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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B246540
(Los Angeles County
Super. Ct. No. CK95260)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

TIFFANY M.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Veronica S. McBeth, Judge. Affirmed.

Kimberly A. Knill, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Stephen D. Watson, Senior Associate County Counsel, for Plaintiff and Respondent.

Tiffany M. (Mother) appeals from the December 12, 2012 jurisdictional and dispositional orders of the juvenile court. The court adjudged minor Christian G., born in December 1995, a dependent of the court pursuant to Welfare and Institutions Code section 300, subdivisions (a) (serious physical harm) and (b) (failure to protect).¹ Mother challenges the sufficiency of the evidence to support the court's jurisdictional orders and summarily requests that we reverse the dispositional orders. Rudolph G. (Father) is not a party to this appeal. We conclude that substantial evidence supports the jurisdictional orders, refuse Mother's summary request to reverse the dispositional orders, and affirm.

BACKGROUND

On August 25, 2012, the Los Angeles County Department of Children and Family Services (DCFS) received a referral relating to Christian's three-year-old half brother Pierce G., who was living with Christian, Father, and Pierce's mother, C. H. The referral alleged that Father had full custody of Pierce, and that Father had reported that C., Father's girlfriend, was staying at a Residence Inn Hotel, using methamphetamine and refusing to release Pierce to Father. DCFS determined that C. had been ordered unmonitored day visits with Pierce in a prior dependency proceeding. Father told DCFS that he had liberalized C.'s visits because she had been "clean and sober," but he now wanted Pierce returned to him because she had relapsed. Father stated that C. had relapsed in "the past thirty days," then "corrected his statement by reporting that he believed that [C.] relapsed one day ago." Father, who did not report that Christian had also been in C.'s custody, "appeared to have been intoxicated during his telephone conversation as his speech was somewhat slurred and he made burp sounds." Later, Father stated that maternal grandparents, and not Mother, had been Christian's primary caregivers.

C. told police officers that she, Pierce, and Christian left Father three weeks previously because of Father's violent behavior. C. "appeared to be somewhat disheveled but did not appear to be under the influence of any substance or to be coming

¹ Undesignated statutory references are to the Welfare and Institutions Code.

down from the effects of drugs or alcohol.” She was oriented as to time and place. C. reported that she had decided to leave Father after a domestic violence incident on August 24, 2012. On that day, Father had argued with her at a gas station, grabbed her by the hair, and tried to drag her on her back to the car while she was holding Pierce. C. got away from Father and locked Pierce and herself in the women’s restroom. After Father left, C.’s friend picked up C. and Pierce. Scratch marks and lacerations on C.’s body were consistent with her story. She also reported that Father started becoming violent toward her when she was pregnant with Pierce in 2009. In addition to physically abusing her, Father threatened to take Pierce from her and to kill C. and her “adult child.” C. reported that “Christian is very attached to her and to child Pierce and that he has taken on a role of protector from [Father]. [C.] reported that Christian has physically intervened on several occasion[s] in an effort to protect her from [Father].” C. said she had used methamphetamine during her pregnancy but had “last used in December.”

Christian told DCFS that he did not have a good relationship with Father. Christian stated, “[H]e’s mean, he’s not a good father and he expects me and C. to do everything for him.” Christian said he liked C., enjoyed living with her, and that C. and Christian took care of Pierce, not Father. He stated that he had seen or heard verbal and physical altercations between C. and Father. On one occasion, when C. was pregnant, he saw Father kicking her as she lay on the floor. As to previous referrals of domestic violence, Christian said that “everybody is afraid of my dad, that’s why nobody says anything; they all protect him.” Christian denied that C. used drugs. He stated that “he knows what a person under the influence looks like as [Mother] has struggled with Bi-Polar Disorder and substance abuse issues for as long as he can remember.” Christian said that when Mother did not take her medication, she would sleep a lot. Christian told DCFS that he had been diagnosed with depression and had been hospitalized for two weeks in 2009 on a psychiatric hold after “he wanted to stick himself with a knife.” He “attempted to hurt himself because during that time he believed that nobody would care if he died. Christian also commented that during this time [Mother] was on her bipolar mode and slept all day.” After his suicide attempt, Christian was diagnosed with

depression, prescribed psychotropic medication, and was seen by a psychiatrist and a therapist. He had not seen his therapist from the time he moved in with Father in May 2012. He stated that he had used marijuana since the eighth grade to “[escape] from reality. . . . [H]is reality was his parent’s [*sic*] constant arguments in the house.”

Christian denied using drugs currently but admitted that he had used marijuana and alcohol while living with maternal grandparents. He stated that he had “mostly resided with his maternal grandparents and had recently moved [*sic*] with father in May 2012.” He wanted to live with Mother, who had always taken him to therapy and doctor appointments. He did not want to see or speak to Father.

