Filed 8/4/17 In re A.M. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re A.M., a Person Coming Under the Juvenile Court Law.	B277277 (Los Angeles County Super. Ct. No. DK17469)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. G.M., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Harry A. Staley, Judge. (Retired Judge of the Kern Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Linda J. Vogel, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent.

A juvenile court judge took jurisdiction over A.M., the then 12-month-old child of G.M. (Father) and H.M. (Mother), based on an uncontested allegation that the parents had an unresolved history of engaging in physical altercations in A.M.'s presence. The juvenile court found reasonable efforts had been made to avoid removing A.M. from his parents' custody and entered a disposition order entrusting the Los Angeles County Department of Children and Family Services (DCFS) with A.M.'s care pending further proceedings. We are asked to decide whether Father is entitled to reversal based on his claim (not raised below) that the juvenile court failed to state facts supporting its reasonable efforts finding, and more broadly, that the order removing A.M. from his parents' custody is not supported by substantial evidence.

I. BACKGROUND

A. The Incident of Domestic Violence Triggering DCFS's Involvement with the Family

In May 2016, Father arrived at the Los Angeles Police Department's West Los Angeles station and reported Mother had assaulted him after the two began arguing that morning. Father reported Mother punched him twice in the chest with her right hand while she was holding A.M. in her left arm. Father then attempted to leave the apartment, and Mother grabbed him by the shirt collar, which resulted in two visible half-inch scratches on his neck. Father told the police he wanted to document what happened because there had been "numerous" prior incidents of domestic violence he did not report. Father, however, refused the police offer of an emergency protective order.

After taking Father's complaint, police officers went to the parents' apartment to interview Mother. In a written statement she provided to the officers, Mother acknowledged she had argued with Father, "slapped" him on the chest, and "grabbed him on his back collar" when he was trying to leave; she asserted, however, it was not her intention to scratch him. Based on both parents' statements and the scratches on Father, the police officers arrested Mother for cohabitant abuse.

The police notified DCFS of the altercation and advised Father had since been trying to bail Mother out of jail.[1] DCFS thereafter began its own investigation, which included interviews with Mother, Father, and individuals living in two neighboring apartments.

Father recounted to DCFS the particulars of the incident he reported to the police: Mother punched him once in the chest, grabbed him by the neck (which broke the necklace he was wearing), and then hit him again. Father told the social worker that Mother had physically assaulted him "a couple of times" during their two-and-a-half-year relationship, and he said he and Mother planned to "take some counseling." Father claimed he had not perpetrated domestic violence against Mother, but he did admit to an incident "a few months ago" in which he pushed Mother when she had again been hitting him while she was holding A.M. According to Father, Mother fell after he pushed her, and A.M.'s head hit Mother while she was falling—giving her a bruised eye.

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[1] Father ultimately did not have the money to pay Mother's bail, but his brother was able to bail her out.

In her interview with a DCFS social worker, Mother admitted she had argued with Father, slapped Father's chest, and grabbed him by the neck and scratched him. But Mother denied she was holding A.M. during the incident. Mother also reported Father had hit her "a couple of times" in the past, and she told the social worker that "[a]s much as possible, we make sure the baby won't get hurt." In addition, Mother confirmed the prior domestic violence incident Father described in his interview, i.e., that about six months ago Father had pushed her while she was holding A.M., which caused A.M. to hit and bruise her eye. She stated she had not called the police in response to any of the domestic disputes because she wanted to fix her relationship with Father and did not want anyone arrested.

Mother and Father's neighbors reported hearing them fighting on occasions in the past, with one of the neighbors stating they were "always fighting." One of the neighbors reported an instance "not long ago" when Mother and Father cancelled plans to have dinner and the neighbor's daughter observed Mother with a black eye. None of the neighbors had seen Mother and Father physically fighting, however, and one expressed uncertainty about "who to believe" in terms of whether Mother or Father was the instigator of any violence.

B. DCFS Commences Dependency Proceedings and the Juvenile Court Removes A.M. from Mother and Father's Custody

1. The petition and detention

DCFS filed a petition asking the juvenile court to assume jurisdiction over A.M. under Welfare and Institutions Code

section 300, subdivisions (a) and (b)(1).[2] As later amended by the court, the petition alleged Mother and Father "have an unresolved history of engaging in physical altercations in the presence of the child[,] including on occasions when [M]other was holding the child." DCFS alleged the parents' conduct endangered A.M.'s physical health and safety, created a detrimental home environment, and placed A.M. at risk of serious physical harm.

