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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re M.M. et al., Persons Coming Under the Juvenile Court Law.	B238242
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. J.M., Defendant and Appellant.	(Los Angeles County Super. Ct. No. CK89181)

APPEAL from a judgment of the Superior Court of Los Angeles County. D. Zeke Zeidler, Judge. Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel and Jeanette Cauble, Deputy County Counsel, for Respondent.

Merrill Lee Toole, under appointment by the Court of Appeal, for Minors.

At the heart of his case is the concern expressed by medical professionals that J.M. (mother) suffers from Munchausen's syndrome by proxy, an esoteric form of mental illness characterized by a parent causing the child's illness, or as in this case, exaggerating the child's symptoms, in order to attract attention or sympathy for herself.[1] In these consolidated proceedings, mother appeals from: (1) a December 12, 2011 restraining order issued against her pursuant to Welfare and Institutions Code section 213.5 (case No. B238242); and (2) a February 14, 2012 order sustaining jurisdiction over her sons, M.M.1 and M.M.2, under Welfare and Institutions Code section 300, and then terminating dependency court jurisdiction with a family law order granting custody to father (case No. B239428).[2] In both appeals mother challenges the sufficiency of the evidence to support the orders. We affirm.

Respondent Department of Children and Family Services (DCFS) contends that the jurisdiction and disposition orders were correct, but takes no position on the restraining order. Respondent children contend the juvenile court correctly issued the restraining order and join in DCFS's arguments on the jurisdiction and disposition orders.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Detention*

M.M.1 was born in November 2007 to mother and K.F. (father). Before he was 18 months old M.M.1 had been admitted to Miller Children's Hospital three times for gastrointestinal issues. He had also been brought to the emergency room on three other occasions. Soon after his brother M.M.2 was born in June 2009, M.M.1 stopped having

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[1] See *People v. Phillips* (1981) 122 Cal.App.3d 69, 78-79, for a description of the condition. See also *Ramona v. Superior Court* (1997) 57 Cal.App.4th 107, 120 and *People v. Mendibles* (1988) 199 Cal.App.3d 1277, 1294 disapproved on another ground in *People v. Soto* (2011) 51 Cal.4th 229, 248, fn.12.)

[2] All future undesignated statutory references are to the Welfare and Institutions Code. Consolidation of the appeals makes moot mother's request in case No. B239428 that we take judicial notice of the record in case No. B238242.

medical issues and M.M.2 began having them. Eventually, M.M.2 was diagnosed with Familial Mediterranean Fever (FMF) and Congenital Amegakaryocytic Thromobocytosis (CAMT), among other things. FMF is a congenital condition, the symptoms of which are intermittent fevers, abdominal pain, joint pain and swelling. CAMT is a rare blood clotting disorder which can cause gastrointestinal bleeding.

In May 2011, DCFS received a referral from Candy Sopp, a social worker at Miller Children's Hospital where M.M.2 had been admitted.[3] Sopp believed mother suffered from Munchausen syndrome by proxy. Her belief was based on several factors including an incident in which positive glucose output was found in M.M.2's surgically placed gastrointestinal feeding tube (g-tube) only after mother was alone with him, mother's fixation on different symptoms, the high number of doctors' visits, the fact that mother "fired" doctors and that father had asked for help. DCFS deemed this referral unfounded. But a subsequent referral in July 2011 led to the children's detention and these proceedings.

On July 18, 2011, DCFS received a report from Miller Children's Hospital that M.M.2 had been admitted on July 7 for vomiting, dehydration and fever; this was his eighth admission to that hospital; M.M.2 had also been admitted numerous times to other hospitals, including Kaiser Hospital and Children's Hospital Los Angeles; the treating physician at Miller Children's Hospital, Dr. Tommy Wang, believed that mother was displaying symptoms of Munchausen syndrome by proxy; although M.M.2 was stable, Dr. Wang was afraid that mother would take M.M.2 home and make him sick again; father told the reporting party that he was concerned that mother was not properly caring for the children. Notwithstanding Dr. Wang's concerns, Miller Children's Hospital released M.M.2 to mother. Shortly thereafter, mother brought M.M.2 to the emergency room at Children's Hospital Los Angeles and reported new symptoms to various doctors and nurses. M.M.2 was eventually admitted to Children's Hospital Los Angeles for dehydration but the hospital staff observed no symptoms. M.M.1 was detained from

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[3] This was the second referral received by DCFS. In September 2010, a referral alleging emotional abuse was concluded as unfounded.

father on July 31; M.M.2 was detained on August 2, after mother brought him to DCFS's office.

