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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

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

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

R.R.,

Defendant and Appellant.

B286288

(Los Angeles County
Super. Ct. No. DK16948A)

APPEAL from an order of the Superior Court of Los
Angeles County, Steven Ipson, Commissioner. Affirmed.

Nicole Williams for Defendant and Appellant.

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

R.R. (father) challenges an order of the juvenile court declaring his daughter, N.B., a dependent child pursuant to Welfare and Institutions Code¹ section 300, subdivision (b). Father contends there is no evidence he suffers from a mental illness or that his mental illness and substance abuse put N.B. at substantial risk of serious physical harm. For the reasons that follow, we conclude the trial court's jurisdictional findings are supported by substantial evidence, and thus we affirm.

I.

Initial Investigation

N.B. (born in June 2007) is the daughter of father and K.J. (mother). Father and mother separated before N.B. was born and prior to these proceedings shared her legal and physical custody. N.B.'s primary residence was with mother, but she spent two nights a week with father, who lived with the paternal grandparents. Both father and mother are nurses; mother works for Kaiser Permanente, and father is unemployed.

In March 2016, the Los Angeles County Department of Children and Family Services (DCFS) received a report from a mandated reporter that nine-year-old N.B. was experiencing panic attacks and nightmares before visiting father. A children's social worker (CSW) interviewed N.B., who "appeared sad and at times appeared as if she was going to cry" when she discussed father. She said she believed father did not care about her because he did not speak to her or interact with her during visits. She had frequent nightmares that father would take her away from mother.

¹ All subsequent statutory references are to the Welfare and Institutions Code.

Mother told the CSW that before visits with father, N.B. “gets ‘fidgety and antsy’ ” and “paces and watches the clock, asking mother ‘how many more minutes before I have to leave?’ ” N.B. told mother that she cried while at father’s and was afraid to ask father for anything because “ ‘he will get mad.’ ”

Mother said the prior year, father had posted online that he had a terminal brain tumor, had less than a year to live, and was soliciting money to support his daughter. Mother asked father about the post and his health status; father responded that he did not know or did not remember, and that “ ‘the past two months have been a blur.’ ” Subsequently, father’s uncle texted mother that father did not have cancer, but had been depressed for some time.

Mother reported father had used steroids during her pregnancy with N.B. to “ ‘try to bulk up.’ ” Father became angry and controlling while on steroids. Mother believed father might again be using drugs because he had lost a lot of weight and wore sunglasses whenever she saw him.

After mother’s initial interview with the CSW, she sent the CSW a screenshot of father’s Instagram page with a recent post showing vials labeled “ ‘Depo-Testosterone’ ” and “ ‘Serostim’ ” (human growth hormone). The caption under the photo said: “ ‘Surgery next week. Hopefully this new stack will help with the energy. Shout out to Florida labs for the hook up.’ ” Shortly afterwards, the CSW received a call from a woman who identified herself as a friend of father’s; the unidentified caller described father as a “ ‘drug addict’ ” and said she did not think N.B. was safe with him.

N.B.’s therapist described N.B. as a well-spoken and insightful child. She said N.B. became visibly anxious when

discussing father and reported that she cried excessively, had nightmares, and had trouble concentrating in school before visits. The therapist believed N.B. was showing symptoms of emotional abuse by father.

Father described N.B. as a happy child, and he expressed concern that she was making things up. He denied any mental illness or drug use, and he denied ignoring N.B. during visits. He said he had had cancer several years ago, but had been in remission since 2006. When the CSW asked about his Instagram post, father grew angry but admitted using testosterone and human growth hormone. He claimed these medications had been prescribed by a doctor; however, he refused to show the CSW evidence of the prescriptions. He admitted a recent arrest for battery, but said he had been racially profiled and that law enforcement thought he was “ ‘somebody else.’ ” Father denied ever being suicidal or posting suicidal statements on social media.

Records of father’s contacts with law enforcement indicated the following: In October 2013, father reported to police that his parents stole his prescription medication; in January 2014, father’s parents asked that father be put on a psychiatric hold; in March 2014, father was taken to a hospital because he was not breathing; in November 2015, father’s friend notified police that father had texted he wanted to “ ‘end it’ ”; in December 2015, father’s friend received a text from father stating he was going to get a gun, and the caller was afraid father might harm himself or others; in January 2016, paternal grandmother reported father was suicidal and was refusing medical treatment; and in April 2016, paternal grandfather reported that father had kicked in a locked door and thrown two cans of air freshener at grandfather’s

head. Grandfather reported father “ ‘has been acting out of control.’ . . . ‘[Father] abuses unknown drugs and is constantly acting out. . . . [Father] does not have a job and is constantly asking for money. . . . [W]hen he does not get any money, he acts violently by yelling, screaming, and breaking things.’ ” Officers observed a damaged interior door that appeared to have been kicked in; they described father as confrontational and difficult to speak to.