Maternal grandmother reported to DCFS that Christian had resided in her home “on and off for most of his life.” Mother “struggle[d] with substance abuse and inconsistent compliance with her psychotropic medication regimen to treat her Bi-Polar Disorder.” Maternal grandmother reported that “there have been periods of time when [M]other has stopped taking her medications.” Mother avoids maternal grandmother and self-medicates with other drugs when she does not take her prescribed medication. When maternal grandmother does not hear from Mother, she knows that she “is getting into trouble.” Maternal grandmother reported that Father had been extremely abusive to Mother. He “physically assaulted her regularly and isolated her from her family.” On one occasion he had driven Mother to the mountains and threatened to throw her off a cliff. Mother had permanent facial nerve damage from being assaulted by Father. Father also intimidated people and enlisted the help of his siblings and his mother to intimidate people. Christian had to leave maternal grandparents’ home “as a result of escalating issues of substance abuse and theft to support his drug use.”

Mother told DCFS that she had been diagnosed with bipolar disorder in 2003, that she regularly saw a psychiatrist and a psychologist, and that she took psychotropic medication. She stated that she had used heroin, methamphetamine, and alcohol but had been clean from June 10, 2012. She had been in three residential drug abuse programs, had recently completed a six-week drug rehabilitation program, and was residing in a sober living home where she planned to stay for the next year. She stated that Christian

could not live with her at the sober living home and that she wanted maternal grandparents to take him. With respect to Christian's recent living arrangement with Father, Mother stated that "she was looking for a substance abuse program for [Christian] but he did not want to go and chose to go live with [Father]." Mother also stated that she had been "aware of the problems in [Father's] home and that when [sic] tried to get DCFS to intervene, she was discredited and accused of trying to cause trouble."

On August 29, 2012, DCFS reported that Mother's "history of substance abuse, inconsistent compliance with her psychotropic medication regimen and unresolved issues of domestic violence severely limits her ability to provide protection, supervision, care and control of child Christian." On September 25, 2012, DCFS reported that Mother was diagnosed with "Bi-Polar 1 Disorder, Mixed, Severe, with Psychosis and Borderline Personality Disorder"; had been arrested for possession of a controlled substance in 2006, 2007, and 2009; and had misdemeanor convictions for driving without a license and theft in 2007 and 2012, respectively. Also, Mother had "only been sober for about three months and . . . has completed several other programs in the past and has relapsed." On November 30, 2012, a multidisciplinary assessment team (MAT) reported that "Mother's extensive history of drug addiction gets in the way of meeting Christian's needs."

On August 29, 2012, DCFS filed a petition pursuant to section 300, subdivisions (a), (b), and (j) on behalf of Christian. As amended and sustained against Father, paragraph a-1 of the petition alleged under section 300, subdivision (a) and paragraph b-1 alleged under section 300, subdivision (b) that Father had a history of engaging in violent physical altercations with C. in Christian's presence. On August 24, 2012, Father had grabbed C.'s hair, pulled her to the ground, and dragged her while she was on her back and holding Pierce. Pierce sustained a bruise to his leg. On prior occasions, Father had threatened to kill C. and her adult child, and had kicked C. in Christian's presence. As amended and sustained against Mother, paragraph b-3 of the petition alleged under section 300, subdivision (b) that Mother periodically has a history of mental and emotional problems, including a diagnosis of bipolar disorder which rendered her incapable of providing Christian with regular care and supervision. On prior occasions

Mother failed to take her psychotropic medication as prescribed. As amended and sustained against Mother, paragraph b-5 of the petition alleged under section 300, subdivision (b) that Mother has a history of illicit drug use, including alcohol, methamphetamines, and heroin. As amended and sustained against Mother, paragraph b-6 of the petition alleged under section 300, subdivision (b) that Mother is unable to provide Christian with appropriate ongoing care and supervision due to her need to reside in a sober living home in order to maintain her sobriety. Paragraph b-2 of the petition, which alleged under section 300, subdivision (b) against Father that Father had placed Christian in an endangering and detrimental situation by allowing C. to reside in Father's home when Father knew of C.'s current substance abuse was dismissed. Paragraph b-4 of the petition, which alleged under section 300, subdivision (b) against Father that Father has a criminal history of convictions for felony burglary and grand theft was dismissed. Paragraph j-1 of the petition alleged under section 300, subdivision (j) against Father the same allegations contained in paragraphs a-1 of the petition under section 300, subdivision (a) and b-1 of the petition under section 300, subdivision (b) was dismissed.

Christian was detained from Mother's custody at the August 29, 2012 detention hearing. On October 30, 2012, Mother enrolled in a program where she participated in classes in alcohol and drug education, relapse prevention, anger management, parenting, domestic violence, individual and group counseling, and 12-step meetings. Mother tested negative for drugs eight times between September 2012 and November 2012 but failed to show for scheduled drug tests on October 12, 2012, and November 7, 2012.

