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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In the Matter of VICTORIA G., A
Person Coming Under Juvenile
Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

RUBI V. et al.,

Defendants and Appellants.

B294890 c/w B295986
(Los Angeles County
Super. Ct. No. 18CCJP02046A)

APPEAL from orders of the Superior Court of Los
Angeles County, Stephen C. Marpet, Court Commissioner.
Affirmed.

Jesse F. Rodriguez, under appointment by the Court of Appeal, for Defendant and Appellant Rubi V.

Robert McLaughlin, under appointment by the Court of Appeal, for Defendant and Appellant Alexander G.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine Miles, Assistant County Counsel and Jessica S. Mitchell, Deputy County Counsel for Plaintiff and Respondent.

INTRODUCTION

Appellants Rubi V. and Alexander G. are the mother and father of minor Victoria G. born in December 2016. Rubi also has two other children, Denise O. born in March 2005 and Edward O. born in October 2007, whose father is Luis O. Luis O. is married to Lissette O. In the proceeding below, based on findings that Alexander sexually abused Denise, and that Rubi failed to protect Denise from Alexander, the juvenile court sustained a petition filed by the Los Angeles County Department of Children and Family Services (DCFS) under Welfare and Institutions Code section 300, subdivisions (b)(1), (d), and (j) on behalf of Denise's half sister Victoria. The court removed Victoria from Alexander's custody, released her to Rubi, and ordered reunification and enhancement services for Rubi and Alexander.

Both Alexander and Rubi appeal from the juvenile court's jurisdictional finding and dispositional order. Specifically, Rubi argues substantial evidence does not support the court's finding that Alexander molested Denise. Both Alexander and Rubi argue substantial evidence does not support the court's jurisdictional finding over Victoria or the court's dispositional order removing Victoria from Alexander. We affirm.

STATEMENT OF RELEVANT FACTS

A. *Denise's Initial Claim of Sexual Abuse*

On June 17, 2013, after Luis dropped off his children Denise (then 8) and Edward (then 5) at Rubi's apartment, Luis and Rubi got into an argument. According to the police report of the incident, Rubi claimed Luis grabbed her shirt collar and pushed her, then let her go, got back into his car, and yelled, "you'll pay for this, Bitch" as he left. Rubi reported the incident to the police, and the responding officer noted visible red scratch marks on Rubi's chest area. Luis admitted he and Rubi argued, but denied any physical violence. Luis was subsequently arrested for spousal battery on June 18, 2013, after he went to the Pomona police station to give a statement.

Rubi claimed Luis's sister called her after the arrest, first blaming Rubi for the arrest, then informing Rubi that Alexander had molested Denise. On June 20, 2013, when interviewed by the Pomona Police Department regarding these allegations, Rubi stated she found the allegations to be

unlikely, but nevertheless took Denise to the Children's Hospital of Orange County for a professional examination because she was "no expert in checking children's sexual organs" and "did not want to leave anything to chance." The medical examination showed no signs of abuse, and noted Denise's hymen was intact and her genital area showed no redness, lacerations, or obvious signs of injury or trauma. The medical report also noted: "Details of the circumstances [of the visit] include Pt states 'Daddy told her she was touched'. Paternal Grandmother and Paternal Grandfather also told Pt the same thing, and Pt denies being touched when questioned by Mom and ER MD."

The Pomona Police Department also interviewed Denise and Edward regarding the allegations. When asked whether she had been inappropriately touched, Denise shook her head. When asked whether someone had told her to say that she was a victim, Denise began to cry and nodded. Under further questioning, Denise stated Luis had told her to say she was a victim "[b]ecause he's mad at my mom." Denise also reported she was supposed to say that "[m]y mom's boyfriend Alex" had touched her. Denise claimed she was not uncomfortable around Alexander. Edward said he did not know about any abuse. The Pomona Police Department concluded, "this allegation [of sexual abuse] was more than likely the result of the contentious custody battle between the children's parents." DCFS also determined the allegations to be unfounded.

