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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re COLLIN G., a Person Coming Under
the Juvenile Court Law.

B259903
(Los Angeles County
Super. Ct. No. DK06373)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

MARC G.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

Julie F. Bradshaw, Judge. Affirmed.

John L. Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

Marc G. (Father) appeals from the dependency court's jurisdictional and dispositional orders. We find that the jurisdictional order was supported by substantial evidence, and that Father failed to properly object to the dependency court's dispositional orders, thereby forfeiting his challenge on appeal. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Department of Children and Family Services (DCFS) received a referral on July 3, 2014, alleging that G.G. (Mother) was an alcoholic, and had driven while under the influence of alcohol with her 11-year-old son, Collin. Additionally, when Collin confronted Mother about an empty alcohol bottle in her purse, Mother yelled at him and squeezed his arms, digging in her nails. Collin already had scars from Mother previously causing similar harm. Mother and Collin were living with the maternal grandparents. Father lived in Atlanta, Georgia.

A social worker interviewed the maternal grandmother, who denied ever witnessing Mother drinking in the house or in front of Collin. The grandmother acknowledged that Mother's behavior becomes belligerent and erratic when drinking, and that Collin had found empty bottles in Mother's purse and room.

The social worker also interviewed Collin. No recent marks or bruises were observed on his body. Collin stated he was concerned about Mother's behavior when drinking—that she became aggressive and yelled at him and his grandparents. He said he found numerous alcohol bottles in Mother's room and purse. Collin reported that earlier that day, when Mother picked him up from summer camp, he noticed she had a brown paper bag. Collin tried to grab the bag, but Mother dug her nails into his arm, causing him to let go. He saw a half-empty bottle of clear liquid in the bag. Collin denied that Mother ever hit him or that there was domestic violence in the home.

In a subsequent interview at the maternal grandparents' house, Collin appeared well cared for, clean, and healthy. He presented as older than his 11 years of age, and was articulate and polite. He believed that Mother drank every day, and even though the grandparents did not keep alcohol in the house, Mother found a way to get it. Collin said he often found alcohol in Mother's belongings or in her car. He said that when Mother

was drinking, she became “more aggressive and looks for a fight,” and grabbed him with her nails. He was certain that Mother had been driving with him while under the influence of alcohol.

Collin said that he used to live with Father but did not see him often anymore. He said that Father spanked him and hit him with his hand and a belt, as well as other items he could not identify, and that it would leave marks and bruises. Collin reported that Father used to drink alcohol frequently but stopped approximately two years ago.

After the social worker met with Collin, Mother came into the room. She was dressed in pajamas and appeared somewhat disheveled. It was difficult to determine whether she was under the influence of alcohol. Mother agreed to an interview and stated that from 2011 to 2013 she lived in Oakland and shared custody of Collin with Father, until Father moved from Oakland to Atlanta in November 2013. Mother reported that several child protective services investigations were initiated in Oakland regarding Father and that he was an alcoholic. Mother provided the social worker with an article about Father; it stated he was a prosecutor who faced losing his law license due to driving while under the influence (Veh. Code, § 23152; DUI) convictions. Mother stated that Father had four DUI convictions and was responsible for a car accident that killed his cousin. She said that she was granted sole legal and physical custody of Collin in June 2014. Mother further reported that Father abused her from the time they started dating in 2003, through their marriage, and until they were divorced in 2007.

Mother denied that she drank alcohol, claiming that she last drank three years before and had been sober since spending 16 months in a treatment center. She acknowledged having a DUI conviction in approximately 2008. She denied ever using physical discipline with Collin.

The maternal grandfather was interviewed. He stated that Mother had struggled with alcohol since approximately 2006, and exhibited “incredible behavior, violent and bizarre.” She stole alcohol from the next door neighbors and then the neighbors across the street. He said that his wife incurred “a bunch of debt” to put Mother in a 90-day alcohol rehabilitation program, but when she got out she exhibited the same behavior.

Mother eventually went to another inpatient program and was sober for a while, but began drinking again. At the time of the July 2014 interview, Mother was “just about as bad as she was when she went to rehab the first time.” The grandparents had been telling Collin not to look through Mother’s belongings to find alcohol bottles because they were afraid Mother would be violent with him. The grandfather reported that approximately one month before, Collin was riding in the car with Mother when he called the grandparents, sounding frantic and stating that he was scared because Mother was drinking and driving with him in the car.

The social worker also spoke with the maternal grandmother, who began crying, and stated that Mother “is deteriorating so much. I have given up. I am losing her.” She said that Mother had been using alcohol for many years and could be “extremely aggressive and violent.” When Collin was about seven or eight years old, Mother broke a picture frame and chased Collin around the house with a shard of broken glass. Mother later went to a treatment program, but now, “She is back to just as bad as she was before rehab.” The maternal grandmother said Mother had been drinking every day and driving.

