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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B277095  
(Los Angeles County  
Super. Ct. No. DK16908)

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LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

S.K.,

Defendant and Appellant.

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APPEAL from orders of the Superior Court of Los  
Angeles County, Robin R. Kesler, Juvenile Court Referee.  
Affirmed.

Terence M. Chucas, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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S.K. (mother) appeals from the dependency court's jurisdictional findings under Welfare and Institutions Code section 300, subdivisions (b) and (c).<sup>1</sup> She contends the court's findings are not supported by substantial evidence. We affirm because the court's finding under subdivision (b) is supported by substantial evidence.

## **FACTUAL AND PROCEDURAL BACKGROUND**

Mother has twin girls who are now 11 years old, R.P. and S.P. The girls' father lives in Missouri; he is not a party to this appeal.<sup>2</sup> On May 30, 2016, the Los Angeles County Department of Children and Family Services (Department) received a referral when mother visited a hospital with the girls and her boyfriend. According to the referral, mother

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

<sup>2</sup> The family has one child welfare referral from July 2011, based on domestic violence between mother and father.

stated her faith guided her to come to the hospital. Mother believed she had an ectopic pregnancy, reported she had been to four different hospitals for the same issue, but hospital tests revealed no pregnancy. The referral described mother as verbally aggressive and manic in her speech. Mother's answers to questions were described as delusional.

A social worker interviewed mother and the girls at the hospital. Mother claimed she had been placed in a foster care home in New Jersey after suffering physical abuse by her father and emotional abuse by her mother. Mother claimed she suffered from post-traumatic stress disorder and depression from her parents' abuse. Mother had been suffering abdominal pain since February 2016, and had visited several different emergency rooms starting May 2, 2016. She believed she was pregnant and was frustrated that the doctors kept telling her she was not pregnant while also failing to explain what was causing her abdominal pain.

A social worker with Penny Lane, a Department contract agency, conducted an "Up Front Assessment" the following day. The Penny Lane social worker interviewed mother for almost three hours, and described mother's mood and demeanor as "very changeable and exaggerated." She explained that mother's mood would change rapidly and mismatched with the topics being discussed. Mother also tried to get the Penny Lane social worker to feel her abdomen three times within fifteen minutes at the beginning of the interview to demonstrate that she was pregnant. Mother reported using marijuana three or four times a week,

one or two joints a day. She also claimed that she yelled and argued with the hospital doctors. When asked how she thought the hospital visits might have affected her children, she said they had fun when they went. During the interview, the Penny Lane social worker believed mother was either using methamphetamine or experiencing a manic episode. She ultimately opined mother had “bipolar disorder with psychotic features, cannabis use disorder, and histrionic personality disorder.” She recommended a psychiatric evaluation for further diagnosis with a treatment plan, individual therapy, drug testing, drug treatment, and “immediate implementation of in home supportive services if her children remain in her care.”

The girls reported mother thought she was pregnant and was frustrated that the doctors keep telling her she was not. In separate interviews, both S.P. and R.P. reported that they were in an exam room with mother, and viewed some shapes on a monitor that mother believed were indicative of pregnancy. S.P. described a heart monitor which mother told them indicated there was a baby inside. R.P. reported seeing three little hearts on the screen, her mother’s heart and the twins’, as well as an oval that her mother explained was the placenta.

Mother and the girls live in a three-bedroom house. The girls are well-groomed and well-dressed, and they report mother takes good care of them, taking them to school every day, feeding them, taking them to church, and buying them clothes. Mother gave contradictory information regarding

the twins' medical care. She said the children were up to date on their doctors' visits and immunizations, but the doctor's office informed the Department that the girls' names were transferred from an old computer system in 2014, and the office had no record of any visits since 2014. Mother also told hospital staff that the family does not like doctors because they are "liars."

A few days after receiving the Up Front Assessment from Penny Lane, the Department obtained a warrant to remove the twins from mother's custody. When the social worker arrived with law enforcement to detain the twins, mother said she was planning to take the children to Missouri and drop them off with their father so she could get medical treatment. She had not seen a doctor or a psychiatrist since first speaking with the social worker two weeks earlier, but she continued to believe she was pregnant. Mother also explained that her parents were staying at a nearby campsite in Palmdale, and mother was willing to move out of the house and be homeless so her children could remain at home with maternal grandparents. Mother's boyfriend was present, but did not say a single word the entire time the social worker was in mother's house. The social worker took custody of the girls, who spent a great deal of time trying to convince the social worker that mother was pregnant and not delusional.

On June 15, 2016, the Department filed a petition alleging that mother's mental and emotional problems rendered her incapable of providing regular care for her ten-

year-old twin daughters, R.P and S.P.<sup>3</sup> The jurisdictional hearing began on August 2, 2016.<sup>4</sup> The court heard testimony from the Penny Lane social worker, mother, and R.P. During the hearing, mother denied her earlier statements to the Penny Lane social worker regarding her insistence that she was pregnant, and instead explained her hospital visits as relating to severe abdominal pain. She also

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<sup>3</sup> The exact wording of the petition's b-1 allegation was: "The children [R.P.] and [S.P.]'s mother, [S.K.], has mental and emotional problems, including a history of diagnoses of Depression and PTSD, and is currently exhibiting delusional thinking, which renders the mother incapable of providing regular care for her children. Such mental and emotional problems on the part of the mother endanger the children's physical health and safety and place the children at risk of serious physical harm and damage." The subdivision (c) allegation stated, "The children [R.P.] and [S.P.]'s mother [S.K.] has been diagnosed with a mental -- by a mental health professional with bipolar disorder with psychotic features and histrionic personality disorder. [¶] Mother intermittently manifests distorted and delusional thinking and displays erratic and aggressive behavior while the children are present. Mother refuses to acknowledge or treat her mental health condition. Mother's refusal to acknowledge or treat her mental health condition endangers the children."

