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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re NATALIE R., a Person Coming
Under the Juvenile Court Law.

B251267, B253997
(Los Angeles County
Super. Ct. No. CK97890)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

IRENE A.,

Defendant and Appellant;

NATALIE R.,

Appellant.

APPEALS from orders of the Superior Court of Los Angeles County. Carlos E. Vasquez, Judge. Affirmed in part and dismissed in part with directions.

Aida Aslanian, under appointment by the Court of Appeal, for Defendant and Appellant.

Linda Rehm, under appointment by the Court of Appeal, for Appellant.

John F. Krattli, County Counsel, James M. Owens and Dawyn Harrison, Assistant County Counsel, and Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

Irene A. (Mother) and daughter Natalie R. (born in 2000) appeal from the juvenile court's August 27, 2013 jurisdictional and dispositional orders, contending substantial evidence did not support the court's order declaring Natalie a dependent of the court pursuant to Welfare and Institutions Code section 300, subdivisions (b) (failure to protect) and (d) (sexual abuse).¹ We conclude Mother and Natalie failed to rebut the presumption under section 355.1 that Natalie was a person subject to the jurisdiction of the juvenile court based on Mother's allowing her boyfriend, Nicholas E., a registered sex offender, to reside with and have unlimited access to Natalie. We also disagree with Mother's contention that the court abused its discretion in ordering family maintenance services in its August 27, 2013 dispositional order. We affirm the August 27, 2013 jurisdictional and dispositional orders.

After the Department of Children and Family Services (DCFS) filed a supplemental section 387 petition, the juvenile court found true on January 15, 2014, the allegations that Mother failed to comply with the court's orders for individual counseling and parenting classes and Mother had allowed Nicholas to reside with Natalie. Mother and Natalie appeal from the court's jurisdictional and dispositional orders in connection with the section 387 petition. We conclude substantial evidence supported the juvenile court's jurisdictional findings, except that the juvenile court did not order parenting classes and, therefore, Mother had no obligation to participate in parenting classes. We order the juvenile court to strike that part of the section 387 petition pertaining to parenting classes. Mother also appeals the juvenile court's order that Mother's visits with Natalie take place in a therapeutic setting. Because the order requiring Mother's visits in a therapeutic setting was later changed to monitored visits, we dismiss as moot that part

¹ Undesignated statutory references are to the Welfare and Institutions Code.

of Mother's appeal pertaining to the order limiting her visits to a therapeutic setting. In all other respects, we affirm the January 15, 2014 jurisdictional and dispositional orders.

BACKGROUND

A. Contents of second amended section 300 petition and supplemental section 387 petition

DCFS filed the operative second amended section 300 petition on May 31, 2013. As amended and sustained, paragraphs (b) and (d) alleged Mother allowed Nicholas to reside with and have unlimited access to Natalie, knowing he was a registered sex offender who had a criminal conviction for rape.² DCFS filed a supplemental section 387 petition on October 17, 2013. As sustained, paragraph s-1 of the supplemental section 387 petition alleged Mother failed to comply with court-ordered individual counseling and parenting classes and failed to make Natalie available for home visits by DCFS. Paragraph s-2 alleged that in October 2013, Mother allowed Nicholas to reside with and to have unlimited access to Natalie, knowing he was a registered sex offender.

B. Events leading up to filing of second amended section 300 petition

On November 28, 2012, DCFS received a referral alleging Mother and Nicholas fought in the home, Mother abused drugs and alcohol, and Nicholas was a registered sex offender on parole for rape.

DCFS reported the following. In 1995, Nicholas had been convicted of felony rape of an adult by force and had been sentenced to 16 years in prison. Mother had met Nicholas on a prison chat line and allowed him to be paroled to her home, knowing he had been imprisoned for rape. Nicholas was assessed as posing a "moderate-high risk" for reoffending. Nicholas had a history of substance abuse and domestic violence. He also had a history of evading visits from law enforcement. He had violated parole in 2002. He had been convicted of felony failure to register as a sex offender in 2004 and

² Allegations that Natalie had been exposed to violent confrontations between Mother and Ruben R. (Father), Father failed to provide Natalie with the basic necessities of life, Father was a frequent user of marijuana, and Mother had been under the influence of prescription medications were dismissed. Father is not a party to the appeals.

had been sentenced to 16 months in prison. He had been convicted of a parole violation for felony possession of marijuana for sale in 2008; he had had another unspecified parole violation in 2009; and had been convicted of driving under the influence with possession of marijuana in 2012, at which time he had been sentenced to 180 days in jail. Nicholas had refused to participate in sex offender counseling required as a condition of parole. He had filed complaints against most of the staff at the parole office after being confronted with noncompliance of parole conditions. He reportedly “‘knows how to manipulate the system.’”

