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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B287196

(Los Angeles County  
Super. Ct. No. DK12373A-C)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

I.C.,

Defendant and Appellant.

APPEAL from jurisdictional findings and dispositional  
orders of the Superior Court of Los Angeles County. Philip L.  
Soto, Judge. Affirmed.

Elizabeth C. Alexander, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel for Plaintiff and Respondent.

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## **I. INTRODUCTION**

I.C. (Mother) appeals from the jurisdictional findings made pursuant to Welfare and Institutions Code<sup>1</sup> section 300, subdivisions (a) and (b)(1). She argues section 300, subdivision (a), by its terms, requires that a finding of substantial risk of serious harm be based on prior injury to the children. She also contends there was insufficient evidence to support the findings under section 300, subdivisions (a) and (b)(1) that the children came under those subdivisions because of domestic violence. Finally, she asserts the juvenile court should have ordered informal supervision instead of declaring the children to be dependents of the court. We affirm the jurisdictional findings and dispositional orders.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### *A. Prior Dependency Case*

Mother and E.A. (Father) had a history of domestic violence that predated the birth of their daughter, A.A., and continued

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

after the birth of their twin sons, Matthew A. and Michael A. On September 22, 2015, the juvenile court found A.A. was a dependent of the court because of the parents' domestic violence. The court sustained allegations that the parents engaged in violent altercations on four separate occasions. They physically fought each other on April 9, 2013, more than a year before A.A.'s birth. Father slapped and punched Mother in the face and threw her on the ground, causing her head and elbow to strike the cement. He bruised Mother's arm and caused lacerations to her eye and elbow. In turn, Mother punched Father's face, scratched and pinched his body, and bruised his thigh. She hit Father in the arm, jaw, and thigh area and left bite marks on him. She also threw a brick, which broke a window. On December 21, 2013, the parents fought while Mother was pregnant with A.A. Father repeatedly pushed Mother's head against the side of a car door, causing her pain. He also tried to pull her out of the car in the middle of traffic, causing the windshield to break. Mother slapped and punched Father in the face and threw a cup of soup at his leg. On May 15, 2015, Father threatened to shoot Mother and struck her head. On July 18, 2015, during Mother's pregnancy with the twins, Father grabbed Mother's wrists and held her down on a bed. He inflicted scratches to Mother's cheek and arm, a laceration to her lip, and a bruise to her foot. Mother struck Father's head, bit his wrist, and scratched his chest.

The juvenile court ordered Mother to attend parenting and anger management classes, and individual counseling. Father was ordered to participate in parenting and anger management classes, drug testing, and a drug and alcohol program with aftercare. The parents completed their case plan and voluntarily

participated in couple's counseling. The prior dependency case was closed on September 27, 2016.

B. *Current Referral and Petition*

On June 18, 2017, the Los Angeles County Department of Children and Family Services (the department) received a referral from the police concerning a domestic dispute between the parents. At approximately 1:50 a.m., police officers went to the family's home in response to Father's phone call. Father told the officers that he had argued with Mother in their bedroom in the presence of their three children and Olivia A., his nine-year-old daughter from a previous relationship.<sup>2</sup> Mother accused Father of being in contact with his ex-girlfriend, which he strongly denied. The parents continued to argue as they exited the bedroom directly to the outside of the house. Father called Mother "a bitch" and she punched him in the face causing visible injuries.

Mother told police that she and Father had attended a concert, where Father consumed a large amount of alcohol. After the concert, they went to pick up the children at her parents' house. On the way home, Father was angry and said, "[w]hat are you looking at bitch?" He repeated the question after they arrived home and she asked him to leave. He left the bedroom and went outside the house and she followed him. She watched him leave the house by a side gate.

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<sup>2</sup> Olivia lived with her mother in Santa Barbara but was present on the night of the incident because she was visiting the family for a week.

Olivia told the police she saw the parents argue and exit from the bedroom to the side of the house. When Mother returned, she told Olivia that she had asked Father to leave and that she did not hit him.

The officers observed Father had minor abrasions on his lips. They arrested Mother for inflicting corporal injury on a spouse or cohabitant. (Pen. Code, § 273.5.) The maternal grandmother and Father bailed Mother out of jail the next day. Father did not want to press charges and he recanted his statement. He told the police that Mother did not hit him and that he fell on a recycling bin. Charges against Mother were dropped.

On June 19, 2017, a department social worker interviewed Mother at the family's home. Mother reported she and Father had gone to a concert with the maternal grandfather. They dropped maternal grandfather off and came back home. They argued and she told Father to leave. She closed the door right behind Father as he was walking out and he tripped. He fell and hit his face on a trash can. She laughed and made fun of Father for falling, which made him upset. She walked over to help him up, but he pushed her away, and she ended up scratching him on the face because she has long nails. Father told her, "I am going to call the cops on you like how you called them on me." Mother said he later apologized to her for lying and told her he was going to drop the charges. She stated the incident occurred outside and the children did not see the argument because they were sleeping in the bedroom. She reported Father only had half a beer but she told police officers he had been drinking because she was upset he had called law enforcement. The parents had planned to get married in August but she returned the ring.

