Filed 4/7/17 In re Aubrey A. 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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 AUBREY A., et al., Persons Coming Under the Juvenile Court Law.	B271386 (Los Angeles County Super. Ct. No. DK13109)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. LINDA A., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Annabelle Cortez, Judge. Affirmed.

Janette Freeman Cochran, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Linda A. appeals from the juvenile court's February 2016 finding that two of her granddaughters, for whom appellant is the legal guardian, eight–year–old Aubrey A., and four–year–old Kailey F., were subject to dependency jurisdiction under Welfare and Institutions Code section 300, subdivisions (a), (b) and (j).[1] She maintains there was insufficient evidence to support the juvenile court's jurisdictional findings notwithstanding a record that reflects, among other things, that the girls were physically abused, and that appellant permitted the girls' mother and other adults to use illicit drugs in the home, a residence that was neither safe nor sanitary.[2] We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Kristine A. (mother) is appellant's daughter and the mother of Aubrey and Kailey. Aubrey's presumed father is Byron J., and Kailey's is H.F.[3] Appellant became the children's legal guardian in April 2014 after the substantiation of a child welfare referral that alleged, among other things, that mother sold drugs out of appellant's home, that a

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1 Statutory references are to the Welfare and Institutions Code.

2 Appellant also appealed from the February 2016 disposition order removing the children from her care. Pursuant to this Court's January 6, 2017, order granting DCFS' Motion for Partial Dismissal of Appeal, that portion of the appeal has been dismissed as moot.

3 No parent is a party to this appeal.

maternal uncle living in the home was a known gang member and had been arrested for possession of ammunition in the home, and that the home stank and was littered with dog feces and trash.

As relevant here, the family came again to the attention of respondent Department of Children and Family Services (DCFS) in late August 2015, after a warrant to inspect, remove and abate code violations at appellant's home was served on behalf of the City of Duarte (city). Officials requested that DCFS assess the situation at appellant's home for potential risk to the children. A children's social worker (CSW) dispatched to investigate found the home in "deplorable condition." Appellant received a citation listing 30 statutory and/or municipal code violations for, among other things, broken windows, clutter and debris, drainage problems and sinks with stagnant water, potentially hazardous wiring, and an unpermitted, unventilated second kitchen. A "vicious" dog was removed from the home and marijuana was observed in plain sight on a walkway between the house and a detached garage unlawfully used as living quarters. The CSW learned that two weeks earlier, Arthur A., a maternal great uncle, was arrested at the home for possession of methamphetamine for sale during a probation compliance check. According to the police report, Arthur admitted being a chronic user and claimed the drugs were for his own use, not for sale.

Appellant, mother, Kailey, Arthur, Taylor A. (a maternal aunt) and Christopher A. (a maternal uncle) were present when the CSW arrived. Aubrey and Taylor's daughter, Aaliyah, were at school.

Arthur told the CSW that he slept in the garage. He said he used marijuana but refused to discuss his arrest earlier in August for methamphetamine sales or to submit to a drug test.

Appellant said she was the legal guardian for Kailey and Aubrey, but claimed she did not know why mother, who lived with her and the children, had lost custody of her daughters or whether she had a history of drug abuse or mental health problems.[4] Appellant said Arthur's arrest that month after methamphetamine and materials commonly used to package drugs for sale were found in her garage was a "D.A. reject." She denied knowing that marijuana had been seen on her walkway when the warrant was served, and denied knowing that anyone used drugs or committed child abuse in her home.

Mother told the CSW she was not ready to care for her daughters, and preferred that they remain in appellant's care for the time being. She denied using drugs, but said she had a medicinal marijuana card for anxiety. Mother denied any mental health problems, and denied that the children had been subjected to physical abuse or exposed to domestic violence.

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[4] After reviewing records, the CSW concluded that appellant's claim that she had not been aware of mother's drug abuse was not true. Past referrals reflected that appellant had told DCFS she was "desperate to [help] mother with her drug addiction," that mother's "drug of choice" was methamphetamine and that she went on "drug binges" for up to two weeks. Appellant said she had been the girls' primary caregiver. In February 2014, mother told DCFS she wanted appellant to be the girls' guardian while she addressed her drug and mental health issues.

