Filed 12/6/12 In re I.H. CA2/8

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re I.H., a Person Coming Under the Juvenile Court Law.	B241649
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. V.P., Defendant and Appellant.	(Los Angeles County Super. Ct. No. CK 70493)

APPEAL from an order of the Superior Court for the County of Los Angeles. Robert Stevenson, Juvenile Court Referee. Affirmed.

Marsha F. Levine, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Peter Ferrera, Senior Deputy County Counsel, for Plaintiff and Respondent.

SUMMARY

The mother in this dependency case contends the juvenile court erred in finding her daughter was subject to dependency court jurisdiction. Substantial evidence supports the trial court's jurisdictional finding, so we affirm its order.

FACTS

I.H. was born in May 2011. At the time, mother was receiving family reunification services with respect to I.H.'s older sister Nadia (then six years old), who had been detained and adjudicated a dependent of the court in October 2010, based on allegations of mother's drug abuse and history of mental and emotional problems. (Nadia's 2010 detention was not mother's first contact with the Department of Children and Family Services. Mother also received voluntary family maintenance services from the Department in 2005 and 2006, and in 2007 Nadia was placed under the juvenile court's supervision. Mother successfully reunited with Nadia in 2008.)

When I.H. was born, mother was in compliance with the court's orders in Nadia's 2010 case, and the Department opened a voluntary family maintenance case on I.H.'s behalf in June 2011. Mother had a drug relapse in October 2011, but after that incident immediately re-enrolled in a substance abuse program and has been drug free ever since.

In March 2012, several incidents came to the attention of the Department concerning mother's neglect of I.H.

On March 11, 2012, mother was visiting her daughter Nadia at the home of Nadia's grandmother. According to the Department's detention report, I.H. crawled out of the second-floor apartment "and was seen 'swinging and dangling' from the rails in the balcony." The reporting party told the Department that mother was outside talking on the phone and not attending to her child. "Apparently when the mother became aware of [I.H.] dangling from the rails she immediately went to her and scolded Nadia for not taking care[] of her baby sister." (Mother said the incident occurred differently; the child "was not swinging or dangling but barely grabbed on to the rail and was looking down when one of [grandmother's] neighbors screamed at [grandmother] to alert her that the child was too close to the rails and could fall," whereupon mother immediately ran to get

her daughter. The neighbor said she saw I.H. grab the rails and look down, and she (the neighbor) panicked and yelled to the grandmother that I.H. could fall from the balcony.)

On March 14, 2012, while mother and I.H. visited the home of a neighbor, I.H. crawled out of the bedroom into the living room and grabbed a hot iron that was on the floor unattended. I.H. sustained a first degree burn. Mother said she was in the bathroom when this occurred, and immediately took I.H. to an urgent care facility for treatment. The neighbor (who was confined to a wheelchair) said mother was not at fault, and that she (the neighbor) was supposed to watch I.H. and had no idea her son had left the iron unattended.

These incidents (and another call to the Department on March 22, 2012, reporting that Nadia had disclosed her mother had hit her) led the Department to schedule a "team meeting" (including mother, grandparents and several friends as well as Department workers and service providers) to discuss a plan to ensure the well-being of the children. One of the participants, who provided family preservation services to mother, indicated that mother had told him of another incident with I.H.: "[T]he child apparently was sleeping on the bed with mother and grabbed the cell phone cord wrapping it around her. Mother apparently had woken up to use the bathroom when this incident happened but came out in time to take the cord away from [I.H.]." (Mother later said I.H. had "wrapped the cord of the phone charger around her neck.") The same participant commended mother for her disclosure (as he was then able to assist mother "in getting her a crib for the child and preventing a serious incident"), and indicated he had "nothing negative to report about the mother or her ability to care properly [for I.H.]."

At the meeting, mother stated she had never intentionally done any harm to any of her children, and felt she was being penalized because of her past history with the Department. The maternal grandmother expressed concern that mother would not be able to handle two children, as "[I.H.] is too young and Nadia is a special needs child"; she thought that "too many incidents have happened to [I.H.] in a short period of time" and "mother is in need of more services." The Department was concerned that I.H. would no longer have supervision; this was because the voluntary family maintenance services

would terminate in June 2012 and could not be extended. The Department therefore decided to "request[] court supervision for [I.H.] in order for the child to be included and services to be offer[ed] to her."

