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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re Emily S., a Person Coming Under the
Juvenile Court Law.

B254728
(Los Angeles County
Super. Ct. No. DK01936)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

RUSSELL S.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of the County of Los Angeles, Philip Soto, Judge. Affirmed.

John L. Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the County Counsel, Richard D. Weiss, Acting County Counsel, Dawyn R. Harrison, Assistant County Counsel, Jeanette Cauble, Senior Deputy County Counsel for Plaintiff and Respondent.

I. INTRODUCTION

The father, Russell S., appeals from the juvenile court's December 9, 2013 jurisdictional findings and order. He argues there was insufficient evidence to support the juvenile court's jurisdiction under Welfare and Institutions Code¹ section 300, subdivision (c)(1). The father also appeals from the January 27, 2014 dispositional findings and order. He contends the juvenile court abused its discretion in granting the mother sole legal custody of the child. We affirm the findings and orders as all of his contentions are meritless.

II. PROCEDURAL HISTORY

On October 23, 2013, the Los Angeles County Department of Children and Family Services (the department) filed a section 300 petition on behalf of nine-year-old Emily S. The petition alleges the father emotionally abused the child by calling her derogatory, demeaning and profane names and making disparaging remarks about her. The father yelled and belittled the child causing her to constantly cry, feel anxious and depressed. The father also made derogatory comments about the mother, Amy F., to the child.

At the October 23, 2013 detention hearing, the juvenile court detained the child from the father and she was released to the mother. The father was granted monitored visits in a neutral setting with a neutral monitor. The juvenile court ordered conjoint counseling between the father and the child.

At the December 9, 2013 jurisdiction hearing, the juvenile court sustained the petition under section 300, subdivision (c)(1). The juvenile court sustained the following allegations in count c-1: "On numerous prior occasions in 2013, the [father] emotionally abused the child by calling the child derogatory and demeaning and profane names and

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

making disparaging remarks about the child to the child. The father yelled and belittled the child, resulting in the child constantly crying, and feeling anxious, and depressed. The child does not wish to have visits in the father's home, due to the emotional abuse of the child by the father. The father makes derogatory remarks about the mother . . . to the child. The child has demonstrated depression, hysteria, withdrawal and low self esteem, due to the emotional abuse of the child by the father. The emotional abuse of the child on the part of the father places the child at substantial risk of suffering serious emotional damage as evidenced by severe anxiety, depression and aggressive behavior toward others."

The juvenile court continued the disposition hearing to January 27, 2014. The juvenile court ordered the family court file be brought to court. The juvenile court wanted to review the prior family court orders before making a final decision regarding the legal custody of the child. The juvenile court stated, "I should review [the family court file] to see what the status is as to who had custody last with regards to legal custody, whether it was sole for mother or joint for mother and father, before I make a final decision on whether or not we should change what the family law court [h]as already done."

At the January 27, 2014 disposition hearing, there was no discussion as to whether the juvenile court had obtained the family court file. The father did not object to proceeding with the disposition hearing without the family court file. At the hearing, the juvenile court removed the child from the father's custody subject to visitation rights which we will describe shortly. The mother was granted sole legal and physical custody. The juvenile court explained: "[T]here seems to be a great deal of animosity between [the father] and the mother. I have to make sure that somebody is going to be able to sign off on whatever needs to be signed in order to get her medical attention, school attention, programs and the like and that we are not going to have a great contest with one party saying, 'Yes,' and one party saying, 'No,' and the girl not being able to get what she needs and/or wants because she doesn't have parents that can agree with one another."

The father was granted monitored visits with the child at least once a month. The mother had discretion to allow the father more visits if appropriate. The monitored visits could be modified by family court if the father complied or completed: individual counseling; conjoint counseling with the child; and parents beyond conflict classes with the mother. Jurisdiction was terminated after the family law order was submitted to and signed by the juvenile court that day. The father filed his notice of appeal on February 3, 2014.