Taylor told the CSW she did not know whose marijuana had been seen on the walkway. Her room–which contained the unpermitted kitchen and in which children's items were observed–smelled strongly of marijuana. The CSW asked Taylor about empty baggies in her bathroom that were within the children's reach and that appeared to have methamphetamine residue on them. Taylor said she sometimes used methamphetamine.

The children were taken to DCFS' offices where they each met individually with a CSW. Taylor's daughter, Aaliyah, then in pre-Kindergarten, told the CSW that she sleeps in appellant's room. When she is disciplined, Aaliyah gets a "woopin" from appellant over her clothing on her butt or on the back of her legs. Aaliyah knows what marijuana looks like and knows that to smoke it you have to make a "blunt[]," and "[r]oll it and lick it." Aaliyah saw people, including Taylor and Arthur, smoke marijuana in Taylor's room and said that was "how [she gets] sick." Appellant does not smoke marijuana. Aubrey overheard Aaliyah speaking to the CSW and yelled at her that "Grandma said you can't tell teachers that our parents smoke or else they are going to take us away!" Aaliyah acknowledged that what Aubrey said was true. Appellant told the girls that others were not trustworthy and they were not to tell their teachers their parents smoked "blunts."

During her interview, seven–year–old Aubrey told the CSW that "everyone" disciplines her. Discipline involves a time–out or a "woopin" with a switch, belt or sandal. Usually the children are hit over their

clothes, but sometimes they are hit with a switch while in the bathtub. Aubrey could not specify when or how often discipline occurred. Aubrey recognized a photograph shown to her of marijuana found at appellant's home as "weed." She said that Christopher, Arthur and Taylor smoke weed, but not appellant. The police have come to the house because "some people are on drugs." Aubrey knows this because she "know[s] everything." Mother smokes weed too, and when she does she tells Aubrey to leave the room. Appellant told Aubrey not tell teachers that adults in her home smoke "weed" because DCFS would take the children away. Aubrey said her father was in jail.

Three–year–old Kailey told the CSW she gets a "bad woopin" from appellant and mother when she gets in trouble. They use a "switch" or a shoe, and hit her on the butt and legs. Kailey's father contacted DCFS to inform the CSW that mother is a prostitute and uses methamphetamine. He described appellant as "shady," and said she was aware of mother's drug use.

On August 31, 2015, DCFS filed a section 300 petition alleging generally, that Aubrey and Kailey were at risk of harm as a result of physical abuse by mother and appellant, and because appellant permitted illicit drugs to be present and used in her home and in the girls' presence. The petition also alleged that the home was filthy and unsanitary, and contained dangerous conditions, and that the presence of such a hazardous environment placed the children at risk of serious physical harm and danger. (§ 300, subds. (a), (b) & (j).) Following a hearing on August 31, 2015, the children were detained from appellant,

who was given monitored visits, and placed temporarily in the care of a maternal great aunt, Carolyn A. (Carolyn).[5]

A CSW met with Aubrey and Kailey at Carolyn's home in late October 2015. Aubrey remembered telling another CSW that mother smoked weed, but now she both denied and admitted that mother smoked weed. She said Taylor and Christopher smoke weed, but appellant does not. She did not remember telling another CSW that she got a "whoopin" when she got in "big trouble" at appellant's home; she got a "time out." Both Aubrey and Kailey wanted to return to appellant's care. The CSW found Aubrey to be sad and uncomfortable. When asked if she remembered saying that appellant told the girls not to reveal what happened at home, Aubrey she did not "want to talk about all the bad parts." She did not "want to get in trouble by [her] grandma, and [didn't] want her to go away." She "want[ed] to go home because [she] miss[ed her] toys and . . . grandma's cooking." Similarly, when asked how she had been disciplined while living in appellant's home, Kailey became upset and told the CSW: "I don't want to say. If I tell you, Grandma will get mad, and I won't go home. I can't tell you because I won't go home."

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[5] In December 2015, DCFS filed a first amended petition additionally alleging that the girls' fathers had problems with substance and/or alcohol abuse, and allegations of severe physical abuse by Aubrey's father against her half–brother. On DCFS's recommendation, the court later dismissed all allegations as to the girls' fathers that had been included in the first amended petition.