When DCFS attempted to interview the family at the home on December 4, 2012, Nicholas refused to allow DCFS access, saying “law enforcement would need to come to the home.” Mother came out of the house to speak to DCFS, and when DCFS asked Mother for access to the home, Nicholas interjected and said no. When DCFS requested Mother to drug test, she initially agreed, but then at Nicholas’s prompting, refused to comply. DCFS returned with law enforcement later that day, but no one was home.

The next day, when interviewed by DCFS at her school, Natalie denied physical or sexual abuse by Mother or Nicolas, but presented as being “scared and timid.” She denied “being aware of what drugs were.” Even though school had started on August 14, 2012, Natalie had not been enrolled until September 28, 2012, and Nicholas’s parole officers reported having seen Natalie in the home during school hours.

DCFS spoke to Mother at the school, at which time she stated her family did not approve of her relationship with Nicholas. She stated she was going to sue DCFS. When asked if she would voluntarily drug test in order to avoid court involvement, Mother refused. She denied drug usage by Nicholas and claimed his domestic violence was in the “‘past.’” Mother refused DCFS access to Natalie and appeared to be “controlled by” Nicholas.

Nicholas was taken into custody on January 23, 2013, for violating parole and failing to register as a sex offender. Subsequently, Nicholas sued the “State of California” and a sex offender program, claiming the order to participate in a sex

offender program violated his rights. Parole agents reported the home was messy, cluttered, had exposed wiring, and that numerous bottles of prescription pills were displayed on dressers.

DCFS visited the home, observing multiple pill bottles on a dresser. Mother claimed these were prescribed to her for a work-related injury. Mother refused to allow DCFS to inspect the bottles. Mother refused to provide the name of her doctor, the nature of her injuries, the names of her prescriptions, and the status of her purported worker's compensation claim. Natalie's room was a non-insulated, makeshift patio area. The family denied having a working cell telephone, but Mother had been seen with a cell phone and Nicholas always called his parole officer "' within minutes'" of being paged. The family was described as "typically difficult with everyone and . . . litigious." Mother declined to participate in a voluntary family maintenance plan or a team decision-making meeting. The family was observed to be very secretive and defensive and more concerned with challenging authority figures than addressing family issues.

On February 21, 2013, a referee ordered that there be no contact between Nicholas and Natalie, that Natalie was to remain released to Mother, and that DCFS was to provide family maintenance services to Mother, including sexual abuse awareness counseling and parenting classes. The referee ordered Natalie to receive a medical evaluation, a mental health screening, and a dental screening. Subsequently, Mother refused to take Natalie to be evaluated, claiming evaluation was not court-ordered.

In March 2013, the same referee ordered that Nicholas could live in the home with Natalie "for now," but he was not to be left alone with her. The referee noted an adjudication hearing was scheduled the following month.

At a later hearing in April 2013, a different bench officer ordered Mother to make Natalie available to DCFS for interviews. DCFS filed the operative second amended section 300 petition on May 31, 2013.

Mother allowed DCFS to interview Natalie only outside the family home, typically at the sheriff's station. Natalie told DCFS she remembered hiding when Father

hit Mother. Natalie thought of Nicholas as her father. She denied Mother was taking medication for any illnesses or work-related injuries. After telling DCFS that Mother and maternal grandmother told her not to trust ““anyone, even family members,”” and that Mother had previously dated a guy who looked mean and she worried he might hit her, Natalie became guarded. She stated she did not want to be taken away from Mother and that she ““trust[s] her but not really.”” She denied being left alone with Nicholas or being told to withhold information.

C. August 27, 2013 jurisdictional and dispositional hearing

At the jurisdictional hearing on August 27, 2013, Natalie testified that Nicholas lived in the “back house” and she and Mother lived in the “front house.” She testified he had never touched her and that she had never been left alone with him without another family member present. She knew Nicholas had served time in jail, but had not been told why he was in jail. Mother did not discuss Nicholas’s criminal past with Natalie.