B. *Denise's Current Claim of Sexual Abuse*

On December 23, 2017, Denise (then 12) and her stepmother Lissette went to the Pomona Police Station to report incidents of molestation by Alexander in 2013. Denise stated these incidents had been reported in 2013, and the initial interviewing officer, Officer Bennett, found the file concerning the report. Based on the previous conclusion that Denise was coerced into making the allegations of abuse, Officer Bennett asked Denise if she had lied when speaking with the officer in 2013. Denise responded that “she was not in fact coerced by her step-mother or biological father” but instead “was afraid of her biological mother during the initial interview, and as such, deemed it necessary to lie about the motivation behind the sexual abuse allegations.” Denise stated she “now wanted to report the facts of the allegations and was under no coercion, false motivation, or ulterior motives.” At that point, Denise stated her preference for a female officer and Sergeant Bostrom took over the interview of Denise, while Officer Bennett continued interviewing Lissette. Lissette stated she had discovered Denise crying at 4:00 p.m. on December 23, 2017, and when asked what was wrong, Denise told her she was crying because of what happened in 2013 with Alexander.

Denise told Sergeant Bostrom about three incidents of abuse. Though Denise did not know on what day or in which month these incidents took place, all occurred in 2013. In the first incident, she claimed Alexander asked her to go to the bathroom with him to help him with something. Once

there, he locked the door and took off her pants and underwear as well as his own pants. He began touching her vaginal area with his penis. Alexander then turned her onto her stomach and began licking between her legs. Edward knocked on the door and asked her to come out to play, and she and Alexander got dressed. Denise estimated she was in the bathroom for 30 minutes. Denise stated she told her mother about the incident and, in response, Rubi yelled at Alexander and told him not to do it again. Denise claimed she also told her grandmother a week later, and her grandmother taught her about good touching and bad touching.

Denise stated the second incident occurred approximately one month later at Alexander's sisters' house. The sisters left shortly after Denise, Alexander, and Edward arrived, and Alexander suggested they play hide and seek. He instructed Edward to go count, and then led Denise into a bedroom and locked the door. He forced her onto the bed, held her by the wrists, and began taking her clothes off. He also removed his own pants and underwear. He then put his penis in her vagina approximately five times. Denise told Alexander to stop, but she was unable to move. Denise estimated this lasted for 40 minutes, and then Edward knocked on the door, saying he knew they were in there. Alexander told Denise to get dressed, then they all left and went home. When Rubi returned home from work, she asked whether Alexander had done anything to her, which Denise said Rubi asked almost daily. Denise told Rubi what

happened, and Rubi yelled at Alexander not to do it again. Rubi told Alexander to apologize, and he did, stating it would not happen again.

Denise stated the third incident took place approximately two months later. Alexander was home alone with Denise and Edward in the living room when Alexander told Edward to go get something from the bathroom. Alexander then grabbed Denise, laid her down on the couch on her back, and started to touch her vagina with his fingers, digitally penetrating her twice. He stopped when Edward came back. When Edward left later to go to the bathroom, Alexander did this again. He stopped again when Edward returned. Five minutes later, Alexander told Denise to get something from her room. He followed her in, took her pants off, and started kissing her between her legs and touching her vagina with his hands. After 10 minutes, he pulled up her pants and they returned to the living room. When Rubi returned home, she asked Denise if Alexander had touched her and Denise said yes. Rubi again yelled at Alexander, told him not to touch Denise, and admonished both Denise and Alexander not to talk about this. The third incident was the last time Alexander touched her.

Denise stated she never told anyone up until now because “her mom is scary and threatened to throw her out on the street if she told, hit her so hard that she would bleed, or prevent her from being able to see her father.” But she finally told Lissette when “she was thinking about what

happened in 2013 and [wa]s scared.” Luis also found out, and “was very angry to learn what happened.”¹

Officer Bennett made an emergency DCFS referral. He reported Denise’s information was “very vague” and she “was waiting for [Officer Bennett] to initiate the questions. [Officer Bennett] stated that it was a very odd interview overall as if child was being coached. [Officer Bennett] stated that child was using language that a 12-year-old would not normally use when describing the incidents.”

C. Further Pre-Petition Investigation

Four separate agencies investigated Denise’s allegations prior to DCFS’s filing of a petition regarding Victoria: DCFS, Children’s Advocacy Center (CAC), the Pomona Police Department, and the Riverside Department of Public Social Services (DPSS). We briefly summarize their investigations below.

1. DCFS

On December 27, 2017, DCFS spoke with Rubi and Alexander. Rubi “indicated Denise made sexual [abuse] allegations against” Alexander in 2013 and, in response, Rubi had Children’s Hospital of Orange County examine

¹ According to the police report, “[d]uring these interviews [of Denise and Lissette], the interview room camera was functioning and recording.”

Denise. The results were negative for sexual abuse. Alexander denied any abuse had occurred.

