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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B279685

(Los Angeles County  
Super. Ct. No. DK18413)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Deon A.,

Defendant and Appellant.

APPEAL from jurisdictional findings of the Superior Court  
of Los Angeles County. Rudolph Diaz, Judge. Affirmed.

Christopher R. Booth, under appointment by the Court of  
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, and Jacklyn K. Louie, Deputy County  
Counsel for Plaintiff and Respondent.

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## **I. INTRODUCTION**

Deon A. (Father) appeals from the juvenile court's jurisdictional findings against him made pursuant to Welfare and Institutions Code section 300, subdivisions (a), (b)(1) and (j).<sup>1</sup> Father does not challenge the jurisdictional findings against Candice A. (Mother).<sup>2</sup> Father's appeal is moot because the juvenile court has jurisdiction over the children based on the findings against Mother. Although we need not consider the merits of Father's appeal, we conclude substantial evidence supports the juvenile court's jurisdictional findings of physical abuse and risk of serious physical harm. We affirm the jurisdictional findings.

## **II. PROCEDURAL HISTORY**

On July 20, 2016, the Los Angeles County Department of Children and Social Services (the department) filed a section 300 petition on behalf of 12-year-old Deon A. Jr. and 10-year-old C.A. The petition alleges Mother's friend, Christopher, physically abused the children. Mother knew or reasonably should have

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

<sup>2</sup> Mother is not a party to this appeal.

known of the physical abuse by Christopher but failed to protect the children. The petition also alleges in April 2016, Father physically abused C.A. by striking the child with a belt.

At the July 20, 2016 detention hearing, Father did not appear in court. The children were detained from Father and released to Mother. The juvenile court ordered monitored visits for Father after he contacted the department. The matter was continued to August 5, 2016 for Father's appearance. At the August 5, 2016 detention hearing, the children remained in Mother's custody. Father was granted unmonitored visits with Deon Jr. and one-hour monitored visits with C.A. The department was ordered to provide Father with family reunification services.

At the September 1, 2016 jurisdiction and disposition hearing, the juvenile court found the children were dependents of the court under section 300, subdivisions (a), (b)(1) and (j). The juvenile court sustained the following allegations in counts b-2 and j-2: "On a prior occasion . . . [Mother's] friend, Christopher . . . , physically abused the child, [Deon Jr.,] by grabbing the child's shirt and inflicting marks on the child's neck. On a prior occasion, the mother's friend, Christopher, struck the child's back. The mother knew or reasonably should have known of . . . Christopher's physical abuse to the child, Deon[ Jr.,] and failed to protect the child. Such physical abuse of the child by . . . Christopher endangered the child's physical health and safety, and place[d] the child and the child's sibling[], [C.A.], at risk of serious physical harm, damage, danger, physical abuse, and failure to protect." In addition, the juvenile court sustained the allegations in counts a-3, b-3, and j-3: "In or about April 2016, . . . [Father] physically abused the child, [C.A.,] by striking

the child with a belt. Such physical abuse of the child by the father endanger[ed] the child's physical health and safety, and place[d] the child and the child's sibling[], Deon [Jr.], at risk of serious physical harm, damage, danger and physical abuse."

The juvenile court ordered the children to remain in the mother's custody under the department's supervision. The children were to have individual counseling to address case issues with conjoint counseling with the parents when appropriate. Mother was granted family maintenance services including developmentally appropriate parenting classes and individual counseling. The children were removed from Father's custody pursuant to section 361, subdivision (c). The department was ordered to provide Father with enhancement services including developmentally appropriate parenting classes and individual counseling. Father was granted monitored visits with C.A. and unmonitored visits with Deon Jr.

### **III. EVIDENCE**

#### *A. Detention Report*

The July 14, 2016, non-detained detention report stated the department received a referral alleging physical abuse by Christopher and general neglect by Mother on July 5, 2015. The general neglect allegations were substantiated while the physical abuse allegations were inconclusive. The department opened a voluntary family maintenance case.

