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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

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

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

TAYLOR I.,

Defendant and Appellant.

B260637

(Los Angeles County
Super. Ct. No. CK98607)

APPEAL from a judgment of the Superior Court of Los Angeles County, Carlos Vasquez, Judge. Affirmed.

Emery El Habiby, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Peter Ferrera, Deputy County Counsel, for Plaintiff and Respondent.

Appellant Taylor I. (Mother) appeals from the juvenile court's orders at a jurisdiction and disposition hearing declaring her minor daughter, S.I., a dependent of the court pursuant to Welfare and Institutions Code¹ section 300, subdivision (j). Mother contends that the evidence was insufficient to support the jurisdictional finding that S.I. was at a substantial risk of harm based on prior sustained allegations of physical abuse or neglect involving the child's older half-sibling. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Prior Child Welfare History

Mother has two children—Darryl T. (a boy born in August 2012) and S.I. (a girl born in July 2014). In February 2013, when Darryl was six months old, the Department of Children and Family Services (DCFS) received a referral alleging that Darryl was a victim of physical abuse by Mother after he sustained a fracture to his right femur. At the time of the injury, Mother had reported that she turned Darryl over in a rough manner; however, medical records indicated that child's injury was inconsistent with the history provided by Mother.

On July 25, 2013, the juvenile court found Darryl to be a dependent of the court under section 300, subdivisions (a) and (b) based on the following sustained allegations: "On 02/23/2013, six month old, Darryl [T.], was medically examined and found to have sustained a detrimental and endangering injury consisting of a fracture and swelling to the child's right femur. The child's mother, Taylor [I.'s], explanation of the manner in which the child sustained the child's injury is inconsistent with the child's injury. The child's injury is consistent with inflicted trauma. Such injury would not ordinarily occur except as the result of deliberate[,] unreasonable and neglectful acts by the mother who had care, custody and control of the child. Such deliberate, unreasonable and neglectful acts on the part of the mother to the child endangers the child's physical health, safety

¹ All further statutory references are to the Welfare and Institutions Code.

and well-being, creates a detrimental home environment and places the child at risk of physical harm, damage and danger.” The juvenile court ordered that Darryl be placed with his maternal grandmother subject to the jurisdiction of the court and that Mother be granted family reunification services.

II. Initiation of Dependency Proceedings for S.I.

Mother gave birth to her second child, S.I., in July 2014. At the time of S.I.’s birth, Darryl remained in the home of his maternal grandmother and Mother continued to receive reunification services. On July 30, 2014, the DCFS received a referral advising the agency that Mother had given birth to S.I. The reporting party was aware that Mother had an open dependency case for Darryl and that the child was in an out-of-home placement. It also was reported that Mother had a history of major depression and/or severe postpartum depression, and that she was residing in the maternal grandmother’s home where Darryl had been placed. The DCFS assigned Children’s Social Worker (CSW) Mary Ellen Stambaugh to investigate the referral involving S.I.

On July 31, 2014, CSW Stambaugh spoke with CSW Diamonique McCullough, the social worker assigned to Darryl’s case. CSW McCullough reported that Mother was residing with a maternal great aunt. She indicated that she had spoken with Mother about placing S.I. with the maternal grandmother upon her discharge from the hospital because it was unclear if the DCFS would file a section 300 petition for S.I. Mother reportedly was agreeable to such a plan, and also had been very cooperative and compliant with her case plan for Darryl. CSW McCullough acknowledged, however, that Mother recently had missed a visit with Darryl because she had been incarcerated for shoplifting. Mother also had a criminal conviction for causing Darryl’s injury, but CSW McCullough was unsure of the specific charge for which Mother had been convicted. She was not aware of Mother having a history of severe postpartum depression, and had not observed any indication that Mother had any significant mental health issues. CSW McCullough wanted to recommend at the next court hearing in Darryl’s case that Mother be allowed to move into the maternal grandmother’s home with the children, but she did not believe

that this plan would be approved by her supervisor. CSW McCullough stated that she thought the children would be safe in Mother's care.