II.

Detention and Petition

On July 1, 2016, DCFS filed a three-count petition alleging: (b-1) father has a history of substance abuse and is a current abuser of prescription medication including steroids and human growth hormone, which renders father incapable of providing regular care of N.B.; (b-2) father has a history of mental and emotional problems, including depression and suicidal ideation, which renders him unable to provide regular care of N.B.; and (c-1) Father emotionally abused N.B. by refusing to interact or talk to her, causing her to fear father and have nightmares about him.

The juvenile court detained N.B. from father and ordered her released to mother. Father was granted monitored visits with N.B. at DCFS’s office under the supervision of a DCFS-approved monitor.

III.

Jurisdictional Hearing and Findings

At the jurisdictional hearing, the CSW testified that during a home visit, father said he had been prescribed testosterone by a Kaiser doctor, but would not say who the doctor was. When the CSW interviewed N.B., she initially was “very open . . . in a good mood. . . . And then when we started to talk about visitation with

father is when she appeared to be upset. Her eyes watered and her voice was shaking as she spoke about the relationship with father.” N.B. described a change in her father during the last two years; the CSW believed it possible that the change was the result of a drug problem and mental health issues.

Father testified that he had been diagnosed with blood cancer in 2004, which had been treated with chemotherapy and steroids. He said he developed a different form of blood cancer in 2010, and a malignant brain tumor in 2015. In response to the court’s follow-up questions, however, father said he had not yet received a second blood cancer diagnosis or been treated for blood cancer since 2006; with regard to a brain tumor, he could not identify the nature or stage of the tumor, and he said he had not had it removed.

Father was reluctant to disclose what medications he currently was taking, saying that was private information. Ultimately, he testified that he was taking testosterone, Somatropin (human growth hormone), Keppra (an antiepileptic medication), and Oxycodone (a narcotic). He said he received the testosterone in the form of monthly injections at Kaiser, and he self-administered the growth hormone. He claimed to have been prescribed the growth hormone by a doctor in Florida, but he did not know the doctor’s name.

Father denied ever having been diagnosed with a psychiatric illness, having said he wanted to commit suicide, or having been hospitalized for psychiatric reasons. Father did not recall the police coming to his home in January or April of that year, and he said it was not true that paternal grandfather called the police because father was throwing things. Father said: “We have no family issues. Our family is a tight family. We are a

middle eastern family and [for] that, we are being persecuted [by] the count[y]” Father acknowledged having taken an anger management class in 2008 or 2009 when a court ordered him to do so, but he said he had not benefited from the class because “I don’t have an anger issue.”

Father said on Sundays, he and N.B. went to the park, to the mall, to the movies, or to get frozen yogurt. During the week, he took her to and from school and made her dinner. He denied staying in his room when N.B. visited. Father did not believe N.B. would benefit from seeing a therapist or that she suffered anxiety during visits; he believed she was “lying” about these things because she was being “manipulated and brainwashed by [her] mother.”

The paternal grandmother testified father had lived with her since N.B. was born. Father did not stay in his room when N.B. visited. The grandmother said she had not witnessed violent arguments between father and grandfather, not seen the police come to the house regarding father, and not seen father behave in a violent manner. The grandmother further testified paternal grandfather never called the police because of father’s behavior, and that father did not have mental health or drug problems.

At the conclusion of the hearing, the juvenile court dismissed the section 300, subdivision (c) count, but sustained the two subdivision (b) counts. The court noted that father’s testimony about his medical problems and treatment had “shifted”; that paramedics had been called to the home because father had stopped breathing; that several people had reported father was suicidal; and grandmother had told police that father had mental health problems and was refusing medical treatment.

Thus, the court said, while father had testified otherwise, “[his] parents have told me through the police reports” that he had drug and mental health issues.

IV.

Subsequent Reports

A. Section 730 Report

Pursuant to court order, Dr. Sheila Morris performed a psychological evaluation of father, mother, and N.B. Dr. Morris’s report of the evaluations stated as follows:

Father. When Dr. Morris spoke with father over the phone to schedule the appointment, father “questioned if I was a medical doctor, questioned why he was being evaluated, and angrily demanded N.B.’s presence at the evaluation and for the two of them to have a session together. . . . The father became so argumentative that I told him I would have to terminate the call. The father then began to say that I was prejudice[d] against him because he is Muslim.”