The original section 300 petition alleged, in essence, that M.M.2 and M.M.1 were persons described by section 300, subdivisions (b) and (j), respectively, because mother repeatedly created fictitious illnesses for M.M.2 and father failed to protect the children from mother's conduct. Following a detention hearing on August 3, the juvenile court ordered monitored visits for both parents. Within the month both children were released to father and in October, DCFS amended the petition to remove the allegations against father. Mother's visits continued to be monitored.

Pursuant to Evidence Code section 730, psychologist Dr. Michael Maloney was appointed to evaluate whether mother had any untreated mental health issues, among other things. In his report, Dr. Maloney characterized mother as cooperative but "evasive and somewhat guarded. Her thinking was circumstantial, in that she was overly detailed and had to be redirected by examiner." Based on psychological testing, Dr. Maloney formed the opinion that mother "is generally satisfied with herself and sees very little need for major change in her behavior. [Mother's] poor insight and minimal motivation to change will compromise any benefits she may gain from therapy and it is unlikely that she will fully appreciate the negative impact her behavior has on her children. Although she does acknowledge feeling stressed, she is not able to fully appreciate her role in contributing to the situation and is focused on blaming her husband, professions (doctors), or claiming discrimination." Noting that M.M.2's health had improved since being placed with father, Dr. Maloney concluded, "It would appear that mother's behavior has been deleterious to minor [M.M.2]. It is recommended that minors remain placed with father and mother have limited carefully monitored visits. At this point, mother's prognosis for significant change is questionable. She would require long term therapy with a seasoned clinician to asses her therapeutic needs and potential for change."

B. *The Restraining Order*

On December 1, 2011, two months before the jurisdiction hearing, the court issued a temporary restraining order against mother requiring her to stay away from father, M.M.1 and M.M.2 except for scheduled visitation. In his declaration in support of the TRO, father stated that mother "reported several unfounded allegations against me which has caused unnecessary interviews for me and my children by police officers and [social workers]. He stated that mother wrote a letter to the court suggesting that the children's babysitter was a sexual predator and an illegal immigrant, falsely reported that the babysitter was hitting the children, that father had threatened to kill mother and that father was punishing the children by putting chili peppers in their mouths. All of these reports were deemed unfounded. He also reported that on October 22, 2011, mother came to father's business and "was yelling and cursing at me in front of my employees. Mother yelled at me to 'go to hell' and began opening and slamming drawers. I asked Mother to leave my office. Mother said no. I tried to leave my office and Mother stood in the doorway and stated, 'Where do you think you're going? You're not going anywhere.' I attempted to leave the office again and Mother closed the door and said, 'try to walk out' in a threatening manner. I did not want this situation to escalate so I walked back to my desk and told Mother I was going to contact the police department for assistance. I called the police department and they said they would send officers to assist me. Mother then left."

At the subsequent hearing on a permanent restraining order, father testified that in September 2011, the police called and asked him to come to father's place of work. When he arrived they told him that mother was asking for a certain document. After father explained that he did not have that document at his office, the police told mother to go through a lawyer and not to come to father's office again.

Father's employee, Nelly Sanchez, testified that when mother arrived on October 22, 2011 and father called Sanchez into his office, Sanchez surmised that father did so because he wanted someone there in case something happened. Mother appeared

upset and angry. Sanchez recalled mother said, " 'Are you not scared that you are going to burn in Hell,' or something . . . [Father] stood up and was walking towards the door and [mother] was standing right in front of the door and she wouldn't let him get out." Father returned to his desk and called the police. Mother left. Since that day, Sanchez had not seen mother at the office.

Mother testified that prior to October 22, 2011, no one told her she was not welcome at father's workplace. She went there that day to give father his and the children's mail and to ask for a religious divorce. Mother could not recall if father told her to leave. Mother denied standing in the doorway and yelling, "Go to hell." She did not believe father when he said he was calling the police because he had said that before and did not do it, but mother left anyway. Subsequently, mother received an email from her attorney, attached to which were emails her attorney received from father's attorney. The emails from father's attorney stated that father did not want mother to come to his workplace. After receiving this email, mother stayed away from father's home and workplace and did not try to contact him. Mother denied reporting father to any agencies. She claimed that it was maternal grandmother and her therapist who made those reports.

On December 12, 2011, the juvenile court issued a three-year restraining order. Mother timely appealed.