Mother and Father reside in separate homes. Mother had physical custody of the children and shared joint legal custody with Father. A January 4, 2016 family law order granted Father

visits with the children every first, third and fifth weekend of every month.

A social worker interviewed the children privately regarding the allegations. C.A. stated the mother's friend, Christopher, had been mean to her and her brother. When the child got in trouble, Christopher would flick her in the head. Christopher also pushed her several times. C.A. reported one time Christopher pushed her into her bedroom and blocked her door with a chair so she could not get out. Another time in December 2014, Christopher pushed her into her bedroom, and she hit her forehead on the corner of her bed. C.A. stated Christopher hit Deon Jr. on his back really hard when he got in trouble. She also reported Christopher would eat all the food and blame her and Deon. C.A. did not feel safe in the home with Christopher residing with them.

Deon Jr. stated Christopher pushed him and his sister. A few weeks earlier, Christopher became upset with Deon Jr. and grabbed him by the shirt collar. Christopher left marks on the child's neck. Deon Jr. reported Christopher once locked him out of the home. Christopher made fun of Deon Jr. and called him names. Christopher also yelled and screamed at the children. Like C.A., Deon Jr. reported Christopher would eat all the food in the home and blame him and his sister for eating all of it. Deon Jr. did not feel safe with Christopher in the home.

Mother stated Christopher was just a friend. Christopher was staying with the family because she was helping him get back on his feet. She had been in the hospital frequently because of a diabetic foot infection. Mother denied the physical abuse allegations. She indicated Christopher liked to enforce rules and the children resented those rules. Mother blamed Father for the

referral, stating it was done in retaliation for a prior referral she made against him. Mother reported she left Father six years ago because of domestic violence.

The family had a prior history with the department. In May 2014, the department responded to a referral alleging general neglect and physical abuse by Father. The children told Mother when they visited Father, they slept on the floor because he did not have beds for them. The children reported they were bitten by bed bugs. They were made to stay in a room from the time they arrived until they left Father's home. Further, Father was physically abusive towards Deon Jr. because he had been wetting himself during the night. The department concluded only the general neglect allegations were substantiated. The referral was closed because Father stopped visiting the children at that time.

During the course of the voluntary family maintenance case, the department received an April 2016 referral alleging Father physically abused C.A. C.A. told the reporting party that Father hit her on her butt with a spiky belt and locked her up in a small room. A female officer checked C.A. and did not find any visible marks or bruises. C.A. changed her story, stating Father hit her on the butt with his hand about 20 times. Later she changed her story again, reporting Father spanked her on the butt about five times. The reporting party suspected Mother was coaching the child as to what to say to law enforcement.

A social worker interviewed the parents and children separately about the April 2016 referral. C.A. stated on March 30, 2016, she was supposed to go back to Mother's house but Father did not take her back that day. On April 2, 2016, C.A. could not take it anymore and began crying for Mother. Father

told her to be quiet and sent her to her room. She continued to cry and Father gave her three warnings. Then, Father came into her room and hit her with the belt multiple times. C.A. indicated she had marks and bruises on her body but they were no longer there. She was not afraid of Father. However, C.A. did not want to go to Father's home because he was too hard on her. If she did not do well in school, Father made her stay in her room the whole time she was at his home.

Deon Jr. stated C.A. was crying and yelling on March 30, 2016, because she was supposed to go back to Mother's home. Father told C.A. to be quiet but she continued to cry and yell. Deon Jr. reported Father hit C.A. with a belt, but he did not know how many times. Deon Jr. did not see any marks or bruises on his sister. Father had hit him and his sister in the past but stopped after law enforcement told Father not to use physical punishment. Deon Jr. indicated he was not scared of Father.

Mother stated when the children returned from their visit with Father, Deon Jr. reported C.A. had been "treated bad" and "made to stay in the room" at Father's home. C.A. told Mother that Father had hit her with a belt. Mother did not see any marks on C.A.'s legs.