The juvenile court determined the allegations had been proved by a preponderance of the evidence because Mother allowed a known sex offender to reside in the home, endangering Natalie. The court declared Natalie a dependent of the court, ordering Mother to participate in individual counseling and ordering Mother to make Natalie available to DCFS for unannounced home visits. Mother stated she did not “agree with the individual counseling.” Mother and Natalie appealed from the jurisdictional and dispositional orders of August 27, 2013.

D. Events leading up to filing of supplemental section 387 petition

On September 16, 2013, DCFS made an unannounced visit to the home, which was blockaded with “palm tree leaves, wood tarps, and mattresses.” Because DCFS could not reach the door, DCFS knocked on the gate and left a copy of the juvenile court’s order and a letter requesting that Mother enroll in individual counseling and contact DCFS. On September 25, 2013, DCFS went to Natalie’s school and was informed by school personnel that a restraining order had been issued against DCFS. Later that day, DCFS went to the home and observed two mattresses leaning against the

fence, blocking the view of the house. The letter DCFS had left in the mailbox was gone. DCFS left another copy of the court's order, individual counseling referrals, and a letter explaining that if Mother did not comply with court orders, DCFS would "seek a warrant."

Subsequently, Mother contacted DCFS, stating she would not allow DCFS into her home. She refused to sign forms authorizing the release of information about her or Natalie to DCFS. She stated she did not understand why she had to participate in counseling and did not want to undergo counseling because she believed the therapist would provide information about her to DCFS. Mother stated she would not go to any of the service providers recommended by DCFS and her attorney would refer her to a therapist. She told DCFS she was moving and provided the new address.

DCFS obtained a removal order on October 10, 2013. DCFS went to the new address provided by Mother, but no one was there. DCFS then returned to Mother's previous home accompanied by law enforcement. After calling for Mother and Nicholas to come out of the house, the officers prepared to cut the chains that secured the gate. Mother then came to the fence and unlocked the chains. Nicholas refused to exit the house, resulting in the officers entering the house with guns drawn to secure Nicholas. Natalie denied she had lied to DCFS when she said Nicholas lived in the back house. She said he had just moved to the front house "for the last two days." She denied that she had been physically or emotionally abused at home.

Mother had several additional contacts with DCFS and the juvenile court during the period of September through November 2013. In September, Mother sent letters to the juvenile court, complaining of "fabrication of events" by DCFS. One letter from Mother stated visits with Natalie by DCFS at the sheriff's station had been approved by a DCFS supervisor, which was untrue. On October 16, 2013, Mother gave DCFS a letter stating she had located a therapist. A letter dated October 15, 2013, from S.O.B.E.R. International stated Mother had to reschedule her assessment interview from October 10 to October 17, 2013, due to "illness." A letter dated October 30, 2013, from S.O.B.E.R.

stated Mother had completed an assessment interview and two individual sessions and was scheduled to attend 10 weekly individual sessions focusing on “psychoeducation to increase self-worth and self-esteem in order to assist in developing self-improvement skills.” DCFS reported on November 6, 2013, that it had informed Mother’s therapist at S.O.B.E.R. that Mother’s “case issues need to be discussed” and provided the therapist with court reports and the sustained petition.

DCFS filed the section 387 supplemental petition on October 17, 2013. On that day, the juvenile court ordered Natalie detained from Mother, ordered that Natalie’s visits with Mother be monitored, and ordered that family reunification services be provided.

E. Events leading up to hearing on section 387 and section 388 petitions

Mother changed attorneys several times and represented herself at times. At a hearing on October 28, 2013, while Mother was representing herself, DCFS asked the juvenile court the identity of a man sitting in the back of the courtroom. When the man identified himself as a “legal assistant,” the court asked him to leave the courtroom. Mother said nothing. After a break, DCFS informed the court it had learned the man who represented himself as a legal assistant was Nicholas. The court chided Mother for not being candid with the court about the identity of Nicholas and for “the lengths that you have gone to in this case to continue doing what you are doing.”

Subsequently, Mother failed to respond to DCFS’s letters requesting her to provide a telephone number, set up a visitation schedule, and be interviewed. When DCFS obtained Mother’s telephone number from a third party, Mother refused to pick up DCFS’s telephone calls.

