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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B277728

(Los Angeles County
Super. Ct. No. CK75270)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

LUPITA R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Joshua D. Wayser, Judge. Affirmed.

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

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Sally Son, Senior Associate County Counsel, for Plaintiff and Respondent.

* * * * *

The juvenile court asserted dependency jurisdiction over 13-year-old Sergio C. (Sergio) after he had repeatedly run away from home. Lupita R. (mother) argues that the juvenile court was wrong to do so because Sergio's risky conduct stemmed from behavioral and psychological problems that were in no way exacerbated by anything mother or Sergio C., Sr. (father) did; without a finding mother and father were to blame, mother argues, the court's assertion of dependency jurisdiction was unconstitutional. We conclude that substantial evidence supports the juvenile court's finding that mother and father were partly to blame; this obviates any need to reach mother's constitutional challenges. Accordingly, we affirm.

FACTS AND PROCEDURAL BACKGROUND

I. Facts

Sergio is the middle child of mother and father's three children. The whole family lives together. Because mother requires kidney dialysis three times a week, and because Sergio has on at least one occasion physically assaulted her, father is Sergio's primary caregiver.

Starting in early 2016, Sergio started running away from home. He was twice found at Union Station in downtown Los Angeles asking strangers for help; once found at LAX attempting to board a flight to Dubai; twice found hitchhiking, once in Downey and another time in the San Fernando Valley; and once found "running in . . . moving traffic." After one of those incidents, Sergio was returned home and immediately ran away

again. After another of those incidents, he was placed in a group home for teens and, while there, went “AWOL” five times. On at least one occasion, Sergio physically injured himself while escaping.

Although Sergio’s conduct in repeatedly running away is relatively recent, Sergio has for many years struggled with psychological and behavioral issues. He has been diagnosed with a “mood disorder,” an “intellectual disability,” mild development and communication issues, Autism Spectrum Disorder, and attention deficient/hyperactivity disorder (ADHD).

To address Sergio’s behavioral and psychological issues, mother and father have over the years interfaced with various governmental agencies, including the Regional Center and the Los Angeles Unified School District (L.A. Unified). Neither agency fully met their statutory responsibilities to help Sergio: The Regional Center maintained a file on Sergio and provided Sergio with a psychiatrist who prescribed medications, but “fell short” of providing a fuller range of services to Sergio; L.A. Unified allowed Sergio to attend school, but did not inform mother and father that Sergio could be placed in a smaller educational setting that included one-on-one therapeutic behavior modification.

Mother and father have been inconsistent in taking advantage of the services they have been offered and in their desire to care for Sergio. Father filed a missing person report whenever Sergio ran away, but at times declined to meet with Regional Center personnel to update Sergio’s file, at times refused Regional Center assistance, and in late 2015, did not renew Sergio’s medication prescriptions, even after Sergio’s behavior started to escalate once again. On at least one occasion,

mother and father also told public officials that they did not want to take Sergio back into their home. Mother's and father's wavering commitment to seeking treatment for Sergio was longstanding; the juvenile court had exerted dependency jurisdiction over Sergio in 2009, and again in 2010, because mother and father had not implemented a treatment plan for Sergio or participated in court-ordered counseling.

II. Procedural History

In March 2016, the Los Angeles Department of Children and Family Services (Department) filed a petition asking the juvenile court to exert dependency jurisdiction over Sergio once again, this time on the ground that Sergio was at “substantial risk” of “suffer[ing]” “serious physical harm” due to his parents’ “failure” and “inability” to “adequately supervise or protect” him (within the meaning of Welfare and Institutions Code section 300, subdivision (b)(1)).¹ Specifically, the Department alleged that “mother and father failed to administer the child’s required prescribed medication and failed to obtain recommended treatment for the child.”

The juvenile court ultimately sustained the petition. In a written order, the court acknowledged that mother and father were “caring” individuals who were understandably “frustrated” because the Regional Center and L.A. Unified had “failed the family” by not providing “appropriate assistance.” However, the court went on to find that mother and father were also partially to “blame” for Sergio’s current behavior because they did not “mak[e] further demands” of the public agencies and “at

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

times . . . refused to take Sergio home.” Mother and father were asking the court not to exert dependency jurisdiction and to return Sergio home, the court explained, “because [the public agencies] did[not] have services in place but [mother and father] themselves were responsible in part for not having such services in place.”

The court accordingly exerted dependency jurisdiction over Sergio, but placed him with mother and father and ordered that services be provided to the family under section 360, subdivision (b).

Father did not timely appeal the ruling; mother did.

DISCUSSION

Mother argues that (1) the juvenile court’s finding that she and father were partially to blame for Sergio’s behavior was not supported by substantial evidence, and (2) absent that finding of blame, the court’s exercise of dependency jurisdiction violates substantive and procedural due process (e.g., *In re Precious D.* (2010) 189 Cal.App.4th 1251 (*Precious D.*)). The Department argues that mother lacks standing to attack the juvenile court’s ruling because that ruling independently rests on father’s blameworthiness, a fact that father has not appealed. We first address the standing issue.