III. EVIDENCE

A. Detention Report

The October 23, 2013 detention report was prepared by children's social worker Karen Torres. On October 3, 2013, Ms. Torres responded to a referral from the child's school. Ms. Torres met with the child in private at the school and explained the reason for the visit. Ms. Torres observed the child was shaking and visibly upset and began to cry when Ms. Torres read over the allegations. The child said she had spent the previous four weekends at the father's home, "couldn't take it anymore" and did not want to return to his residence. The child stated the father was verbally abusive and yelled at her constantly. The father told the child, "[Y]ou're a fucking liar[.]" In addition, he said to the child, "[Y]ou're a piece of shit and your mom is full of shit!" He blamed the child for things that went wrong even when she did not know what the problem was. The father made fun of the child's dyslexia and blamed the mother for it. In addition, he would say mean things about the child's maternal relatives. The father constantly lied about the mother. When the child was younger, he would make the youngster lie about the mother. The father was moody and the child felt scared being alone with him. The father became upset when the child talked to the social worker.

During the child's visits with the father, she felt very lonely and she never knew what would happen. The father's home was dirty and the child would have to clean up the home or he would get mad. During one visit, the father became upset and told the child to get her backpack and walk from his home in Woodland Hills. The child was told to walk to the mother's house in Sherman Oaks. The father lived on a hill and once the child made it to the first turn, he called her back. He shook the child's hand, said "good luck," and told her to walk again. Later, the father called the child back to his home. The father would confuse the child, tell her mean things, and get her upset. He would tell the child, "you don't love me," and she would have to say frequently she loved him.

The father did not feed the child and at times only gave her yogurt. On the last visit, the child ate leftovers because there was not a lot of food at the father's home. The child reported last weekend, the father became upset with her and yelled, "Once I'm done with you, you will never want to come back here again."

The child stated she was scared and did not know what would happen if the father picked her up from school. The child's stomach hurt and she felt very anxious. The child denied physical discipline by the father but feared he was going to hurt her. The child cried during the interview with Ms. Torres. The child was uncomfortable saying critical things about her father. A.J. The child stated she talked to her therapist, A.J. Barnert, but did not tell Ms. Barnert any "bad stuff" about the father. But the child felt she had to speak up now because she did not know what would happen to her during her visits with the father. The child asked not to go to the father's home and pleaded with Ms. Torres for help.

Erica Rothblum, the school head mistress, reported the child was upset and very frightened of going to the father's home for the weekend. For the entire week, the child would think about the father picking her up and get nervous and upset. Ms. Rothblum stated Emily was a good child with no problems.

Seth Pozzi, the dean of students, stated the child would become apprehensive and teary when the father came to pick her up. Mr. Pozzi reported the child appeared to be

afraid of going to the father's home. The father appeared resentful of the child and told her a lot of mean things. Two weeks ago, the mother was out of town and the child did not want to stay with the father. The child asked to go on a play date with another student but the father denied the child's request. The father told the child things like "mom abandons you" and "your mom is a Jew hater." Mr. Pozzi reported the child got along well with other students. The child was ranked in the middle in academics and did not have any behavioral problems.

Ms. Torres waited outside the school to speak with the father. Mr. Pozzi stated he would stay with Ms. Torres and called security for assistance because the father angered easily. Ms. Torres attempted to interview the father when he arrived at the school to pick up the child. The father immediately became defensive concerning the emotional abuse allegations. He stated it was all the mother's doing and called her a liar. The father questioned Ms. Torres, repeatedly asking: "[D]id Emily say this [?] Did she say she didn't want to be with me? Did she say this?" The father then stated he wanted to see the child. Ms. Torres went inside the school office to ask the child if she wanted to see her father. The child shook her head and said "no." When Ms. Torres told the father that the child did not want to see him, he became visibly upset and said he was "done with the [d]epartment." The father refused to accept any documents from Ms. Torres and walked away from her. Ms. Torres then spoke with the child. The detention report relates, "[The child] smiled and thanked this [social worker] for listening to her and believing her." The mother arrived shortly, hugged the child, and they went home.