C. *Adjudication and Disposition*

The adjudication and disposition hearing took place over five days in February 2012. The juvenile court admitted the following into evidence: (1) Detention Report dated August 3, 2011; (2) Last Minute Information dated August 3, 2011; (3) Interim Report dated August 10, 2011; (4) Jurisdiction Report dated September 23, 2011; (5) Last Minute Information dated October 21, 2011; (6) Last Minute For Court Officer dated February 6, 2012; (7) M.M.2's medical records from Miller Children's Hospital; and (8) M.M.2's medical records from Kaiser Permanente.

The Detention Report recounted the social workers' interviews with some of the doctors and nurses who had treated M.M.2, many of whom expressed concern that mother was displaying symptoms of Munchausen syndrome by proxy. The report detailed two incidents. The first was in May 2011. Against doctor's orders, mother apparently gave her son some apple juice, thus elevating his glucose output. The second incident involved M.M.2's feeding pump mysteriously turning off several times during the night when mother was the only person in his hospital room. Mother claimed M.M.2 must have done it himself but hospital staff was skeptical that a two-year-old child would have sufficient dexterity. Doctors also recalled that, until M.M.2 was born, mother displayed similar behaviors with older brother M.M.1.

According to the August 3, 2011 Last Minute Information, M.M.2 was discharged from Children's Hospital Los Angeles on July 29. On July 31, mother brought M.M.2 to the emergency room at Miller Children's Hospital stating that her son had diarrhea and had been vomiting for a week, and that his g-tube had fallen out. She did not tell them that M.M.2 had been released from Children's Hospital Los Angeles just a few days before. The two Last Minute Information documents dated October 21, 2011 and February 6, 2012, attached medical records showing that M.M.2's health had improved since he had been in father's custody.

The September 20, 2011 Jurisdiction Report repeated much of the information set forth in earlier reports, including statements from doctors critical of mother's conduct. Mother gave the social worker letters from doctors praising mother's care of M.M.2.

At the hearing, father testified that until these dependency proceedings, he worked long hours and left mother to care for the children. He was aware that mother took M.M.1 to numerous doctor appointments until he was about one year old; mother told father that M.M.1 had thalassemia and asthma, among other things. But after M.M.2 was born, M.M.1 had only the usual well-child appointments. In July 2011, father knew that mother was now taking M.M.2 to a number of doctor appointments. Father determined to become more involved in M.M.2's care after mother told him that M.M.2 might need life threatening surgery. The first doctor mother and father saw together was a UCLA

geneticist. When mother told the doctor that M.M.2 was having seizures, father contradicted her and they argued in front of the doctor. Afterwards, mother told father he could not come to any more appointments. M.M.2 was admitted to the hospital shortly thereafter. Since the children had been living with him, father had been taking M.M.2 to follow up appointments with each of his doctors. Over time, the doctors wanted to see M.M.2 less frequently. When M.M.2 first began living with father, M.M.2 took six medications but at the time of the hearing he took just two: an antacid and a nebulizer machine for his asthma. On January 30, father took M.M.2 to a follow up appointment with Dr. Wayne Grody, the geneticist treating M.M.2 for FMF. At Dr. Grody's recommendation, father stopped giving M.M.2 the FMF medication. Since then, father had closely monitored M.M.2 for FMF symptoms (fever, joint swelling, pain, vomiting, blood in his stool), and had observed none. Father had worked closely with M.M.2's doctors to assist in M.M.2's well-being, such as providing nutritious meals and keeping the house at an optimum temperature to avoid fevers.

Dr. Grody testified that M.M.2 had already been diagnosed with FMF and CAMT when Grody began treating him for only the FMF in early 2011. Dr. Grody never personally observed M.M.2 have any of the symptoms associated with FMF but the symptoms reported by mother "fit classical FMF with roughly once a month attacks of fever, abdominal pain. [M.M.2] also had joint pain and swelling which we don't see quite as often, but it is a known feature of the diseased. [¶] And then what clinched it for me was again by history the attacks were quite suppressed or even eliminated once he had been on Colchine for a while." Dr. Grody had no way of knowing whether mother was exaggerating [M.M.2]'s symptoms. There are a number of websites that describe FMF. When Dr. Grody saw M.M.2 the Monday before the jurisdiction hearing, M.M.2 looked the best Dr. Grody had ever seen him.