The next day, DCFS spoke with Denise, Edward, Luis, and Lissette. Denise said Alexander “touched her [i]n 2013.” She expressed fear of Rubi “throwing her out into the streets if she had told the truth about Alex touching her front and bottom with his hand three times on 2013.” Denise also stated Alexander had “raped” her, but did not respond when asked why it took her several years to disclose the abuse. When asked to describe what she meant by Alexander raping her, “Denise could not articulate only stating he touched me on my front and bottom three times but not recently.” She denied being told to say things she did not want to say, and indicated she wanted to live with her father, saying, “I got really mad that she [presumably Rubi] did not believe me.” Edward denied knowledge of any abuse.

On January 12, 2018, after noting Denise’s “disclosure of sexual abuse” and Alexander’s access to Victoria, DCFS assessed the future risk of abuse and neglect as “very high.”

2. *Children’s Advocacy Center*

On January 10, 2018, the CAC interviewed Denise and Edward. Denise told the interviewer about the same three incidents of abuse she had related to Sergeant Bostrom (discussed above) with minor variations. Edward did not discuss any abuse during the interview.

3. *Pomona Police Department*

On January 17, 2018, Detectives Childers and Uribe of the Pomona Police Department interviewed Rubi at her home. They advised Rubi they were there to discuss three incidents of sexual abuse Denise had reported. The detectives informed Rubi that Denise claimed to have told Rubi about each of the three incidents, and Rubi's response was to yell at Alexander. Rubi stated "it was not like that" and told the detectives of an incident one evening where Alexander told her not to let Denise and Edward into the bedroom. Denise and Edward walked in anyway to get Denise's school project and saw Alexander naked as he was changing clothes. Denise then told Rubi that Alexander had showed her his "wienie." Rubi became angry and asked Alexander what happened, and Alexander reminded Rubi he had asked her not to let the kids in. Alexander stated Edward had seen the whole thing and, when asked, Edward confirmed that Denise had wanted to go into the bedroom to get a school project and when they opened the door, Alexander was naked. Rubi relayed another incident in which Alexander had accidentally walked in on Denise in the bathroom, and Rubi had yelled at him that he needed to knock first.

When the police stated these were not the incidents they were investigating and explained in more detail the allegations against Alexander, Rubi stated Denise had never told her about these incidents. She informed the police about Denise's claim that Luis had instructed her to make

false allegations in 2013 as well as the medical examination that showed no signs of abuse. Rubi admitted she always asked Denise whether Alexander had done anything each time Denise was left in his care, but stated this was not specific to Alexander, and that she asked Denise the same question when a babysitter took care of the children.

According to DCFS, on January 25, 2018, “Detective Childers determined the alleged sexual abuse investigated in 2013 may have occurred.” On January 30, 2018, Detective Childers interviewed Alexander. Alexander denied the allegations of abuse, and relayed the same incidents of Denise’s once walking in on him when he was changing, and his once walking into the bathroom without realizing Denise was already there. On March 1, 2018, DCFS noted that “Detective Childers indicated that the District Attorney’s office believes ‘as credible as victim is, there is reasonable doubt in this case.’”

4. *Department of Public Social Services*

On February 7, 2018, the Riverside Superior Court requested “an investigation in reference to allegations of child abuse and/or neglect. The Court ordered the Department [of Public Social Services] to complete an investigation, and prepare a report pursuant to Family Code Section 3027(b).^[2]” After interviewing Denise, Edward,

² This code section provides: “If allegations of child abuse, including child sexual abuse, are made during a child custody (Fn. is continued on the next page.)

Rubi, Luis, and Lissette , DPSS found “[a]s to the mother, Rubi V[], the allegation of **General Neglect** has been determined to be **Substantiated**, as to the children, Denise and Edward O[].” DPSS concluded Denise and Edward “can be safely maintained” with Luis, but not Rubi because Rubi “failed to report the sexual abuse of her daughter, Denise O[], to law enforcement” and “continued to leave her children in the care of the perpetrator after Denise told her mother of the abuse.” DPSS noted Rubi “continues to not believe in Denise’s disclosure and live with the perpetrator.” DPSS recommended Riverside County Court continue with its proceedings, and stated DPSS did not intend to start juvenile court proceedings at the moment.

D. *DCFS Files a Petition as to Victoria and Continues Investigating*

On March 29, 2018, DCFS filed a petition as to Victoria under Welfare and Institutions Code section 300, subdivisions (b)(1), (d), and (j). The petition accused Alexander of sexually abusing Denise and accused Rubi of knowing about the abuse and failing to protect Denise. DCFS alleged Alexander’s actions and Denise’s inaction

proceeding, the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code. Upon completion of the investigation, the agency shall report its findings to the court.”

placed Victoria “at risk of serious harm, damage, danger, sexual abuse, and failure to protect.” Victoria was detained and placed with Rubi.

