

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re L.C., a Person Coming Under the
Juvenile Court Law.

B236092
(Los Angeles County Super. Ct.
No. CK88011)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.C.,

Defendant and Appellant.

APPEAL from the orders of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed.

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

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

R.C. (father) appeals from the judgment of August 18, 2011, declaring his daughter, L.C., a dependent of the court under Welfare and Institutions Code¹ section 360, subdivision (d) and ordering daughter removed from his custody. Father contends substantial evidence does not support the jurisdictional finding and removal order. We affirm.²

STATEMENT OF FACTS AND PROCEDURE

Daughter was born in 1995 to father and Maria C. (mother), who lived together. Father saw demons and believed it was normal to hallucinate. Daughter had a long history of severe mental illness, including depression, harming herself, and visual and auditory hallucinations; and she was at high risk of suicide. She saw, heard, and felt demons and cut her arms and legs extensively with knives; she attempted suicide by drinking bleach, choking herself, cutting her wrists, abusing prescription drugs from the medicine cabinet, and overdosing on pills. Daughter thought about hanging herself. She used cocaine on occasion since age 14 and ecstasy since age 16.

Father had a pattern of neglecting daughter's serious mental health needs. He minimized them, did not cooperate with mental health services for her, did not consent for her to receive psychiatric medication, and did not give her prescribed psychiatric medication. In 2009, daughter was hospitalized, and father refused to comply with the

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² In postjudgment proceedings, which we have judicially noticed (Evid. Code, § 452, subd. (d)), the dependency court terminated the removal order and placed daughter in the home of parents. (Minute Order, Mar. 7, 2012.) We provided the parties an opportunity to address whether father's contention concerning the removal order is now moot. We conclude, and the parties concur, that the contention is moot, as there is no effective relief that can be given, we conclude the contention is moot. (See *In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315-1316.)

intensive services that daughter's therapist recommended. In 2010, daughter had thoughts of harming herself, but father failed to ensure daughter received recommended therapy with a psychologist. In February 2011, daughter was hospitalized for a second time, because she was suicidal. Aware daughter was cutting herself, father nonetheless was not responsive to services for daughter and refused psychotropic medicine for her. Daughter earned mostly "F's" in school.

Daughter was hospitalized for a third time on March 23, 2011, because she wanted to die. On April 7, 2011, after parents agreed to a voluntary safety plan under supervision by the Department of Children and Family Services (Department), daughter was released home from the hospital. She did not attend school. Father failed to insure daughter took her prescribed medication.

Daughter was hospitalized for a fourth time on April 22, 2011, with suicidal ideation. She was discharged and returned home April 29, 2011, under a safety plan. However, father resisted allowing the family to receive intensive services to ensure the parents met daughter's needs. Father did not talk about case issues in therapy but rather focused on his complaints about the Department. Father refused to consent to an assessment to determine whether his experience of seeing demons and spirits warranted treatment.

A non-detained petition was filed on May 26, 2011, because the parents failed to comply with the safety plans. "The safety plan[s] [were] aimed toward medication compliance, adherence [to] services and constant supervision of [daughter]." The Department's efforts to protect the family by means of a safety plan alone, without supervision, had failed. The dependency court ordered parents to make sure daughter was taken care of, provided with all recommended medical care and treatment, and received the intensive in-home services recommended by the Department.

Parents did not comply with daughter's medication or therapy. Daughter heard voices and had nightmares. Parents' supervision was so lax that daughter was able to recover a dirty, broken razor blade from the street, cut herself with it on numerous occasions, and obtain and use drugs. She inflicted a very large number of cuts to her

anterior and posterior left arm, anterior left thigh, anterior right thigh, and posterior lower right leg up to the ankle. In violation of the safety plan, parents failed to inspect her for cuts and, thus, failed to observe any of these injuries. In violation of the requirement of constant supervision, parents allowed daughter to go out without parental supervision for hours at a time. It was on one of those occasions that she obtained a razor blade.

On June 9, 2011, mother sent daughter out alone to do the laundry, where daughter was sexually assaulted. After she reported the assault to mother, daughter inflicted numerous lacerations on her left arm with the razor blade. She was returned to the psychiatric hospital on June 9, 2011, and diagnosed with severe major depressive disorder with psychotic features. Daughter's "symptom[s] presentation [were] increasingly overwhelming her and [she was] seriously deteriorating." As daughter's "self-harming behavior [was] increasing and her mental health [was] deteriorating under the care and supervision of her parents," daughter was detained from parental custody and an amended section 300 petition was filed on June 28, 2011. She was subsequently placed in a residential treatment program to address her serious mental health and behavioral issues.

Father blamed the social worker for daughter's self-inflicted cuts on her arms. As for the cuts on daughter's leg, father "shrugged" and said he should not be looking at his daughter's leg. He did not want social workers in his home talking to him and his family. He minimized the severity of daughter's cutting in a conversation he had with daughter. Father would not agree to participate in therapy to help himself.