Appellant denied having physically abused the children. With respect to incidents involving a "switch" to which all three girls had referred, appellant said there was one occasion when one child had hit another one with a switch. Appellant "hit them back with [the switch], but not hard, but so they would know how it feels." Appellant never saw mother hit the girls. She also never saw either of her adult daughters use marijuana or methamphetamine, and did not believe that mother or Taylor had a substance abuse problem. Appellant disputed the children's claims that she had instructed them not to tell teachers that "blunts" were smoked at home, "because that's not something [she] allow[ed] at [her] house." She acknowledged telling them not to reveal private family matters.

Taylor told DCFS that neither she nor appellant had ever "whooped" Aaliyah. Taylor smoked marijuana once or twice a month, but did not abuse the substance. She denied that she had ever used methamphetamine or that she had told a CSW she used the substance on occasion. On October 6, 2015, Taylor tested positive for methamphetamine. Taylor told DCFS she did not know how her five–year–old daughter knew so much about preparing and smoking blunts. She said that she and appellant "did [their] best to keep the kids away from the traffic." Taylor was a no show for a scheduled drug test on January 5, 2016. On January 7, 2016, she tested positive for amphetamine and methamphetamine.

In late October 2015, the city's Public Safety Manager (PSM) told DCFS appellant had two vicious dogs at her home. One had already

bitten someone and the city had informed the occupants that it would be put down if it bit anyone else. The PSM said there were narcotic sales and activity at appellant's residence. A September 2015 letter sent by the PSM to appellant informed her that the sheriff's department had conducted a probation compliance check at her home that resulted in the arrest of Arthur, a known gang member, for possession of a controlled substance for sale. The letter said the city had received numerous complaints about possible drug activity at appellant's home, intimidation of neighbors and gang affiliation, which might constitute a "nuisance" under pertinent statutory and municipal code provisions. Appellant was given 30 days to begin voluntarily abating the nuisance, including evicting offending tenants and disallowing people from congregating at her home. If she failed to comply, her home could be declared a nuisance and abated as such, a process which could include the seizure and sale of the property.[6] Appellant denied that the unsanitary conditions and safety hazards for which the city cited the residence, observed by the CSW at the site (and photographs of which were attached to the DCFS report), had existed. She claimed someone had a "personal vendetta" against her, and got the city involved.

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[6] The house is actually owned by Carolyn, who was fearful about disclosing details about appellant. She said there was tension between herself and her sister (appellant). Carolyn knew about her brother Arthur's drug history, and had recently learned of the activities causing the city to declare the residence a nuisance, and was trying to rectify them.

In early December 2015, a CSW interviewed mother during an unannounced visit to appellant's home. Mother conceded then, and again during a phone conversation a few days later, that she had a drug abuse problem and was willing to participate in an inpatient program.

Aubrey's father, interviewed in late December 2015, believed that neither mother or appellant was fit to care for Aubrey. Aubrey had told him that mother used drugs and engaged in sex (Byron said mother was a prostitute), and that appellant "whooped" her. Kailey's father believed the children had been "whooped," but not abused.

The combined jurisdictional/dispositional hearing began on December 15, 2015, and concluded on February 1, 2016.

DCFS made an unannounced visit to appellant's home on January 22, 2016, during a hiatus in the jurisdictional/dispositional hearing. While waiting outdoors for about 10 minutes, the CSWs heard a vacuum cleaner being operated inside. The front yard contained a significant number of cigarette butts scattered around, several empty beer cans and what looked like a week's worth of dog feces. Christopher said appellant was out, but would return soon.

Appellant took the CSWs around the house when she returned. The laundry room had dog waste on the floor, a dirty fish tank and its ceiling was damaged and missing panels. Appellant's room was in good condition, but she was reluctant to open a closet where her grandmother had slept because nothing had been moved since she passed away. There was an adult pit bull in Christopher's room. Appellant said she was unable to open the locked door to mother's

bedroom. Contradicting information she had previously given DCFS, appellant told the CSWs that Kailey and Aubrey slept in mother's room. Taylor was cleaning the guest house where she stayed when the CSWs arrived; the room smelled slightly of marijuana.

In late January 2016, the city's PSM reported that numerous code violations remained outstanding. He told DCFS that officers had recently seen Arthur around appellant's house, and believed that he was living there or staying there frequently. Taylor and Christopher had recently been arrested at the house for outstanding warrants. Mother had outstanding warrants as well, but she was not arrested because her warrants were from another county.

