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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JUANA P. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

EVANGELINA L.,

Defendant and Appellant.

B236678

(Los Angeles County
Super. Ct. No. CK88916)

APPEAL from orders of the Superior Court of Los Angeles County, Tim R. Saito, Judge. Affirmed.

Catherine C. Czar, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel and Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

Appellant Evangelina L. (Mother) is the mother of five children who are dependents of juvenile court. She contends there is insufficient evidence to support the jurisdictional findings regarding the children. We reject her challenge to the juvenile court's jurisdiction over the children, and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant and Daniel P. (Father) are the natural parents of five children: Juana P., born in 2001; Daniel P., born in 2003; Amanda P., born in 2004; Brianna P., born in 2007; and Joshua P., born in 2008. Prior to the underlying proceedings, three referrals regarding the children were made to respondent Los Angeles County Department of Children and Family Services (DCFS). In each case, DCFS found insufficient evidence of abuse or neglect.¹

On June 21, 2011, Mother took Joshua to a hospital emergency room after he fell approximately 10 feet from the family residence's balcony. Joshua had suffered superficial abrasions on his face, back, and left extremities. Mother told hospital personnel that while she was inside the residence, Joshua had climbed on a chair, leaned over the balcony, and fallen.

Following the incident, Mother told a DCFS social worker that she had left Joshua alone on the balcony in order to get a glass of water he requested. After she

¹ In 2001, it was alleged that Father, then an apparent gang member, had abused Juana emotionally by threatening to shave Juana's head, and that Mother had neither reacted nor corrected Father. DCFS determined that the evidence regarding the allegation was inconclusive. In 2008, it was alleged that Mother had neglected the children after she appeared at a hospital emergency room with Brianna, who displayed a swelling on her head. DCFS determined that the evidence regarding the allegation was inclusive with respect to Brianna, and that the allegation was unfounded with respect to the other children. In 2010, it was alleged that the children were subject to physical abuse or the risk of such abuse after a teacher discovered a three-inch red mark on Amanda's chest. DCFS concluded that the allegation was unfounded.

left the balcony, she saw him climb on the chair and fall. Mother denied any substance abuse, mental illness, or domestic violence, even though she had reported incidents of domestic violence in connection with a previous referral to DCFS. Father also denied any mental illness or domestic violence, but acknowledged a history of cocaine use beginning when he was 14 to 16 years old. He said that since his father's death in October 2010, he had taken cocaine daily without Mother's knowledge. In addition, he was participating in a methadone program to address an addiction to vicodin. DCFS determined that Father tested positive for cocaine and hydrocodone in June 2011.

Father and Mother accepted voluntary family maintenance services and agreed to follow all DCFS recommendations. Mother told an assessor that she had felt depressed since she was fired from her job in May 2011. She also said that after the death of Father's father, she saw shadows and heard someone calling her name. In addition, Mother told the assessors that Father had directed emotional abuse at her, and that the children had witnessed arguments during which Father cursed and yelled at her. She attributed his conduct to his methadone use, and denied the existence of any physical abuse. Father told assessors that he and Mother had verbal disagreements that the children sometimes witnessed, but also denied any domestic violence. He further stated that he was attempting to abstain from drug use.

On July 15, 2011, DCFS filed a petition under Welfare and Institutions Code section 300, subdivision (b), alleging that Mother had a history of mental and emotional problems, that Father abused drugs, and that Mother had failed to protect the children from his drug abuse.² The accompanying report stated that Mother failed to recognize her mental health needs and that Father had a

² All further statutory citations are to the Welfare and Institutions Code.

unresolved drug abuse problem, noting that prior to June 15, 2011, he had tested positive for cocaine for eight months, and that on June 24, 2011, he tested positive for hydrocodone. DCFS recommended that the children remain placed in their home, and explained that the petition had been filed to ensure that Mother and Father participated in recommended services to facilitate the children's safety. After finding a prima facie case for detaining the children, the juvenile court ordered them released to Mother and Father.

According to the jurisdictional and dispositional report dated August 9, 2011, Father acknowledged an involvement with gangs and the sale of drugs beginning when he was 13 years old. Since 2006, he had participated in drug abuse programs and had been sober for as long as a year, but had relapsed. He stayed outside the family home while using drugs, and returned when he was "coming down from his high." According to Father, he had been drug-free in the past month, and was determined to remain sober, which he described as "a difficult process." Father acknowledged that he became verbally aggressive when he experienced withdrawal symptoms, that he had "put his family through a lot," and that the problems in his home had "escalated due to his behavior."

According to the report, Mother denied any mental health problems. She stated that she had gone through a hard time following the death of Father's father, and regarded DCFS's prior report regarding her hallucinations as a misunderstanding of her religious beliefs in an afterlife. Mother knew that Father had a drug abuse problem, but maintained that "when he uses he leaves the house." Although she tried to protect the children, she admitted that she was unable to tell when Father was under the influence of drugs. She was able to discern that he was coming down from a high only because he had the "sweats" and was often short-tempered. She also acknowledged that Father could "become irritable due to his

history with drugs,” that he was “short tempered,” and that he sometimes engaged in “verbal arguments, especially when he [was] experiencing withdrawal[.]”