Ms. Torres interviewed the mother in private. The mother stated the child had been anxious and nervous about going to the father's home. During therapy, the child cried while recalling all of the things the father did to make her feel bad. The mother had thought things were fine because in the past the child had not wanted to talk about what happened with the father. The last time the child told the father she wanted to go home, he replied, "If you want to leave[,] then leave."

The mother said a few months ago, the child was with the father when he collapsed outside the hospital. The father was admitted to the hospital for a blood clot. The mother was out of town but could have made arrangements for the child to be picked up. Instead, the child had to wait at the hospital for nine hours with the hospital social worker. This occurred because the father refused to let the hospital staff contact the mother. This caused the child anxiety and she was traumatized by the entire incident.

Two weeks prior to the interview with Ms. Torres, the child told the father she wanted to have a play date and sleepover. The father picked the child up and abruptly told her, “Emily[,] let[‘]s go!” The friend’s mother said the father was yelling at the child and the youngster was reduced to tears. But the friend’s mother could not make out what the father was saying to the child because they were outside. The mother asked the child about the incident. The child stated the father was very upset with her but she did not know what she had done to make him upset. That night, the father sent the child to her room without an explanation.

The mother reported the father had gotten into a physical altercation with a brother and the police were called. The two men each attempted to get a restraining order against each other. But a restraining order was granted only as to the father. The mother stated six years ago, the city attorney’s office, which was prosecuting the father for domestic violence, secured a restraining order against him for verbal threats. The mother reported she had been contacted by the Department of Consumer Affairs about the father’s nursing license. The mother did not know if this issue had caused the father stress and he was taking it out on the child.

As noted, Ms. Barnert is the child’s therapist. The child had been in therapy since she was three years old. The child witnessed a domestic violence incident between the parents six years ago. The child had been in therapy with Ms. Barnert since then. Ms. Barnert said the child was very protective of the father and did not discuss what happened at his home. But during the last session, the child was hysterical and crying as she disclosed the father’s verbal abuse. The child said the father constantly yelled at her and

“cusse[d] her out.” The child disclosed the father called her ““a piece of shit”” and ““a fucking liar[.]”” The father was ordered by family court to undergo conjoint therapy but he only came once to see Ms. Barnert. Ms. Barnert and the mother had tried to set up appointments with the father for conjoint therapy but he did not show up to them.

Ms. Barnert stated the father was a difficult man who did not like women. According to Ms. Barnert, the father was unstable, manipulative, and unhealthy and purposely did things to hurt the child. When department social workers went to the father’s home to investigate, he would not open the door. Instead, the father would wait until they called him for an appointment. He would then clean the house and buy food for the child. The child said many times she would go to bed without dinner or only eat a yogurt while staying with the father. The child had to take leftovers for lunch when she went to school.

According to Ms. Barnert, once the child had a school performance. The father showed up and whispered something mean in the child’s ear. The child pulled herself together and was able to perform. The child also disclosed she had two cats that she adored at the father’s home. The child was hurt after the father got rid of one of the cats.

On October 8, 2013, the child was very emotionally distressed and did not want to see the father. The child was concerned the father would deny everything or be nice and “then do the same old thing.” The child reported the father would get upset if she had him on speaker phone or if anyone else was in the room when he called her. The child wanted to see the father but only with a monitor.

On October 10, 2013, the parents participated in a team decision meeting with department staff. The father denied the allegations of misconduct. He stated the child was anxious because he got sick and was hospitalized. The department staff proposed the mother go to family court to modify the father’s visits to monitored visitation. Once the family law order was modified, the department would close the referral. However on October 15, 2013, the mother related she tried to file an ex parte motion to change the visitation order but her request was denied by the family court. The mother told Ms.

Torres a family court hearing had to be scheduled to change the visitation order. The next available hearing was not until February or March 2014.

On October 17, 2013, Ms. Torres attempted to serve a removal order on the father but he was not home. The child was released to the mother. On October 18, 2013, the child reported the father called her. He questioned why the child made the statements reported by Ms. Torres. The child replied she told the truth about what happened. The father became inappropriate and the mother terminated the phone call because the child got upset.