Father told the social worker that he had gotten into an argument with Mother because she criticized his driving while on the way to the concert. He believed she was giving him dirty looks and when they left the concert she said she would drive. They continued to argue in the car after they picked up the children from the maternal grandmother's home. They got home at around 1:00 a.m. and put the children to sleep. Father said he and Mother stepped outside so they would not argue in front of the children and wake them up. He stated he tripped and fell on a recycling bin. Mother laughed at him, which made him more upset. When she tried to help him up, he pushed her hands away, and she accidentally scratched him on the face. He indicated he called the police because he was upset Mother had laughed at him when he fell. Father said neither Mother nor he had been drinking that night.

Olivia reported Father said "bad words" to Mother while she and the family were in the car after the parents had returned from the concert. When they went to the house, Father told Mother, "[w]hat are you looking at[?]" Olivia said she was scared because Father was very upset and was yelling. Then Father and Mother went outside to argue so she could not hear what they were saying. Later, Mother told Olivia that everything was going to be okay and that Mother and Father did not hit each other. Mother added that Father was drunk and mad. After Mother left with the police, Father came inside and told Olivia that Mother had hit him. Olivia saw a cut on Father's lip which made her sad and upset because Mother had lied to her. Olivia started crying and said, "I'm sorry but it's hard for me to talk about [it]." Olivia stated she did not want to see Mother again because she did not feel safe with Mother after Mother had lied and hit Father.

On August 14, 2017, the department filed a section 300 petition on behalf of 3-year-old A.A. and 18-month-old twins, Matthew and Michael. The petition alleged in count a-1 that Mother and Father had a history of engaging in violent altercations in the children's presence. A.A. was a prior dependent of the court because of the violent altercations between the parents. More recently, on June 17, 2017, Mother was arrested after she punched Father's face, inflicting marks and bruises on it. The petition alleged that Mother's conduct endangered the children's physical health and placed them at risk of physical harm, as described in section 300, subdivision (a). The petition alleged in count b-1 that the conduct alleged in count a-1 also constituted a failure to protect the children, under section 300, subdivision (b)(1). Finally, the petition alleged in count b-2 that Mother tested positive for marijuana on July 24, 2017 and was a current user, which rendered her incapable of providing regular care for the children, under section 300, subdivision (b)(1).

At the August 14, 2017 detention hearing, the juvenile court found a prima facie case for detaining the children and released them to their parents. The court ordered unannounced home visits and appropriate services to keep the children safe in the parents' home. The department was ordered to assess whether it would be appropriate for the family to have a voluntary services contract under section 301 or informal supervision under section 360, subdivision (b).

C. *Jurisdiction and Disposition Report and Hearing*

The social worker recommended that the juvenile court sustain the petition in the jurisdiction and disposition report: “[The department] has concerns that the parents continue to engage in domestic violence despite past participation . . . and further services are needed. As such, [the department] has assessed that a [section] 301 contract or [informal supervision under section] 360(b) would not be appropriate and further court supervision is needed to ensure the children’s safety in the home and monitoring of the [parents’] progress.” The social worker recommended that the parents receive couple’s counseling and individual counseling to address anger management and domestic violence and its effects on the children.

At the October 5, 2017 jurisdiction and disposition hearing, the juvenile court sustained the domestic violence allegations under section 300, subdivisions (a) and (b)(1). The juvenile court dismissed the allegations concerning Mother’s marijuana use, but ordered her not to have contact with the friend who served her marijuana edibles without her knowledge. The children were ordered placed in the parents’ home with family maintenance services. The juvenile court ordered the parents to attend couple’s counseling and individual counseling to address anger management and domestic violence.



### III. DISCUSSION

#### A. *Standard of Review*

We review the juvenile court's jurisdictional findings and disposition for substantial evidence. (*In re R.T.* (2017) 3 Cal.5th 622, 633; *In re R.C.* (2012) 210 Cal.App.4th 930, 940.) Substantial evidence is relevant evidence that adequately supports a conclusion. It is reasonable in nature, credible, and of solid value. (*In re R.C.*, *supra*, 210 Cal.App.4th at pp. 940-941; *In re E.B.* (2010) 184 Cal.App.4th 568, 575.) We draw all reasonable inferences from the evidence to support the findings and orders of the juvenile court and adhere to the principle that issues of fact and credibility are the province of the juvenile court. (*In re R.T.*, *supra*, 3 Cal.5th at p. 633; *In re R.C.*, *supra*, 210 Cal.App.4th at p. 941.)

“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 re I.J.* (2013) 56 Cal.4th 766, 773.) We will focus our discussion here on the jurisdictional finding under section 300, subdivision (b)(1).

#### B. *Jurisdictional Findings*

The juvenile court has jurisdiction over a child if the department establishes by a preponderance of the evidence that allegations made pursuant to section 300 are true. (§ 355, subd.