At the April 2, 2018, detention hearing, the court declared Alexander to be Victoria’s presumed father, found DCFS had stated a prima facie case to detain Victoria, and released Victoria to “home of mother” (i.e., Alexander needed to move out). The court granted Alexander monitored visits with Victoria.

On April 25, 2018, DCFS again interviewed Rubi and Alexander. Rubi again related the story about the 2013 incident resulting in Luis’s arrest, the call from Luis’s sister, the negative results from the medical examination of Denise, the incident in which Denise and Edward walked in on Alexander changing, and the incident in which Alexander walked in on Denise using the bathroom. Rubi denied ever threatening Denise over revealing abuse. Rubi told DCFS that Denise was very jealous of Victoria. Rubi also related disciplinary issues she was having with Denise just prior to Denise’s visiting Luis in December 2017. Rubi believed “Denise [wa]s being manipulated by her father because he’s giving her all the freedom that [Rubi] didn’t.” Rubi also stated “the allegations have changed so much she [Rubi] doesn’t know what to believe.” Rubi did not believe Victoria was at risk.

Alexander denied Denise’s allegations. He claimed the allegations were changing, and that Luis was manipulating Denise by giving her more freedom than Rubi gave her.

DCFS's Jurisdiction/Detention Report dated May 1, 2018, and signed on April 27, 2018, stated: "At this time based on information gathered it appears the child, Denise might be coached by her father and step-mother; however, the Department is unable to make an informed recommendation due to the pending interview of the children, medical records and supplemental police report."

On April 27, 2018, DCFS interviewed Denise, Edward, Luis, and Lissette. Denise was reluctant to discuss the allegations but stated there were three incidents of abuse and described them generally. Denise stated she was worried about the same thing happening to Victoria. The DCFS investigator found Denise to be credible. Edward claimed to have no information regarding inappropriate touching, and believed Victoria was safe with Rubi and Alexander.

On August 29, 2018, DCFS spoke with Alexander who continued to deny abusing Denise and did not believe he was a sex offender. Alexander's therapist stated Alexander "does not reflect and blames everyone else."

E. Adjudication and Disposition

On October 30, 2018, the court held the first day of the adjudication hearing. DCFS social worker Alvarado testified that based on the consistency in Denise's statements regarding where the abuse occurred and how many times it happened, as well as the consistency in Denise's claims about telling Rubi and Rubi's reactions, Alvarado believed

Alexander had sexually abused Denise. Alvarado was aware of Denise's earlier recanting, but believed the abuse occurred. The court then continued the hearing to November 16, 2018, to permit the parties to review the DPSS report discussed above, which was attached to a Last Minute Information submitted to the court on October 30, 2018.

On November 16, 2018, the court held the second day of the adjudication hearing but continued it to December 10, 2018, to permit Alexander's counsel to subpoena the writer of the DPSS report.

On December 10, 2018, the court held the third and final day of the adjudication hearing. No witnesses testified. Both counsel for DCFS and counsel for Victoria asked the court to sustain the petition. Alexander's counsel asked the court to dismiss it. Rubi's counsel asked the court to "remove her as a failure to protect" (i.e., find that Rubi did not fail to protect Victoria). After closing arguments, the court stated, "I've read everything in here. I've read the police reports. I've read and reread the police reports, the transcript of the forensic exam. I viewed the video two times and I find the child [Denise] very credible. And I think it's consistent with an eight[-]year[-]old who found her mother wanting when the incident occurred in 2013 but decided to move on but over a period of years found it impossible and finally broke down again in 2017." The court found "that the evidence before me more than preponderates and I'm sustaining the entire petition as pled in (B)(1), (D)(1) and (J)(1)." The court proceeded immediately to disposition and

found, by clear and convincing evidence, “[i]t is reasonable and necessary to remove the child from the **father**, . . . because there is a substantial danger to the physical health, safety, protection, or physical or emotional well-being . . . of the child, and there are no reasonable means by which the child’s physical health can be protected, without removing the child from the home and the care, custody, and control of that or those parent(s)/legal guardian(s).” The court released Victoria to Rubi, and ordered services for both Rubi and Alexander. Both Rubi and Alexander appealed, and we consolidated their appeals.