During the evaluation, father told Dr. Morris he had a history of cancer, for which he received chemotherapy and steroids. He currently was experiencing back and knee pain, for which he took Oxycodone. He also took testosterone and human growth hormone, which had been prescribed to him by a Kaiser physician. However, father would not allow Dr. Morris to review a document he said was a list of medications prescribed by Kaiser. When Dr. Morris asked to review the document, father “said that he would not finish the examination, and accused [Dr. Morris] of being like all the others. He began complaining about the evaluation process. He called his mother and demanded that she pick him up and [said] that he was being

kicked out of the evaluation. [Dr. Morris] attempted to encourage [father] to continue the process but he refused and left the office.”

Dr. Morris said: “The evaluation was significant in that [father] displayed considerable opposition and mood instability. He was argumentative, angry, and refused to participate further after he could not control the evaluation process. . . . [Father’s] mood was angry and his affect (expressed emotions) was guarded and he showed instability of mood with disproportionate anger. He appeared irritable, domineering, and defiant[,] evidenced by providing short and curt responses, refusing to cooperate, and attempting to control the process. He was suspicious with a tone of paranoia. The contents of his thoughts were also somewhat delusional as he was overly accusatory and projected that others were prejudice[d] against him due to his culture and heritage. . . . His thought content was also filled with ideas that he and [N.B.] have a good relationship and that the issues in the parent-child dyad was only due to brain washing from the mother; that he took no responsibility for his part in the relationship. . . . [¶] . . . [¶] It was clear that [father] was not forthcoming during the evaluation and is highly defensive of his medical and psychiatric history.”

Based on her examination, Dr. Morris opined “with psychological certainty that [father] has a mood disorder suggestive of bipolar depression. [¶] Bipolar disorders are indicated by distinct period[s] of mood instability. Episodes are typically life-long courses of episodic mood disturbances; however, some individuals may only experience one such mood disturbance (manic) over the course of their life. And, some individuals resume adaptive functioning between episodes. [¶] In terms of substance abuse, evidence points to a significant problem with

the misuse and abuse of drugs characteristic of steroids as well as possibly pain medications. [Father] is not forthcoming with disclosing his use of substances and medical interventions. This is likely due to an attempt to hide the extent of his problems. It is noted that individuals who abuse steroids can experience withdrawal symptoms when they stop taking steroids, such as mood swings, fatigue, and restlessness, loss of appetite, insomnia, and steroid cravings. Consequently, according to research the most dangerous of the withdrawal symptoms is depression, because it sometimes leads to suicide attempts. Therefore, based on the clinical interview, behavioral observations, and collateral reports, the most appropriate DSM-5 diagnos[e]s at this time are as follows: Bipolar Disorder I[;] Steroid Abuse Disorder, Severe[;] R/O Opioid Use Disorder.”

Mother. “[Mother] appears to be a well-functioning woman. She exhibited tearfulness while discussing the relationship between the father and her daughter, and has feelings of wanting to keep her daughter safe while at the same time foster[ing] a positive relationship between her daughter and the father. There were no symptoms rising to the level of a clinical diagnosis or concerns relative to parenting capability. She exhibited a warm and positive interaction with her daughter.”

N.B. Dr. Morris reported that N.B. compared her relationship with her father to the characters in the movie “Frozen,” stating: “[Y]ou know how Anna is ignored by Elsa; well[,] that’s how I feel my relationship with my dad is.” N.B. “became concerned [and] slightly afraid” when she heard her father speaking in the hallway outside the door, and she “hung her head down, [her] body tensed, and her voice became noticeably faint” when she discussed her relationship with father.

During the rest of the interview, however, N.B.'s speech and movements were normal. Accordingly, Dr. Morris opined that N.B. was "acutely stressed when visiting her father's home under the present circumstances," likely because "she has been exposed to her father's explosive anger and she does not have the mental sophisticat[ion] to cope with the father's mood-states."

B. Supplemental Reports

In a September 15, 2016 supplemental report, DCFS said father was refusing to participate in monitored visits with N.B. or to drug test. Mother's employer (Kaiser Permanente) was receiving daily phone calls from father, who was attempting to get mother fired, and Kaiser encouraged mother to get a restraining order against father.

In November 2016, DCFS reported that father was continuing to refuse to visit N.B. at DCFS's offices, saying he did not "feel safe" there.

On November 4, 2016, the juvenile court issued a temporary restraining order protecting mother from father.

V.