Later that day, CSW Stambaugh met with Mother at the maternal grandmother's home. Mother reported that she was living with her maternal aunt. She confirmed that she had spoken with CSW McCullough and that they made a plan for S.I. to reside with the maternal grandmother upon her discharge from the hospital. Mother stated that she understood she could not spend the night in the maternal grandmother's home and that she would be returning to her aunt's residence that night. Mother indicated that she would be willing to accept voluntary services for S.I. CSW Stambaugh also spoke with the maternal grandmother who confirmed that she was caring for Darryl and she knew Mother was not allowed to stay in her home. S.I. was observed to be in good health, eating well, and alert, and she appeared to be attached to Mother.

On August 1, 2014, CSW Stambaugh met with Mother at her maternal aunt's home and asked her about the circumstances surrounding Darryl's broken leg. Mother stated that she "guess[ed]" she broke the child's leg when changing his diaper by "roll[ing] him over too hard." When asked to demonstrate how she handled Darryl on that occasion, Mother indicated that she grabbed both of his thighs and turned him over. She denied grabbing only one leg or being angry at the child when she turned him. She also denied that she was severely depressed or suicidal around the time of Darryl's injury. Mother stated that she had never been diagnosed by a psychiatrist with severe postpartum depression, but that a police detective had told her to tell the court that was her diagnosis. During the interview, the maternal aunt provided CSW Stambaugh with a different account of Darryl's injury. According to the aunt, the night before the family realized Darryl's leg was broken, Mother had been in school and Darryl had been in the care of Mother's then boyfriend, who had a history of violence toward Mother. The following morning, Mother saw that Darryl's leg was swollen, and the family was told that the child had a fracture which was possibly non-accidental. The aunt informed the investigating detective that she thought Mother's boyfriend had hurt Darryl and was also hitting

Mother. At the detective's request, Mother agreed to submit to a polygraph test, but the detective later decided the test was unnecessary.

On August 1, 2014, CSW Stambaugh also spoke with the reporting party who had made the referral regarding S.I. The reporting party worked at the hospital where S.I. was born, and stated that she had contacted the DCFS pursuant to hospital policy because Mother had disclosed that she had an open dependency case. The reporting party also stated that she had no concerns about Mother or her mental health, and that Mother had been "the best parent" that she had on the hospital floor all week.

On August 19, 2014, CSW Stambaugh contacted Mother's probation officer, who reported that Mother was cooperative and in compliance with the terms of her probation. She denied seeing any indication that Mother had any significant mental health problem, and stated that she felt Mother was doing well and was not a risk to S.I.

On August 20, 2014, CSW Stambaugh spoke with Mother's therapist. He stated that Mother had mild to moderate depression, but she had not been diagnosed with severe depression or severe postpartum depression. He also noted that some depression was completely normal given Mother's current situation. The therapist described Mother as compliant with her treatment, and stated that he had not seen any indication that Mother had any severe mental health issue or that she posed a risk to her children. He also stated that he was not sure Mother was guilty of hurting Darryl, and he questioned why the DCFS was considering taking any legal action regarding S.I. He expressed that he had no concerns about either child being in Mother's care.

On September 9, 2014, the DCFS filed a dependency petition on behalf of S.I. under section 300, subdivisions (a), (b), and (j.) The petition alleged that Darryl had suffered a detrimental and endangering injury that was consistent with inflicted trauma, and that the explanation provided by Mother was inconsistent with the child's injury. The petition further alleged that Darryl's injury would not have occurred without the deliberate, unreasonable, and neglectful acts of Mother, which endangered S.I.'s health and safety and placed S.I. at risk of serious physical harm. The DCFS recommended that S.I. remain in Mother's care under the juvenile court's supervision.

At the detention hearing held on September 9, 2014, the juvenile court found that a prima facie showing had been made that S.I. was a person described by section 300. The court ordered that S.I. remain released to Mother's custody and that Mother be provided with family maintenance services pending the jurisdiction hearing.

III. Jurisdiction/Disposition Report

On November 17, 2014, the DCFS filed a jurisdiction/disposition report with the juvenile court. As set forth in the report, Mother had a history of depression and had participated in therapy to treat her depression since she was a teenager. She had taken psychotropic medication in the past, but was not currently taking any medication because she was not suffering any depressive symptoms. Mother also had a history of domestic violence with her ex-boyfriend, M.T. She was in a relationship with M.T. when Darryl was an infant, and she reported that he was violent toward her. She denied that Darryl was ever exposed to the domestic violence, and indicated that she no longer was involved with M.T. or had any contact with him. Mother currently had a strong social support system, including the maternal grandmother, aunt, and great aunt. These family members were a positive influence in Mother's life and provided her with emotional support and encouragement. Mother was incarcerated from November 2013 to July 2014 for shoplifting and violating the terms of her probation, but she currently was in compliance with her probation and her court-ordered case plan for Darryl.

