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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

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

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

E.S.,

Defendant and Appellant.

B250985

(Los Angeles County
Super. Ct. No. CK46267)

APPEAL from a judgment and orders of the Superior Court of Los Angeles County, Tony L. Richardson, Judge. Affirmed.

Cristina Gabrielidis, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

E.S. (mother) appeals from the juvenile court's judgment of July 1, 2013, declaring Amanda S. a dependent of the court under Welfare and Institutions Code section 360.¹ She contends substantial evidence does not support the sustained allegation under section 300, subdivision (b) that leaving Amanda with maternal grandmother without making an appropriate plan for her care and supervision created a substantial risk of serious harm to Amanda. We affirm.

STATEMENT OF FACTS AND PROCEDURE

Amanda was born in November 2010 to mother and S. H. (father).² Father was incarcerated.

Amanda is mother's sixth child. Mother had a history of physically abusing and neglecting her children, abusing drugs, physical violence, and inflicting domestic violence. The dependency court took jurisdiction of all of Amanda's siblings, beginning in 2001. Mother was provided with reunification services, but she failed to reunify with any of them. Mother was convicted of spousal abuse and willful cruelty to a child. The most recent prior dependency case was closed in 2009.

When Amanda was born, mother agreed to participate in voluntary maintenance services provided by the Department of Children and Family Services (Department) because she displayed bizarre and paranoid behavior at the hospital. A plan was put in place to insure Amanda's safety in mother's care, which included a plan for child care. Mother completed the services, and the voluntary maintenance case was closed in December 2011.

Mother felt overwhelmed by caring for Amanda. She attended college on Mondays and Wednesdays. She placed Amanda in daycare and asked paternal grandmother and other relatives to care for Amanda at other times. Mother would tell paternal grandmother she couldn't take it anymore and needed a break. At times,

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

² On April 3, 2013, the juvenile court found father to be an alleged father.

mother screamed irrationally at family members. Mother refused to seek mental health services. While in mother's care, Amanda had an odor, her clothes appeared dirty, and her hair was matted and dirty.

In May 2012, Amanda began living in paternal grandmother's home three to four days per week. Mother failed to consistently be at home to receive Amanda when paternal grandmother brought Amanda back on the appointed days. From December 2013 to March 2013, mother was inconsistent in picking up, or failed to pick up, Amanda from her daycare provider. On two occasions in February 2013, mother failed to pick Amanda up from daycare in circumstances where mother could not be reached by telephone or in person at her apartment.

Mother unilaterally changed paternal grandmother's schedule of caring for Amanda and transporting Amanda to and from daycare. It was a complicated plan, which varied depending on the week of the month. Paternal grandmother did not agree to it. On Monday, March 4, 2013, after mother dropped Amanda off at daycare for the day, she failed to pick her up at the end of the day, and did not call, mistakenly believing paternal grandmother would pick Amanda up and keep her that night. Mother could not be reached. The daycare provider had to keep Amanda overnight even though overnights were not authorized, and, as mother continued to remain out of contact, paternal grandmother picked Amanda up the next morning. When paternal grandmother finally reached mother, mother asked paternal grandmother to keep Amanda until March 10. The paternal grandmother agreed, but told mother she could not keep Amanda beyond that date. On March 10, mother asked paternal grandmother to keep Amanda for another night and then take her to daycare on March 11. When paternal grandmother advised mother she would not be able to take Amanda to daycare on March 11 due to car maintenance, mother asked her to keep Amanda until March 12 and take Amanda to daycare on March 12.

The Department was informed of these circumstances and tried to contact mother. Paternal grandmother stated she was not able to keep Amanda after March 13. When the social worker could not reach mother, paternal grandmother agreed to a safety plan to keep Amanda in her home until a Team Decision Making meeting was held. Mother was out of touch and could not be reached until March 14, when she called paternal grandmother asking her to bring Amanda home. By this time, mother had not seen Amanda in ten days. When asked about her recent whereabouts, mother stated she was celebrating her birthday. Mother blamed paternal grandmother for the problems with Amanda's care and supervision March 4 to March 14.

On July 1, 2013, Amanda was declared a dependent of the court based on sustained allegations under section 300, subdivision (b) that she suffered, or was at substantial risk of suffering, serious physical harm or illness as a result of the parent's failure or inability to supervise or protect adequately, in that: on March 4, 2013, and on prior occasions, mother left Amanda in paternal grandmother's care without making an appropriate plan for her care and supervision, mother failed to resume caring for Amanda on the scheduled day, paternal grandmother did not know mother's whereabouts, and paternal grandmother was not able to provide ongoing care. The court ordered Amanda placed in home of parent-mother, and ordered mother to participate in parenting and individual counseling, obtain mental health treatment, and follow all mental health treatment recommendations. Family maintenance services were ordered.