DISCUSSION

A. *Substantial Evidence Supports the Court’s Finding That Alexander Abused Denise*

Rubi claims “[a] reversal of the jurisdictional findings against the father of sexually abusing the sibling, D[enise] O., pursuant to the father’s argument, reverses the jurisdictional findings as to the mother of failing to protect D[enise] O. and threatening D[enise] O. if D[enise] O. disclosed the sexual abuse.” However, Alexander does not ask us to reverse “the jurisdictional findings against the father of sexually abusing the sibling, D[enise].” On the contrary, Alexander recognizes that “[i]n light of the juvenile court’s credibility finding, the veracity of D[enise] O.’s allegations cannot be challenged by father in this appeal.” We therefore interpret Rubi’s statement as an argument that the court’s jurisdictional findings as to her should be

reversed, because the court erred in finding Alexander sexually abused Denise.

“On appeal, the ‘substantial evidence’ test is the appropriate standard of review for both the jurisdictional and dispositional findings.” (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) Under a substantial evidence review, “we view the record in the light most favorable to the juvenile court’s determinations, drawing all reasonable inferences from the evidence to support the juvenile court’s findings and orders. Issues of fact and credibility are the province of the juvenile court and we neither reweigh the evidence nor exercise our independent judgment. [Citation.]” (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 560, quoting *In re Yolanda L.* (2017) 7 Cal.App.5th 987, 992.) “Evidence from a single witness, even a party, can be sufficient to support the trial court’s findings.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

Here, the record shows that on five separate occasions to four separate agencies -- DCFS, the Pomona Police Department, the CAC, and DPSS -- Denise related a mostly consistent story regarding Alexander’s abuse of her in 2013. Further, DCFS, the Pomona Police Department, the Los Angeles County District Attorney’s Office, and DPSS all found her credible. At the conclusion of the adjudication hearing, the judge specifically found Denise to be “very credible.” On this record, substantial evidence supports the court’s finding that Alexander sexually abused Denise.

**B. *Substantial Evidence Supports the Court’s
Jurisdictional Finding***

The court found Victoria to be “a person as described by W[elfare and] I[nstitutions] C[ode section] 300 subdivision(s): (b), (d), [and] (j).” “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 such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451.) Because we conclude substantial evidence supports the court’s jurisdictional findings under Welfare and Institutions Code section 300, subdivision (j) (Section 300(j)), we need not consider whether the jurisdictional findings under subdivisions (b) or (d) are supported by the evidence.

Under Section 300(j), the court may find a minor to be a dependent of the court if “[t]he child’s sibling has been abused or neglected, as defined in subdivision (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.” Welfare and Institutions Code section 300, subdivision (d), states a minor may be found to be a dependent if “[t]he child has been sexually abused . . . by . . . a member of his or her household.”

1. *Substantial Evidence Supports the Court’s Finding That Victoria Was at Substantial Risk*

As discussed above, the juvenile court found Victoria’s sibling, Denise, had been sexually abused by a member of her household. Therefore, the court properly found jurisdiction over Victoria under Section 300(j) if substantial evidence supports the court’s finding that there was “a substantial risk” Victoria would also be abused. Joined by Rubi, Alexander agrees this is the standard but argues that, even assuming he sexually abused Denise three times in 2013, “the probability father would sexually abuse his two-year-old biological daughter [Victoria] was extremely ‘low.’”

“Undoubtedly, appellate courts have rarely if ever been faced with a situation in which a father sexually molests one female minor in the household and the juvenile court does not find another female minor in the household to be at risk. The cases cited categorically state that aberrant sexual behavior directed at one child in the household places other children in the household at risk, and this is especially so

when both children are females.” (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 964, 970 (*LACDCFS v. Sup. Ct.*) [reversing juvenile court’s dismissal of petition under Welfare and Institutions Code section 300 on behalf of minor where juvenile court found that minor’s father had sexually abused her elder half sister].)

“[T]o determine whether a risk is substantial [under Section 300(j)], the court must consider both the likelihood that harm will occur and the magnitude of potential harm’ [Citation] In other words, the more severe the type of sibling abuse, the lower the required probability of the child’s experiencing such abuse to conclude the child is at a substantial risk of abuse or neglect under section 300. If the sibling abuse is relatively minor, the court might reasonably find insubstantial a risk the child will be similarly abused; but as the abuse becomes more serious, it becomes more necessary to protect the child from even a relatively low probability of that abuse.” (*In re I.J.* (2013) 56 Cal.4th 766, 778.)