On August 18, 2011, daughter was declared a dependent of the court under section 300, subdivision (b), based on the following sustained allegations. Daughter suffered, or there was a substantial risk she will suffer, serious physical harm or illness as a result of parent's failure to adequately supervise or protect her and parents' willful or negligent failure to adequately supervise or protect daughter from the conduct of daughter's custodian, in that: (1) parents medically neglected daughter, who was diagnosed with major depressive (severe) and psychotic disorders and suffered suicidal ideation and hallucinations, by failing to regularly provide her with mental health

services for two years and with her psychotropic medication; and (2) daughter had five psychiatric hospitalizations for suicidal ideation and cutting, and parents' inability to provide appropriate parental care and supervision caused the failure of prior remedial services to resolve the family's problems.

Custody was taken from parents, and reunification services were ordered. Father was ordered to participate in counseling for parents of special needs children, a psychiatric evaluation, mental health counseling, individual counseling that addressed case issues, and conjoint counseling with daughter at the discretion of the therapist. He was granted unmonitored day visits. Overnight, weekend visits would be allowed if approved by the staff at daughter's placement, the therapist, and the social worker. Daughter told the dependency court she was going to try to make progress in treatment and her parents needed to make progress in their treatment, as well, so that "just in case if something happens and something triggers me to go to the point where I want to cut myself, to find other coping skills which my parents need to learn to help me like distract myself and release my expressions. . . . [M]y therapist [is] working on that with me, and we have been having family therapy, and so my dad didn't really come, but he will try his best because he has . . . a lot of work to do."

DISCUSSION

Substantial Evidence

In determining whether substantial evidence supports the factual findings, "all intendments are in favor of the judgment and [we] must accept as true the evidence which tends to establish the correctness of the findings as made, taking into account as well all inferences which might reasonably have been drawn by the trial court." (*Crogan v. Metz* (1956) 47 Cal.2d 398, 403-404.) "[The] [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could [make the findings

made].” [Citations.]” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) “[I]ssues of fact and credibility are the province of the trial court. [Citation.]” (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.)

“We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.” (*In re Matthew S., supra*, 201 Cal.App.3d at p. 321.) If supported by substantial evidence, the judgment or finding must be upheld, even though substantial evidence may also exist that would support a contrary judgment and the dependency court might have reached a different conclusion had it determined the facts and weighed credibility differently. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.) Thus, the pertinent inquiry when a finding is challenged on sufficiency of the evidence grounds is whether substantial evidence supports the finding, not whether a contrary finding might have been made. (*Ibid.*)

A. Jurisdictional Findings

Father contends substantial evidence does not support the jurisdictional findings under section 300, subdivision (b), that daughter suffered or risked suffering serious physical harm as a result of his failure to supervise and protect her, in that father did his best to handle daughter’s problems and, at the time of the hearing, daughter was safely in a residential treatment facility. The contention is easily rejected.

Section 300, subdivision (b) describes in pertinent part a child who has suffered, or is a substantial risk of suffering, “serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left[.]” “While evidence of past conduct may be probative of current conditions, the question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) The

purpose of the juvenile court law is to provide “maximum safety and protection for children” being harmed or who are at risk of harm. (§ 300.2.)

Substantial evidence supports the finding daughter suffered serious physical harm and there was substantial risk of suffering serious physical harm as a result of father’s failure to adequately supervise and protect her and failure to adequately protect her when he left her in mother’s care. The evidence she cut herself all over her arm and legs with a filthy, broken razor blade is evidence she suffered serious physical harm. Her four psychiatric hospitalizations in the six months before she was detained, hallucinations, suicide attempts, suicidal ideation, and self-harming behaviors is evidence there was a substantial risk she would suffer further serious physical harm. Time and again, father failed and refused to comply with the plan for daughter’s supervision, treatment, and medication, failed to insure mother properly complied with the plan, failed to inspect daughter for cuts, blamed the Department, minimized the seriousness of daughter’s illness, did not understand her illness, and refused to participate in services to rehabilitate himself. This is evidence of neglectful parenting causing serious physical harm and a substantial risk of further serious physical harm, pursuant to section 300, subdivision (b). (Compare *In re Precious D.* (2010) 189 Cal.App.4th 1251, 1259-1260 [parent’s inability to control child’s incorrigible conduct is no basis for jurisdiction under § 300, subd. (b) where parent was not neglectful].)

Father argues that there was evidence, such as the fact he expressed willingness to comply with daughter’s treatment and the fact daughter resided in a therapeutic facility at the time of the hearing, which indicated he was not neglectful and she was no longer at risk of harm. This is a request we reweigh the evidence, which we will not do. (See, e.g., *Scott v. Pacific Gas & Electric Co.* (1995) 11 Cal.4th 454, 465 [“When considering a claim of insufficient evidence on appeal, we do not reweigh the evidence, but rather determine whether, after resolving all conflicts favorably to the prevailing party, and according the prevailing party the benefit of all reasonable inferences, there is substantial evidence to support the judgment.”].)

The conclusion reached by the dependency court that daughter had suffered, and

was at substantial risk of suffering, serious physical harm under section 300, subdivision (b), due to father's failure and inability to protect is amply supported by substantial evidence.

DISPOSITION

The orders are affirmed.

KRIEGLER, J.

We concur:

TURNER, P. J.

MOSK, J.