On July 11, 2014, the social worker spoke with Father on the telephone. He said that Mother had obtained sole custody of Collin by lying. Father stated, “It’s not the best time for Collin to be with me” because he was working long hours building a new business. However, Father stated that if Collin was removed from Mother, Father wanted custody of him. Father also said that, if needed, Collin could live with the paternal grandmother. Father did not believe that Collin should be placed with the maternal grandparents because they enabled Mother’s drinking and failed to keep Father informed regarding Collin’s well-being.

Father stated that he tried to avoid contact with Mother because she had alcohol problems and he had his “own struggles” with alcohol and did not “want to be around that.” Father let the social worker listen to a voicemail left by Collin in June 2014, in which Collin asked Father for “the soonest flight to Atlanta” because Mother had been drinking. Father acknowledged that he previously spanked Collin, but said he no longer would do so because Collin is “a grown man.” Father stated that his own alcohol

problems began in 2007, due to stress from the divorce, and that he “picked up some DUI’s.” He claimed that he completed a 31-day rehabilitation program and went through a lawyer’s assistance program. He said that he stopped drinking completely in November 2013, largely due to the fact that he had a new girlfriend who did not drink at all. Father denied any domestic violence between himself and Mother. He acknowledged an adverse State Bar of California decision pertaining to him, but said the decision was “pending a review” and included “significant factual errors and inaccuracies.”

A July 2014 detention report noted a history of seven child welfare referrals dating back to 2003, the year of Collin’s birth, regarding alleged physical and emotional abuse by Father. The referrals were deemed unfounded, inconclusive, or “evaluated out.” The report also stated that Mother had been convicted of DUI and burglary, while Father was convicted several times for DUI, most recently in December 2011.

The State Bar Decision

The detention report attached the February 13, 2014 State Bar Court decision. The decision noted that Father had three misdemeanor DUI convictions and an alcohol-related, misdemeanor reckless driving (Veh. Code, § 23103) conviction. According to the decision, Father worked as a deputy district attorney for four years in San Bernardino, and then for approximately six years in San Francisco. He had prosecuted many DUI cases, so was well aware of the harm that could be caused by a person driving under the influence of alcohol.

Father acknowledged he had a drinking habit, but said it was “situational” due to stress caused by his 2007 divorce and the later deaths of his grandparents. Father asserted he was not an alcoholic. He had attended outpatient treatment. He had twice entered into a plan with the Lawyer Assistance Program but had failed to comply with its terms, missing Alcoholics Anonymous meetings and alcohol tests.

The decision recounted Father’s various convictions. In 1999, Father crashed into the back of a disabled bus while driving at night. Father’s cousin, who was a passenger in the car, died from injuries sustained in the accident. Two hours after the crash, Father’s blood alcohol content was measured at .06 percent. Father pled no contest to

driving recklessly with alcohol in system (Veh. Code, § 23103) and was convicted of a misdemeanor. At the time of the 2014 decision, Father denied that alcohol consumption played any role in the fatal crash.

In December 2007, Father was pulled over while driving and found to have a blood alcohol content of .18 percent. He was convicted of driving while under the influence, sentenced to three years' probation, and ordered not to drive if he had any measurable alcohol in his blood.

In December 2009, while still on probation, Father was again pulled over while driving. His blood alcohol content was .15 percent. He was convicted of driving under the influence, given probation of three years with 15 days in the county jail, and required to attend an 18-month alcohol treatment program.

In December 2011, Father was found passed out in a vehicle stopped in the middle of an intersection, with the engine still running. The vehicle was shifted into drive, and Father's foot was on the brake. When roused by a police officer, Father started to get out of the vehicle and it began to roll forward. He got back in and stopped it. Father was taken to a police station and found to have a .24 percent blood alcohol content. He was again convicted of driving while under the influence. He was sentenced to 180 days home detention, placed on probation for five years, and prohibited from consuming any alcohol during his probation period.

The State Bar Court recommended that Father "be actually suspended from the practice of law for two years and remain suspended until he satisfactorily proves . . . his rehabilitation" Father filed a motion for reconsideration, arguing that facts stated in the decision (particularly those involving the 1999 accident) were incorrect, and that the court failed to adequately consider the role that stress and depression played in Father's drinking. The motion for reconsideration was denied.

Section 300 Petition¹

On July 16, 2014, DCFS filed a section 300 petition pursuant to subdivisions (a) and (b) alleging that Father and Mother had physically abused Collin and had histories of alcohol abuse. At the detention hearing, Collin was ordered detained and placed with the maternal grandparents.