CSW McCullough interviewed Mother on October 22, 2014 about the allegations in the section 300 petition filed for S.I., including the circumstances surrounding Darryl's injury. Mother reported that, on the morning of Darryl's hospitalization, M.T. had been alone in a room with the baby. M.T. came out of the room and told Mother that Darryl had fallen off the bed and his leg looked swollen. When Mother walked into the room, Darryl was lying quietly on the bed, but he began to cry after she picked him up. Mother saw that his leg was swollen so she took him to the hospital. CSW McCullough asked Mother about her original statement to the police that she twisted Darryl's leg as she was turning him over in the bed. Mother maintained that she did grab the child by both legs

to turn him over, but she did not believe that she applied enough force to cause a fracture. Mother also noted that Darryl did not cry when she turned him.

In her interview with CSW McCullough, Mother stated that she now suspected that M.T. had caused Darryl's injury. She indicated that she could not be certain M.T. was involved because she did not see him harm the child. However, Mother believed M.T. may have inflicted the injury because he had a history of violent behavior toward her and he was the only other person who had access to Darryl at the time. Mother said that she did not initially believe M.T. could have hurt Darryl because he treated Darryl like a son and interacted well with his own child. She also said that, after the injury, she asked M.T. if he had done anything to harm Darryl and he denied any involvement. Mother acknowledged that she was depressed when the injury occurred, and she stated that the detective "put it in [her] head" that she had hurt Darryl because of her depression. She also admitted to being depressed and sleep deprived the night before Darryl was hospitalized, but insisted that she would never hurt her children. Mother believed she was able to care for both Darryl and S.I., and stated that she was willing to comply with all of the DCFS's recommendations in order to have them in her care.

CSW McCullough also interviewed the maternal grandmother and the maternal aunt about the allegations in the petition. Both the grandmother and the aunt believed that M.T. caused Darryl's injury, and that Mother would never intentionally harm either of her children. The grandmother explained that she never trusted M.T., but that Mother "want[ed] to see the good in everyone." The grandmother also stated that, while Mother was capable of caring for her children, she was "very immature," had "a lot of growing up to do," and needed "a lot of support." The grandmother believed that it was in the best interest of the children for Mother to move into her home so that Mother could parent the children with the support of the grandmother and other relatives.

In its report, the DCFS stated that it had ongoing concerns about the safety of three-month-old S.I. based on the circumstances surrounding Darryl's broken leg at the age of six months. The DCFS explained that even though it had been two years since the injury occurred, "there is still no clarity as to what actually happened." The agency noted

that, while Mother admitting to twisting the child's leg as she was turning him over, she denied causing the fracture. The agency also found it suspicious that Mother never mentioned the possibility that M.T. might have caused Darryl's injury during the initial investigation, and expressed concerned that Mother was attempting to shift the blame for the injury to avoid accepting responsibility for her own actions. While acknowledging that Mother had been compliant with her case plan for Darryl, the DCFS believed that jurisdiction over S.I. was necessary to ensure the child's safety due to her age and the severity of Darryl's injury. The DCFS recommended that S.I. be declared a dependent of the court under section 300, subdivision (j), and that the remaining counts in the petition be dismissed. The agency also recommended that S.I. remain in Mother's custody under court supervision, and that Mother be granted family maintenance services.

IV. Jurisdiction and Disposition Hearing

On November 17, 2014, the juvenile court held the jurisdiction and disposition hearing for S.I. The court admitted into evidence the reports filed by the DCFS in the dependency case for S.I., and took judicial notice of its prior orders and findings in the dependency case for Darryl. On the DCFS's motion, the court dismissed the two counts alleged in the petition under section 300, subdivisions (a) and (b).

Counsel for the DCFS requested that the juvenile court sustain the remaining count alleged under section 300, subdivision (j). She noted that the court previously had sustained a section 300 petition in Darryl's case based on findings that the child had suffered a leg fracture that was consistent with inflicted trauma and inconsistent with the explanation provided by Mother. She acknowledged that the family was now claiming that Mother's ex-boyfriend caused the child's injury, but stated that this was "new information to the Department" and that Mother had never previously told the DCFS that her boyfriend may have harmed Darryl. Counsel argued that jurisdiction over S.I. was necessary given the seriousness of Darryl's injury.