B. Jurisdiction and Disposition Report

The November 20, 2013 jurisdiction and disposition report was prepared by dependency investigator Chelsea O'Neill. The father stated the parents had joint physical and legal custody of the child. The father provided Ms. O'Neill with an August 14, 2007 court order showing he was granted shared joint legal custody of the child.

The mother stated the parents had been engaged in an ongoing custody battle since 2006. The mother said she currently had full physical and legal custody of the child with the father having visitation rights. The mother provided Ms. O'Neill with a July 18, 2012 court document entitled "Tentative Decision on Issue of Child Custody." The tentative decision awarded the mother sole legal custody of the child with the parents awarded joint physical custody. But confusingly, the tentative decision also stated the mother was awarded sole physical custody with the father having reasonable visitation rights.

Ms. O'Neill interviewed the child concerning the emotional abuse allegations. The child stated, "[The father] ignores me, calls me bad words, calls me piece of shit, puts his middle finger up, says the F word, and says bad things about my mom, her family and my friends[.]" The father often complained about the mother to the child. The child stated the father tries to falsely accuse the mother of misconduct. The child said "[the father] lies a lot" and he blamed her often now but not as much when she was

little. The child said the father started falsely blaming her “‘probably since I was in Kindergarten or [First] grade.’” The child recounted, “‘I was with my dad 4 weekends in a row, my mom took me to a funeral one week that I was suppose to be with him . . . he ignored me, he wouldn’t say goodbye to me[.]’” When the father picked up the child from school, she related, “‘[H]e was acting all nice, then I got in the car and he started complaining[.]’” The child said: “‘[M]y dad is very rude; he says things like, you did this, so I’m not going to do that[.]’” The child stated oftentimes the father would say he would move away, never see her again and not pay for her school anymore.

On prior occasions when the police and social workers interviewed the child, she would “‘stand up’” for the father. The child explained her prior statements thusly: “‘I was scared[.] [H]e asks me what I said to the social services about him[.]’” The child also said: “‘[H]e makes me lie about my mom . . . one time he recorded me . . . my mom and dad go to Court a lot and he wanted to use it in Court[.]’” The child stated, “‘I feel uncomfortable, scared and anxious’” around the father. The child said: “‘[E]verytime he gets upset I get scared[.] I got really scared this time[.] I know what’s good and bad behavior[.]’” The child related the father stated he loved her and gave her hugs. But the child said, “‘[E]very time I talk to him on the phone, he asks me if I will give him a hug, I get anxious, nervous, and panicky[.]’”

The child denied any physical abuse but said she was afraid of the father. The child stated, “‘[S]ometimes I get so scared because he gets so mad[.]’” When the child was at the father’s house, she said, “‘I would text my mom and tell her I was scared.’” The child reported one time the father locked her in her room and would not give her any food. The child recounted the father was upset with her on Father’s Day and gave her back the gift she gave him. He also made the child write about 50 times, “‘I’m not Jewish.’” The child stated, “‘I just push it down, I try to ignore it, I just keep pushing it down[.]’” The child said to Ms. O’Neill, “‘[I]f I don’t tell the whole thing, then I feel like I didn’t tell you everything[.]’”

The child stated the mother became frustrated with the father. But the child denied the mother said anything bad about the father. The mother allowed the child to call the father anytime she wanted. The child preferred to live with the mother. The child said she would feel more comfortable having monitored visits with the father.

The mother stated the father was emotionally abusing the child. The mother reported the child had outbursts of anger after visits with the father. The child told the mother, “I have to keep it all bottled up when I’m there.” The mother said, “[A] lot of times Emily would come back from a visit with her dad and would be really angry[.]” It had taken the child a long time to stand up for herself. Before the child would not tell the mother what went on at the father’s house. Now that the father was no longer visiting, the mother reported the child was “much calmer, more stable, no longer full of anger.”