Jurisdiction and Disposition

Collin was interviewed for a September 2014 jurisdiction/disposition report. He told the social worker that he had been talking to Father on the phone every week, but did not want to live with him. Collin again recounted how Mother drank heavily, but believed she recently had stopped drinking. When asked about the allegations of physical abuse by Father, Collin responded, “My dad hits me with a belt. He has hit me with a book, a newspaper, and a stick. The last time it happened, I was living in Oakland, because I haven’t really seen him” Collin said that the stick left marks, but they went away. He said he was no longer afraid of Father because Father did not hit him anymore. He previously had seen Father drink alcohol and stated that he was often drunk before he moved to Atlanta.

Mother, who at the time was living with friends, was also interviewed. She reported that Father had only seen Collin twice since November 2013.

Father was interviewed by telephone. He was living in a one-bedroom apartment in Georgia. He was no longer in a relationship. He denied ever physically abusing Collin. He said that he previously used corporal punishment by hitting Collin with a belt, but stopped because Collin was getting too big and it “obviously was not working.” Father claimed he no longer had an alcohol abuse issue. He said he last used alcohol in November 2013. Father stated that he tended to binge drink when life was stressful, and, in that respect, he was an alcoholic. But he had taken care of the problem and was not “doing stupid things anymore.” When told that Collin did not wish to live with him,

¹ Unless otherwise noted, all statutory references are to the Welfare and Institutions Code.

Father responded, “I talked to Collin and he said he wants to live in California. I’m tired of fighting. I have to move on with my life.”

DCFS expressed concern that Father’s minimal treatment (a 30-day outpatient program) was insufficient to address his extensive history of alcohol abuse, and that he continued to struggle in acknowledging his alcohol abuse issues. Father admitted drinking in November 2013. He wore an ankle bracelet to detect alcohol from December 2013 through May 2014, and that was likely the reason he did not drink during that time.

At the jurisdiction/disposition hearing in September 2014, Mother pled no contest to the section 300 petition, which was amended to strike allegations that Mother physically abused Collin. Father’s counsel asked the court to dismiss allegations pertaining to Father’s conduct, arguing that the events underlying the allegations were too remote in time to be probative. Father’s counsel also stated that Collin had extended visits with Father in Georgia around Christmas and Easter, and there were no indications of problems.

The dependency court sustained the section 300 allegations pertaining to Father, with slight modifications. It found that Father had a very serious alcohol problem and was still drinking recently, and further stated: “[U]ntil Father understands that a casual drink here and there is not sobriety, the court feels that the risk continues, coupled with the fact that the father has physically abused Collin. And Collin does not want to live with his father.”

The dependency court proceeded to disposition. Before it made its dispositional findings and orders, Father’s counsel asserted a blanket objection to “everything” related to disposition. The court then declared Collin a dependent of the court, removed him from the parents’ custody, and ordered him suitably placed. It ordered that Father complete a full alcohol program with weekly testing, a 12-step program, a parenting class, and individual counseling.

Father timely appealed.

DISCUSSION

I. Jurisdiction

Father contends that the dependency court's jurisdictional findings pertaining to him were not supported by substantial evidence. "The petitioner in a dependency proceeding must prove by a preponderance of the evidence that the child who is the subject of a petition comes under the juvenile court's jurisdiction." (*In re Amy M.* (1991) 232 Cal.App.3d 849, 859.) We review a challenge to the sufficiency of the evidence supporting jurisdictional findings by determining whether substantial evidence, uncontradicted or not, supports the findings. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) "In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.)

Father argues that substantial evidence did not support the section 300, subdivision (b) finding. Based on the sustained section 300 petition, however, several grounds justified jurisdiction. These included two sustained counts under subdivision (b) pertaining to Father, but also a sustained count under subdivision (a) alleging that Father committed physical abuse. The section 300 petition was also sustained with respect to one count under subdivision (b) pertaining to Mother. In a case such as this, "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. . . . [T]he 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.)

Here, Father does not challenge the jurisdictional finding relating to Mother, and does not present argument adequate to challenge the count against him under section 300, subdivision (a). We therefore find that imposition of jurisdiction was proper based on these counts, and have no reason to reverse the trial court's jurisdictional order.

Even if an adequate challenge were made, however, we would find jurisdiction proper. The record contained a raft of evidence that Father engaged in highly risky behavior directly related to his abuse of alcohol. In one incident, Father's cousin was killed when Father crashed his vehicle after consuming alcohol. Although the record contains no indication that anyone else was injured due to Father's driving while impaired, that fact can be ascribed at least partially to sheer good luck. Considering that, as recently as December 2011, Father fell asleep in a traffic intersection because he had a blood alcohol content of .24 percent and was too drunk to stay conscious, much less operate a vehicle, he was fortunate that he did not again severely injure another person or himself.

Furthermore, the record contains substantial evidence that Father physically abused Collin. In addition to hitting him with a belt, Collin testified that Father also hit him with a book, a newspaper, and a stick, and that the abuse left marks and bruising.