Appellant was the only witness to testify at the hearing. She denied physically abusing or disciplining Aubrey or Kailey, and denied having seen any of her adult children physically discipline the girls. Appellant did not know the children had reported otherwise, or that they were afraid they would be in trouble for talking to DCFS. When the girls misbehaved she spoke to and corrected them. She had worked in the past as a licensed daycare provider and had received training in appropriate child discipline. She got more training through her counseling and parenting programs in this case.

Appellant understood that mother had many problems, including drug use and "mental situations . . . with herself." That is why she became Aubrey's and Kailey's legal guardian. But, even with mother's drug issues, appellant still believed it was appropriate that mother continue living with the children "[b]ecause she's their mother," and

"the social worker [had] indicated things she would need to do to remain." Contrary to her earlier statement, she testified that the girls did not share a room with mother. She also said mother was never left alone with them (except to walk Aubrey to or from school across the street). Appellant had not seen mother under the influence for six months and the children had not indicated that mother used drugs around them.

Appellant had not known that Taylor had a drug problem. She could not tell when Taylor was under the influence, because she "never show[ed] any signs." She denied that Taylor's room smelled like marijuana, denied knowing Taylor had admitted using methamphetamine, and said it was not "proven" that bags found in Taylor's room contained residue of methamphetamine. Appellant acknowledged that Taylor's drug tests had been and continued to be positive for methamphetamine. She let Taylor live in the guest house because "she's [her] daughter" and is "going through counseling." Notwithstanding Taylor's dirty drug tests, appellant believed it was safe for her to be around Aubrey and Kailey because Taylor never did anything to indicate she was "anything . . . but safe around the three children." Appellant conceded that Taylor's contact with the children should be monitored until she got her "issues under control."

As far as appellant knew, no one had consumed drugs in her home for up to six months. She acknowledged that officers found drugs at her home in August, but believed that plain view discovery was "suspicious" and was seeking "an investigation" of the matter. At first, appellant

testified that she had not known that drug paraphernalia had also been found at her home. Later she acknowledged that digital scales were found in the detached garage when Arthur was arrested. The children did not have access to drugs because their contact with Arthur was "minimal" and they never went into the detached garage where he had lived. Arthur no longer lived at appellant's home, but still visited "once in a while;" his most recent visit had been the week before the February 2016 hearing.

Appellant could not explain how the children knew what a "blunt" was or how to roll and light one. She did not know that her granddaughter said she got sick after being in the room with mother and Arthur when they smoked marijuana. Appellant had never smelled marijuana being smoked in her home.

Appellant wanted Kailey and Aubrey returned to her care, even though mother, Taylor and Christopher still lived with her, and Arthur regularly visited. She denied the continued existence of the problems for which the city had issued citations, and offered as evidence, uncorroborated photographs which she claimed depicted the current, corrected state of her home and yard. Noting it would give them "appropriate weight," the court admitted the photos over objections by counsel for DCFS and the children.

At the conclusion of the adjudication portion of the hearing, the court dismissed the initial petition and sustained the first amended petition, with a minor amendment.

Proceeding to disposition, the court declared the children dependents, and ordered DCFS to provide reunification services to appellant. Concurring with arguments made by counsel for DCFS and the children, the court found that appellant's testimony was not credible. It concluded that, notwithstanding her participation in court–ordered programs, the serious issues that led to the children's detention remained unalleviated and observed that this was not "simply a case of a dirty home, but rather there are multiple issues that place the kids at risk." Chief among those issues were significant substance abuse problems with which the children's mothers—who continued to live in appellant's home with access to the children–admittedly continued to struggle. The court found that appellant had gained "little insight" into the issues that put her grandchildren at serious risk of harm and needed to participate in additional programs in order to "be more protective of the kids and be able to better recognize the danger that the substance abuse poses to the kids that's occurring in the home." The children were removed from appellant's care and she was given monitored visitation. This appeal followed.

DISCUSSION

Appellant contends that substantial evidence does not support the juvenile court's sustaining the section 300, subdivisions (a), (b) or (j) allegations. We disagree.

1. *Controlling Principles and the Standard of Review*

Under section 300, subdivision (a), a child may be subject to juvenile court jurisdiction if the court finds the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." Under this subdivision, "'serious physical harm' does not include reasonable and age–appropriate spanking to the buttocks if there is no evidence of serious physical injury." (§ 300, subd. (a).) The court's determination of what constitutes serious physical harm is a factual one, made on a case–by–case basis. (*In re Mariah T.* (2008) 159 Cal.App.4th 428, 438.) A child need not have suffered actual harm in order for the court to assert jurisdiction. (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*).)

