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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JOHN S., A Person Coming
Under the Juvenile Court Law.

B280594

(Los Angeles County
Super. Ct. No. DK18561)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

MICHELLE Y.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Nichelle L. Blackwell, Commissioner. Affirmed.

Judy Weissberg-Ortiz, 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, Deputy County Counsel, for Plaintiff and Respondent.

Michelle Y. appeals from the juvenile court's jurisdictional and dispositional order regarding her son, John. She challenges the juvenile court's adjudication of dependency based on her mental illness and engagement in domestic violence, arguing it was not supported by substantial evidence. We disagree and affirm.

FACTUAL AND PROCEDURAL SUMMARY

Appellant came to the attention of the Department of Children and Family Services (DCFS) in July 2016 when a referral by maternal grandfather (MGF) alleged appellant was caring for her son John S. III (born Feb. 2015) while having a manic episode.¹ GF was concerned that appellant's mental state rendered her incapable of safely caring for the child. He reported that appellant was not taking psychiatric medication. A few days before making the referral, MGF had found the child without a diaper and drenched in urine while in appellant's care. Appellant had no diapers, food, clothing, or money for the child. Based on

¹ Appellant had been referred to DCFS on two prior occasions. In September 2015, she was referred following her placement on a Welfare and Institutions Code section 5150 psychiatric hold and reports of domestic violence between her and the child's father, John S., Jr. DCFS found the allegations inconclusive. In February 2016, she was referred based on her strange behavior at John's daycare. DCFS found that, at that time, appellant's mental illness were not affecting her ability to care for John.

this referral, DCFS commenced an investigation into the child's welfare.

Appellant has been diagnosed with bipolar disorder, anxiety, and depression. When interviewed by a social worker, appellant's speech was observed to be "pressured, inconsistent, anxious, paranoid, [and] non-focused with inability to complete thoughts or track for time." She claimed to see "filth" in a room that the interviewer observed to be "very clean." Appellant stated she was not taking medication for bipolar disorder and was taking anxiety medication on an as-needed basis. In a later interview, appellant was observed to be confused and repetitive. On two occasions, she became so overwhelmed that she was unable to continue with the interview. She ultimately had to provide her responses via e-mail.

In an interview with father, he reported appellant had taken the child out to wander the streets late at night on five or six occasions in the preceding month. On one occasion, he found the child with no jacket, shoes, or helmet, riding a bike with appellant at night. He stated that the child was often left alone in appellant's care while he was at work. He felt John was not safe in appellant's care.

Father also reported several incidents of domestic violence between the parents. He reported appellant had jammed a Q-tip in his ear during an argument, prompting him to call the police. He stated she had thrown objects at him. He admitted he had hit appellant on three occasions while he was holding John, but claimed he did so to protect John from her aggressive behavior. On another occasion, he claimed appellant punched him and tried to take John away from him. He stated she would try to "tear" the child out of his arms. Police had been called to the parents'

home on nine occasions between September 2015 and July 2016, including to address a verbal argument and an alleged battery. Maternal grandparents reported appellant had told them that there were incidents of domestic violence between her and father, including when she was pregnant with John.

Father stated he had a medical marijuana card and was an occasional marijuana user. He denied using marijuana while John was in his care. He tested positive for marijuana use in July 2016.

The coordinator of the child's daycare reported she observed appellant's behavior to be "paranoid, unusual, and bizarre," based on incidents in which she had hidden in dark classrooms and behind pillars, stared at teachers and children, and gone through confidential paperwork on the desk of a staff member. A teacher also had recently observed appellant taking John on a bicycle when he was not wearing a helmet.

Appellant's neighbor reported that appellant had entered his apartment, speaking in a nonsensical manner and crying. He observed her wander the hall, attempting to enter other apartments while continuing to "talk[] non-sense." He reported that, the next day, his wife saw her in the hall staring at their door and again speaking nonsensically.

Based on the allegations in the DCFS report, the juvenile court ordered John detained from his parents on July 26, 2016. DCFS then filed a Welfare and Institutions Code section 300 petition on July 29, 2016.² The petition alleged that appellant's mental illness and history of engaging in violent altercations with

² Subsequent undesignated references are to the Welfare and Institutions Code.

father placed John at substantial risk of physical harm under section 300, subdivisions (a) and (b)(1). It further alleged that father abused marijuana, rendering him incapable of caring for John, and that he failed to protect John from appellant's mental illness.

At the November 2016 jurisdictional and dispositional hearing, father pleaded no contest to the petition allegations. The court struck the petition allegations regarding father's substance abuse and failure to protect the child from appellant's mental illness. The court found the parents' domestic violence placed the child at substantial risk of harm as defined in section 300, subdivision (b)(1),³ but struck the domestic violence allegation under section 300, subdivision (a). The court found the allegation regarding mother's mental illness true. It then ordered John removed from his parents' custody and granted reunification services.