Father stated Deon Jr. was playing with his tablet in a bedroom and wanted to be left alone. C.A. kept trying to go into the bedroom to see what her brother was doing. Father repeatedly told C.A. not to go into the bedroom, but she would not leave Deon Jr. alone. To punish C.A., Father put her into the other bedroom with no television. He reported C.A. began screaming "bloody murder" and crying out the window saying she wanted to go home. Father stated he was upset that things escalated and admitted to hitting C.A. with a belt. He loved his

children and wanted to be there for them. Father stated he did not usually use corporal punishment but described the incident as “a last resort.”

#### *B. Jurisdiction and Disposition Report*

The children and parents were interviewed by a dependency investigator for the August 19, 2016 jurisdiction and disposition report. Deon Jr. denied Christopher made C.A. fall. He claimed she slipped on the wet floor and fell backwards on her head. Deon Jr. stated Christopher never hit him or his sister. The child said Christopher grabbed him by the shirt collar because Christopher thought Deon Jr. was going to hit him. Deon Jr. claimed the shirt scratched his neck leaving marks. He denied Christopher meant to hurt him. Likewise, C.A. simply stated “[n]o” to the allegations of physical abuse by Christopher. She refused to elaborate on her statement.

Deon Jr. indicated Father punished his sister for no reason. He reported Father hit C.A. with a belt the last time they were at Father’s home. Father hit C.A. in the room with the door closed. But Deon Jr. knew C.A. was hit with a belt “[b]ecause the belt has a high pitch sound than when he [Father] hits my sister with his hand.” Deon Jr. stated: “That day when my sister got hit with a belt, my sister want[ed] to go home to my mom’s house and my dad told her to be quiet in the room. Well, my sister got loud with my dad and he told her that she was disturbing everyone in the house. Well she was really loud and my dad hit her with a belt.”

C.A. reported, “I always get in trouble when I am at my dad’s house.” She got in trouble at school and Father believed the



teacher and not her. Regarding the April 2016 incident, the child stated: "I was at my dad'[s] house and I told my dad I wanted to go home [Mother's home]. My dad told me that I was home. I told him I want to go home to my momma's house. I started yelling and my dad came in. He told me I was being too loud. I stood up on the bed and told him I wanted to go home to my momma . . . . He turned me around I was on my stomach on the bed and he hit me with a belt." C.A. stated she was hit a lot of times with the belt. The child indicated sometimes Father hit her with a flat open hand. C.A. was scared to visit Father because during the visits he would put her in a room and physically discipline her.

Mother denied Christopher ever disciplined her children. Mother described Christopher as a male role model to her children. As for the allegations involving Father, Mother was not present during the April 2016 incident but was aware of it. C.A. was at Father's home and wanted to come home, but Father refused to let her. C.A. called 911 and stated she was being held hostage in a room. Law enforcement contacted Mother to locate C.A. but could not do anything because the custody order allowed Father to have the children that day. Mother stated, "When my son, Deon Jr. got home he told me that, 'daddy beat the mess out of her for wanting you.'" Mother did not observe any marks or bruises on C.A. following the visit. Mother added: "From then on out, [Father] would [whup] my daughter for wanting her mother. The [stepmother] would put cold towels on my daughter so that the bruises would not show."

