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

In re AARON D. et al., Persons  
Coming Under the Juvenile  
Court Law.

B287451

(Los Angeles County  
Super. Ct. No. DK08254A-B)

LOS ANGELES COUNTY  
DEPARTMENT OF  
CHILDREN AND FAMILY  
SERVICES,

Plaintiff and Respondent,

v.

KATHY P. et al.,  
Defendants and  
Appellants.

APPEALS from an order of the Los Angeles County  
Superior Court, Steff Padilla, Juvenile Court Referee. Affirmed.

Elizabeth C. Alexander, under appointment by the Court of  
Appeal, for Defendant and Appellant Kathy P.

Darlene Azevedo Kelly, under appointment by the Court of  
Appeal, for Defendant and Appellant Sherman T.

Mary C. Wickham, County Counsel, Kristine Miles, Acting  
Assistant County Counsel, Sally Son, Deputy County Counsel for  
Plaintiff and Respondent.

Kathy P., the mother of now-eight-year-old Aaron D. and three-year-old Kylie T., and Sherman T., the father of Kylie, appeal the juvenile court's jurisdiction findings and disposition order declaring the children dependents of the juvenile court and removing them from parental custody after sustaining the allegation that Kathy and Sherman had failed to maintain a clean, sanitary and hazard-free home (§ 300, subd. (b)).<sup>1</sup> Kathy and Sherman contend the court's jurisdiction findings and disposition order are not supported by substantial evidence. We affirm.<sup>2</sup>

## **FACTUAL AND PROCEDURAL BACKGROUND**

### *1. The Initial Dependency Petition and Proceedings Involving Aaron*

In September 2014 the Los Angeles County Department of Children and Family Services (Department) received a referral alleging four-year-old Aaron appeared dirty and his clothes smelled. During a home visit, the social worker found Kathy's

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<sup>1</sup> Statutory references are to this code unless otherwise stated.

<sup>2</sup> On July 10, 2018, while this appeal was pending, the juvenile court returned Aaron and Kylie to Kathy and Sherman's custody following a six-month review hearing (§ 366.21, subd. (e)). Taking judicial notice of the court's July 10, 2018 minute orders (Evid. Code, §§ 452, subd. (d), 459), we confine our review to the juvenile court's jurisdiction findings; Kathy and Sherman's challenge to the court's removal order is now moot. (*In re N.S.* (2016) 245 Cal.App.4th 53, 60 [a dependency appeal is moot when court cannot provide effective relief if it finds reversible error]; *In re A.B.* (2014) 225 Cal.App.4th 1358, 1364 [same].)

single unit residence, a converted garage, dangerously cluttered; no path even existed for the social worker to enter the home to complete a home assessment. The Department sought and obtained an emergency order removing Aaron from Kathy's custody.

In November 2014 the Department filed a section 300 dependency petition alleging Aaron suffered from medical neglect and lived in an unsanitary and hazardous environment that posed a substantial risk to his physical health and well-being. Aaron was detained. At a subsequent jurisdiction and disposition hearing in March 2015, the juvenile court dismissed the medical neglect allegation, sustained the allegation concerning Aaron's living conditions, declared Aaron a dependent of the court and removed him from Kathy's custody. The court ordered reunification services for Kathy and a general psychiatric evaluation.

Due to Kathy's progress during the reunification period, the Department did not file a new petition as to Kylie, born in October 2015. At the November 2015 six-month review hearing (§ 366.21, subd. (e)), the Department recommended Aaron be returned to Kathy's custody with family preservation services. The Department reported that Kathy had participated in individual counseling and understood the importance of maintaining a safe environment for Aaron and Kylie. The court adopted the Department's recommendation and returned Aaron to Kathy's custody with family preservation services.

At the August 2016 section 364 review hearing the court rejected Kathy's request to terminate jurisdiction, finding conditions continued to exist that justified the court's supervision. As Kathy acknowledged, the clutter in the family

home had become increasingly more severe since Kylie's birth. Photographs submitted by the social worker confirmed that assessment. The court ordered an Evidence Code section 730 evaluation for Kathy and continued jurisdiction. Aaron remained placed with Kathy. No petition was filed as to Kylie, who remained in the custody of Kathy and Sherman.

In October 2016 the Department submitted to the court the Evidence Code section 730 evaluation from Dr. Ronald W. Banks, diagnosing Kathy with hoarding disorder and unspecified depressive disorder (depressed mood) and recommending psychotherapy directed to hoarding disorder.

At a section 364 hearing in February 2017 the Department reported it had developed with Kathy a collaborative plan to address her needs and the safety of her children. Aaron remained placed with Kathy, and a section 364 hearing was scheduled for August 2017.

*2. The Supplemental Dependency Petition Concerning Aaron and New Section 300 Petition Concerning Kylie*

In August 2017 the Department filed a section 342 supplemental petition alleging Kathy's hoarding behavior had resumed in earnest, once again subjecting Aaron to dangerous and unsanitary living conditions (§ 300, subd. (b)). The supplemental petition also alleged that Sherman, who now resided in the family home, was a registered sex offender who had pleaded guilty 15 years earlier to a charge of lewd conduct with a child under 14 years old. The petition alleged Sherman's criminal history placed Aaron at substantial risk of sexual abuse (§ 300, subd. (d)). The same day the Department also filed a section 300 petition regarding Kylie, then 21 months old, which included substantially similar allegations: That is, both parents

failed to maintain a sanitary and hazard-free home, and Sherman's status as a registered sex offender put Kylie at risk of sexual abuse. Aaron and Kylie were detained. Sherman moved out of the family home at the direction of the social worker to help facilitate the children's return.