Natalie, who had been placed in a foster home, called Mother in the middle of the night and on the way to school so her foster mother, Loretta S., could not monitor her conversations. When Loretta asked Natalie to give her the cell phone, Natalie claimed to have lost it. Loretta found the phone under Natalie’s bed. The next day, Natalie reported Loretta had sexually abused her. She later reported she had made up the story of sexual abuse and that she had been told by Mother to call the police on Loretta. Because Mother

was a negative emotional and behavioral influence, DCFS recommended Mother's visits take place in a therapeutic setting.

Nicholas appeared at a subsequent hearing, and the juvenile court ordered him not to attend any further proceedings. At a continued hearing, Mother informed the court Natalie had been molested at her foster placement. At a later hearing, DCFS informed the court it had received a letter purporting to be written by Natalie, from Mother's and Nicholas's home address, with a signature that did not match the handwriting of the letter. DCFS expressed concern the letter was not from Natalie or that Natalie had been coerced into writing it.

In January 2014, DCFS filed a section 388 petition requesting Mother's visits with Natalie be conducted in a therapeutic setting rather than by a DCFS-approved monitor because Mother had Natalie sign a document Mother had written, which stated Natalie "sees [Nicholas] as her father and that she was molested in her previous foster home."

DCFS reported Mother and Natalie insisted Natalie be moved to a group home even though placement in a foster home was appropriate. At a team decision-making meeting, Mother spoke on behalf of Natalie and made comments in an attempt to influence Natalie, such as, "[I]f Natalie is not placed in a group home, she may run away," Natalie did not want to be placed with relatives, and Natalie did not want to visit Father. Natalie then repeated Mother's statements that she did not want to be placed with a relative or visit Father. Mother sat next to Natalie and told her that she needed to tell DCFS that nothing had happened at home. DCFS reminded Mother that she was not to talk to Natalie about the case issues, and Mother stated she "was not aware that was part of the case." DCFS reminded Mother that, during the team decision-making meeting, Mother had told Natalie that she had heard Natalie's attorney did not like Mother and that, consequently, Natalie refused to talk to her attorney.

At a hearing on December 12, 2013, Mother's current counsel informed the court that Mother was "deep [*sic*] involved in individual counseling. In the last five weeks, she's attended some seven sessions. She's progressing."

F. Hearing on section 387 and section 388 petitions

At the jurisdictional hearing on January 15, 2014, Natalie testified she lived with Nicholas, whom she regarded as her stepfather, and Mother. She had never been afraid of Nicholas, and he had never touched her private parts. She testified she was never left alone with Nicholas. She denied that Mother had told her to tell DCFS that nothing had happened at home. Natalie identified a letter dated November 27, 2013, as having been written and signed by her. She said she reported her foster mother for sexual abuse after her foster mother discovered her cell phone.

Mother's current counsel, who had been appointed on December 17, 2013, informed the court Mother had provided DCFS with a letter dated October 15, 2013, showing she had enrolled in individual counseling but had to stop due to illness.

Following argument, the juvenile court observed Mother had not been in compliance with the case plan, Mother had done everything to prevent DCFS from entering the home, Mother had stopped attending individual counseling, and Natalie was too young to make the decision that she was safe in the company of Nicholas, who was a registered sex offender who had been convicted of forcible rape. The court concluded Mother had placed Natalie at risk by allowing an unrelated registered sex offender to live in the home, stating, "Let me make it very clear. So there is no question—that it is unacceptable and that it does place a child at risk when a mother allows a registered sex offender to live in the home with a young girl present in the home who is not his biological child, who has no familial relationship with this child, and the court does see that this child is placed at risk under the circumstances."

The juvenile court rejected DCFS's request that Mother undergo mental health counseling, a psychological assessment, and take a parenting class. The court stated it intended to order no contact with Nicholas and Natalie, then appeared to backtrack, stating, "Well, I am not going to make a home of parent order in this case." The court ordered that Natalie be removed from Mother's custody, that Mother participate in individual counseling to address case issues, and that telephone calls between Mother and

Natalie be monitored. The court granted DCFS's section 388 petition, ordering that monitored visits between Mother and Natalie occur in a therapeutic setting. Mother and Natalie appealed.

We granted DCFS's motion to take judicial notice of documents showing that on April 15, 2014, the juvenile court ordered Mother's visits no longer needed to take place in a therapeutic setting. (Evid. Code, § 452.)

