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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re JAYDEN B., a Person Coming Under
the Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANDREA B.,

Defendant and Appellant.

B233074

(Los Angeles County
Super. Ct. No. CK87098)

APPEAL from an order of the Superior Court of Los Angeles County,
Marilyn Kading Martinez, Referee. Affirmed.

Nancy Rabin Brucker, under appointment by the Court of Appeal, for Defendant
and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County
Counsel, and Emery El Habiby, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Andrea B. (mother) appeals a jurisdictional and dispositional order relating to her daughter Jayden B. We affirm.

BACKGROUND FACTS

1. *Mother's Family and Home*

Mother has one child, Jayden, who was born in May 2010. Jayden's alleged father is Bryan L. (father). Mother and father were never married. Father has apparently not played a role in Jayden's life.

Mother does not work. She lives on welfare payments from the government and she takes college classes online with government assistance.

From January to December 2010, mother lived in Porter Ranch in a "converted garage" with a bathroom behind the house where her landlord lived. By March 2011, when the incident which gave rise to these proceedings occurred, mother was living in Northridge.

Mother lived with her boyfriend Marcus B. in her Porter Ranch home for about six months. After Marcus moved out of mother's home in approximately October 2010, he continued to have a relationship with mother, and he sometimes stayed overnight.

2. *History of Domestic Violence, Drug Abuse and Crime*

Mother and Marcus have a history of using illegal drugs. Their drug of choice was methamphetamine.

Mother denies using drugs after Jayden was born. This claim, however, is belied by an incident which occurred on December 7, 2010. On that day a police officer came to mother's Porter Ranch home looking for Marcus. When the officer arrived at the home mother quickly flushed something down the toilet, which the officer suspected was drugs. According to the officer, mother admitted that she used drugs within a couple of days of the incident. Mother denies she made such a statement to the officer.

Mother has been convicted of drug-related and shoplifting criminal offenses. Marcus too has a criminal history for drug use and arrests for domestic violence.

Mother's Porter Ranch landlord advised respondent Los Angeles County Department of Children and Family Services (DCFS) that he witnessed mother and Marcus "beating each other up[.]" On one occasion, mother and Marcus had a "knock down, drag out fight." The landlord found evidence that Marcus used a hatchet on the bathroom door in mother's studio apartment. This evidence included a hole and slash marks on the front of the door, pieces of the door on the floor next to the door, and the hatchet itself on the toilet. Although mother admits the hatchet belonged to her, she claimed that the hole in the door was caused by "chester drawers" hitting the door. The landlord, however, dismissed that claim because the height of the top of the "chester drawers" was not consistent with where the damage was done to the door.

3. *March 16, 2011, Incident*

On March 16, 2011, Jayden sustained injuries for which mother took her to a hospital in Northridge.

a. *Mother's Story*

Mother advised hospital personnel and the DCFS of the following. She and Jayden were playing together near the driveway of her home in Northridge. At the time, Jayden could walk. When mother turned for a moment, Jayden went towards the driveway. Mother then saw Jayden on the ground with an apparent injury to her arm, and a vehicle reversing out of the driveway about five to seven feet away from Jayden. Mother believed Jayden was hit by the vehicle and fell down, though mother did not actually see the vehicle hit the child.

b. *Jayden's Injuries*

When Jayden arrived at the hospital emergency room, she had abrasions on her left arm and elbow, swollen fingers, a scratch on her right index finger, scratches behind her knees, and a red "rash-like" coloration on her lower back. X-rays of Jayden's arm did not show any fractures.

c. *Dr. Butera's Assessment*

Dr. Anna-Maria Butera was the emergency room physician who examined Jayden and interviewed mother. Dr. Butera opined that Jayden's injuries were inconsistent with mother's story and that Jayden was injured from "non-accidental" trauma. According to Dr. Butera, if Jayden were walking and fell to the ground, there would have been other abrasions on her lower extremities or on her hands, forearms and elbows. Likewise, if the child had been crawling and somehow fell, there would have been new markings on the knees consistent with the abrasions seen on her forearm. But there were no such injuries.

4. *Juvenile Dependency Petitions*

On March 21, 2011, the DCFS filed a juvenile dependency petition. The DCFS filed a first amended petition, the operative pleading, on April 7, 2011. In the amended petition, the DCFS alleged the juvenile court had jurisdiction over Jayden pursuant to Welfare and Institutions Code section 300, subdivisions (a), (b) and (g).¹ The amended petition had seven counts, only one of which is relevant here. Count a-1 alleged the following:

"On 3/16/2011, ten month old Jayden [B.] was hospitalized and found to be suffering from a detrimental and endangering condition consisting of an abrasion and bruising to the child's left arm, swollen fingers, scratches to the child's fingers, *scratches behind the child's knees* and scratches to the child's lower back. The child's mother Andrea [B.'s] explanation of the manner of which the child sustained the injuries is inconsistent with the child's injuries. The child's injuries are consistent with non-accidental trauma. Such injuries would not ordinarily occur except as the result of *deliberate*, unreasonable and/or neglectful acts by the child's mother who had care, custody and control of the child. Such *deliberate*, unreasonable, and/or neglectful acts by the child's mother endanger the child's physical health and safety, create a detrimental

¹ All future section references are to the Welfare and Institutions Code.

home environment and place the child at risk of physical harm, damage and danger.”
(Italics and bold added.)