A child is within juvenile court jurisdiction under section 300, subdivision (b) 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 failure or inability of his or her parent or guardian to adequately supervise or protect the child." (§ 300, subd. (b).) "To establish jurisdiction under section 300, subdivision (b), [DCFS] must prove by a preponderance of the evidence that there was neglectful conduct by the parent [or legal guardian] in one of the specified forms; causation; and "'serious physical harm or illness'" to the child or 'substantial risk' of such harm or illness. [Citations.]" (*In re R.C.* (2012) 210 Cal.App.4th 930, 941.) ""'The third element 'effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of

serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur).' [Citation.]"' [Citation.]" (*In re Jesus M.* (2015) 235 Cal.App.4th 104, 111.)

As relevant here, juvenile court jurisdiction exists under section 300, subdivision (j), if a "child's sibling has been abused or neglected, as defined in subdivision (a) [or] (b), . . . and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions."

We review the juvenile court's jurisdictional findings for substantial evidence, contradicted or not. (*In re A.S.* (2011) 202 Cal.App.4th 237, 244.) It is the trial court's role to assess witness credibility and resolve evidentiary conflicts. We do not weigh evidence, nor do we judge its effect or value. (*Ibid.*) Under this standard, we accept the evidence most favorable to the juvenile court's findings as true and discard unfavorable evidence as that which lacked sufficient verity to have been accepted by the trier of fact. (*Ibid.*)

Where, as here, a dependency petition enumerates multiple grounds under which a child is alleged to come within the dependency court's jurisdiction, an appellate court may affirm the assertion of jurisdiction over the child if any one of the statutory bases enumerated in the petition is supported by substantial evidence; in such a case, we need not consider all alleged statutory bases for jurisdictional grounds to find substantial evidentiary support. (*I.J., supra*, 56 Cal.4th at pp. 773–774; *In re Drake M.* (2012) 211 Cal.App.4th 754, 762.)

2. *Substantial Evidence Supports the Findings of Physical Abuse*

Appellant maintains there is insufficient evidence to support the jurisdictional findings that the children were at risk of substantial, non–accidental serious physical harm if placed in her care, because there was no evidence that her conduct exceeded the bounds of reasonable discipline, and no evidence she "knew of any 'serious physical harm' to the children by their mother."

All of appellant's granddaughters told markedly similar stories during initial meetings with a CSW at DCFS' offices just after being detained in August 2015. Seven–year–old Aubrey said that when she was disciplined she sometimes got a time–out. Other times, appellant and "everyone" in the home gave her "woopins." She and the other girls were usually hit over their clothing, but they had also been hit with a switch while in the tub (and presumably unclothed). Three–year–old Kailey said that when she was in trouble she got a "bad woopin" from appellant or mother on her butt and legs. The girls' cousin, four–year–old Aaliyah, told DCFS that appellant disciplined her by hitting her on her butt and the back of her legs. All the girls said appellant had used a "switch" to hit them. Aubrey and Kailey reported appellant had hit them with some kind of shoe, and Aubrey said she had also been hit with a belt. Both Aubrey and Kailey later recanted these statements, although the court gave their recantations limited weight.

Relying on *In re D.M.* (2015) 242 Cal.App.4th 634 (*D.M.*), appellant argues that nothing she did exceeded the bounds of "reasonable parental discipline." In *D.M.,* the court held that whether a

parent's conduct exceeds the scope of his or her right to discipline depends on whether the conduct is truly disciplinary, whether discipline is warranted under the circumstances, and whether the amount of punishment inflicted was excessive. (*Id.* at p. 641.) In *D.M.,* a mother acknowledged spanking her children on their buttocks using her hand or a sandal. However, she did so rarely and only when she had failed to achieve her disciplinary goal using less severe methods, like a scolding or the denial of privileges. (*Id.* at p. 637.)