A combined jurisdictional and dispositional hearing occurred on September 27, 2011. At the hearing, the juvenile court dismissed the allegation regarding Mother’s mental health problems from the petition and made other amendments by interlineation. As amended, the petition contained a single allegation under section 300, subdivision (b): “[Father] has a long history of substance abuse and is a recent user of cocaine, opiates, and prescription medication. On 06/24/2011, [Father] had a positive toxicology screen for [o]piates. [Mother] knew or reasonably should have known of [Father’s] substance abuse and failed to protect the children. [Father’s] substance abuse and [Mother’s] failure to protect the children[] endangers the children’s physical health and safety and places the children at risk of harm”

Father pleaded no contest to the allegation. Regarding Mother, the juvenile court sustained the allegation, stating: “[T]here’s ample evidence . . . that [Mother] knew about [Father’s] history of substance abuse in this case, knew . . . when he was coming down and being high, and his tendency to have some aggressive tendencies while under the influence” In addition, the court found that Mother had allowed Father to remain in the home on these occasions.

Turning to the dispositional phase of the hearing, the court declared the children dependents of the court and placed them with Mother and Father. Father was ordered to participate in a substance abuse program with random testing, a parenting program, and individual counseling. Mother was ordered to participate in individual counseling encompassing her mental and emotional problems and failure to protect the children regarding Father’s substance abuse. In addition, she was directed to continue to see a psychiatrist and take prescribed medication.

DISCUSSION

Mother challenges the jurisdictional findings and dispositional orders, arguing that there is insufficient evidence to support the juvenile court's jurisdiction under subdivision (b) of section 300. As explained below, we conclude that her challenges fail because Father's plea of no contest to the jurisdictional allegations established the court's jurisdiction, and the record otherwise discloses adequate support for the dispositional orders regarding Mother.

A. Jurisdiction

We begin with Mother's contention that the juvenile court lacked jurisdiction over the children because there was insufficient evidence to support the jurisdictional findings. Generally, to acquire jurisdiction under subdivision (b) of section 300, the juvenile court was obliged to find that the children "ha[ve] suffered, or there is a substantial risk that [they] will suffer, serious physical harm or illness, as a result" of specified forms of parental neglect, including a failure to protect the children. Here, the juvenile court made findings against both Father and Mother, namely, that the children were placed at a substantial risk of harm by Father's substance abuse and by Mother's failure to protect them from the substance abuse. Mother argues that there was insufficient evidence to support the findings against Father and herself. For the reasons explained below, Mother's attack on the juvenile court's jurisdiction fails in view of Father's plea of no contest to the allegation against him.

To secure jurisdiction over the children under section 300, the juvenile court was not obliged to make jurisdictional findings against both Father and Mother. Because the focus of the statutory scheme governing dependency is the protection of children, "it is necessary only for the court to find that one parent's conduct has created circumstances triggering section 300 for the court to assert jurisdiction over

the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300, . . . the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is “‘good against both. More accurately, the minor is a dependent if the actions of either parent bring [the child] within one of the statutory definitions of a dependent.’”” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492, quoting *In re X.S.* (2010) 190 Cal.App.4th 1154, 1161.)

In view of these principles, the key question before us is whether Father’s plea of no contest was sufficient, in itself, to establish the juvenile court’s jurisdiction. In *In re Troy Z.* (1992) 3 Cal.4th 1170, 1181 (*Troy Z.*), our Supreme Court held that “[a] plea of ‘no contest’ to allegations under section 300 at a jurisdiction hearing *admits all matters essential to the court’s jurisdiction* over the minor.” (Italics added.) For this reason, the parent who enters the plea may not challenge the juvenile court’s jurisdiction on appeal on any ground, including that there is insufficient evidence to support jurisdiction. (*Id.* at pp. 1179-1181 & fn. 11.) In so holding, the Supreme Court explained that any other conclusion would frustrate the purposes of the statutory scheme governing dependency. (*Id.* at pp. 1181-1182; see *In re Andrew A.* (2010) 183 Cal.App.4th 1518, 1526 [“It is well settled that a party who enters a no contest plea to a section 300 petition is barred from bringing an appeal to challenge the sufficiency of the evidence supporting the

jurisdictional allegations, as the party has already admitted all matters essential to the court's jurisdiction."].)