Dr. Lena Schulz, a pediatrician at Miller Children's Hospital, testified that she treated M.M.2 for seven days in later April 2011, and for two days in mid July 2011. M.M.2 was diagnosed with several chronic medical conditions for which specialists were consulted. He had several endoscopies and colonoscopies, among other tests. He also

underwent invasive procedures including surgical placement of a g-tube. M.M.2 responded well to treatments but mother continued to complain that M.M.2 "was always doing poorly – he was always vomiting. He never wanted to eat. He was refusing food. And according to her, he always looked sick." Mother pushed for more specialists and more tests. After a while, Dr. Schultz began to believe that mother's perceptions were not accurate.

Dr. Anjuli Kumar, a pediatric gastroenterologist at Miller Children's Hospital, testified that he had been treating M.M.2 for the past 15 months. Mother brought M.M.2 to the hospital complaining about gastrointestinal bleeding, but hospital staff observed no bleeding while M.M.2 was in the hospital. Nurses were able to feed and medicate M.M.2 without incident, but whenever mother or grandmother gave M.M.2 food or medicine, M.M.2 would vomit it up. Eventually, Dr. Kumar placed the g-tube so that M.M.2 could be consistently medicated. Since M.M.2 began living with father, all of his gastro-intestinal issues had resolved. Dr. Kumar attributed M.M.2's dramatic improvement to father taking better care of M.M.2 than had mother.

Dependency investigator Steve Carey testified that in his opinion, mother posed a risk to both children. He believed that mother caused some of M.M.2's symptoms and exaggerated others as a result of which M.M.2 was subjected to unnecessary medical procedures. Carey had no concern about father's ability to care for the children.

Mother testified that changes in insurance coverage caused her to take M.M.2 to different doctors at different medical facilities. M.M.2 was born at Kaiser with intrauterine retardation and an elevated platelet count (thrombocytosis). M.M.2 was hospitalized for the first time in July 2009 for a possible seizure, but it was later determined that he had infantile tremors (myoclonis). After Kaiser exempted M.M.2 from managed care in August 2009, M.M.2 was hospitalized at Miller Children's Hospital with more tremors. Next, M.M.2 was hospitalized for vomiting and diarrhea. Maternal grandmother and the home nurse were sometimes with mother when M.M.2 had symptoms. (Neither the grandmother nor nurse testified.) M.M.2 was eventually diagnosed with FMF by Dr. Bowls, who prescribed Colchine. Dr. Bowls then took

M.M.2 off Colchine. Dr. Bowls recommended Dr. Grody, who put M.M.2 back on Colchine because M.M.2 was having "flares." Mother had problems with some doctors because they refused to explain why they were doing certain things, but the only doctor she ever "fired" was Dr. Schultz. Mother rejected Dr. Kumar's recommendation that M.M.2 be treated by one set of doctors at one hospital because M.M.2 had specialists, like Dr. Grody, at different hospitals. Mother denied putting apple juice in M.M.2's g-tube, turning off his feeding pump, throwing away diapers that were to be kept for stool analysis, and/or making up symptoms.

The juvenile court concluded that mother was not intentionally making M.M.2 sick but had "created symptoms. Not one single other person has testified to seeing the swelling, to seeing the blood in the stool or in the vomit, and this repeated creating of symptoms that appear to be fictitious caused the child to be subjected to more and more treatments. [¶] In addition, we have the information of things going on with [M.M.1] in the first year of that child's life, which suddenly disappeared the minute [M.M.2] was born. . . . The juice and the feeding pump are the two things that the mother expressly may have done to attempt to cause symptoms." The juvenile court sustained the following amended paragraphs b-1 and j-1 of the petition: ". . . [M]other placed two year old [M.M.2] in a detrimental and endangering situation. The child has been diagnosed with Gastro Esophageal Reflux and Familial Mediterranean Fever. [M.M.2] has been admitted to several different hospitals . . . up to 20 times since the child's birth. Once the child is ready for discharge from the Hospital the mother reports new symptoms to the physicians which the child does not have. In May 2011, the mother placed a juice like liquid in the child's G-Tube against medical advice resulting in higher fluid levels and glucose levels for the child. On 7/27/11, the mother turned off [M.M.2's] feeding pump two times in the middle of the night. The mother disposed of [M.M.2's] diapers when she was explicitly told not to do so as doctors were closely monitoring the child's stool output. The mother repeatedly created and/or reported fictitious symptoms and/or illnesses for the child, making the child sick, subjecting him to repeat and/or unnecessary medical tests and procedures, and placing the child's health in danger. The mother

terminated treating physicians when the physicians accused the mother of creating fictitious illnesses for the child. These behaviors on the part of the mother establish a detrimental and endangering situation for the child [M.M.2], and places the child [M.M.2] and his sibling [M.M.1] at risk of physical harm, damage and danger."