The facts here are quite different. First, appellant disputes the children's claims that she hit them at all. Although she admits having hit one girl lightly with a switch, she did so not as a disciplinary measure but to teach them "how it feels" if they hit one another. Appellant has never acknowledged the children's uniform claims that she and other adults in the home physically disciplined them. Thus, appellant cannot argue that conduct she claims never occurred fell within the bounds of reasonable parental discipline, much less than it was ever necessary or warranted by the circumstances to strike the children with a shoe or a switch. Because appellant has made no effort to explain her conduct, it is not possible to surmise what these children may have done to warrant this level of physical discipline, particularly in the absence of evidence that, like the parent in *D.M., supra,* 242 Cal.App.4th 634, appellant first unsuccessfully employed other, less harsh, methods of discipline.

There is also no merit to appellant's assertion that the children are not described by section 300, subdivision (a), because there is no

evidence they suffered serious physical harm as a result of being hit with a switch or a shoe. Section 300, subdivision (a) protects children who have suffered serious physical harm *and* those at substantial risk of such harm. (§ 300, subd. (a).) As our Supreme Court has said, "section 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. The subdivisions . . . 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.]" (*I.J.*, *supra*, 56 Cal.4th at p. 773.) Based on appellant's actions, the court reasonably could have found the children were at substantial risk of serious physical harm.

3. *There is Substantial Evidence that a Detrimental Home Environment Existed Due to the Children's Exposure to Illicit Drugs*

Appellant challenges the juvenile court's finding under section 300, subdivision (b), that a detrimental home environment existed by virtue of the presence and use of illicit drugs in her home. However, her only argument on this point is a claim that the finding lacks sufficient evidentiary support because the children only had "minimal contact" with Arthur, who lived in the detached garage.

Again, the record reflects otherwise. Aubrey and Aaliyah were acquainted well enough with their great uncle Arthur to know that he smoked "weed," and to describe in detail the method by which that task

was accomplished. Further, Aaliyah said she became sick after being in a room while mother and Arthur smoked marijuana.

Moreover, appellant ignores evidence supporting the sustained allegation that she allowed Taylor to continue to live in the home and use drugs in the children's presence. Appellant testified that she had not known that Taylor had a drug abuse problem, but conceded that she could not tell when Taylor was under the influence. Even if appellant was ignorant about Taylor's drug use when these proceedings began, Taylor's drug abuse problem–and the risks it posed to the children–was clear and remained unalleviated by the time of the jurisdictional hearing. Despite her participation in drug awareness counseling, appellant persisted in her belief that Taylor's ongoing drug abuse posed no risk to the children.

Appellant also fails to mention her long–standing awareness of mother's drug abuse problems. Even though she became the children's guardian precisely because mother's substance abuse and mental health problems rendered mother unable adequately to care for the girls, appellant justified placing the girls at continued risk of harm and permitting mother to remain in the home with access to them, in part, because "she's their mother." Mother's and Taylor's continued drug use was not kept secret from the children. Appellant also acknowledged that marijuana was found in plain sight at her home. Although appellant claimed this discovery was "suspicious," she also acknowledged that drug–packaging supplies had been found in the garage where Arthur lived. Finally, appellant's awareness of the open

and frequent drug use by adults in and around her home was clear from Aubrey and Aaliyah's report that appellant instructed the girls not to reveal to teachers or others that adults in their home smoked marijuana.

On this record the court could reasonably conclude that appellant knew about, tolerated and even condoned, drug use in her home and in the children's presence. Ample evidence supports the juvenile court's findings as to illicit drug use with respect to section 300, subdivision (b).[7]

4. *Substantial Evidence Supports the Court's Jurisdictional Findings Under Section 300, Subdivision (j)*

As appellant notes, the facts alleged as to subdivision (j), counts (1)–(4) are the same facts alleged to support jurisdiction under subdivision (a), counts (1)–(4). Having found the evidence sufficient to support the juvenile court's jurisdictional finding as to either of the girls under subdivision (a), that evidence is necessarily also sufficient to support a finding under subdivision (j) as to her sibling.

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[7] Having concluded substantial evidence supports the jurisdictional findings based on the sustained allegations discussed above, we need not address appellant's arguments that the court erred in sustaining other allegations of the first amended petition (e.g., unresolved issues re unsanitary and hazardous conditions in the home). (*I.J., supra*, 56 Cal.4th at p. 773.)

DISPOSITION

The order challenged on appeal is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

WILLHITE, Acting P. J.

We concur:

MANELLA, J.

COLLINS, J.