I. Standing

Because dependency jurisdiction attaches to *the child* rather than to his parents, a finding of jurisdiction remains valid ““as long as there is one unassailable jurisdictional finding, [even if] another might be inappropriate.”” (*In re D.M.* (2015) 242 Cal.App.4th 634, 638-639, quoting *In re D.P.* (2014) 225 Cal.App.4th 898, 902.) Invoking this general principle, the Department contends that father’s failure to appeal the

jurisdictional findings means that the court’s jurisdiction over Sergio remains intact regardless of the outcome of mother’s appeal. (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.) However, we retain discretion to reach the merits of a jurisdictional challenge when that finding “could potentially impact the current or future dependency proceedings.” (*In re D.M.*, at p. 639, quoting *In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.) We exercise our discretion here because the merits of mother’s challenge could directly affect the Department’s pending petition, filed after mother initiated this appeal, alleging that mother and father have been “unable or unwilling to cooperate” with the services the court ordered in its section 360, subdivision (b) disposition.²

II. Merits

A. Substantial evidence challenge

Mother challenges the quantum of evidence supporting the juvenile court’s assertion of dependency jurisdiction. We review this challenge for substantial evidence, asking whether the record contains evidence that is reasonable, credible, and of solid value sufficient for a reasonable trier of fact to find jurisdiction. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) In so doing, we consider the record as a whole, and resolve all conflicts and draw all reasonable inferences to support the juvenile court’s findings; we may not reweigh the evidence. (*In re Lana S.* (2012) 207 Cal.App.4th 94, 103.)

As pertinent here, a juvenile court may assert dependency jurisdiction over a child if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm

² We have taken judicial notice of this petition.

or illness, as a result of the failure or inability of his . . . parent . . . to adequately supervise or protect” him. (§ 300, subd. (b)(1).) Before jurisdiction may attach under this provision, the Department must prove (1) “neglectful conduct,” (2) causation, and (3) “‘serious physical harm or illness’ to the [child], or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820, quoting § 300, subd. (b)(1); § 355, subd. (a).) Our Supreme Court has rejected *Precious D.* and its holding that the first “neglectful conduct” element includes a requirement that the parent be wholly or partly to blame for the allegedly neglectful conduct. (*In re R.T.* (July 20, 2017, S226416) ___ Cal.5th ___, [2017 Cal.Lexis 5130] (*R.T.*).)

Substantial evidence supports all of these jurisdictional elements, including the (now unnecessary) element of parental blame. Mother does not dispute that Sergio’s behavioral and psychological issues put him at substantial risk of serious physical harm, as he has actually sustained injuries while running away and has placed himself at risk of greater injury by hitchhiking, trying to board planes to far-flung destinations, and wandering around alone in public venues and in traffic—all while only 13 years old. Nor does mother dispute that she and father are unable to cope with Sergio’s behavioral and psychological issues, or the fact that those issues are what is placing Sergio at risk.

Mother focuses her argument on whether there is sufficient evidence that she and father are to blame for the escalation of Sergio’s behavioral and psychological issues to the point where they are today. The record contains such evidence. Mother largely delegated Sergio’s caretaking to father, and father at

times refused Regional Center assistance, did not update Sergio's profile or renew his prescriptions, and on one occasion indicated that he and mother did not want Sergio to return to their home. Indeed, the juvenile court had twice before exerted jurisdiction over Sergio because mother and father had not implemented a treatment plan for Sergio. The fact that the Regional Center and L.A. Unified were also to blame does not negate mother's and father's role in allowing Sergio's issues to go unattended and thereby escalate.

Mother raises two further points. First, she notes that Sergio is no longer at risk of harm because he is now lined up to receive services from the Regional Center and L.A. Unified. However, this argument ignores the risk that mother and father may falter in their commitment to Sergio's use of those services—a risk that is grounded in mother's and father's prior lapses and that is alleged to have come to fruition in the Department's pending petition based on the parents' inability or unwillingness to cooperate. Second, mother cites the juvenile court's observation, at one of the earlier hearings, that mother and father were "doing their best." Neither this observation nor the court's subsequently expressed "sympathy" for mother's and father's situation undermines the specific facts underlying its factual finding that mother and father were partly to blame for Sergio's current conduct and the risk it posed because they had at times refused to take Sergio back into their home, refused services, and refused medications.

B. Constitutional challenges

All of mother's constitutional challenges rest on the premise that she and father were blameless. In light of the Supreme Court's ruling in *R.T.* regarding this requirement and

our conclusion that the juvenile court's finding of blame is supported by substantial evidence, mother's claim fails.

DISPOSITION

The juvenile court's order is affirmed.

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_____, J.
HOFFSTADT

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
CHAVEZ