S.I.'s counsel joined with the DCFS in requesting that the juvenile court assume jurisdiction over S.I. under section 300, subdivision (j). She stated that, if Mother's

former boyfriend was the perpetrator of Darryl's injury, then Mother had been protecting him. She further asserted that, if Mother was the perpetrator, then Mother was not taking responsibility for her actions based on the court's prior findings in Darryl's case. S.I.'s counsel argued that Mother's conduct thus placed the child at risk of harm.

Mother's counsel asked the juvenile court to dismiss the section 300 petition in its entirety. She stated that it had been two years since Darryl's injury occurred and that Mother currently was having consistent unmonitored visitation with the child. She also noted that there had been no recent incidents or concerns regarding Mother's interactions with the children and that the DCFS was requesting that S.I. remain in Mother's home. Mother's counsel argued that the petition should be dismissed because it was "based on hypotheticals" and there was no showing of a current risk of harm to S.I.

The juvenile court sustained the petition as to the count alleged under section 300, subdivision (j). The court noted that Darryl had suffered a leg fracture at the age of six months, and that Mother had given an unsatisfactory explanation that was inconsistent with the child's injury. With respect to S.I., the court stated: "We are dealing with a very young child here who is less than three months old, and given all the information before the court, including now the conflicting evidence that's being offered as to whether it was the boyfriend who injured the sibling or whether it was the mother, the court does have serious concerns in this matter regarding the welfare of the newborn."

Proceeding to disposition, the juvenile court declared S.I. to be a dependent of the court under section 300, subdivision (j), and ordered that the child remain in Mother's custody under the supervision of the DCFS. Mother was granted family maintenance services and was ordered to continue attending individual counseling to address mental health and other case issues. Following the jurisdiction and disposition hearing, Mother filed a timely notice of appeal.²

² On June 12, 2015, while Mother's appeal was pending, the juvenile court held a six-month review hearing for S.I. and an 18-month review hearing for Darryl. The court found that continued jurisdiction over both children was necessary, and ordered that S.I. remain placed in Mother's home. The court also ordered that Darryl be placed

DISCUSSION

On appeal, Mother challenges the sufficiency of the evidence supporting the juvenile court's jurisdiction order. She specifically contends that the evidence was insufficient to support a finding that the prior injury sustained by Darryl while in her care placed S.I. at a substantial risk of harm. We conclude that the juvenile court's exercise of jurisdiction under section 300, subdivision (j) was supported by substantial evidence.

I. Applicable Law

We review a juvenile court's jurisdictional findings for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) Substantial evidence is "evidence that is reasonable, credible, and of solid value." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401.) Under this standard of review, we examine the whole record in a light most favorable to the findings and conclusions of the juvenile court and defer to the juvenile court on issues of credibility of the evidence and witnesses. (*In re A.J.* (2011) 197 Cal.App.4th 1095, 1103.) We determine only whether there is any substantial evidence, contradicted or uncontradicted, that supports the juvenile court's order, resolving all conflicts in support of its determination and drawing all reasonable inferences to uphold its ruling. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1124.) If there is substantial evidence to support the juvenile court's order, we must uphold the order even if other evidence supports a contrary conclusion. (*In re N.M.* (2011) 197 Cal.App.4th 159, 168.)

Section 300, subdivision (j) provides that a child comes within the jurisdiction of the juvenile court if "the 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." A jurisdictional finding under

in Mother's home on the condition that Mother reside with the maternal grandmother or in other DCFS-approved housing. The court set a further review hearing for both children for December 2015. On this court's own motion, we take judicial notice of the post-appeal minute orders entered by the juvenile court. (Evid. Code §§ 452, subd. (d), 459, subd. (a).)

“section 300, subdivision (j) has two elements: first, that the [child’s] sibling has been abused or neglected, and second, that there is a substantial risk that the [child] will be abused or neglected.” (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 981.) In determining whether there is a substantial risk to the child, the juvenile court must “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.” (§ 300, subd. (j).)