The Court of Appeal in *In re Andy G.* (2010) 183 Cal.App.4th 1405 (*Andy G.*) rejected arguments similar to those Alexander makes now. In *Andy G.*, the court removed two-year-old Andy from his biological father after finding that the father had sexually abused Andy’s 12- and 14-year-old half sisters. (*Id.* at p. 1407.) On appeal, the father argued “that the evidence showing he sexually abused Andy’s half sisters was not sufficient to show that Andy was

at substantial risk of sexual abuse, since there was no evidence ‘of suspicious contact between [Andy’s father] and his son Andy or between [Andy’s father] and any juvenile or adult male.’” (*Id.* at p. 1411.) The appellate court disagreed, finding that “aberrant sexual behavior by a parent places the victim’s siblings who remain in the home at risk of aberrant sexual behavior.” (*Id.* at p. 1414, quoting *In re P.A.* (2006) 144 Cal.App.4th 1339, 1347 (*P.A.*) [affirming a juvenile court order removing two sons from a father who was found to have sexually abused his daughter].) The court also found significant that the father exposed himself to Andy’s half sister “while Andy was in the same room (albeit apparently facing in the other direction)” and “the court could infer, as the Department suggests, that [father] used Andy to get [half sister] Janet to approach him so he could expose himself to her, by asking her to take Andy to the store and holding out the money to do so. This evinces, at best, a total lack of concern for whether Andy might observe his aberrant sexual behavior.” (*Andy G.*, *supra*, 183 Cal.App.4th at p. 1414; see also *In re D.C.* (2015) 243 Cal.App.4th 41, 54 [“Also relevant to the totality of the circumstances surrounding the sibling abuse is the violation of trust shown by sexually abusing one child while the other children were living in the same home and could easily have learned of or even interrupted the abuse”], quoting *In re I.J.*, *supra*, 56 Cal.4th at p. 778.)

Here, both Victoria and Denise are female. Though Edward claimed no knowledge of Alexander’s abuse of

Denise, Denise reported that at least two of the incidents occurred while Edward was in the same residence, meaning Edward could easily have learned of or even interrupted the abuse. In fact, much of the third incident of abuse apparently occurred in the family's living room, beginning when Edward left the room, and ending when Edward returned. Additionally, the abuse alleged here (Alexander rubbing Denise's vaginal area, as well as licking and penetrating it with his penis) is relatively more serious than the abuse alleged in either *Andy G.* ("A.G. sexually abused Janet and Maria by fondling Maria's breast, fondling Janet's vagina, exposing his penis, and exposing Maria to a pornographic movie and masturbating in her presence") or *P.A.* ("father had sexually abused P.A. by touching her vagina under her clothes and on top of her underwear").³ Under these circumstances, substantial evidence supports the court's finding that Victoria was at substantial risk of sexual abuse; accordingly the court did not err in its jurisdictional finding.

2. *Alexander's Arguments to the Contrary Are Unavailing*

While Alexander admits he "cannot directly challenge the veracity of D[enise] O.'s sexual abuse allegations in this appeal," he asks us to note: (1) her recanting of the

³ (*Andy G.*, *supra*, 183 Cal.App.4th at p. 1408; *P.A.*, *supra*, 144 Cal.App.4th at p. 1341.)

allegations in 2013; (2) his lack of a history of sexual or criminal misconduct and continued denials of Denise's allegations; (3) the 2013 medical examination showing no sign of abuse; and (4) Edward's failure to corroborate Denise's accounts of abuse even though he lived with her. In other words, despite disclaiming to do so, Alexander challenges the veracity of Denise's sexual abuse claims. As discussed above, however, substantial evidence supports a finding that Alexander sexually abused Denise.

Alexander then sets forth five further arguments as to why "Victoria did not fall within the parameters of the 'at risk' categories established by appellate courts of this state," citing several cases. We are unpersuaded. None of the cited cases suggests the factors discussed constitute the sole basis for affirming a finding of jurisdiction. Moreover, the holdings of several cases directly contradict his arguments.