At the contested jurisdiction/disposition hearing on the two petitions, held on October 31, 2017 and November 7, 2017, social worker Citlaly Dominguez testified she had visited the home twice: once just prior to preparing the October 6, 2017 jurisdiction report and again on October 20, 2017. During the second visit she observed the walls of the home were lined with tall, dangerously unsteady stacks of papers, documents, clothes, dinnerware and other items. Trash and other debris remained on the floor or swept under furniture. Although Dominguez acknowledged there had been some improvement since her visit a few weeks earlier—open containers of laundry detergent and bleach were no longer present on the floor where Kylie would have easy access—in Dominguez's view the home remained unsafe. Dominguez acknowledged Kathy had participated regularly in individual therapy but stated she had not been given any specialized therapy for hoarding disorder. Asked by the court why not, particularly in light of prior court orders directing such services, Dominguez explained the Department had not been able to find a mental health provider that specialized in hoarding. Also, Dominguez asserted, Kathy had refused to acknowledge she had a hoarding problem.

Jose Beltran, Sherman's caseworker assigned by the Los Angeles County Regional Center where Sherman received services, had visited the family weekly, even in Sherman's absence, to assist Kathy in cleaning the home. He testified he

believed the home was safe and assured the court he would continue to assist the family in ensuring the home remained safe for the children.

The court sustained the section 300, subdivision (b), allegations in both petitions. The court stated, “We have an ongoing pattern. Unless they are directed, unless they are supervised, this family cannot keep a clean house. And it’s not some clothes on the floor. It’s a dangerous home.” The court struck the section 300, subdivision (d), allegation, noting that Sherman’s conviction included no restrictions on being with children and finding no evidence to support the allegation that the children were at any current risk of sexual abuse.

The court complimented Beltran for assisting the family in cleaning and attempting to remove health hazards from the home environment, lauded Sherman for being “a stabilizing force” for the family and encouraged him to move back in to the family home. In contrast, the court sharply criticized the Department for failing to provide Kathy with adequate services to address her hoarding issues, labelling “ridiculous” the Department’s contention that it had been unable to find a therapist skilled in addressing hoarding issues.<sup>3</sup> Also, to the extent Kathy had resisted such therapy, believing she did not have a hoarding problem, the court admonished Kathy she needed to accept responsibility.

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<sup>3</sup> The court stated, “The mother has been provided services. For the record I don’t believe they’re sufficient. We know the issue mother and father have, especially mother. And to hear a worker say . . . there is no counseling for hoarding is ridiculous. Then find it.”

The court declared both children dependents of the court, removed them from parental custody with family preservation services and directed the Department to find immediate therapy for Kathy to address her hoarding disorder.

Kathy and Sherman filed separate notices of appeal.

## **DISCUSSION**

### *1. Standard of Review*

In reviewing a challenge to the sufficiency of the evidence in a dependency proceeding, we determine if substantial evidence, contradicted or uncontradicted, supports the juvenile court's findings. ““In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.”” (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence such that a reasonable trier of fact could find that the order is appropriate. (*Ibid.*; *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

### *2. The Court's Jurisdiction Findings as to Aaron and Kylie Are Supported by Substantial Evidence*

Kathy contends the court's November 2017 jurisdiction findings as to Aaron and Kylie are not supported by substantial evidence. In particular, Kathy argues, there was no evidence Aaron or Kylie had suffered serious physical harm or illness as a result of the unsanitary and hazardous home environment or

were at substantial risk of future harm. Kathy emphasizes there was food in the home and the children appeared clean. Moreover, Beltran testified he had been providing weekly assistance to the family to clean the home and make it safe, and he confirmed that such services would continue for the rest of Sherman's life as part of Sherman's regional center services. Thus, Kathy argues, whatever the condition of the home in the past, it had significantly improved by the time of the jurisdiction hearing and, with Beltran's continued assistance, was likely to remain safe.

Kathy's sufficiency-of-the-evidence challenge fails. Although the children appeared to be clean and well cared for and some improvements had been made to the home by the time of the jurisdiction hearing—a path had been cleared for entry, and open toxic materials removed from the floor where Kylie could access them—the court had no confidence that the home environment would remain safe for the children without court supervision. (See *In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1381 [although section 300 requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing, the court need not wait until a child is seriously injured to assume jurisdiction and take steps necessary to protect the child]; *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216 [same].) Although Beltran had provided assistance to the family, he was not a therapist; and Kathy's hoarding disorder remained untreated. Kathy had also demonstrated an inability to sustain a safe environment for any significant period of time. The jurisdiction report, photographs and testimony of Dominguez and Beltran amply support the court's assessment and constitute substantial evidence to support the jurisdiction findings. (See



*In re S.O.* (2002) 103 Cal.App.4th 453, 461 [a parent’s “[p]ast conduct may be probative of current conditions’ if there is reason to believe that the conduct will continue”].)

3. *Sherman Has Failed To Raise a Justiciable Controversy*

Sherman contends the court erred in sustaining the allegation that he was responsible for the condition of the family home. According to Sherman, the hoarding problem was Kathy’s alone. With the help of his regional center caseworker, Sherman insisted he had done all he could to assist her. Accordingly, he argues, the court erred in sustaining the section 300, subdivision (b), allegation as to him and in removing Kylie from his custody.

Because jurisdiction of Kylie was proper in light of Kathy’s behavior, we need not address Sherman’s jurisdiction challenge. (See *In re Briana V.* (2015) 236 Cal.App.4th 297, 310-311 [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, 1492 [same].)

**DISPOSITION**

The court’s November 7, 2017 jurisdiction findings are affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

FEUER, J.