**Disposition; Termination of
Juvenile Court Jurisdiction**

At the contested dispositional hearing in May 2017, father testified that he was not able to complete his evaluation with Dr. Morris because "she just threw me out." He said he had not attended a monitored visit with N.B. for nine months because he had "been threatened and harassed numerous times by the Department;" DCFS had "threatened to shoot" him; "numerous employees" of DCFS had called him "a sand-nigger," "a terrorist," and "a camel;" he had received a letter on DCFS letterhead calling N.B. "a camel;" and DCFS was prejudiced against him.

He said he would be willing to see N.B. in a therapeutic setting “[i]f it was fair to me.” Father did not recall whether he had been arrested in April 2016, whether his father had ever called the police because of his behavior, or whether he had kicked in a door at his father’s house. He testified that “[t]here is no conflict with me and my family at all,” that his relationship with N.B. is “fine” and “warm,” and that he had “always been cordial” with mother. He did not recall calling DCFS to complain about his treatment, or calling Dr. Morris’s office to ask if she was a medical doctor. He was uncertain of the basis for the dependency case. He said he was always reasonable in his dealings with mother, “100 percent, and that is, we have proof of that, as well.”

At the conclusion of the disposition hearing, the court found by clear and convincing evidence that N.B. would be in substantial danger if she were returned home to father, and there was no reasonable means to protect her without removing her from father’s physical custody. The court noted that father had not visited N.B. since September 2016, and had made “unsubstantiated and not credible” accusations “that a DCFS employee threatened to shoot him and that racist and obscene comments were made to him and to his daughter.” The court found no evidence to support father’s accusations, which caused the court “to have grave doubts as to the father being rational and able to make decisions.” Accordingly, the court awarded sole legal and physical custody of N.B. to mother, and granted father monitored visitation with N.B. in a therapeutic setting. The court then terminated its jurisdiction.

Father timely appealed.

DISCUSSION

Father contends there was insufficient evidence to sustain the jurisdictional findings that his substance use and mental illness put N.B. at substantial risk of serious harm. As we now discuss, the contentions are without merit.²

I.

Standard of Review

“When an appellate court reviews the jurisdictional or dispositional findings of the juvenile court, it looks to see if substantial evidence, whether contradicted or uncontradicted, supports the findings. [Citations.] The appellate court must review the evidence in the light most favorable to the trial court’s order, drawing every reasonable inference and resolving all conflicts in favor of the prevailing party. [Citation.] Substantial evidence ‘means evidence that is “reasonable, credible and of solid value; it must actually be substantial proof of the essentials that the law requires in a particular case.” ’ [Citation.]

“Appellant has the burden to show that the evidence was not sufficient to support the findings and orders. [Citation.] The reviewing court may not reweigh the evidence or express an independent judgment. [Citation.] Rather, the reviewing court must determine whether ‘a reasonable trier of fact could have found for the respondent based on the whole record.’ ” (*In re Alexander C.* (2017) 18 Cal.App.5th 438, 446.)

² Although father appealed from the dispositional order, on appeal he urges error only with respect to the jurisdictional findings.

II.

Substantial Evidence Supported the Juvenile Court's Finding that Father's Mental Illness Put N.B. at Risk of Harm

Section 300, subdivision (b) provides that a child is within the jurisdiction of the juvenile court if she “has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of . . . the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s mental illness . . . or substance abuse.”

Father contends DCFS failed to prove he has a diagnosed mental illness or that there was a nexus between his mental illness and risk of harm to N.B. We disagree. As we have said, in the several years preceding N.B.’s detention, father’s family and friends made repeated reports to law enforcement that father was depressed, suicidal, and violent. Father accused multiple social workers and Dr. Morris of racial and religious bias, of which there was no corroborating evidence, and he refused to attend supervised visits with N.B. at the DCFS office because he was fearful of being shot. The juvenile court did not err in concluding that these irrational, delusional, and violent actions were consistent with mental illness.

Evidence presented at the dispositional hearing offered further support for the juvenile court’s conclusion that father was mentally ill.³ Father testified, without any corroborating

³ Although we generally assess error by considering only the evidence that was before the court when it ruled (*In re Z.N.* (2009) 181 Cal.App.4th 282, 298), we may consider subsequent evidence in a dependency proceeding where appropriate to “‘expedit[e] the proceedings and promot[e] the

evidence, that a DCFS employee “out of the blue” threatened to shoot him, and that “numerous” DCFS employees called him derogatory names. Father could not recall significant events documented in law enforcement and DCFS reports, including that he had kicked in a door in his parents’ house and had been arrested. Further, Dr. Morris diagnosed father with “a mood disorder suggestive of bipolar depression,” noting, among other things, that father expressed disproportionate anger and paranoia, was irritable, domineering, and defiant, and was “somewhat delusional” in his perception of prejudice and in his belief that he and N.B. had a good relationship.