DISCUSSION

Substantial evidence.

Mother contends the evidence is not sufficient to support jurisdiction under section 300, subdivision (b), in that leaving Amanda with paternal grandmother for a few days did not put Amanda at substantial risk of harm.

In determining whether a finding or order is supported by substantial evidence, "we look to see if substantial evidence, contradicted or uncontradicted, supports [it]. [Citation.] In making this determination, we draw all reasonable inferences from the

evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues 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.* (1988) 201 Cal.App.3d 315, 321.) Thus, the pertinent inquiry is whether substantial evidence supports the finding, not whether a contrary finding might have been made. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Section 300, subdivision (b), in pertinent part, describes a child who "has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child." "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.) "[S]ection 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. [Section 300, subdivision (b)] require[s] only a 'substantial risk' that the child will be abused or neglected. The legislatively declared purpose of [section 300] 'is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children *who are at risk of that harm.*' (§ 300.2, italics added.) 'The court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.' [Citation.]" (*In re I.J.* (2013) 56 Cal.4th 766, 773.) "[T]he court may . . . consider past events when determining whether a child presently needs the juvenile court's protection. . . . A parent's past conduct is a good predictor of future behavior. [Citation.] 'Facts supporting allegations that a child is one described by section 300 are cumulative.' [Citation.] Thus, the court 'must consider all the

circumstances affecting the child, wherever they occur.’ [Citation.]” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.)

Substantial evidence supports the finding. The record contains evidence of recurring neglect by mother by failing to make and adhere to appropriate plans for Amanda’s care and welfare. After unilaterally making a new, complicated schedule for paternal grandmother, which paternal grandmother did not agree to, mother failed to pick Amanda up from daycare on March 4, 2013, without confirming with paternal grandmother that paternal grandmother would pick Amanda up. Moreover, mother did not contact paternal grandmother that evening to confirm paternal grandmother had picked up Amanda, did not keep herself available by telephone in case something went wrong, and did not tell paternal grandmother or the daycare provider where she could be reached. Further, mother did not authorize the daycare provider to keep Amanda overnight. As a result, Amanda was left all night in the care of a caregiver who was not authorized to keep her. This is evidence mother failed to make an adequate plan for Amanda’s care and supervision March 4.

There was evidence the March 4 incident was not an isolated event but was part of a pattern of failure by mother to make adequate plans for Amanda’s care or adequately supervise Amanda. On prior occasions, mother was not home when parental grandmother was scheduled to return Amanda to her. There was evidence mother was inconsistent in picking Amanda up from daycare. On two recent occasions, mother failed to retrieve Amanda from daycare in circumstances where she could not be reached by telephone or at her home. Following the March 4 incident, mother failed to adhere to her new plan for Amanda to stay with paternal grandmother until March 12 and, instead neither picked Amanda up on that date nor called paternal grandmother to find out whether paternal grandmother could continue to keep her. Mother was not reachable by telephone and did not tell paternal grandmother how she could be reached. Paternal grandmother was not able to keep Amanda after March 13. Mother was unreachable and her whereabouts were unknown until the late afternoon of March 14. (Compare *In re V.M.* (2010) 191 Cal.App.4th 245, 251-253 [allowing a

relative to raise the child for seven years, without more, did not create a risk of harm under section 300, subdivision (b)]; *In re X.S.* (2010) 190 Cal.App.4th 1154, 1160 [where child was well cared for in the custody of a relative, parent's failure to provide the necessities, without more, did not create a risk of harm].)

Leaving a very young child in the care of others without an adequate plan for the child's ongoing supervision creates a substantial risk the child will be left without appropriate care, resulting in serious harm to the child. Failing to remain in contact and available in case the child needs medical treatment, which only the parent can consent to, or in case the care plan fails, creates a substantial risk the child will suffer serious harm.

The safety of mother's children regularly required Department and juvenile court oversight for the majority of the previous 11 years. Despite supervision and services, mother proved unable to provide a safe home for any of Amanda's older siblings. From this evidence and the evidence mother tended to be overwhelmed by caring for Amanda when Amanda was not being cared for by others, unilaterally took additional periods of respite, was not consistently available when she was supposed to provide Amanda's care, and did not acknowledge her role in the precariousness of Amanda's care and supervision, it is reasonable to infer that mother's pattern of neglect would continue in the absence of court supervision.

The foregoing is substantial evidence supporting jurisdiction under section 300, subdivision (b).

Mother reargues the evidence and asks us to reweigh it. This we will not do. Our role is to determine whether substantial evidence supports the finding. In this case, ample substantial evidence supports the finding.

DISPOSITION

The judgment and orders are affirmed.

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KLEIN, P. J.

We concur:

CROSKEY, J.

KITCHING, J.