methamphetamine use impaired his judgment while the children were in his care on seven occasions, rendering him incapable of providing regular care to the children. (*In re A.F.* (2016) 3 Cal.App.5th 283, 291-292 [substance abuse which impairs a parent's judgment while caring for children satisfies subd. (b)(1)].)

Although appellant had tested clean for drugs twice in the two weeks preceding the jurisdictional hearing, the court reasonably concluded that this short period of sobriety was insufficient to show reform. (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 531, fn. 9 ["[O]ne must be 'clean' for a much longer period than 120 days to show real reform"].)

The juvenile court properly concluded that appellant was unable to provide regular care and supervision under subdivision (b)(1) because he was a substance abuser. Its jurisdictional finding with respect to appellant's drug use is affirmed.

C. *Failure to Protect from Mother's Mental Health Issues*

Appellant argues the juvenile court's jurisdictional finding under subdivision (b)(1) based upon his failure to protect his children from their mother's mental health issues was not supported by substantial evidence. We disagree.

Jurisdiction is proper under subdivision (b)(1) when a child suffers, or is at substantial risk of suffering, serious physical harm due to the "inability of his or her parent or guardian to adequately supervise or protect the child." Here, the DCFS petition alleged, and the juvenile court found, appellant "knew of the mother's mental and emotional problems and failed to protect the child, in that [appellant] allowed the mother to reside in the child's home and have unlimited access to the child."[4]

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[4] Although this language refers only to a failure to protect the child Cesar, other language in the same allegation (b-1) refers

Appellant argues that there is no evidence he knew of mother's mental health condition until her involuntary hospitalization. This is incorrect. Appellant stated that in the four days leading up to her hospitalization, mother had been screaming, "hallucinating" that he was cheating on her, and acting depressed. He stated her behavior in the month before her hospitalization was "erratic" and that police had been called to the house due to her screaming "constantly." He believed she had bipolar disorder, depression and PTSD. This evidence is sufficient to establish appellant knew mother had mental health issues.

Appellant regularly left the children in mother's care when he went to work. He also did so when he left to smoke marijuana with his friends. The court reasonably inferred that this allowed mother unfettered access to the children when she was suffering from mental health issues, creating a substantial risk of physical harm.

Appellant next argues that any substantial risk to the children from his failure to protect them had ceased to exist by the time of the jurisdictional hearing because he and mother ended their romantic relationship and mother had moved to Ohio. Substantial risk of harm to a child under section 300 must be judged as of the time of the dependency hearing. (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 546.)

Before the jurisdictional hearing, both parents expressed a desire that the family stay together. By the time of the hearing, mother and appellant had ended their romantic relationship and mother had moved to Ohio. Despite these developments, it

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to both children. We understand the allegation to refer to both children. (See *Southern Pacific Pipe Lines, Inc. v. State Bd. of Equalization*, *supra*, 14 Cal.App.4th at p. 57.)

remained a reasonable possibility that the parents would again change their minds. It remained reasonably foreseeable that appellant and mother would resume their romantic relationship and that mother would move back to Los Angeles to be near her children. Mother had moved to Ohio solely for financial reasons and she never indicated that she was abandoning her children. It also remained a reasonable possibility that the parents would eventually share custody of the children. If this occurred, appellant could again fail to protect the children by leaving them in mother's care while she exhibited mental health symptoms. Appellant was prevented from continuing to expose his children to mother's mental health problems only because of intervention by DCFS and the dependency court.

The juvenile court's jurisdictional finding based on appellant's failure to protect his children from their mother's mental health issues was supported by substantial evidence.

III.

A. *Removal from Custody*

Appellant argues the juvenile court's order removing Josiah and Cesar from his custody was not supported by substantial evidence. We disagree.

"In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent." (§ 361, subd. (a)(1).) A dispositional order regarding child custody will not be disturbed unless it is arbitrary, capricious, or patently absurd. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319.) A parent need not be dangerous and a child need not have been actually harmed before removal is appropriate. (*In re A.S.* (2011) 202 Cal.App.4th

237, 247.) "[J]urisdictional findings are prima facie evidence that the child cannot safely remain in the home." (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.)

1. *Risk of Harm*

A child should not be removed from parental custody "unless the juvenile court finds [by] clear and convincing evidence . . . [¶] . . . [t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home." (§ 361, subd. (c).)