The mother has witnessed the father scream, yell and be accusatory towards her. The father engaged in the same conduct with the child. The father’s behavior had been “erratic for years” in the mother’s view. The father blamed the mother for everything. The mother reported the father had blamed her or the child for things and said the father complained a lot to the child within the past six to nine months. Over the phone, the mother would hear the father say to the child things like, “[W]hy did you lie and this is your fault[.]” The mother would terminate the phone call because the father’s statements would upset the child. The mother took the child to New Jersey to attend the maternal grandfather’s funeral. On that occasion, the father left the child voice messages stating, “[Y]our mom can’t take you, she [is] breaking the law[.]” The mother said the father constantly made false allegations about her abusing the child. In the mother’s opinion, this led to law enforcement and social workers constantly visiting the mother and interviewing the child over and over again. The mother stated: “[T]his has been an ongoing thing; [the child] once lost a lot of weight when he was asking her to lie for him to the police in 2011[.]”

The mother indicated the child first started therapy after witnessing domestic violence between the parents. There were three domestic violence incidents between the parents. One time, the father tried to push the mother out of the house. The child was standing on a chair and the father knocked it over. The child fell into the mother's arms. The mother and the child were on the floor when the father dragged them across the living room floor. Another time, the father tried to push the couch onto the mother and the child. The third time, the father tried to grab a stepstool from the mother and tried to shove her into a car. The father was arrested for this incident. Since then, the parents had had as little contact with each other as possible, only communicating about the child. The parents previously participated in Parents Beyond Conflict, which was recommended by the family court in 2007. But the parenting sessions were unhelpful because the father constantly lied about the mother, made nasty remarks about her and blamed her for everything.

Ms. O'Neill interviewed Mr. Pozzi, the dean of students and the child's math teacher. Mr. Pozzi stated the child appeared very anxious "especially on Fridays" before visiting the father. The child has told Mr. Pozzi the father "acts resentful" towards her. The father has said certain things to the child that Mr. Pozzi felt were inappropriate comments to make to a youngster. These statements were made in Mr. Pozzi's presence. Mr. Pozzi stated the father said, "[Y]our mother hates Jews[.]" The father also told the child, "[Y]ou're not really upset about not going to your mother's house, you are just upset because she abandons you[.]"

Ms. O'Neill also interviewed Kathleen Shieber, the child's language arts and social studies teacher. Ms. Shieber taught the child for two hours a day at school. The child was intelligent, worked hard, was very polite and wanted to do well in school. Ms. Shieber had not noticed anything different in regards to the child's behavior and demeanor at school.

The father denied the emotional abuse allegations. He said the child preferred to be with him and was a "daddy's girl." The father claimed the mother, her friends and

the paternal uncle, Ian S., had a strong influence on the child. According to the father, they fed misinformation to the child. The father stated, ““They . . . keep telling her all this garbage and laying it on her[.]”” The father denied ever yelling at the child. The father said, ““I can’t yell, they took part of my vocal chord,” because he had throat cancer. The father said the child had been depressed and cried because she wanted her family back. The father said the mother was trying to keep the child from him. He stated: ““[I]t was parental alienation . . . [The mother] makes me seem like a monster [.]”” The father stated, “[T]his is all fueled by the mother and ‘she comes up with all sorts of stuff like I lock her [the child] in her room and I don’t feed her[.]’”` (CT 72)~ But he denied ever making derogatory remarks towards the mother. The father said mother was anti-Semitic. He stated, ““[I]t’s all about the money for her (mother)[.]”” The father indicated he paid for the child’s school and afternoon activities like drama and guitar lessons. The father stated, ““I would do anything for my daughter, but I won’t sit in a glass tube to see her under false allegations[.]””

The father said the child became anxious because she saw him get sick. He and the child were on the way to the beach when he felt a sharp pain in his chest. The father drove to the Veterans Affairs hospital and was told he had a blood clot. The child overheard the hospital social worker discuss the medical issue with the father and was frightened.

Ms. O’Neill spoke with Dr. James Mervis, the father’s treating psychiatrist, concerning the allegations. Dr. Mervis stated the father had been in individual counseling for years. The father was cooperative in his counseling sessions. Dr. Mervis was willing to provide conjoint counseling for the father and the child if necessary. Dr. Mervis could tell the father was very involved in [the child’s] life. Dr. Mervis stated, ““[H]is life revolves around his daughter[.]””