The report prepared by DCFS for the initial detention hearing recommended the juvenile court order A.M. detained. DCFS opined Mother and Father "minimize the serious [nature] of the domestic violence and indicate that they do not understand how the child is at risk. In particular, DCFS's report highlighted Father's refusal of an emergency protective order, his arrangement of Mother's release from jail, and his decision to allow Mother to return to the home, which again placed A.M. (then nine months old) at risk of harm. The detention report noted the efforts then made to date to avoid the need to remove A.M. from the parents' home, including DCFS's initial investigation, its initiation of criminal history background checks on the parents, and the social worker's provision of crisis intervention services and emotional support to the family. The report also listed available services that could prevent the need for further detention of A.M., namely, counseling, case management, and parent training.

At the initial detention hearing in May 2016, the juvenile court ordered A.M. detained, finding that a substantial danger

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[2] Undesignated statutory references that follow are to the Welfare and Institutions Code.

existed to the physical or emotional health of A.M. absent removal from the parents' home and that DCFS had made reasonable efforts to prevent the child's removal. The court granted Mother and Father monitored visits with A.M. (separately) for nine hours per week and ordered DCFS to provide Mother and Father with referrals for domestic violence counseling and individual counseling to address case issues.

2. DCFS's jurisdiction report

Two and a half months later, DCFS filed its jurisdiction and disposition report with the juvenile court. In addition to again interviewing the parents and neighbors for the report, DCFS interviewed the director of the counseling center where parents had been receiving the services the court ordered at the detention hearing. DCFS had also arranged for a Multidisciplinary Assessment Team (MAT) evaluation of A.M.

When re-interviewed by DCFS, Father was upset about the ongoing proceedings and claimed "everyone he knows, including the foster parents, MAT assessor and law enforcement[,] believes that [A.M.] should be home and not in foster care and that DCFS was wrong to remove [A.M.] from the family home." Father had participated in the court-ordered parenting education and domestic violence programs but stated he knew "he does not belong there." According to Father, the "other [program] participants use drugs and alcohol and had weapons in the family home" whereas "[A.M.] was not in any danger in the family home" and "was blossoming just like a flower when he was removed." Asked what he had learned from participating in the programs and what he might do differently, Father responded, "I

would have never gone to the police." Father maintained his life had been "destroyed over something very minor."

When again asked about the altercation that triggered DCFS's investigation and prior episodes of domestic violence, Father's version of events changed substantially from the account he previously provided the police and DCFS. Father claimed that during the May 2016 incident, Mother put her open hand on his chest but did not punch him. He claimed he must have scratched himself because Mother had only put her hand on his shoulder, rather than grabbing his neck. Father also denied Mother was holding A.M. when the altercation occurred. In addition, Father disavowed his prior statement admitting he pushed Mother during an incident prior to May 2016; Father now asserted he merely put his hands on Mother's chest at the time. In Father's view, he and Mother needed only to talk as a couple to resolve their problems.

Mother's story also changed by the time of her DCFS interview for the jurisdiction report. Mother admitted to "attacking [Father] verbally" during the May 2016 incident that triggered DCFS's involvement, but she insisted she did not attack Father physically on that occasion—or ever. Mother also denied previously telling DCFS that Father had hit her "a couple of times" in the past. Specifically with respect to the earlier incident resulting in a bruised eye, Mother denied saying Father had pushed her. Instead, she claimed Father had "placed his hand on her chest" and she then "lost her footing and ended up on the bed in an upright position and that [A.M.'s] head hit her eye causing slight bruising." Mother also told the interviewing DCFS investigator that "she has freckles and other dark [spots] under

her eyes which give the illusion of a black eye," and this might explain why a neighbor would have reported she had a black eye.

As to her relationship with Father more generally, Mother reported that it was good "for the most part" even though they have "little arguments here and there." When asked about her participation in the court-ordered programs, Mother stated she wished someone had spoken to her about participating in services like anger management classes prior to the May 2016 incident. Mother reported learning that "it is not good to blame but to look to yourself and how you contribute to your problems" and that "arguments can be settled without escalating."

The director of the counseling center where the parents had been receiving court-ordered services advised DCFS that Mother had been actively participating in a parenting group and a women's group, and that based on her progress and participation, it appeared her goal was to reunify with A.M. The director reported, however, that Mother "does not believe that [Father] has done anything wrong." As to Father, the director stated he (Father) had an overall attitude of "poor me, I don't belong here" and took the position that he had done nothing wrong and the troubles with Mother were all her fault.

DCFS's jurisdiction report also discussed the parents' post-detention-hearing visitation with A.M., the MAT's conclusions, and A.M.'s safety if returned to Mother and Father's home. Regarding visitation, the report indicated Mother had been visiting A.M. for less than the time permitted by the juvenile court because of the difficulty in travelling the distance to the visits. It was Father who was transporting Mother to the visits, but Father himself had not visited with A.M. The MAT evaluation concluded A.M. exhibited "severe separation anxiety

and sadness." The evaluation recognized the parents had a history of discord and aggression, and that Father needed to better understand how fighting with Mother "is having negative effects on [A.M.]," but the report stated both parents wanted to work on their relationship to be effective parents. And as to A.M.'s safety in Mother and Father's home, DCFS concluded there were no reasonable means to protect A.M. short of removal from his parents' physical custody. A related section of the jurisdiction report entitled "Reasonable Efforts" included only the following sentence: "On 05/18/2016, the court found that reasonable efforts had been made to prevent or eliminate the need for the child's removal from the parents' physical custody."