Father believed the allegations of physical abuse by Christopher to be true because Deon Jr. told him about them. Father admitted he hit C.A. "Yes, I did hit my daughter. But[,] I

did not hit her with a belt. Why would I hit my child with a belt[?] I know better than that. I was raised in foster care. I know you cannot use objects to spank your kids. . . . I know it is not illegal to hit your kids with an open-hand as long as you don't leave any mark or bruises. On that day, my daughter came to my house and she had a bad report from school. I told her to go in the room. When my kids do something like get in trouble at school such as a bad report or do something wrong[,] they get in trouble." Father further stated: "That day my daughter was yelling that she wanted to go home. I told her she was home. . . . [C.A.] kept yelling and I went into the room and told her to keep it down as she was disturbing the whole house. Well[, C.A.] stood up and said, 'I want to go home to my momma!' I clicked and turned her over on the bed and hit her on the butt with my hand. I did not hit her with a belt." Father hit C.A. two times. Father added, "Her mother brainwashes my daughter to not like me. This is [Mother's] way of getting back at me. She cannot brain[]wash my son, Deon Jr.[]; he knows I am a good father."

#### IV. DISCUSSION

##### A. *Mootness*

Father does not challenge the sustained allegations in counts b-2 and j-2 concerning Christopher's physical abuse and Mother's failure to protect to the children. Father concedes reversal of the jurisdictional findings made against him would not affect the juvenile court's jurisdiction over the children. Where multiple grounds for dependency jurisdiction are alleged, we may affirm the jurisdictional findings if any of the statutory

bases for jurisdiction is supported by substantial evidence. (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979 [“As long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate.”]; *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

Notwithstanding the juvenile court’s jurisdiction over the children based on findings made against Mother, Father argues his appeal is not moot. “Courts may exercise their ‘discretion and reach the merits of a challenge to any jurisdictional finding when the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction’ [citation].’ (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.)” (*In re D.P.* (2015) 237 Cal.App.4th 911, 917; accord, *In re D.M.* (2015) 242 Cal.App.4th 634, 639 (*D.M.*)).

The grounds for exercising discretionary review are not present here. Father does not challenge the juvenile court’s dispositional order. Furthermore, apart from Father’s general speculation that the challenged findings could impact current or future dependency proceedings, he has not specified how the findings might prejudice him in the future. (See e.g., *In re I.A.* (2011) 201 Cal.App.4th 1484, 1493 [declining to consider father’s challenge to jurisdictional finding where he did not “suggest[] a single specific legal or practical consequence from this finding, either within or outside the dependency proceedings”].)

## B. *Jurisdictional Findings*

Although we need not consider the merits of Father’s appeal, we nevertheless discuss the challenged jurisdictional findings made pursuant to section 300, subdivisions (a), (b)(1) and (j). Section 300, subdivision (a) authorizes a juvenile court to exercise dependency jurisdiction over a child if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally . . . by the child’s parent.”<sup>3</sup> A juvenile court also has jurisdiction over a child under section 300, subdivision (b)(1) 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 . . . to adequately supervise or protect the child . . . .” Section 300, subdivision (b)(1) does not require the department to prove, by the preponderance of the evidence, neglectful conduct

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<sup>3</sup> Section 300, subdivision (a) provides: “A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] (a) 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. For purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm. For purposes of 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.”

by a parent. (*In re R.T.* (2017) 3 Cal.5th 622, 624, 629 [provision authorizes dependency jurisdiction without finding that parent is at fault or blameworthy for failure or inability to supervise or protect child].) In addition, the juvenile court has jurisdiction under section 300, subdivision (j) when “[t]he child’s sibling has been abused or neglected, as defined in subdivisions (a), (b), (d), (e), or (i), and there is substantial risk that the child will be abused or neglected, as defined in those subdivisions.”<sup>4</sup>

We review the juvenile court’s jurisdictional findings for substantial evidence. (*In re R.T.*, *supra*, 3 Cal.5th at p. 633; *In re R.C.* (2012) 210 Cal.App.4th 930, 940.) Substantial evidence is relevant evidence which adequately supports a conclusion. It is evidence which is reasonable in nature, credible, and of solid value. (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 941; *In re E.B.* (2010) 184 Cal.App.4th 568, 574-575.) We draw all reasonable

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<sup>4</sup> Section 300, subdivision (j) provides in pertinent part: “A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] (j) The child’s sibling has been abused or neglected, as defined in subdivisions (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child. [¶] It is the intent of the Legislature that this section not disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting.”