No witnesses testified at the contested adjudication hearing on December 12, 2012. After hearing argument, the juvenile court sustained the section 300 petition, adjudged Christian a dependent child of the court, removed him from Mother's custody, and granted Mother monitored visitation. The court stated, "I think there is definite nexus with what's happening with the drug use and Mother being in the sober living and unable to take care of him at this time. [¶] I think the mental health and drug use are related and that has to be inability to care for him." The court ordered Mother to submit to random drug testing, take all psychotropic medication, and participate in mental health

counseling, individual counseling to address case issues, a drug program, a parenting class, and a 12-step program. The court ordered Christian to enroll in individual counseling to address case issues. Mother appealed.

DISCUSSION

A. Standard of review

The juvenile court’s jurisdictional finding that the minor is a person described in section 300 must be supported by a preponderance of the evidence. (§ 355; Cal. Rules of Court, rule 5.684(f).) “““When the sufficiency of the evidence to support a finding or order is challenged on appeal, the reviewing court must determine if there is any substantial evidence, that is, evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. [Citation.] In making this determination, all conflicts [in the evidence and in reasonable inferences from the evidence] are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.]”” [Citation.] While substantial evidence may consist of inferences, such inferences must rest on the evidence; inferences that are the result of speculation or conjecture cannot support a finding. [Citation.]” (*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1258–1259.)

B. Substantial evidence supported the juvenile court’s jurisdictional orders with respect to the allegations under section 300, subdivision (b) against Mother

Mother contends the evidence was insufficient to support the juvenile court’s jurisdictional orders under section 300, subdivision (b). We disagree.

Section 300, subdivision (b) provides a basis for juvenile court jurisdiction if “[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 or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left . . . or by the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s mental illness, developmental disability, or substance abuse.”

“A jurisdictional finding under section 300, subdivision (b) requires: ““(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the child, or a ‘substantial risk’ of such harm or illness.” [Citation.]’ [Citations.] 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.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.)

Although “a jurisdictional finding good against one parent is good against both” (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397) and Father does not appeal from the jurisdictional orders against him, we examine whether substantial evidence supported the juvenile court’s jurisdictional orders with respect to the allegations under section 300, subdivision (b) against Mother. Paragraph b-3 of the petition alleged under section 300, subdivision (b) that Mother periodically had a history of mental and emotional problems, including a diagnosis of bipolar disorder which rendered her incapable of providing Christian with regular care and supervision and that she had failed to take her psychotropic medication as prescribed. Paragraph b-5 of the petition alleged under section 300, subdivision (b) that Mother has a history of illicit drug use, including alcohol, methamphetamines, and heroin. Paragraph b-6 of the petition alleged under section 300, subdivision (b) that Mother is unable to provide Christian with appropriate ongoing care and supervision due to her need to reside in a sober living home in order to maintain her sobriety.

The evidence established that Mother had been diagnosed with bipolar disorder, had a history of mental and emotional problems, and had been prescribed psychotropic medication. But Mother did not always take her medication, used drugs to self-medicate, and slept a lot when she did not take her medication. And Mother had a history of illicit drug use, including alcohol, methamphetamines, and heroin. According to Christian, Mother had substance abuse issues “for as long as he can remember.” The MAT team reported that Mother had a history of relapsing and her “extensive history of drug addiction gets in the way of meeting Christian’s needs.” As a result, Christian had lived

primarily with maternal grandmother. Although Mother tested negative for drugs eight times between September 2012 and November 2012, she failed to show for scheduled drug tests on October 12, 2012, and November 7, 2012, supporting the inference that she continued to struggle with drug abuse issues. In addition, Christian had attempted to commit suicide because “he believed that nobody would care if he died.” The attempt occurred while Mother “was on her bipolar mode and slept all day.” Further, Christian stated that he had used marijuana since the eighth grade to escape from “his parent’s [sic] constant arguments in the house.” And during his stay with Father, Christian had stopped seeing his therapist and had “physically intervened on several occasion[s]” to protect C. from Father. Accordingly, the evidence supports the inference that Mother’s mental health issues, failure to take prescribed medication, and drug abuse rendered her incapable of caring for Christian, who had turned to drugs and attempted to commit suicide.

In addition, Mother currently could not provide Christian with care and supervision due to her need to reside in a sober living home. As the juvenile court stated, “[T]here is definite nexus with what’s happening with the drug use and Mother being in the sober living and unable to take care of him at this time. [¶] I think the mental health and drug use are related and that has to be inability to care for him.”

Mother’s citation to cases such as *In re Destiny S.* (2012) 210 Cal.App.4th 999, 1003, for the proposition that drug use, without more, is an insufficient basis for jurisdiction under section 300, subdivision (b) is unpersuasive in light of the evidence of a nexus between Mother’s mental illness and drug use and the risk of serious harm to Christian. And to the extent that Mother requests us to reweigh the evidence, her argument must fail. (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.)

We conclude that substantial evidence supports the juvenile court’s order adjudging Christian a dependent under section 300, subdivision (b). Therefore, we reject Mother’s summary request to reverse the dispositional orders regarding Mother and removing Christian from Mother’s custody.

DISPOSITION

The juvenile court's jurisdictional and dispositional orders are affirmed.
NOT TO BE PUBLISHED.

MALLANO, P. J.

We concur:

ROTHSCHILD, J.

CHANEY, J.