After sustaining the petition, the juvenile court then terminated dependency court jurisdiction with a family law order granting father sole legal and physical custody of the children and giving mother monitored visits for two hours, twice a week.

Mother timely appealed.

DISCUSSION

A. Substantial Evidence Supports the Restraining Order (Case No. B238242)

Mother contends the three year restraining order issued pursuant to section 213.5, subdivision (a) was not supported by substantial evidence. She argues that her conduct was not proscribed by the statute, did not constitute "molesting" within the meaning of *In re Cassandra B.* (2004) 125 Cal.App.4th 199 (*Cassandra B.*), and in any case was "minimal." We find no error.

In section 300 dependency proceedings, the juvenile court may issue an order "enjoining any person from molesting, attacking, striking, . . . stalking, threatening, . . . , harassing, telephoning, including, but not limited to, . . . contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace" of the child or the child's caretaker. (§ 213.5, subd. (a).) "Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years." (§ 213.5, subd. (d)(1).)

We review a decision to grant or deny a restraining order for an abuse of discretion. (*Salazar v. Eastin* (1995) 9 Cal.4th 836, 850.) If the juvenile court's factual findings are supported by substantial evidence, we will not find its decision on an application for a restraining order to be an abuse of discretion. (*In re Brittany K.* (2005) 127 Cal.App.4th 1497, 1512.) We view the " 'evidence in a light most favorable to the

respondent, and indulge all legitimate and reasonable inferences to uphold the juvenile court's determination. If there is substantial evidence supporting the order, the court's issuance of the order may not be disturbed. [Citation.]' " (*In re B.S.* (2009) 172 Cal.App.4th 183, 193, citing *Cassandra B., supra,* 125 Cal.App.4th at pp. 210-211.)

In *Cassandra B.*, the juvenile court issued a section 213.5, subdivision (a) restraining order based on evidence that the mother attempted to gain entry to the home of Cassandra's caregivers without their knowledge, appeared at Cassandra's school and then followed behind the caregiver's car after the caregiver picked up Cassandra from school, and threatened to remove Cassandra from her caregivers' home. The mother challenged the sufficiency of the evidence to support the restraining order arguing that she had not been violent, had not threatened violence and her behavior did not constitute "molesting" within the meaning of the statute. (*Cassandra B., supra,* 125 Cal.App.4th at p. 210.) The appellate court affirmed the restraining order, holding that neither violent behavior nor threat of violence are required by section 213.5, subdivision (a). Moreover, as used in the statute, the term "molest" means conduct designed to disturb, irritate, offend, injure, or at least tend to injure, another person and the mother's conduct fell within that description. (*Id*. at pp. 212-213.)

Here, from the evidence that mother went to father's place of business, opened and slammed drawers, yelled and cursed at father in front of his employees saying that he was going to go to Hell, and prevented father's attempt to defuse the situation by leaving, a reasonable trier of fact could conclude that mother's conduct was designed to disturb, irritate and offend father. The evidence also showed that mother had made unfounded reports about father and the children's DCFS-approved babysitter, thus suggesting that mother's conduct was intentional.

This evidence was sufficient to support issuance of the restraining order. That the conduct of the mother in *Cassandra B.* may have been more egregious than was mother's conduct here does not mean there was insufficient evidence in this case. Finally, mother has not shown that it was an abuse of discretion to order the permanent restraining order to remain in effect for three years, the maximum term allowed by the statute. (§ 213.5,

subd. (d)(1); cf. *Avalos v. Perez* (2011) 196 Cal.App.4th 773, 777 [duration of stay-away order issued pursuant to Fam. Code § 6345, subd. (a) is within trial court's discretion].)

B. Substantial Evidence Supports the Adjudication Order (Case No. B239426)

Mother contends the finding that M.M.2 and M.M.1 were persons described by section 300, subdivisions (b) and (j), respectively, was not supported by substantial evidence. She argues that there was no evidence that, at the time of the hearing, the children were at substantial risk of future harm. We disagree.