As we explain *post*, the juvenile court sustained this allegation with modifications. The court added the forward slash and the word “or” in two places, which we have bolded. It also deleted the word “deliberate” in two places and the phrase “scratches behind the child’s knees,” which we have italicized.

5. *Discrepancies in Mother’s Statements to the DCFS and Police*

Mother admits that she made certain false statements to the DCFS and police. There are also discrepancies in other statements made by mother.

Mother initially told the DCFS she did not know the identity of Jayden’s father. Later, the DCFS found that mother had informed the department in an earlier investigation that Jayden’s father was Bryan L.²

Mother told the DCFS and police that she did not know the person who was driving the vehicle which she suspected hit Jayden. She further stated the driver did not speak English. Subsequently, mother admitted the driver was her former boyfriend Marcus. She said she lied about this matter to the DCFS and law enforcement because she did not want to get Marcus involved, and Marcus had a suspended license at the time.

When mother arrived at the hospital on March 16, 2011, she had a two-inch bruise on her arm that was two to three days old. She initially stated that suffered this injury by accidentally running into a three-foot high metal gate in her kitchen. Subsequently, she claimed she sustained the injury after accidentally running into a tall dresser in her home.

In March 2011, mother advised the DCFS that she lived alone and did not have a boyfriend. A DCFS social worker, however, found men’s tennis shoes and men’s clothing in mother’s closet.

² Before the investigation that led to these proceedings, the DCFS conducted two investigations into mother’s alleged neglect of Jayden. Both investigations concluded the allegations against mother were unfounded.

Mother claimed that there was no domestic violence between her and Marcus, and that the damage to her bathroom door was not caused by a hatchet. But the testimony of her landlord contradicts these claims.

A police officer stated that mother told him she used drugs a few days before December 7, 2010. Mother nonetheless denies using drugs at that time.

Finally, and most importantly, mother contends that on March 16, 2011, Jayden was accidentally injured by a vehicle in a driveway. In Dr. Butera's opinion, however, the injury was the result of non-accidental trauma.

6. *April 27, 2011, Order*

On April 27, 2001, after a hearing which took place over several days, the juvenile court sustained, with some modifications, counts a-1, b-1 and b-3 of the first amended petition, and dismissed the remaining counts. It also found Jayden a dependent child of the court and removed her from mother's physical custody. The DCFS was ordered to give mother family reunification services, including random drug testing and counseling. Mother filed a timely appeal of this order.

CONTENTIONS

Mother argues there was no substantial evidence supporting the juvenile court's ruling sustaining count a-1 of the first amended petition. She does not, however, challenge the juvenile court's finding that it had jurisdiction under section 300, subdivision (b), and thus acknowledges that even if she prevails on appeal the juvenile court has jurisdiction over Jayden. (See *In re Shelley J.* (1998) 68 al.App.4th 322, 330.)

DISCUSSION

1. *Standard of Review*

We review the juvenile court's jurisdictional findings under the substantial evidence test. (*In re Maria R.* (2010) 185 Cal.App.4th 48, 57.) "The term 'substantial evidence' means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion; it is evidence which is reasonable in nature, credible, and of solid value." (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) In determining whether there is substantial evidence, "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." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.)

2. *There Was Substantial Evidence Supporting a Finding That Jayden Was a Child Within the Scope of Section 300, Subdivision (a)*

A child comes within the jurisdiction of the juvenile court if he or she "has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian."³ (§ 300, subd. (a).)

Mother argues the juvenile court could not have found that she "nonaccidentally" inflicted harm on Jayden because the court struck the word "deliberate" from count a-1 of the first amended petition. The court, however, upheld the allegations that "[t]he child's injuries are consistent with non-accidental trauma" and that mother's explanation of Jayden's injuries were "inconsistent with the child's injuries." Further, at the jurisdictional hearing, the court stated from the bench that the evidence indicates the "bulk" of Jayden's injuries were "non-accidental." Therefore the court's decision to strike the word "deliberate" did not amount to a finding that Jayden sustained her injuries accidentally.

Moreover, there was substantial evidence that Jayden sustained injuries nonaccidentally as a result of mother's conduct on or about March 16, 2011. Dr. Butera testified that mother's story was inconsistent with the injuries Jayden sustained and that Jayden's injuries were the result of non-accidental trauma.

³ "For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm." (§ 300, subd. (a).)

Additionally, the juvenile court found that mother was not a credible witness. There was ample evidence to support this finding, including the discrepancies in mother's statements to the DCFS and police we described *ante*. Mother's lack of veracity in her communications with the DCFS and in particular her false statements about the cause of Jayden's injuries is disturbing, especially in light of the other potentially dangerous conditions in Jayden's home life, namely mother's history of drug abuse and domestic violence and her relationship with Marcus.

Under all of these circumstances, we cannot say the juvenile court erroneously sustained the first amended petition with respect to count a-1.

DISPOSITION

The juvenile court's order dated April 27, 2011, is affirmed.

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KITCHING, J.

We concur:

KLEIN, P. J.

CROSKEY, J.