DISCUSSION

A. Standard of review

The juvenile court's jurisdictional finding that the minor is a person described in section 300 must be supported by a preponderance of the evidence. (§ 355; Cal. Rules of Court, rule 5.684(f).) “““When the sufficiency of the evidence to support a finding or order is challenged on appeal, the reviewing court must determine if there is any substantial evidence, that is, evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. [Citation.] In making this determination, all conflicts [in the evidence and in reasonable inferences from the evidence] are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.]”” [Citation.] While substantial evidence may consist of inferences, such inferences must rest on the evidence; inferences that are the result of speculation or conjecture cannot support a finding. [Citation.]” (*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1258–1259.) “[W]e must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact. [Citation.]” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 53.)

B. Substantial evidence supported the juvenile court’s jurisdictional findings under section 300, subdivisions (b) and (d)

1. Substantial evidence supported the jurisdictional findings under section 300, subdivision (b)

Mother contends insufficient evidence supported the juvenile court’s jurisdictional order as to the allegations under section 300, subdivision (b). We disagree.

Section 300, subdivision (b) provides a basis for juvenile court jurisdiction if “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.”

“A jurisdictional finding under section 300, subdivision (b) requires: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the child, or a ‘substantial risk’ of such harm or illness. [Citations.] The third element ‘effectively requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future’ [Citation.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.) Jurisdiction may be exercised “based on . . . a current or future risk.” (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1435, fn. 5.)

Section 355.1 provides, in pertinent part: “(d) Where the court finds that . . . any . . . person who resides with, or has the care or custody of, a minor who is currently the subject of the petition filed under Section 300 . . . is required, as the result of a felony conviction, to register as a sex offender pursuant to Section 290 of the Penal Code, that finding shall be prima facie evidence in any proceedings that the subject minor is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect. The prima facie evidence constitutes a presumption affecting the burden of producing evidence.”

To rebut the foregoing presumption, a party may present evidence that his or her status as a registered sex offender did not place the minor at substantial risk of the abuse or neglect. (*In re John S.* (2001) 88 Cal.App.4th 1140, 1145–1146.)

It is undisputed that Mother permitted Nicholas, who had been convicted of rape and was required to register as a sex offender, to reside with Natalie. Thus, under section 355.1, Mother and Natalie had the burden of rebutting the presumption that Natalie was a person described by section 300, subdivision (b) and was at substantial risk of abuse or neglect. Mother and Natalie failed to rebut the presumption.

In an attempt to rebut the presumption, Mother and Natalie argue there was no evidence Mother had acted negligently toward Natalie, Natalie had ever been abused, or there was a nexus between Nicholas's remote conviction for rape and a risk to Natalie. They argue Natalie reported and testified that Mother took good care of her, she did not want to be separated from Mother, she considered Nicholas to be her father, Nicholas had never touched her inappropriately, she was never left alone with Nicholas, she felt safe with Nicholas. Natalie also contends "as a 13-year-old," she was "more than able to determine if anything made her feel uncomfortable or unsafe," her preference to live with Mother should be considered by the juvenile court, and the court should not infer she was unable to speak for herself or was trying to hide something.

Viewing all conflicts in favor of DCFS and drawing all reasonable inferences in support of the judgment, as we must (*In re Veronica G.* (2007) 157 Cal.App.4th 179, 185), we conclude substantial evidence supported the juvenile court's assertion of jurisdiction over Natalie. Mother's and Natalie's claims that Natalie had never been sexually abused or made uncomfortable by Nicholas hinged largely on Natalie's testimony. However, issues of fact and credibility are questions for the juvenile court. (*In re Precious D.*, *supra*, 189 Cal.App.4th at pp. 1258–1259.) From the evidence and her demeanor, the court could infer Natalie was controlled by Mother and was not a credible witness. Natalie was observed by DCFS to be "scared and timid" as well as guarded. In addition, Natalie told DCFS Mother had instructed her not to trust "anyone,

even family members,’” and that she did not really trust Mother. We reject outright Natalie’s claim she should be able to decide whether Nicholas made her feel uncomfortable. Precisely because of Natalie’s tender years, the court was in the best position to determine whether the evidence was sufficient to support the determination that Nicholas posed a risk to Natalie.