It is true that the allegations in the section 300 petition pertained to conduct occurring prior to initiation of the dependency proceedings. At the jurisdictional hearing, the dependency court determines whether conditions at that time subject the child to the defined risk of harm. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1394.) Nevertheless, "past conduct may be probative of current conditions." (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) If there is reason to believe that the improper conduct will continue, past conduct can be relevant in establishing a substantial risk of serious harm. (*Ibid.*)

Substantial evidence supported the conclusion that Father's improper conduct was likely to continue. The dependency court noted Father's difficulties in acknowledging his alcohol problem. Father experienced severe legal problems and his career was shattered by his drinking, but he refused to admit that his alcohol use was caused by anything more than situational life stressors. Furthermore, Father exhibited a lack of regard for prior court orders prohibiting him from drinking and driving, and it appears that Father violated the terms of his most recent DUI conviction by consuming alcohol in November 2013. Based on these facts, the dependency court could reasonably determine

that Father did not yet have his alcohol addiction under control and that Collin was at risk because of Father's alcohol abuse. Moreover, the recent lack of physical abuse could be explained by the fact that Collin had hardly seen Father since he moved to Georgia.

In light of these facts, the dependency court properly found jurisdiction. "The state, having substantial interests in preventing the consequences caused by a perceived danger is not helpless to act until that danger has matured into certainty. Reasonable apprehension stands as an accepted basis for the exercise of state power." (*In re Eric B.* (1987) 189 Cal.App.3d 996, 1003.)

II. Disposition

Father contends that the dependency court erred by ordering Collin removed from him because Collin was not residing with Father at the time. Section 361, subdivision (c) states, "A dependent child shall not be taken from the physical custody of his or her parents . . . with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of" defined harm. Father also contends that even if removal were available, it was not supported by substantial evidence.

Father's challenge to the dispositional orders was forfeited. In *In re E.A.* (2012) 209 Cal.App.4th 787, after the court made its dispositional orders, the father objected as to each individual order, without stating grounds for the objections. Noting that "[g]eneral objections are insufficient to preserve issues for review" and "[t]he objection must state the ground or grounds upon which the objection is based," the appellate court found the father's challenge to an order denying visitation forfeited. (*Id.* at pp. 790-791.) It stated, "No one is served by purported 'objections' of the kind made here. Primarily, the court is not advised of the reasons that the party making the 'objection' has for thinking that the order made, or the evidence presented, is erroneous or inadmissible. If the order was in fact erroneous, and the court is persuaded by the reason advanced by the objecting party, the court has the opportunity to correct the error. The unfairness to the trial court and the opposing side if appellate counsel is permitted to invent the grounds

for the objection is manifest. Thus, without a reason or reasons stated, i.e., without *grounds* for the objection, an ‘objection’ is an exercise in futility.” (*Id.* at p. 790.)

This holding applies equally well here. In fact, in this matter, Father’s counsel objected to the dispositional orders *before* they were made, stating “And as for dispo, we’re objecting to everything.” This preemptive objection gave the dependency court no clue of what the purported errors in the dispositional orders were—or whether Father’s counsel actually believed there were errors, since the objection was merely made as a matter of course. And just as in *In re E.A.*, the generic objection gave the court no opportunity to correct any possible errors, while giving Father an unfair opportunity to invent grounds for appeal.

Father’s argument that Collin was improperly “removed” from his custody, since Collin did not reside with Father at the time of the proceedings, was just the sort of issue that could have been specifically identified by objection and easily corrected by the dependency court. If the problem were identified, the court could have conducted a functionally equivalent analysis under section 361.2, subdivision (a), which provides that, if a noncustodial parent requests custody, “the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.” Indeed, the record is unclear on whether Father actually was requesting custody at the time of the dispositional hearing, which is an issue that could have been resolved at the hearing if a specific objection was raised. In any event, even if Father requested custody, we cannot find the dependency court’s order “removing” Collin from Father, instead of denying placement with him under section 361.2, constitutes reversible error. By failing to object, Father forfeited the issue on appeal.²

² Even if Father had preserved the issue for appeal, reversal would not be warranted. Father’s contention that a finding under section 361, subdivision (c) was more prejudicial to his interests than a finding under section 361.2, subdivision (a) is incorrect. A denial of placement under section 361.2, subdivision (a) can ultimately lead to a termination of parental rights, just as removal can under section 361, subdivision (c). (*In re Marquis D.*

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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BOREN, P.J.

We concur:

ASHMANN-GERST, J.

CHAVEZ, J.

(1995) 38 Cal.App.4th 1813, 1829.) Further, the dependency court's decision not to place Collin with Father is supported by substantial evidence, based on the court's findings of Father's unresolved alcohol abuse and physical abuse of Collin, as well as Collin's statement that he did not wish to live with Father.