The father provided Ms. O’Neill with a March 26, 2013 letter from Dr. Mervis. Dr. Mervis had seen the father for close to three years. The father attended over 50 separate visits. The father was calm and cooperative during the visits. The father would

become emotional and tearful when discussing his love and devotion to the child. Dr. Mervis wrote, “[The father] has made attempts to lessen the stress and animosity between him and the mother of his daughter.” Dr. Mervis also wrote: “[The father] has had extensive throat surgery in the year 2000 for the treatment of cancer. These procedures have changed the quality of his voice. Many interpret his new voice as him being gruff and threatening. I have not seen any threatening or violent behaviors. He has had no positive illicit drug screenings. I actually find him to be quite concerned and sensitive. [¶] It is the medical team’s and my impression that [the father] is quite capable of fulfilling the role of a parent and an employable nurse.”

C. January 27, 2014 Last Minute Information for the Court Report

The last minute information for the court report stated the father refused to have monitored visits with the child since the last court hearing. He would not avail himself of visits with the child because he was opposed to monitored visitation. The father had had a handful of monitored phone calls with the child. But once the father realized he was on speaker phone, he no longer wanted to talk to the child.

D. Father’s Testimony at Disposition Hearing

At the January 27, 2014 disposition hearing, the father testified the child was afraid to have unmonitored visits with him because she saw him hospitalized with a blood clot. The father stated he last saw the child about three months ago. When the father was asked whether he would avail himself of monitored visits, he responded: “I didn’t do anything to have a monitored visit. I will go to therapy with my daughter, but I don’t think that I should be the one monitored.” The father stated he kept in touch with the child by phone every day. He denied ever hanging up the phone on the child.

IV. DISCUSSION

A. Jurisdictional Findings and Order

Section 355, subdivision (a) provides: “At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300” Section 300, subdivision (c) states: “Any 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: . . . [¶] (c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent” We review the juvenile court’s jurisdictional findings for substantial evidence. (*In re R.C.* (2012) 210 Cal.App.4th 930, 940; *In re E.B.* (2010) 184 Cal.App.4th 568, 574-575.) 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 pp. 940-941; *In re E.B.*, *supra*, 184 Cal.App.4th at pp. 574-575.) We draw all reasonable inferences from the evidence to support the juvenile court’s findings and orders. We adhere to the principle that issues of fact, weight and credibility are the juvenile court’s provinces. (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 941; *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.)

The father argues family court, rather than juvenile court, was the proper forum to resolve the family’s issues. He contends the mother was the child’s primary caregiver and could protect the child by obtaining a family court order. The father asserts the

dependency case should be dismissed because the juvenile court's findings and orders adversely affect him. The father's contentions are without merit.

The family court and the juvenile court have separate purposes. (*In re Chantal S.* (1996) 13 Cal.4th 196, 201; *In re J.T.* (2014) 228 Cal.App.4th 953, 961.) Our Supreme Court explained: "The family court is established to provide parents a forum in which to resolve, inter alia, private issues relating to the custody of and visitation with children. In that setting, parents are presumed to be fit and capable of raising their children. (Fam. Code, § 3061.) The juvenile court, by contrast, provides the state a forum to 'restrict parental behavior regarding children, . . . and . . . to remove children from the custody of their parents or guardians.' [Citation.] When, as in this matter, a juvenile court hears a dependency case under section 300 . . . , the court deals with children who have been seriously abused, abandoned, or neglected. The juvenile court has a special responsibility to the child as *parens patriae* and must look to the totality of a child's circumstances when making decisions regarding the child. [Citation.] Accordingly, although both courts focus on the best interests of the child, '[t]he presumption of parental fitness that underlies custody law in the family court . . . does not apply to dependency cases' decided in the juvenile court. [Citation.]" (*In re Chantal S.*, *supra*, 13 Cal.4th at p. 201; accord *In re J.T.*, *supra*, 228 Cal.App.4th at pp. 963-964.)