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.)

Father argues there is insufficient evidence to support the jurisdictional findings under section 300, subdivisions (a), (b)(1) and (j). He concedes there is significant evidence of physical discipline but argues hitting with a belt does not rise to the level justifying jurisdiction. Father asserts the juvenile court erred by failing to consider the genuineness, necessity and reasonableness of his use of physical discipline, relying on *D.M.*, *supra*, 242 Cal.App.4th at pages 637-642.

In *D.M.*, the mother admitted she would discipline, on rare occasions, the children by spanking them on the buttocks with her bare hands or with a sandal. (*D.M.*, *supra*, 242 Cal.App.4th at p. 637.) The juvenile court made jurisdictional findings against the mother under section 300, subdivisions (a), (b) and (j). (*Id.* at pp. 639-640.) Division Two of this court reversed, holding that because the spanking constituted “reasonable parental discipline,” it could not constitute ‘serious physical harm’ sufficient to invoke dependency jurisdiction under section 300, subdivisions (a), (b) and (j). (*Id.* at p. 640.) To determine the reasonableness of the parental discipline, *D.M.* set forth three factors. “Whether a parent’s use of discipline on a particular occasion falls within (or instead exceeds) the scope of this parental right to discipline turns on three considerations: (1) whether the parent’s conduct is genuinely disciplinary; (2) whether the punishment is ‘necess[ary]’ (that is, whether the discipline was ‘warranted by the circumstances’); and (3)

‘whether the amount of punishment was reasonable or excessive.’ [Citations.]” (*Id.* at p. 641.) The *D.M.* court reversed the jurisdictional findings as to the mother because the juvenile court “did not consider the genuineness, necessity, or reasonableness of the mother’s use of spanking as a disciplinary measure.” (*Id.* at p. 642.)

Viewing the evidence in the light most favorable to the juvenile court’s findings, we conclude there was ample evidence to support the jurisdictional findings under section 300, subdivisions (a), (b)(1) and (j). There was substantial evidence to support the findings that C.A. has suffered serious physical harm “inflicted nonaccidentally” by Father and Deon Jr. is at risk of serious physical harm. Both children stated Father hit C.A. with a belt. Deon Jr. said he knew Father hit his sister with a belt rather than his hand because of the high pitch sound the belt made when Father struck her. C.A. reported Father hit her with a belt multiple times. She said it left marks and bruises but they were no longer there. Deon Jr. believed Father punished C.A. “for no reason.” The boy indicated Father had hit them in the past but stopped after law enforcement told him not to use corporeal punishment.

In the jurisdictional report, Father acknowledged spanking C.A. with an open palm but denied he hit her with a belt. However, Father admitted he hit C.A. with a belt in a prior interview in the detention report. Father stated C.A. was disobedient because she refused to leave her brother alone. He put C.A. in a bedroom and she began screaming and crying to go home. Father became upset and admitted he hit C.A. with a belt.

While Father may use reasonable parental discipline, hitting a child multiple times with a belt was neither necessary

nor reasonable. There was substantial evidence to conclude that Father's use of corporeal punishment was excessive. Father hit C.A. out of anger multiple times because she yelled and screamed, asking for Mother and to go home. Further, Mother indicated after the April 2016 incident, Father continued to hit C.A. for wanting to be with her. Mother added, "The step[mother] . . . would put cold towels on my daughter so that the bruises would not show." C.A. also told the dependency investigator she was fearful of returning to Father's care because he continued to physically abuse her. We conclude substantial evidence supports the jurisdictional findings of Father's physical abuse of C.A. and risk of serious physical harm to Deon Jr.

## **V. DISPOSITION**

We affirm the juvenile court's jurisdictional findings.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

**RAPHAEL, J.\***

We concur:

**KRIEGLER, Acting P.J.**

**BAKER, J.**

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.