First, Alexander argues Victoria was not "similarly situated" to Denise because Victoria was two and his biological daughter, while Denise was eight and not his biological daughter. But the Court of Appeal has held a six-year difference between an abused sibling and her other siblings may support removal. (*In re Ana C.* (2012) 204 Cal.App.4th 1317, 1332 [affirming order removing father's children in part because "[t]hey are all, with the exception of the youngest child, within six years of" the age of their sibling, whom father sexually abused].) Moreover, any "distinction between a stepdaughter and a biological daughter is contrary to the holdings and language of the

cases that suggest sexual abuse of one child in the household puts at risk other children in the household.” (*LACDCFS v. Sup. Ct., supra*, 215 Cal.App.4th at p. 970.)⁴

Second, Alexander argues the abuse “occurred more than three years before Victoria was born” and thus Victoria was not exposed to or impacted by Alexander’s conduct. “Stated succinctly, two-year-old Victoria did not face any current or future substantial risk of sexual abuse from father, based upon acts he allegedly committed against his then eight-year-old step-daughter, five years earlier.” While Victoria had yet to be born when the alleged abuse occurred, the evidence shows that at least two of the three incidents of abuse occurred when Edward was in the house. As noted by the *Andy G.* court, “[t]his evinces, at best, a total lack of

⁴ Alexander cites *In re Luis H* (2017) 14 Cal.App.5th 1223 to support his argument that we should reverse because Victoria is not similarly situated to Denise. *Luis H.* is inapposite. In *Luis H.*, the appellate court affirmed a juvenile court’s dismissal of petitions filed on behalf of an abused minor’s siblings, finding the siblings were not “similarly situated.” (*Id.* at pp. 1225-1226.) After two of the siblings appealed, the court affirmed the dismissal because the appellants “have not argued or demonstrated that the evidence ‘was (1) “uncontradicted and unimpeached” and (2) “of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.” [Citation.]’ [Citation.] *Luis H.* and Alan H. have failed to meet their burden on appeal.” (*Id.* at p. 1227.) Here, we do not decide whether sufficient evidence supports affirming a dismissal of a petition, but whether sufficient evidence supports affirming a finding of jurisdiction.

concern for whether [sibling] might observe his aberrant sexual behavior” and supported removal. (*Andy G.*, *supra*, 183 Cal.App.4th at p. 1414.) To the extent Alexander attributes any significance to the fact that the alleged abuse took place “five years earlier,” “[t]he juvenile court’s finding that there has been ‘time’ (about five to six years) since father last abused his stepdaughter N.C., does not provide sufficient evidence in support of dismissal as to K.R.” (*LACDCFS v. Sup. Ct.*, *supra*, 215 Cal.App.4th at p. 970, citing *In re Dorothy I.* (1984) 162 Cal.App.3d 1154, 1157.)

Third, Alexander argues he “did not engage in any form of inappropriate, ‘weird’ or sexualized behavior with Victoria which resembled or ‘mimicked’ his alleged sexual misconduct with” Denise. But a court may find jurisdiction over a minor even if the offending parent has done nothing inappropriate to that child. (*In re D.G.* (2012) 208 Cal.App.4th 1562, 1573 [where father was found to have sexually molested D.G., who was not his biological daughter, finding of jurisdiction over L.C. was affirmed, though L.C. was his biological daughter, and “he did nothing inappropriate to L.C.”].)

Fourth, Alexander had no history of criminal or sexual misconduct and so is not subject to the presumption under Welfare and Institutions Code section 355.1, subdivision (d).⁵

⁵ Welfare and Institutions Code section 355.1, subdivision (d) provides in relevant part: “Where the court finds that . . . a parent . . . (1) has been previously convicted of sexual abuse as
(*Fn. is continued on the next page.*)

While this is true, no authority holds that a lack of criminal history, as a matter of law, overcomes all other evidence.

Finally, Alexander argues his alleged abuse of Denise was not persistent and did not continue over a prolonged period. As discussed above, jurisdictional findings have been sustained based on abuse less persistent and severe than that found here. (See, e.g., *P.A.*, *supra*, 144 Cal.App.4th at pp. 1341, 1347 [affirming juvenile court order removing two boys from father who “had sexually abused P.A. by touching her vagina under her clothes and on top of her underwear”].) Substantial evidence supports the court’s finding of jurisdiction.

**C. *Substantial Evidence Supports the Court’s
Dispositional Finding***

“We review an order removing a child from parental custody for substantial evidence in a light most favorable to the juvenile court findings. [Citations.]” (*In re A.R.* (2015)

defined in Section 11165.1 of the Penal Code, (2) has been previously convicted of an act in another state that would constitute sexual abuse as defined in Section 11165.1 of the Penal Code if committed in this state, (3) has been found in a prior dependency hearing or similar proceeding in the corresponding court of another state to have committed an act of sexual abuse, or (4) is required, as the result of a felony conviction, to register as a sex offender pursuant to Section 290 of the Penal Code, that finding shall be prima facie evidence in any proceeding that the subject minor is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect.”