The department filed a section 300 petition because the mother was unable to obtain immediate protection for the child from the family court. On October 15, 2013, the mother tried to file an ex parte motion to change the father's visitation but her request was denied. The mother said a family court hearing had to be scheduled to change the visitation order but the next available hearing was not until February or March 2014. At the earliest, the mother would have been unable to modify the father's visitation to monitored visits until four months after the child complained of the father's verbal abuse. The juvenile court was an appropriate forum to provide the child with protection from the father's emotional abuse.

The father contends there was no substantial evidence to support the jurisdictional findings and order under section 300, subdivision (c). He argues the child is currently not suffering serious emotional distress or at substantial risk of suffering emotional damage. The father asserts the child has demonstrated she can “stand up for herself” by disclosing his conduct to the mother, a therapist, school staff and department social workers. Moreover, the father has agreed to participate in services and do what is best for his child. Thus, he argues any potential for emotional damage to the child has been eliminated. We disagree. This argument is entirely meritless.

There is substantial evidence to support the jurisdictional findings under section 300, subdivision (c). The father was verbally abusive, yelled at the child constantly, and called her derogatory names. There is evidence the father told the child, “[Y]ou’re a fucking liar[.]” He also said to the child, “[Y]ou’re a piece of shit and your mom is full of shit!” He made fun of the child’s dyslexia and blamed the mother for it. He blamed the child for things that went wrong but did not tell her what was wrong. The child said the father constantly lied about the mother. The father made the child lie about the mother. The child said: “[H]e makes me lie about my mom . . . one time he recorded me . . . my mom and dad go to Court a lot and he wanted to use it in Court[.]” The child said, “[The father] lies a lot” and “he blames things on me[.]” The child said the father blamed her often now but not as much when she was younger. The child said the father started blaming her “probably since I was in Kindergarten or [First] grade” and said this had been occurring for a long time. The child recounted: “I was with my dad 4 weekends in a row, my mom took me to a funeral one week that I was suppose to be with him . . . he ignored me, he wouldn’t say goodbye to me[.]” When the father picked up the child from school, she said, “[H]e was acting all nice, then I got in the car and he started complaining[.]” The child said, “[M]y dad is very rude; he says things like, you did this, so I’m not going to do that[.]” The child related often times the father would say he would move away, never see her again and not pay for her school anymore. The

mother confirmed the father would say to the child, “[H]e won’t see her any[more] and he won’t pay for her school anymore[.]”

The father became upset when the child talked to Ms. Torres. The child said: “I was scared[.] [H]e asks me what I said to the social services about him[.]” There is evidence the father constantly made false allegations about the mother abusing the child. This led to law enforcement and social workers constantly visiting the mother and interview the child repeatedly. The mother stated, “[T]his has been an ongoing thing; Emily once lost a lot of weight when he was asking her to lie for him to the police in 2011[.]”

There is evidence once the father locked the child in her room and would not give her any food. The child said many times she would go to bed without dinner or only eat a yogurt. The child recounted the father was upset with her on Father’s Day and gave her back the gift she gave him. He also made the child write about 50 times, “I’m not Jewish.” During the child’s visits with the father, she felt very lonely and she never knew what would happen. The father’s home was dirty and the child would have to clean up the home or the father would become angry. The child told Ms. Barnert that one time the father showed up to a school performance and he then whispered something mean in her ear. The child also disclosed she had two cats that she adored at the father’s home. The child was hurt after the father got rid of one of the cats.

Mr. Pozzi stated the child appeared very anxious on days prior to visitation with the father. The child told Mr. Pozzi that the father “acts resentful” towards her. Mr. Pozzi reported the father said to the child, “[Y]our mother hates Jews [.]” The father also told the child, “[Y]ou’re not really upset about not going to your mother’s house, you are just upset because she abandons you[.]”