In this case, the juvenile court's dispositional order was based on findings, supported by substantial evidence, that appellant repeatedly committed domestic violence in the home, failed to protect the children from mother's mental health issues and used drugs in a manner that prevented him from providing regular care to his children.

Appellant argues parental separation has eliminated any future danger to his children from domestic violence. He and the mother no longer have a romantic relationship, the mother has moved to Ohio and both parents have no intention of resuming their relationship. Parental separation can be relevant where it eliminates the danger to children from domestic violence. (*In re Jonathan B.* (2015) 235 Cal.App.4th 115, 121 [reviewing a jurisdictional finding].)

In this case, parental separation is not dispositive because appellant may date other women and commit domestic violence against them, exposing the children to further harm. (*In re Heather A.*, *supra*, 52 Cal.App.4th at p. 196 [upholding dispositional order based on concern father may abuse other women in children's presence, including potential future "dates

and acquaintances"].) In fact, it is appropriate to assume that those who commit domestic violence will continue to do so. (*People v. Johnson* (2000) 77 Cal.App.4th 410, 419, quoting Assem. Com. on Public Safety, Rep. on Sen. Bill No. 1876 (1995-1996 Reg. Sess.) (June 25, 1996) pp. 3-4 [evidence of prior acts of domestic violence are admissible under Evid. Code, § 1109, "'[t]he propensity inference is particularly appropriate in the area of domestic violence because on-going violence and abuse is the norm in domestic violence cases'"].)

At the time of the dispositional hearing, domestic violence-related case issues remained unresolved. Appellant had not recognized or showed remorse for his participation in domestic violence. Appellant's argument that the children were no longer exposed to domestic violence because of parental separation does not succeed.

It also was reasonable to infer that appellant would continue to use drugs in the home, as he had in the past, even when it would prevent him from caring for the children. Although at the time of the dispositional hearing appellant had tested clean for drugs six times over a period of three months, the court could reasonably conclude this period of sobriety was insufficient to demonstrate reform. (See *In re Kimberly F.*, *supra*, 56 Cal.App.4th at p. 531, fn. 9.) There was evidence that appellant tried to "clean[] his system" so that he could pass one of these drug tests. Based upon this, the court was entitled to mistrust the drug test evidence and conclude that more tests were necessary to establish appellant's sobriety.

There was also a risk that appellant would again fail to protect the children from the mother's mental health problems. If appellant and mother reunited or shared custody, he would have

the opportunity to again place them at risk by leaving them in the care of a mentally unstable custodian.

2. *Less Restrictive Means*

A child may only be removed from parental custody if "there are no reasonable means by which the minor's physical health can be protected without removing the minor." (§ 361, subd. (c)(1).) Although the court must consider alternatives to removal, it has broad discretion in making a dispositional order. (*In re Cole C.*, *supra*, 174 Cal.App.4th at p. 918.)

As shown by the evidence we have summarized, Josiah and Cesar would be at risk in father's custody. The court reasonably concluded that a longer period of sobriety, individual counseling, and domestic violence and anger management classes were necessary to resolve appellant's case issues before return of the children could become a safe option. This conclusion was within the juvenile court's discretion.

B. *Parenting Classes and Random Drug Testing*

Appellant argues the juvenile court abused its discretion by ordering that he attend parenting classes and submit to random drug testing. We disagree.

Under section 362, subdivision (d) "[t]he juvenile court may direct any reasonable orders to the parents or guardians of [any] child who is the subject of any proceedings under this chapter as the court deems necessary and proper." The court's discretion in fashioning appropriate orders is broad. (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311.)

In this case, there was evidence appellant engaged in parental neglect by committing domestic violence in front of his children, leaving them in the care of a person with mental health problems, and failing to provide regular care due to substance

abuse. Because of these actions, it is reasonable to require appellant to attend parenting classes.

There also is evidence that appellant abused marijuana and methamphetamine. He argues that *In re Sergio C.* (1999) 70 Cal.App.4th 957 mandates reversal of the random drug testing order. But in that case the only evidence of the parent's drug use was an unsworn statement. (*Id.* at p. 960) In this case, the evidence consisted of sworn statements by the mother and a DCFS investigator. Based on this evidence, it was reasonable for the court to order random drug testing in order to ensure that appellant no longer abuses drugs.

Because the juvenile court's orders were reasonably necessary to eliminate the conditions leading to the children's detention, we decline to reverse them.

DISPOSITION

The orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

EPSTEIN, P. J.

We concur:

WILLHITE, J. COLLINS, J.