The Department filed a dependency petition on April 4, 2012, but did not request that I.H. be detained. The petition alleged that mother failed to provide adequate parental supervision, citing the iron burn incident and the prior occasions on which the child was left unsupervised (the incidents with the phone cord and when the child "crawl[ed] out on the two story balcony and grab[bed] the railing." The petition alleged that mother's failure to provide adequate supervision "endangers the child's physical health, safety and well-being, creates a detrimental home environment and places the child at risk of physical harm, damage and danger."

At the jurisdictional hearing on May 23, 2012, no testimony was taken. The Department's detention and jurisdiction/disposition reports were received in evidence without objection, including supporting letters from mother's counselor and from friends and relatives. Documents presented by mother were also admitted, including a report showing her progress in Nadia's case and a supporting letter from her counselor. The trial court sustained the petition, declaring I.H. a dependent child of the court, continuing her placement at home with her mother under the Department's supervision, ordering family maintenance services, and ordering mother to continue drug and alcohol testing, join Alcoholics Anonymous or Narcotics Anonymous, and participate in a dyadic parenting program.

Mother filed a timely appeal.

DISCUSSION

Mother asks us to reverse the juvenile court's jurisdictional finding. She contends the evidence was insufficient to support the court's finding of a substantial risk that I.H. would suffer "serious physical harm" as a result of mother's failure to adequately supervise the child. We disagree.

Welfare and Institutions Code section 300, subdivision (b) authorizes dependency jurisdiction if "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 . . . ." (Welf. & Inst. Code, § 300, subd. (b).)

In reviewing a challenge to the sufficiency of the evidence supporting jurisdictional findings, we determine if substantial evidence, contradicted or uncontradicted, supports them. "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.) "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.] '"[T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could find [that the order is appropriate]."' [Citation.]" (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.)

The court's order was plainly appropriate. Three incidents, each of which could have resulted in serious injury to the child, occurred within a three-week period—the phone cord around the neck on February 22, the balcony incident on March 11, and the burn incident on March 14. (The juvenile court erroneously stated there were three incidents in two days, but we do not consider this point significant.) Both of I.H.'s grandmothers expressed concern about mother's level of supervision of her children. A dependency investigator who visited mother on April 20, 2012, observed the baby I.H. "crawling out of the home twice without mother noticing until [the investigator] brought it [to] mother's attention."

In short, we cannot quarrel with the juvenile court's analysis of the evidence: "Mother knows she has a very active ten month old, and, to me, to leave a child in a neighbor's home . . . with somebody who is elderly in a wheelchair at ten months old with an active child doesn't appear to be appropriate to me." And, "why was there a cord near where the mother was sleeping in the bed with the child—and the child gets the cord wrapped around her neck. And then the next time mother was not supervising adequately

and the child goes outside and could have fallen, could have had a terrible fall and [been] severely injured. . . . I just think that shows a pattern of mother not supervising this ten month old who is very active correctly. [¶] I think one of those things to have occurred would have put mother on notice." So do we.

Mother argues there is "no concrete evidence of future risk" from these "isolated incidents," but this view of the evidence defies common sense. Three serious incidents in three weeks cannot be properly characterized as "isolated," and a pattern of neglect is evidence of future risk sufficiently "concrete" for this court. (Cf. *In re Eric B.* (1987) 189 Cal.App.3d 996, 1003 ["Reasonable apprehension stands as an accepted basis for the exercise of state power."].)

Mother also argues that finding I.H. was at risk of future injury "seems incompatible" with allowing her to remain in her mother's custody, but that is not so either. I.H. remains with her mother, but she is under the supervision of the Department and the court, and under a plan of family maintenance with specific requirements that mother must meet or risk losing custody of her child. We see no "incompatibility" in the juvenile's court's decision.

DISPOSITION

The order is affirmed.

GRIMES, J.

WE CONCUR:

RUBIN, Acting P. J.

FLIER, J.