There also was abundant evidence that father’s mental health issues had a significant impact on N.B.’s emotional well-being. N.B.’s mother and therapist reported N.B. experienced nightmares, difficulty concentrating, and extreme anxiety before visits with father. N.B. told the CSW that father’s behavior made her sad and caused her to feel bad about herself. And Dr. Morris opined that N.B. was “acutely stressed when visiting her father’s home under the present circumstances,” likely because “she has been exposed to her father’s explosive anger and she does not have the mental sophisticat[ion] to cope with the father’s mood-states.”

Finally, while father has never injured N.B., evidence of his increasingly violent and unpredictable behavior creates a

finality of the juvenile court’s orders and judgment’ ” (*In re Salvador M.* (2005) 133 Cal.App.4th 1415, 1421–1422). In the present case, evidence admitted in connection with the dispositional hearing supports, but is not necessary to, our conclusion the juvenile court properly exercised jurisdiction over N.B.

substantial risk he could do so in the future. In the six months before N.B. was detained from father, a friend told police that father had bought a gun and might hurt himself or others, and father's parents summoned police because father had kicked in a locked door and thrown objects at the paternal grandfather. After N.B. was detained, father began frequently calling mother's employer, causing the employer to be fearful for mother's safety. Under these circumstances, substantial evidence supported the juvenile court's conclusion father's mental health issues presented a risk of harm to N.B.

The cases father relies on are inapposite. In *In re David M.* (2005) 134 Cal.App.4th 822 (*David M.*), two-year-old David was removed from his parents' custody after his mother tested positive for marijuana during the birth of David's sibling. David's mother was alleged to have a history of mental illness and marijuana use, and David's father was alleged to suffer from an anxiety disorder and depression. (*Id.* at pp. 825–826.) The parents appealed the juvenile court's jurisdictional findings, and the Court of Appeal reversed. The Court of Appeal found substantial evidence that both parents suffered from mental health issues and that mother abused marijuana. However, the court said, there was no evidence that David and his sibling had been harmed, or were at substantial risk of harm, as a result of mother's drug use or the parents' mental health issues. The court explained: "The evidence was uncontradicted that David was healthy, well cared for, and loved, and that mother and father were raising him in a clean, tidy home. Whatever mother's and father's mental problems might be, there was no evidence those problems impacted their ability to provide a decent home for David." (*Id.* at p. 830.)

Similarly, in *In re James R.* (2009) 176 Cal.App.4th 129 (*James R.*), three young children were removed from their parents' custody after mother, who had a history of attempting suicide, was hospitalized for consuming alcohol and prescription ibuprofen. The social services agency acknowledged that the family had stable income and housing and had a supportive extended family. Both parents were bonded to the children and were meeting their medical, educational, and developmental needs. Mother's therapist testified that mother was not suicidal and did not pose a risk to her children. (*Id.* at pp. 132–133.) The Court of Appeal thus reversed the juvenile court's jurisdictional findings, holding that although mother had a history of mental instability, there was no evidence she had used drugs or been suicidal since the birth of her children, or that she had ever abused or neglected them. Further, there was evidence that father and extended family would intervene to protect the children. Thus, the court concluded, any causal link between mother's mental state and harm to the children was speculative. (*Id.* at pp. 136–137.)

The present case is distinguishable from *David M.* and *James R.* Unlike those cases, where there was no evidence that the parents' mental health issues impacted their ability to appropriately parent their children, there was substantial evidence before the juvenile court in this case that father's mental health issues caused N.B. significant anxiety and sadness and put her at risk of physical and emotional harm. Further, unlike in *David M.* and *James R.*, there was no evidence that other family members could or would intervene to protect N.B.—mother and father did not live together, and father's parents were unwilling to acknowledge in these proceedings that father

was mentally ill. A causal link between father's mental state and harm to N.B., therefore, was not speculative.

III.

Because We Have Affirmed One Count of the Petition, We Need Not Consider Father's Challenges to the Remaining Count

We may affirm a juvenile court's jurisdictional order if any one of the statutory bases for jurisdiction alleged in the petition is supported by substantial evidence. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; accord, *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875.) Thus, because we have concluded substantial evidence supported the b-2 count of the petition (history of mental and emotional problems), we can affirm the juvenile court's exercise of jurisdiction without considering father's challenge to the b-1 count (substance abuse).

DISPOSITION

The jurisdictional order is affirmed. Because father does not independently challenge the dispositional order, that order is also affirmed.

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EDMON, P. J.

We concur:

LAVIN, J.

DHANIDINA, J.