Nor are we convinced by the argument that there was no nexus between Nicholas’s “remote” conviction and a risk to Natalie. The juvenile court could have inferred from the relationships among the parties that a risk of harm existed to Natalie. Nichols had been convicted of raping an adult and had been assessed as posing a “moderate-high risk” of reoffending. Natalie was entering into young adulthood. Nicholas had violated parole by failing to participate in counseling for sex offenders designed to reduce recidivism. The court could have viewed this failure as increasing the chance that Nicholas would reoffend. Moreover, Nicholas’s violations of parole by failing to register as a sex offender, possessing marijuana for sale, and driving under the influence with marijuana possession also could have caused the court to find Nicholas was more likely to reoffend. Mother, who allowed Nicholas to speak for her and refused to drug test after being corrected by him, appeared to be controlled by Nicholas. Mother refused to give DCFS access to Natalie in the home and claimed not to have a phone, although she had been seen with one. The family was observed to be secretive, defensive, and more interested in attacking authority than addressing the case issues. These factors also could have supported the court’s concern that Natalie was being placed at substantial risk of abuse or neglect.

Mother and Natalie argue the juvenile court’s finding of jurisdiction based on Nicholas’s living with Natalie was inconsistent with the referee’s March 2013 order authorizing Nicholas to live with Natalie on the condition she not be left alone with him. Although the referee allowed Nicholas to reside in the same home with Natalie previous to the adjudication, the court’s subsequent finding that Mother had put Natalie at risk by allowing Nicholas to reside in the home was based on additional information gathered

during the 10 months that passed between the March and January orders, rendering the presence of any inconsistency meaningless. Indeed, at the time the referee stated Nicholas could reside with Natalie, the referee made clear that the order was only “for now,” noting an adjudication hearing was imminent. Moreover, Natalie’s and Mother’s counsel did not raise the issue of any such inconsistency at the adjudication hearing. Rather, Natalie’s testimony showed a more pressing need to protect her from contact with Nicholas, as Natalie now testified Nicholas was living with her and Mother in the front house, not the back house as she had stated earlier.

We conclude Mother and Natalie failed to present evidence rebutting the presumption that Nicholas’s status as a registered sex offender placed Natalie at substantial risk of abuse or neglect and conclude substantial evidence supported the juvenile court’s jurisdictional findings under section 300, subdivision (b).

2. Substantial evidence supported the jurisdictional findings under section 300, subdivision (d)

Mother contends that insufficient evidence supported the juvenile court’s jurisdictional order as to the allegations under section 300, subdivision (d). We disagree.

Section 300, subdivision (d), provides in pertinent part that a child may be declared a dependent of the court when: “[T]here is a substantial risk that the child will be sexually abused, as defined in section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.”

Mother and Natalie make the same arguments as in part B1, above, with respect to their contention that they provided evidence sufficient to rebut the presumption of section 355.1 and that the evidence was insufficient to support the juvenile court’s jurisdictional findings under section 300, subdivision (d). The same rationale we applied in part B1 applies equally to defeat these arguments.

We conclude substantial evidence supported the juvenile court's jurisdictional findings under section 300, subdivision (d).

C. The juvenile court did not abuse its discretion in making its August 27, 2013 dispositional orders

Mother contends that the juvenile court abused its discretion in making its August 27, 2013 dispositional orders. We disagree

“The juvenile court has broad discretion to decide what means will best serve the child's interest and to fashion a dispositional order accordingly. (*In re Jose M.* (1988) 206 Cal.App.3d 1098, 1103–1104.) Its determination will not be reversed absent a clear abuse of that discretion. (*In re Eric B.* (1987) 189 Cal.App.3d 996, 1005.)” (*In re Corey A.* (1991) 227 Cal.App.3d 339, 346.)

Here, the juvenile court ordered Mother to participate in individual counseling to address the case issues and DCFS to conduct unannounced home visits.

Mother's argument that the dispositional orders must be reversed because there was no basis for dependency jurisdiction must fail, in light of our conclusions in parts B1 and B2, above. We also reject her argument the services improperly address “speculative risks” and matters which fall “outside the realm of dependency.” Mother did not appear to recognize the danger to which she had exposed Natalie by taking in a convicted and registered sex offender she had met on a prison chat line. Further, as previously discussed, Mother appeared to be controlled by Nicholas. Nicholas had refused to comply with conditions of parole designed to reduce sex offender recidivism, refused to allow DCFS to interview Natalie in the home, and failed to comply with orders designed to protect Natalie, such as taking Natalie for medical, mental, and dental screenings.