We begin with the standard of review. DCFS must prove by a preponderance of the evidence that a child is a person described by section 300, and must demonstrate by clear and convincing evidence that removal of the child is justified because of a danger to the child's health. (§ 361, subd. (c).) Our appellate review, however, does not distinguish between preponderance and clear and convincing evidence. On appeal, the trial court's standard of proof disappears and " ' "the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding appellant's evidence however strong." [Citation.]' [Citation.]" (*In re E.B.* (2010) 184 Cal.App.4th 568, 578; see also *In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598.) Substantial evidence means such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. (*Casella v. SouthWest Dealer Services, Inc.* (2007) 157 Cal.App.4th 1127, 1144.) While it may consist of inferences, they must be a product of logic and reason and not the result of speculation or conjecture. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393–1394.)

A child comes within the jurisdiction of the dependency court under section 300, subdivision (b) upon a showing that the child "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 . . . . The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness." As relevant here, a child is a person described by section 300, subdivision (j) if

the child's sibling has been neglected as defined in subdivision (b) and there is a substantial risk that the child will be neglected as defined in that subdivision.

The question at the jurisdictional hearing is whether, at the time of the hearing, the child is at substantial risk of future harm. (*Savananah M.*, *supra*, 131 Cal.App.4th at p. 1394.) Jurisdiction cannot be based on a "possible harm[] that could come to pass" or on harm that is "merely speculative." (*In re David M.* (2005) 134 Cal.App.4th 822, 830.) Standing alone, past acts of neglect do not establish a substantial risk of future harm, but may be considered in determining whether the child is in present need of protection. (*Savananah M.*, at p. 1394; *In re Petra B.* (1989) 216 Cal.App.3d 1163, 1169.) The future harm inquiry is essentially the same for both subdivisions (b) and (j).

Here, there was substantial evidence from which the juvenile court could reasonably conclude by a preponderance of the evidence that mother's conduct of causing some symptoms and exaggerating others put M.M.1 and M.M.2 at substantial risk of physical harm or illness. For example, from the evidence that M.M.2's glucose levels were only higher after being left alone with mother it is reasonable to infer that the higher glucose levels were caused by mother giving M.M.2 something against doctor's orders. Likewise, from the evidence that M.M.2's feeding machine mysteriously turned off during the night when only mother was in the room it is reasonable to infer that mother was turning the machine off. And from the dearth of evidence that anyone other than mother had ever observed symptoms she described to the doctors, it is reasonable to infer that mother was fabricating, or at the very least exaggerating, those symptoms to persuade doctors to give M.M.2 more and more diagnostic tests and treatments. And it is likely she did the same previously with M.M.1. From Dr. Grody's testimony that his concurrence with the FMF diagnosis was based on the symptoms mother described, it follows that if those symptoms were non-existent, then the diagnosis was incorrect and the treatment unnecessary. Dr. Maloney's conclusion that mother was unlikely to change her behavior without extended therapy supports a finding that the children were at substantial risk of future harm from mother.

Mother's assertion that her over-zealousness could not be the cause of any harm to the children because the doctors used their own medical knowledge to diagnose and treat M.M.2 misses the point. It is axiomatic that if the parent of a pre-verbal child describes non-existent symptoms, doctors will perform unnecessary and possibly dangerous tests to ascertain the cause of those non-existent symptoms. If, as here, the parent describes the same non-existent symptoms to different doctors at different medical facilities, the child will be subject to duplicative unnecessary and possibly dangerous tests. Ultimately, these non-existent symptoms may lead to an incorrect diagnosis which may reasonably lead to unnecessary and dangerous treatments.

Also unavailing is mother's argument that there was no evidence that she would be the source of any future harm to the children inasmuch as mother was already the subject of a restraining order and, dependency court jurisdiction was terminated with a family law order giving sole legal and physical custody of the children to father. The issuance of a section 213.5 restraining order requires the filing of a dependency petition, and a family law order under section 362.4 accompanying the termination of jurisdiction by definition requires that the court had already adjudicated the child as a person coming under the dependency laws (§ 300). Section 362.4 expressly authorizes the court to issue a section 213.5 protective order when it terminates jurisdiction. Nothing in either section 213.5 or 362.4, nor any other law, precluded the court from issuing the protective order two months before it terminated jurisdiction. The juvenile court could not have awarded father custody and terminated dependency jurisdiction without first adjudicating the children as persons described by section 300. And it was of no consequence whether the restraining order was issued before or after the hearing.

C. Substantial Evidence Supports the Disposition Order (Case No. B239426)

Mother's sole challenge to the disposition order is that it must be reversed if the jurisdictional order is reversed. Since we affirm the jurisdictional order, we affirm the disposition order.

DISPOSITION

The December 12, 2011 and the February 21, 2012 orders are affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.