Filed 5/15/18 In re B.H. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

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

In re B.H., a Person Coming Under the Juvenile Court Law.	B285600
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. GARY H. et al., Defendants and Appellants.	(Los Angeles County Super. Ct. No. DK22927)

APPEAL from orders of the Superior Court of Los Angeles County. Joshua D. Wayser, Judge. Affirmed.

Richard L. Knight, under appointment by the Court of Appeal, for Defendant and Appellant Gary H.

Christine E. Johnson, under appointment by the Court of Appeal, for Defendant and Appellant Claire F.

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

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Gary H. (father) appeals from the jurisdictional findings and orders entered on July 18, 2017. Father does not contest the dispositional orders. Father contends the juvenile court erred in finding he was an offending parent. His infant son B.H. was born suffering from withdrawal symptoms from opiates. Claire F. (mother) joins in father's arguments.

We affirm.

BACKGROUND

On July 18, 2017, the court sustained the allegations of the first amended petition, finding that B.H. was born with withdrawal symptoms and a positive toxicology screen for opiates due to mother's use of illicit drugs; that mother had a history of illicit drug use and currently abuses heroin, methamphetamine, marijuana and alcohol, including during her pregnancy; that father knew of mother's drug use and failed to protect B.H.; and that mother has a history of mental and emotional problems. (The parties refer in their briefs to the court's finding in the original petition, which was dismissed, that father "should have known" of mother's drug use.)

The court ordered B.H. removed from mother's custody and placed with father under the supervision of the Los Angeles County Department of Children and Family Services (Department).

The adjudication hearing was contested. The court admitted the detention and jurisdiction/disposition reports of the Department, and two last-minute reports, and heard father's testimony. In light of the limited nature of our review, we briefly summarize a few additional facts.

Mother and father had been together for 16 years and lived together throughout mother's pregnancy. The jurisdiction and disposition report included these statements by father to the social worker. Mother disclosed her drug use to him about eight to 10 years ago. She was breaking down and told him she needed help

for her heroin use. Father has sent her to in-patient rehabilitation centers to detox and spent a lot of money trying to help mother maintain a drug free lifestyle.

When asked about the petition allegation that he failed to protect B.H., father said, "How am I supposed to force her to stop? I have been supportive and sent her to get help. I don't own her, she is not a pet. I cannot force her even if I was married to her, I could not force her to stop using drugs." He denied being aware that mother used alcohol and marijuana while pregnant and claimed he had never heard of methamphetamine. He admitted that before the pregnancy, once he "caught" mother injecting heroin in the kitchen. He said he really cannot recognize the effects or symptoms of heroin or methamphetamine use.

Mother had a traumatic childhood and was diagnosed with anxiety and depression several years before B.H.'s birth. Mother told the social worker she had struggled with heroin addiction for about 13 years. Over the years, she would remain clean for about four months and relapse once or twice and then be clean again for several months and then relapse again. Mother abused heroin until July 2016 when she entered treatment. She was in treatment from July 2016 to December 2016. Somewhat inconsistently, the Department reported that mother said she last completed an in-patient drug rehabilitation program in September 2016. B.H. was born in April 2017, either four or six months after mother finished her last treatment. She relapsed shortly before B.H. was born.

Mother told the social worker, when asked if father knew she had relapsed, "He can't recognize when I have had a relapse." When asked how it was possible for him not to notice she was using drugs, mother replied "He does not notice or he is [in] denial."

In assessing the risk to B.H.'s safety in the home, the Department stated "The father needs to demonstrate an ability to

protect [the] child and make an appropriate safety plan in case the mother has a relapse. The father has to gain insight regarding the severity of mother's substance abuse and mental health so that he can identify if mother's mental health is decompensating or she has had a relapse."

At the jurisdictional hearing, father testified at some length to his efforts to educate himself about drug abuse, including five years of nightly attendance at Al Anon meetings, and all he had done to provide and pay for counseling and treatment for mother.

DISCUSSION

Father's sole argument on appeal is that no substantial evidence supports the finding he knew or should have known of mother's illicit drug use and failed to protect B.H. As a general rule, "a single jurisdictional finding supported by substantial evidence is sufficient to support jurisdiction and render moot a challenge to the other findings." (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.) Such is the case here. Since "we cannot render any relief to Father that would have a practical, tangible impact on his position in the dependency proceeding" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492), we therefore decline to consider father's argument.

The purpose of dependency law is to protect children. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1491.) "The court asserts jurisdiction with respect to a child when one of the statutory prerequisites listed in [Welfare and Institutions Code] section 300 has been demonstrated." (*Ibid.*) When a single finding is supported by the evidence, the court may decline to consider other jurisdictional findings. (*Id.* at p. 1492.) Moreover, a "jurisdictional finding involving one parent is ' "good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a

dependent." ' [Citation.]" (*Ibid.*; see also *In re Briana V.* (2015) 236 Cal.App.4th 297, 308.)

Father makes no challenge to the jurisdictional findings against mother. In addition, father makes no challenge to the dispositional orders. As noted above, for these reasons alone we may decline to consider the jurisdictional finding that father was an offending parent. (*In re Briana V., supra*, 236 Cal.App.4th at p. 308.) "Under these circumstances, the issues Father's appeal raises are ' "abstract or academic questions of law" ' [citation], since we cannot render any relief to Father that would have a practical, tangible impact on his position in the dependency proceeding. Even if we found no adequate evidentiary support for the juvenile court's findings with respect to his conduct, we would not reverse the court's jurisdictional and dispositional orders nor vacate the court's assertion of personal jurisdiction over his parental rights." (*In re I.A., supra*, 201 Cal.App.4th at p. 1492; see also *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451 ["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."].)

Father contends we should nonetheless review the jurisdictional finding that he knew or should have known and protected B.H. from mother's drug abuse, because as an offending parent, the Department could file another petition pursuant to Welfare and Institutions Code section 342 or 387 and ask for removal of B.H. from father's care. That may be true, but we agree with the Department that is pure speculation. The Department also correctly argues the court could not remove B.H. from father's care unless the court found by clear and convincing evidence that a

change in circumstances required removal for the safety of the child.

In any event, father's contentions are not persuasive. The facts summarized above are substantial evidence that father knew or should have known it was highly likely that mother would relapse during the pregnancy, and therefore he should have taken steps to protect his unborn child. Father demonstrated a desire to educate himself on how to deal with relatives who have substance abuse issues by attending Al Anon daily for five years. Nonetheless, the court could reasonably find on this record that, despite his exposure to substance abuse counseling, father turned a blind eye to mother's condition during her pregnancy.

DISPOSITION

The jurisdictional findings and orders are affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

ROGAN, J.*

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