We conclude the juvenile court did not abuse its discretion in making its dispositional orders.

D. Substantial evidence supported the juvenile court’s jurisdictional findings under section 387

Mother and Natalie contend substantial evidence did not support the juvenile court’s jurisdictional findings under section 387. We disagree.

“A section 387 supplemental petition is used to change the placement of a dependent child from the physical custody of a parent to a more restrictive level of court-ordered care. (§ 387; Cal. Rules of Court, rule 5.560(c).) [Citations.]” (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1161.) “In the jurisdictional phase of a section 387 proceeding, the court determines whether the factual allegations of the supplemental petition are true and whether the previous disposition has been ineffective in protecting the child. (§ 387, subd. (b); rule 5.565(e)(1).) If the court finds the allegations are true, it conducts a dispositional hearing to determine whether removing custody is appropriate. (Rule 5.565(e)(2); [citation].) A section 387 petition need not allege any new jurisdictional facts, or urge different or additional grounds for dependency because a basis for juvenile court jurisdiction already exists. [Citations.] The only fact necessary to modify a previous placement is that the previous disposition has not been effective in protecting the child. (§ 387, subd. (b); [citation].)” (*In re T.W.*, at p. 1161.)

The juvenile court found true the allegations of the section 387 petition that the August 27, 2013 dispositional orders had not been effective in protecting Natalie because, pursuant to paragraph s-1, Mother failed to comply with court-ordered “Individual Counseling and Parenting, and failed to make [Natalie] available for home visits by . . . DCFS,” and pursuant to paragraph s-2, in October 2013, Mother allowed Nicholas, a registered sex offender, to reside in the home with Natalie.

We first note that the juvenile court had not ordered Mother to participate in parenting classes and, indeed, specifically denied DCFS’s request that she be ordered to do so. Therefore, the allegation contained in paragraph s-1 that Mother failed to comply with the court order as to parenting classes was not supported by substantial evidence. We will order the court to strike that part of the section 387 petition.

Similarly, the evidence concerning Mother's participation in individual counseling is unclear. In August 2013, the juvenile court ordered Mother to participate in individual counseling. Mother was resistant to participating in individual counseling, but eventually obtained a therapist through her attorney. She submitted a letter from the therapist dated October 15, 2013, stating Mother had enrolled in individual counseling but had to reschedule her assessment due to an illness. Mother also submitted a letter from the therapist dated October 30, 2013, stating Mother had completed an assessment interview and two individual sessions. DCFS reported it had provided court reports and the petition to the therapist and informed him that Mother's case issues needed to be discussed. Perhaps as a result of Mother's frequent substitution of counsel, there might have been some confusion as to Mother's level of participation in individual counseling. At a hearing on December 12, 2013, Mother's counsel informed the court Mother had attended seven sessions in the previous five weeks. But on January 15, 2014, a different attorney, referencing the therapist's previous October 15, 2013 letter, informed the court that Mother had enrolled in individual counseling, but had to stop due to an illness. Therefore, the court's conclusion Mother had stopped attending individual counseling was not supported by the evidence. We will order the court to strike that part of the section 387 petition.

Substantial evidence does support the juvenile court's other findings pursuant to paragraph s-1 of the section 387 petition. The court accurately determined that Mother had refused, in violation of its order, to make Natalie available for unannounced home visits by DCFS. DCFS found the home barricaded by mattresses, tarps, wood, and palm leaves. Mother also ignored the documents left by DCFS reiterating the need to make Natalie available to DCFS for home visits. In addition, DCFS was prevented from contacting Natalie at school, due to a purported restraining order obtained by Mother against DCFS. DCFS was only able to gain access to Natalie by bringing law enforcement to the home to cut the chains from the gate. DCFS's investigation of Natalie in her home environment was critical to the determination as to whether Mother provided

adequately for her safety, well-being, and protection and whether Natalie was at risk. DCFS also needed access to determine whether Nicholas resided in the home. The foregoing constitutes substantial evidence supporting the court's finding under paragraph s-1 of the section 387 petition.

Substantial evidence also supports the juvenile court's finding pursuant to paragraph s-2 of the section 387 petition that Mother allowed Nicholas, a registered sex offender, to reside in the home with Natalie. When DCFS executed its removal order in October 2013, Nicholas was residing in the home and Natalie informed DCFS that Nicholas had been residing in the home for at least two days. Although Mother claims the court had modified its order by allowing Nicholas to reside with Natalie as long as she was accompanied by another adult, as previously discussed, a different bench officer had made that order "for now," 10 months prior to the adjudication. We conclude sufficient evidence supported the court's finding that Mother allowed Nicholas, a registered sex offender, to reside in the home with Natalie.