Because "a jurisdictional finding involving one parent is ""good against both"" (In re I.A., *supra*, 201 Cal.App.4th at p. 1492), a parent's plea of no contest limits the other parent's ability to challenge the juvenile court's jurisdiction on the ground that there is inadequate evidence to support the jurisdictional findings. In *In re Sergio C.* (1999) 70 Cal.App.4th 957, 959-960 (*Sergio C.*), the dependency petition alleged under section 300 that the mother had subjected the children to severe abuse, and that the father's criminal conduct endangered the children. Although the mother pleaded no contest to the allegations, the father contested the allegations against him before the juvenile court, which had found the allegations against the parents to be true. (*Ibid.*) After the father challenged the findings against him on appeal, the appellate court affirmed the juvenile court's jurisdiction over the children under *Troy Z.*, even though the court discerned no evidence in the record to support the jurisdictional findings against the father. (*Id.* at p. 960.) Here, Mother's challenge to the juvenile court's jurisdiction presents a question not fully resolved by *Sergio C.* Unlike the father in *Sergio C.*, she asserts that there was insufficient evidence to support any of the jurisdictional findings, including the finding against Father, and thus maintains that jurisdiction was inadequately established, despite Father's plea.

We reject Mother's challenge, as it cannot be reconciled with *Troy Z.* The key assumption underlying the challenge is that the efficacy of Father's plea in securing the juvenile court's jurisdiction hinges on whether there is substantial evidence to support the jurisdictional finding against Father. However, as noted above, under *Troy Z.*, Father's plea "admit[ted] all matters essential to the court's jurisdiction." (*In re Troy Z.*, *supra*, 3 Cal.4th at p. 1181.) We thus conclude that Father's plea was sufficient -- by itself -- to bring the children under the protection

of the dependency law.³

We find additional support for our conclusion in *In re James C.* (2002) 104 Cal.App.4th 470. There, the section 300 petition alleged that the mother had created an unsanitary and dangerous home for the children, and that the father had failed to protect and care for the children due to his incarceration. After the juvenile court found the allegations to be true and issued dispositional orders, only the father noticed an appeal from the rulings. (*Id.* at p. 482) On appeal, the father challenged the sufficiency of the evidence underlying the jurisdictional findings against him in a manner that encompassed the evidence underlying the jurisdictional findings against the mother. (*Id.* at pp. 482-483.) Although the appellate court addressed and rejected the contention, it stated: “The allegations against the mother were sustained and she has not appealed the jurisdictional findings or the order. The court could declare jurisdiction over the children based on the actions of the mother alone. [Citations.] The rationale for the rule is that the dependency law is based on protection of the children rather than the punishment of the parent. [Citation.]” (*Id.* at p. 482.) In view of *James C.*, the juvenile court properly declared jurisdiction over the children, as Father’s “no contest” plea provided sufficient grounds for the jurisdictional finding against him, could not be challenged on appeal, and constituted an independent basis for the court’s exercise of jurisdiction over the children. In sum, we reject Mother’s

³ Mother suggests that Father’s plea alone was insufficient to establish the juvenile court’s jurisdiction because the form waiver that Father signed in connection with the plea stated under the heading “Consequences”: “I understand that if I plead no contest or submit the petition on the report, the court will probably find that the petition is true.” In view of *Troy Z.*, we conclude that the statement in the waiver form was intended only to inform Father regarding the potential consequences of his plea. For this reason, the statement did not limit the plea’s capacity to establish jurisdiction by requiring an independent showing of substantial evidence to support the jurisdictional finding against Father.

challenge to the juvenile court's jurisdiction.

B. *Dispositional Orders*

Although Father's plea does not preclude Mother from challenging the dispositional orders regarding her (*Sergio C.*, *supra*, 70 Cal.App.4th at p. 960), she has mounted no attack on them independent of her contention that the jurisdictional findings fail for want of substantial evidence. Nor do we see any basis for reversing the orders in view of the jurisdictional finding against Father, namely, that he has a substance abuse problem that presents a substantial risk of harm to the children.

After the juvenile court has acquired jurisdiction over a child and permits the parents to retain custody of the child, the court has broad discretion to order the parents to participate in programs for the child's welfare. (§ 362, subds. (a), (b), (c).) This discretion encompasses orders addressing matters that do not themselves constitute an adequate basis for the juvenile court's jurisdiction over the child. (*In re Jeannette S.* (1979) 94 Cal.App.3d 52, 59-61 & fn. 2 [father's alcoholism]; see also *Sergio C.*, *supra*, 70 Cal.App.4th at p. 960 [juvenile court has broad discretion to direct orders toward nonoffending parent for child's welfare].) Here, Mother was ordered to participate in individual counseling addressing her failure to protect the children regarding Father's substance abuse and her mental and emotional problems. In addition, she was ordered to continue to see a psychiatrist and take prescribed medication.

The evidence in the record, taken together with the finding that Father's substance problem presents a serious risk of harm to the children, is sufficient to support these orders, regardless of whether Mother's conduct amounted to a "failure to protect" under section 300, subdivision (b). Mother admitted that she could not tell when Father was under the influence of drugs and that she suffered

from depression following the death of Father's father. In view of this evidence and the jurisdictional finding regarding Father, the orders cannot be regarded as an abuse of discretion.

DISPOSITION

The orders of the juvenile court are affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.