This appeal followed.

³ In its oral pronouncement, the court stated it found the domestic violence allegation true as to father but did not explicitly state its finding as to appellant with respect to domestic violence. The court found that appellant's mental illness caused her to be "aggressive and violent." The court stated that the domestic violence allegation in the DCFS petition, which discusses both parents, was true as amended, which is a conclusion confirmed in the court's minute order. Taking the record as a whole, it is clear the court found the allegation that appellant engaged in domestic violence true.

DISCUSSION

A. Mental Illness

Appellant challenges the court's finding that John is subject to jurisdiction under section 300, subdivision (b)(1) due to her mental illness. She argues her mental illness did not place John at substantial risk of harm. We disagree.

In reviewing for substantial evidence, we draw all reasonable inferences in favor of the court's findings without reweighing credibility or resolving evidentiary conflicts. (*In re Liam L.* (2015) 240 Cal.App.4th 1068, 1087.) We must uphold the juvenile court's findings "unless, after reviewing the entire record and resolving all conflicts in favor of the respondent . . . we determine there is no substantial evidence to support the findings." (*In re J.N.* (2010) 181 Cal.App.4th 1010, 1022.)

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 . . . to provide regular care for the child due to the parent's . . . mental illness." (§ 300, subd. (b)(1).) In this case, it is undisputed that appellant has been diagnosed with mental health illness. Although a mental health diagnosis alone is insufficient to justify dependency jurisdiction, where a parent's mental health problems interfere with ability to safely parent, jurisdiction under subdivision (b)(1) is appropriate. (*In re A.G.* (2013) 220 Cal.App.4th 675, 683-684 [mother's mental illness, which included periods of detachment from reality, rendered her incapable of providing regular care to child]; see also *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1651-1654 [mother's personality disorder placed child at substantial risk under subd. (b)(1)].)

In this case, appellant placed her child at substantial risk of physical harm on several occasions. She allowed her two-year-old son to ride a bicycle with no helmet twice and took him outside late at night with no jacket or shoes. She failed to provide diapers, allowing him to become drenched in urine. Appellant's violent behavior towards father while he was holding the child was also exacerbated by her mental illness. John could have been seriously harmed when appellant punched father while he held John and tried to "tear" the child out of father's arms. These incidents appear to have taken place during periods when appellant was experiencing mania which severely impaired her judgment. At other times when the child was in her care, such as when she dropped him off and picked him up from daycare, appellant was exhibiting concerning behavior indicating she was not in touch with reality.

These incidents demonstrate that, unlike the mentally ill parents in the cases she cites in her brief, *In re James R.* (2009) 176 Cal.App.4th 129 and *In re David M.* (2005) 134 Cal.App.4th 822, abrogated by *In re R.T.* (2017) 3 Cal.5th 622, 628, appellant placed her child at substantial risk as a result of her mental illness. Further, appellant did not address her bipolar disorder by taking psychotropic medication. (See *In re Kristin H.*, *supra*, 46 Cal.App.4th at pp. 1651-1654 [mother's failure to take psychotropic medication contributed to her inability to provide regular care for child].) The court's conclusion that John was at substantial risk of harm due to appellant's mental illness is amply supported by the evidence.

B. Domestic Violence

Appellant challenges the court's finding that John is subject to jurisdiction under section 300, subdivision (b)(1) due to

her commission of domestic violence for lack of substantial evidence. She argues the domestic violence in the home did not place John at substantial risk of harm. We disagree.

“[D]omestic violence in the same household where children are living *is* neglect,” under section 300, subdivision (b)(1). (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194, disapproved on other grounds in *In re R.T.* (2017) 3 Cal.5th 622, 628; see also *In re T.V.* (2013) 217 Cal.App.4th 126, 134.) As we have stated, appellant placed John at risk when she punched father as he held him and tried to tear him out of father’s arms. There was evidence that domestic violence was a recurring problem for both parents and that it had escalated to the point of requiring police intervention multiple times. Based upon this evidence, the court reasonably concluded that John was at substantial risk due to the parents’ domestic violence.⁴

Appellant also argues the court’s findings with respect to father were unsupported. Since she does not have standing to raise issues affecting father, we do not consider this argument. (*In re Gary P.* (1995) 40 Cal.App.4th 875, 877 [“[a]n appellant cannot urge errors which affect only another party who does not appeal”].)

⁴ Although appellant states she is challenging the court’s disposition order, she does not argue that, if true, the court’s jurisdictional findings would fail to support the order. 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.) Because “jurisdictional findings are *prima facie* evidence that the child cannot safely remain in the home,” we affirm the court’s dispositional order. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.)

DISPOSITION

The order is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.