As the California Supreme Court has explained, section 300, subdivision (j) “‘was intended to expand the grounds for the exercise of jurisdiction as to children whose sibling has been abused or neglected as defined in section 300, subdivision (a), (b), (d), (e), or (i).’” (*In re I.J.*, *supra*, 56 Cal.4th at p. 774.) “‘The broad language of subdivision (j) clearly indicates that the trial court is to consider the totality of the circumstances of the child and his or her sibling in determining whether the child is at substantial risk of harm, within the meaning of *any* of the subdivisions enumerated in subdivision (j). The provision thus accords the trial court greater latitude to exercise jurisdiction as to a child whose sibling has been found to have been abused than the court would have in the absence of that circumstance.’ [Citation.]” (*Ibid.*) In assessing the risk of harm posed to a child, it also is necessary to recognize that “‘[s]ome risks may be substantial even if they carry a low degree of probability because the magnitude of the harm is potentially great.’” (*Id.* at p. 778.) Accordingly, “[t]he 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.” (*Ibid.*)

II. The Jurisdiction Order for S.I. Was Supported by Substantial Evidence

The juvenile court sustained count j-1 in the section 300 petition filed on behalf of S.I. as follows: “On 02/23/2013, the child S.I.’s sibling, then six month old, Darryl [T.], was medically examined and found to have sustained a detrimental and endangering injury consisting of a fracture and swelling to the sibling’s right femur. The child’s mother, Taylor [I.’s], explanation of the manner in which the sibling sustained the

sibling's injury is inconsistent with the sibling's injury. The sibling's injury is consistent with inflicted trauma. Such injury would not ordinarily occur except as the result of deliberate[,] unreasonable and neglectful acts by the mother who had care, custody and control of the sibling. Such deliberate, unreasonable and neglectful acts on the part of the mother to the sibling endangers the child [S.I.'s] physical health and safety, creates a detrimental home environment and places the child at risk of physical harm, damage and danger.” We conclude that the evidence was sufficient to support the juvenile court’s exercise of jurisdiction over S.I. because the serious physical injury suffered by Darryl placed S.I. at a substantial risk of suffering similar abuse or neglect in Mother’s care.

There is no dispute that Darryl was abused or neglected as defined by section 300. When Darryl was only six months old, he sustained a fracture to his right femur while in the care and custody of Mother. While, at the time of the injury, Mother reported that she had turned Darryl over in a rough manner, Darryl’s injury was inconsistent with the account provided by Mother and consistent with inflicted trauma. In July 2013, the juvenile court declared Darryl a dependent child of the court under section 300, subdivisions (a) and (b) based on findings that his injury would not have occurred without the deliberate, unreasonable, and neglectful acts of Mother, and that such acts on the part of Mother placed the child at a substantial risk of harm. Mother also was convicted of a criminal charge in connection with Darryl’s injury and she remained on probation during the pendency of the dependency case for S.I.

The record further reflects that Mother made inconsistent statements about the cause of Darryl’s injury and her culpability in it. During the DCFS’s initial investigation of the injury in 2013, Mother never disclosed to the agency that she believed her former boyfriend, M.T., might have hurt Darryl. In August 2014, when she was first interviewed by the DCFS following S.I.’s birth, Mother also did not report any suspicions about M.T.’s possible role in Darryl’s broken leg. She did not mention that M.T. was with Darryl when the injury occurred or that M.T. claimed the child had fallen off the bed. Rather, when asked about the circumstances surrounding Darryl’s broken leg, Mother stated that she “guess[ed] she broke it when changing his diaper,” and that she “thought

she rolled him over too hard.” It was not until her second interview with the DCFS in October 2014, after the section 300 petition for S.I. had been filed, that Mother blamed M.T. for Darryl’s broken leg. At that time, Mother stated that she believed M.T. had inflicted the injury because he was alone with Darryl on the morning it occurred and he told Mother the child hurt his leg when he fell off the bed. Mother also claimed a police detective “put it in [her] head” that she had hurt Darryl because of her depression.

Based on Mother’s changing story about the circumstances surrounding Darryl’s broken leg, the juvenile court reasonably could have found that Mother had not accepted responsibility for the child’s injury. In particular, the court could have determined that Mother’s statement about M.T.’s suspected role in the injury was not credible given that she never disclosed such information to the DCFS during Darryl’s dependency case, but rather told both the DCFS and the police that the injury occurred accidentally when she turned the child over while changing him. The court further could have inferred that Mother’s attempt to shift the blame for the injury during S.I.’s dependency case showed that she had not gained insight into her past conduct or developed the skills necessary to prevent this type of injury from recurring despite receiving more than 12 months of reunification services in Darryl’s case. Given the seriousness of Darryl’s injury and his age when it occurred, the court also reasonably could have found that then three-month-old S.I., who was completely dependent on others for her basic life needs, was vulnerable to suffering similar abuse or neglect if left unsupervised in Mother’s care. Based on the totality of these circumstances, there was substantial evidence to support a finding that S.I. was at a substantial risk of harm within the meaning of section 300, subdivision (j).