As noted, the father asserts the child has shown she can stand up for herself. He reasons the child disclosed his behavior to the mother, Ms. Barnert and Ms. Torres. But it was only recently that the child opened up about what happened during visits with the father. The child had been very protective of the father and did not discuss what

happened at his home until a session with Ms. Barnert in October 2013. During that session, the child was hysterical and crying as she disclosed the father's verbal abuse. Ms. Barnert next saw the child on October 8, 2013. On that occasion, the child was emotionally distressed and did not want to see the father. The child spoke with Ms. O'Neill, the dependency investigator. The child said the father began blaming her when she was in kindergarten or first grade. Yet, it was not until October 2013 that the child disclosed the emotional abuse to the mother, her therapist and department employees. Before, the child would not tell the mother what went on at the father's house. The child admitted on prior occasions when the police and department employees came to interview her, she would "stand up" for the father. But the child could no longer stand the father's verbal abuse and did not want to have unmonitored visits with him.

Ample evidence supports the finding that the child suffered emotional damage because of the father's behavior. Ms. Torres observed the child was shaking, visibly upset and crying while discussing the father's emotional abuse. The child said her stomach hurt and she felt very anxious. Mr. Pozzi, the child's teacher and the dean of students, said she became apprehensive and teary when the father came to pick her up from school. Ms. Rothblum, the head mistress, said the child was upset and very frightened of going back to the father's home. When the father came to pick up the child from school on October 3, 2013, she refused to see him. Ms. Barnert indicated the child was hysterical and crying excessively when disclosing the father's emotional abuse during an October 2013 therapy session. The father was moody and the child was afraid of being alone with him. The child told Ms. O'Neill, the dependency investigator, "I feel uncomfortable, scared and anxious" around the father. The child said, "[S]ometimes I get so scared because he gets so mad[.]" In addition, the mother said the child had outbursts of anger after visits with the father. The mother said, "[A] lot of times [the child] would come back from a visit with her dad and would be really angry[.]" The child told the mother, "I have to keep it all bottled up when I'm there."

Now that the father was no longer visiting, the mother reported the child was ““much calmer, more stable” and her anger had dissipated.

The father asserts any potential emotional damage to the child has been eliminated because he has agreed to participate in reunification services. But given the father’s past behavior, there is no reason to believe he would voluntarily participate in services without court intervention. The family court ordered the father to participate in conjoint therapy with the child but he attended only one such session. In 2007, the parents participated in Parents Beyond Conflict upon the family court’s recommendation. But the parenting course was not helpful because the father constantly lied about the mother, made nasty remarks about her, and blamed her for everything. Moreover, the father denied his behavior caused the child any emotional damage. He blamed the mother, the mother’s friends and the paternal uncle for telling the child ““all this garbage” and lying about her. Substantial evidence supports the juvenile court’s jurisdictional findings and order under section 300, subdivision (c)(1).

B. Custody Order

Section 362.4 provides: “When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court . . . , the juvenile court on its own motion, may issue . . . an order determining the custody of, or visitation with, the child. [¶] Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the [existing family law proceeding], at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof. [¶] If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides.” Our Supreme Court explained: ““When the juvenile court terminates its

jurisdiction over a dependent child, section 362.4 authorizes it to make custody and visitation orders that will be transferred to an existing family court file and remain in effect until modified or terminated by the superior court.”” (*In re Chantal S.*, *supra*, 13 Cal.4th at p. 203; accord, *In re Roger S.* (1992) 4 Cal.App.4th 25, 30.) In a dependency case, the juvenile court’s custody and visitation orders focus on the child’s best interests. (*In re Chantal S.*, *supra*, at p. 206; *In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268.) We review the custody order for an abuse of discretion. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *In re Michael D.* (1996) 51 Cal.App.4th 1074, 1087.)

The father challenges the order awarding the mother sole legal custody of the child. He argues the juvenile court abused its discretion by granting the mother sole legal custody without having first obtained the family court file. But at the disposition hearing, the father did not object to proceeding without the family court file. Thus, he has forfeited his right to raise this issue on appeal. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293; *In re A.A.* (2012) 203 Cal.App.4th 597, 606; *In re Wilford J.* (2005) 131 Cal.App.4th 742, 754.) The father also contends there was no substantial evidence showing the custody arrangement was in the child’s best interests. He asserts the custody order was based on speculation the parents may not be able to make uniform decisions regarding the child’s school and medical needs. We disagree for the reasons previously discussed in detail.

V. DISPOSTION

The jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.