235 Cal.App.4th 1102, 1116, quoting *In re Miguel C.* (2011) 198 Cal.App.4th 965, 969.)

Joined again by Rubi, Alexander makes two arguments urging us to reverse the court’s dispositional finding removing Victoria from his custody. We have addressed and rejected his first argument, viz., that “[t]he juvenile court’s jurisdictional finding, with respect to father’s conduct, was not supported by substantial evidence.” We address and reject his second argument below.

Courts have found that “jurisdictional findings are prima facie evidence the child cannot safely remain in the home. (§ 361, subd. (c)(1).) The parent need not be dangerous and the child need not have been actually harmed before removal is appropriate.” (*In re A.E.* (2014) 228 Cal.App.4th 820, 825-826.) Here, the evidence supporting Victoria’s removal extends well beyond the jurisdictional finding.

First, while Rubi has at times professed to believe Denise’s accusations, her skepticism is fully evident in the record. Indeed, Rubi has filed an appeal challenging the court’s finding that Alexander abused Denise. “Substantial evidence also supports the juvenile court’s finding that there were no reasonable lesser means of protecting the children without removing Father from the home” when “Mother continued to deny any sexual abuse of [Minor] had occurred and failed to take responsibility for the problem. The court thus could have reasonably concluded that measures short of

removal would not protect the children from future abuse.” (*In re D.G.*, *supra*, 208 Cal.App.4th at p. 1574.)

Second, Alexander continues to deny abusing Denise and does not believe he is a sex offender. His therapist stated Alexander “does not reflect and blames everyone else.” As DCFS notes in its brief, “[o]ne cannot correct a problem one fails to acknowledge.” (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197.)⁶

⁶ In his reply, Alexander argues that using his denial of abusing Denise as one reason to remove Victoria places him into the “confession dilemma” noted by *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, namely that “it cannot be denied that it is an outrageous injustice to use the fact parents deny they have committed a horrible act as proof that they did it. That really is Kafkaesque.” (*Id.* at pp. 1752-1753.) But the *Blanca* court discussed the confession dilemma to highlight the “*extraordinary premium* [the dilemma places] on the correct adjudication of a petition alleging sexual abuse.” (*Id.* at pp. 1753-1754.) Because in *Blanca* the court was “confronted with a case where there is not only substantial new evidence that casts doubt on an initial jurisdictional finding of molestation, but also the very circumstances of that initial finding cast doubt on it,” the Court of Appeal remanded the case, ordering the juvenile court to hold a hearing to determine if the molestation had occurred. (*Id.* at p. 1754.) Here, Alexander does not challenge the court’s finding that Denise’s allegations of abuse were credible, there is no new evidence casting doubt on that finding, and no evidence suggests the juvenile court was confused about the proceedings. Both *Blanca* and the confession dilemma discussed therein are inapposite.

Finally, it appears Denise no longer lives with Rubi. Denise's absence could place Victoria in greater danger, because the object of Alexander's abuse is no longer available. (See *LACDCFS v. Sup. Ct.*, *supra*, 215 Cal.App.4th at p. 970 ["Currently, father is not living with mother. This places K.R. at greater risk without juvenile court jurisdiction because, absent juvenile court supervision, K.R. could be spending time alone with father away from mother's home, thereby providing greater opportunity for sexual abuse. The object of his predatory actions, N.C., is no longer available to him"].) Substantial evidence thus supports the court's removal of Victoria from Alexander's custody.

Alexander attempts to rebut this evidence by arguing: (1) he has "taken steps to reduce any potential risk the child may have faced in his custody (establishing separate residence, maintaining consistent and appropriate visitation, engaging in services)"; and (2) "in light of father's close and appropriate relationship with Victoria, history of cooperation with the Department and the juvenile court, and progress in services targeted to reduce any risk the child may face, Victoria could have been maintained in father's custody – subject to Department oversight." However, "“when two or more inferences can reasonably be deduced from the facts,’ either deduction will be supported by substantial evidence, and ‘a reviewing court is without power to substitute its deductions for those of the trial court.’”” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545, citations omitted.)

Because substantial evidence supports the court's removal of Victoria from Alexander's custody, it is irrelevant whether the evidence he points to would have supported a hypothetical ruling in which the court did not remove Victoria from his custody.

DISPOSITION

We affirm the court's orders.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, P. J.

We concur:

COLLINS, J.

CURREY, J.