Mother argues the evidence was insufficient to support the jurisdictional finding because the juvenile court only took judicial notice of the prior sustained petition in Darryl’s dependency case rather than the complete case file. In support of this argument, Mother cites to two cases—*In re David M.* (2005) 134 Cal.App.4th 822 and *In Re Ricardo L.* (2003) 109 Cal.App.4th 552—in which a jurisdictional finding made under section 300, subdivision (j) was reversed for lack of sufficient evidence. In each of those decisions, the court of appeal noted that the record before the juvenile court did not

contain sufficient information about the prior dependency case for the child's sibling to determine what had occurred in those earlier proceedings and why the parent had failed to complete the court-ordered case plan. (*In re David M.*, *supra*, at pp. 831-832; *In re Ricardo L.*, *supra*, at pp. 566-567.) In this case, however, the juvenile court had an adequate record before it about the factual and procedural history of Darryl's open dependency case to adjudicate the section 300 petition filed on behalf of S.I. The record before the juvenile court included reports of the DCFS's interviews with the social worker assigned to Darryl's case, Mother's therapist in Darryl's case, and Mother's probation officer in the criminal case that was filed as a result of Darryl's injury. These individuals were able to provide information about Mother's compliance with the terms of her probation and her court-ordered case plan for Darryl. The record also included reports of the DCFS's interviews with Mother about the circumstances surrounding Darryl's injury, including her original statement to the police on how the injury occurred. Contrary to Mother's contention, the juvenile court did not base its jurisdictional finding solely on the prior sustained petition in Darryl's case. Rather, the record demonstrates that the juvenile court considered the totality of the circumstances in assessing the risk of harm to S.I., including the ages of the children, the nature and circumstances of Darryl's injury, and Mother's current understanding of her prior abusive or neglectful acts.

Mother also asserts the evidence was insufficient to show any current risk of harm to S.I. because the DCFS requested the dismissal of the counts alleged under section 300, subdivisions (a) and (b) and recommended that S.I. remain in Mother's custody. This claim lacks merit. As discussed, section 300, subdivision (j) "allows the court to take into consideration factors that might not be determinative if the court were adjudicating a petition filed directly under one of [the other] subdivisions," and "accords the trial court greater latitude to exercise jurisdiction as to a child whose sibling has been found to have been abused than the court would have in the absence of that circumstance." (*In re I.J.*, *supra*, 56 Cal.4th at p. 774.) Although the DCFS asked the juvenile court to dismiss count a-1 and b-1 in the petition, it requested that count j-1 be sustained on the ground that the prior serious physical injury suffered by Darryl, and Mother's failure to accept

any responsibility for it, placed S.I. at a substantial risk of harm in the future. In addition, the DCFS made clear that it was recommending S.I. remain in Mother's custody under court and agency supervision to protect the child from the risk of harm.

A child may not be removed from parental custody unless there are no reasonable means by which the child can be protected without removal (§ 361, subd. (c)(1)), and "courts have recognized that less drastic alternatives to removal may be available in a given case including returning a [child] to parental custody under stringent conditions of supervision by the agency." (*In re Hailey T.* (2012) 212 Cal.App.4th 139, 148.) The fact that the DCFS recommended that S.I. remain in Mother's custody subject to court-ordered services and continued supervision does not demonstrate the absence of any current risk of harm. Rather, it shows that the agency believed S.I. could safely remain in Mother's care provided that the child was under the jurisdiction of the juvenile court.

Based on the totality of the record, the juvenile court reasonably could find that S.I. was at a substantial risk of suffering abuse or neglect in Mother's care and that jurisdiction over the child was necessary to protect her physical health and safety. The juvenile court's finding that S.I. came within the jurisdiction of the court under section 300, subdivision (j) was therefore supported by substantial evidence.

DISPOSITION

The juvenile court's jurisdiction and disposition orders are affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.