<sup>4</sup> An earlier jurisdictional hearing began on July 5, 2016, but ended in a mistrial after several days of testimony because the hearing officer would be unavailable for six weeks, and mother had not waived time for adjudication.

denied arguing with hospital staff or yelling at them. Responding to cross-examination questions from county counsel, mother stated that if the court exercised jurisdiction over the case but returned the children to her custody, she would be willing to cooperate with recommended services “[a]s long as they don’t violate my religious beliefs.” She would be willing to undergo drug testing and loved going to 12-step meetings, but participating in a mental health evaluation and individual therapy would be against her beliefs. When asked if she knew whether there was a religious prohibition against counseling, as opposed to therapy, she responded, “They say that you need to seek the Bible. You need to seek guidance from your pastor, your peers, and the people of the church.”

After considering the reports and testimony, as well as argument from all counsel, the court sustained count b-1 concerning medical neglect. The court found mother’s testimony lacked credibility, pointing out that mother had testified she was in excruciating pain at the time of her testimony, but her physical demeanor and appearance was not consistent with her testimony. It also noted mother’s inability to stop talking during the proceedings. The court dismissed count b-2, and added and sustained an additional count under subdivision (c). Mother objected to the lack of notice in adding a new count to the petition.

In ordering the twins to remain removed from mother’s custody, the court noted it “was concerned by mom’s testimony in the sense that it corroborated the reports by the

ER workers in regard to the mental health issues.” The court found by clear and convincing evidence that there was still a substantial danger, and so their continued removal was warranted under section 361, subdivision (c).<sup>5</sup>

## DISCUSSION

Mother contends the court’s jurisdictional findings under subdivision (b) and (c) are not supported by substantial evidence. “On appeal, the ‘substantial evidence’ test is the appropriate standard of review for both the jurisdictional and dispositional findings. [Citations.]” (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) We resolve all conflicts in support of the determination, examine the record in a light most favorable to the dependency court’s findings and conclusions, and indulge all legitimate inferences to uphold the court’s order. (*In re Brison C.* (2000) 81 Cal.App.4th 1373, 1379; *In re Tania S.* (1992) 5 Cal.App.4th 728, 733-734.)

### *Substantial evidence of risk of harm under subdivision (b)*

Mother challenges the dependency court’s jurisdictional finding under subdivision (b) of section 300 by highlighting certain evidence that casts mother in a positive light and by pointing out flaws in the evidence that would

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<sup>5</sup> Mother does not challenge the court’s dispositional findings on appeal.



support a jurisdictional finding. Her efforts cannot overcome the fact that the court's finding is supported by substantial evidence.

Dependency jurisdiction is warranted when “[t]he 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.” (§ 300, subd. (b)(1); *In re R.T.* (2017) 3 Cal.5th 622, 625.) Section 300, subdivision (b)(1) “authorizes dependency jurisdiction without a finding that a parent is at fault or blameworthy for her failure or inability to supervise or protect her child.” (*In re R.T.*, *supra*, at pp. 627-633, 636-637, fn. 6 [disapproving *In re Precious D.* (2010) 189 Cal.App.4th 1251, and rejecting the reasoning requiring parental neglect for jurisdiction as set forth in *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820].) To sustain an allegation based on risk of future harm to the child, that risk must be shown to exist at the time the court makes the jurisdictional finding, but the court need not wait until the child is seriously injured to assume jurisdiction. (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 993.) “A section 300, subdivision (b) jurisdictional finding may not be based on a single episode of endangering conduct in the absence of evidence that such conduct is likely to reoccur. [Citation.]” (*Ibid.*)

Here, the evidence that R.P. and S.P. were at substantial risk of serious physical harm rested on a combination of circumstances, including conduct by mother

that was indicative of serious mental and emotional issues, combined with a refusal to acknowledge how her conduct would adversely impact the health and safety of her children, should her mental and emotional problems remained undiagnosed and untreated. These risk factors were compounded by mother's use of marijuana at the time of her troubling conduct. Aside from denying any mental health issues, she professed that her faith prohibited psychological evaluations or individual therapy. Mother argues that the Penny Lane social worker was not qualified to make a mental health diagnosis, but the court qualified the social worker as an expert witness and was entitled to rely upon her expert opinion. Mother's distrust of doctors also put the girls at risk of failing to receive appropriate medical care.

Taken together, evidence of mother's mental health issues and delusional belief that she was pregnant, her conduct in taking the twins to her visits to the emergency room, marijuana use, and false or mistaken statements that the twins received regular medical care supported the court's finding that mother's conduct put the children at substantial risk of suffering serious physical harm. Even though the girls were well-groomed and well-cared for, there was substantial evidence from which the lower court could infer that their health and safety was at risk.

*Substantial evidence of risk of harm under subdivision (c)*

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Because we conclude there was substantial evidence to support the court’s jurisdictional finding under subdivision (b) of section 300, we decline to consider mother’s arguments regarding the court’s findings under subdivision (c).

## **DISPOSITION**

The jurisdictional findings are affirmed.

KRIEGLER, Acting P.J.

We concur:

BAKER, J.

DUNNING, J.\*

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\* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.