Thus, although the juvenile court's finding Mother had stopped individual counseling was not supported by the evidence, "[W]hen 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.) We conclude substantial evidence supported the court's true findings on the section 387 petition pursuant to paragraph s-1, regarding Mother's failure to make Natalie available for home assessments by DCFS, and paragraph s-2, regarding Mother allowing Nicholas, a registered sex offender, to reside in the home with Natalie.

Because Mother refused to allow DCFS to visit Natalie in the home and allowed Nicholas to live with Natalie, we conclude substantial evidence supported the juvenile court's finding that leaving Natalie in the home of Mother was ineffective to protect her.

E. Substantial evidence supported the juvenile court's order removing Natalie from Mother's custody

Mother and Natalie contend sufficient evidence did not support the juvenile court's order removing Natalie from Mother's custody. We disagree.

Section 361 provides, in pertinent part, "(c) A dependent child may not be taken from the physical custody of his or her parents . . . unless the juvenile court finds clear and convincing evidence of any of the following circumstances . . . : [¶] (1) There is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody. . . . The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain physical custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm."

As previously discussed, at the adjudication and disposition of the section 300, subdivisions (b) and (d) petition, the juvenile court had fashioned a plan to keep Natalie safe by ordering Mother to allow DCFS to conduct unannounced home visits. This would have allowed DCFS to verify that Nicholas was not living in the home with Natalie, to evaluate Natalie's home environment, and to supervise the family in the home. Mother, however, refused to allow DCFS to conduct announced home visits with Natalie and Nicholas was found to be residing in the home. Moreover, Mother interfered with DCFS's attempts to determine the facts. Mother coached Natalie during visits at the sheriff's station and encouraged her to make false reports of sexual abuse. At a team decision-making meeting, Natalie parroted Mother's statements that Natalie did not wish to be placed with relatives or visit Father, and Mother had to be reminded not to whisper to Natalie, or to talk to her about case issues. Accordingly, there was substantial evidence to support the juvenile court's determinations that there would be a substantial

danger to Natalie's physical or emotional well-being if she were returned home and that there were no reasonable means to protect Natalie without removing her from Mother's custody.

We reject Mother's argument the juvenile court could have ordered Nicholas to participate in counseling in order to keep Natalie in the home. Nicholas had a history of refusing to comply with conditions of parole requiring him to attend a sex offenders program. Thus, even if the court had the ability to order a live-in companion to participate in counseling, it did not abuse its discretion in deciding such an order would not have been effective. Nor are we convinced by Mother's further argument that the juvenile court could have ordered Nicholas removed from the home as an alternative to Natalie's removal. Regardless of whether Nicholas lived in the back house or resided with Mother, Mother had refused DCFS unannounced home visits with Natalie.

F. Mother's argument that the juvenile court abused its discretion in limiting visitation to a therapeutic setting is moot

Mother's argument that the juvenile court abused its discretion in limiting visitation to a therapeutic setting in its January 15, 2014 order is moot.

“‘[A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.’ [Citation.]” (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404.)

On April 5, 2014, the juvenile court ordered that Mother's visits would no longer be restricted to a therapeutic setting. Accordingly, we can provide no further relief to Mother and therefore dismiss that part of her appeal as moot.

G. Mother's allegation of bias

We also reject Mother's request we remand the matter to a different judicial officer, arguing that the juvenile court was biased against her. Mother has not shown evidence of bias. Natalie was removed from Mother's care because Mother failed to comply with court orders designed to protect Natalie. The court's chiding of Mother for

failing to identify Nicholas in the courtroom while she was representing herself was not an improper response to Mother's lack of candor.

DISPOSITION

The juvenile court is ordered to strike those parts of paragraph s-1 of the Welfare and Institutions Code section 387 petition pertaining to parenting classes and individual counseling. That part of Irene A.'s appeal pertaining to the juvenile court's January 15, 2014 order limiting Irene A.'s visits to a therapeutic setting is dismissed as moot. In all other respects, the August 27, 2013 and January 15, 2014 jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED.

MILLER, J.*

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.

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