(a); *In re I.J.*, *supra*, 56 Cal.4th at p. 773.) Section 300, subdivision (b)(1) authorizes jurisdiction when “[t]he 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 . . . to adequately supervise or protect the child . . . .”

Exposure to domestic violence may support jurisdiction under section 300, subdivision (b)(1). (*In re Jesus M.* (2015) 235 Cal.App.4th 104, 112-113; *In re R.C.*, *supra*, 210 Cal.App.4th at p. 941; *In re E.B.*, *supra*, 184 Cal.App.4th at pp. 575-576.) Jurisdiction under section 300, subdivision (b)(1) applies when a parent fails, or is unable, to protect the child from a substantial risk of serious physical harm because of exposure to domestic violence. (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 941; *In re E.B.*, *supra*, 184 Cal.App.4th at p. 576.) “[D]omestic violence in the same household where children are living . . . is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.’ (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194.)” (*In re E.B.*, *supra*, 184 Cal.App.4th at p. 576.) Jurisdiction is appropriate under section 300, subdivision (b)(1) since “[c]hildren can be ‘put in a position of physical danger from [spousal] violence’ because, ‘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 . . . .” (*In re E.B.*, *supra*, 184 Cal.App.4th at p. 576.)

Mother argues there was insufficient evidence to support the jurisdictional findings under section 300, subdivision (b)(1). We disagree. A.A. was a prior dependent of the juvenile court because of four violent altercations between the parents that

occurred between April 2013 and July 2015. Although the parents completed anger management and parenting classes and the prior dependency case closed on September 27, 2016, they continued to have unresolved problems. The parents were involved in the present domestic violence incident on June 18, 2017, less than a year after the first dependency case ended. Father called Mother derogatory names and they argued while they were in the car with the children. They continued to argue when they put the children to sleep in the bedroom. They argued as they exited the bedroom, which led to the side of the house. Father called Mother “a bitch,” and she punched him in the face, causing abrasions to his lips. Mother argues that substantial evidence does not support a finding that she punched Father. But Father told the police and Olivia that Mother had hit him immediately after the incident even though he later recanted. Moreover, the parents had four prior serious violent altercations in the past five years. “[P]ast violent behavior in a relationship is ‘the best predictor of future violence.’” (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 942.) Although Mother did not hit Father in front of the children, this does not preclude a finding of jurisdiction under section 300, subdivision (b)(1). (*In re E.B.*, *supra*, 184 Cal.App.4th at p. 576 [affirming section 300, subdivision (b)(1) jurisdictional findings that father emotionally and physically abused mother within children’s hearing].)

### *C. Informal Supervision as Alternative Disposition*

Mother argues that instead of declaring the children dependents of the court, the juvenile court should have ordered

the department to provide services under a section 301 contract.<sup>3</sup> Section 360, subdivision (b) provides: “If the court finds that the child is a person described by [s]ection 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child’s parent or guardian under the supervision of the social worker for a time period consistent with [s]ection 301.” A court may order informal supervision if the child is placed in the home, and the family is cooperative and agrees to informal services without court supervision. (*In re Adam D.* (2010) 183 Cal.App.4th 1250, 1259.) “If the court agrees to or orders a program of informal supervision, it does not dismiss the dependency petition or otherwise set it aside. The true finding on jurisdiction remains. It is only the dispositional alternative of declaring the child a dependent that is not made.” (*Id.* at p. 1260.) The juvenile court’s denial of a request for informal supervision is reviewed for an abuse of discretion. (*In re N.M.* (2011) 197 Cal.App.4th 159, 171.)

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<sup>3</sup> Section 301, subdivision (a) provides in relevant part: “In any case in which a social worker, after investigation of an application for petition or other investigation he or she is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the social worker may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the child’s parent or guardian, undertake a program of supervision of the child. If a program of supervision is undertaken, the social worker shall attempt to ameliorate the situation that brings the child within, or creates the probability that the child will be within, the jurisdiction of [s]ection 300 by providing or arranging to contract for all appropriate child welfare services . . . .”

The juvenile court did not abuse its discretion when it declined to order informal supervision. A.A. became a dependent of the court as a result of the parents' numerous violent altercations. The prior dependency case closed after the parents completed anger management and parenting classes and participated in couple's counseling. Less than a year later, the parents were involved in another domestic violence incident. The parents argued in the car in the presence of the children and continued the argument when they came home. Mother told the social worker that Father tripped and she accidentally scratched him on the face with her long nails when she tried to help him up. But Father told Olivia and the police that Mother had punched him in the face. Father later recanted his statement with the police and told the social worker that he fell and Mother accidentally scratched him. Based on Father's conflicting statements, the juvenile court could conclude the parents were not truthful about the incident and might not fully cooperate with the department. Moreover, the juvenile court did not abuse its discretion when it imposed court supervision because the parents continued to have violent interactions even after completing anger management and parenting classes.

#### **IV. DISPOSITION**

The jurisdictional findings and dispositional orders are affirmed.

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KIM, J.

We concur:

BAKER, Acting P.J.

MOOR, J.