In the end, DCFS's jurisdiction report recommended that the juvenile court sustain the jurisdiction allegations and continue in force its prior order removing A.M. from his parents' custody. DCFS expressed "serious concerns about [Father's] lack of insight into his role in the current family situation coupled with his lack of empathy toward [A.M.] and [Mother]." DCFS further opined, "no matter how much [Mother] learns and participates in programs, until she is able to develop insight not only into her role but [Father's] role in the current family situation, she is not likely to be able to set proper boundaries and limits with [Father]; therefore, she will not be able to keep herself or [A.M.] safe." DCFS also observed that both parents' "inability to recognize that they created an endangering and detrimental situation by engaging in violent altercations in the presence of the child severely impairs their ability to provide care, supervision, protection and control of [A.M.]." DCFS determined "the family can be considered at 'very high' risk for future abuse and neglect," and concluded "the investigative findings[,] coupled

with the parents' misleading statements, denial[s,] and minimizing of the volatile nature of their relationship and how this creates a detrimental environment for [A.M.], and [A.M.'s] tender age, places him at risk of serious physical and emotional harm and damage."

3. The jurisdiction and disposition hearing

The juvenile court held a combined jurisdiction and disposition hearing. Both parents pled no contest to the petition's allegations (as amended by the juvenile court). The juvenile court accepted the pleas, found A.M. to be a person described by section 300, subdivisions (a) and (b), and adjudged him a dependent of the juvenile court.

Proceeding to disposition, counsel for DCFS and A.M. argued that A.M. should remain suitably placed in foster care. Counsel for DCFS noted Father had made little (or at best unknown) progress in his parenting and domestic violence classes and the parents still "seek to continue living together while they address the [domestic violence] cycle and the imbalance of power in their relationship." Counsel for A.M. agreed A.M. should not be returned to the parents' custody, explaining there was a substantial risk returning A.M. to their home would be detrimental because "not just Mother is the aggressor" and "there is [an] . . . out of control relationship here and the parents need to work on their relationship before the child can be returned."

Attorneys for Father and Mother each argued for return of A.M. to the parents' home with "safety conditions in place." Father represented he was willing to move out of the home if the court felt it necessary to ensure A.M.'s safety with Mother, and Father alternatively offered to have his mother (A.M.'s

grandmother) move into the home "to keep an extra set of eyes on the situation."[3] Mother joined in the request that A.M. be released to her on the condition that Father move out of the home.

DCFS opposed the parents' requests to return A.M. to the home with any or all of the conditions they proposed. DCFS argued Mother and Father were in "deep denial" with respect to the cycle of domestic violence—pointing, in particular, to the portions of the jurisdiction report that discussed Mother's belief that Father had done nothing wrong and Father's belief that "it's all [Mother's] fault" and that he did not belong in domestic violence classes.

In making its ruling, the juvenile court noted it had read and considered the jurisdictional report. The court then found, in relevant part, as follows: "The court finds by clear and convincing evidence that there is a substantial danger to the physical health, safety, protection or physical or emotional well-being of the child if the child were to be returned home. [¶] There are no reasonable means by which the child's physical health can be protected without removing the child from the parents' custody. [¶] . . . [¶] The court orders the child removed from the parents. [¶] There have been essentially numerous incidents of emotional and physical violence set out in the reports and no clear indication of awareness or progress. The court

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[3] Father's attorney stated her client would "submit on any other conditions the court deems appropriate," but she objected to the suggestion made by counsel for A.M. that Father participate in a 52-week, rather than a 26-week, domestic violence education program.

makes those orders accordingly. [¶] . . . [¶] Upon reviewing the case plan and the court report, the court finds by clear and convincing evidence [DCFS] has complied with the case plan in making reasonable efforts to prevent or eliminate the need for the child's removal from the home of the parents and to complete any steps necessary to finalize their permanent placement."

After the juvenile court ruled, Father asked for (and received) an opportunity to address the court personally. He stated: "I don't know why they have those allegations against me. I'm not a violent person. I don't have any prior record . . . . [¶] I never did anything wrong. I'm going to the classes but I don't speak there because I don't feel I need to be there."

The judge responded that he had read the DCFS reports and concluded "there's too much violence in the home. Your wife had black eyes too many times . . . . That has to change. [¶] [W]e're not here directly to protect [Mother] or to protect you, we're here to protect the child. And based on the information presented and the amount of proof required, . . . the court's found that the child needs protection and the court is making these orders."

II. DISCUSSION

Father presents both a procedural and a substantive challenge to the juvenile court's disposition order removing A.M. from Father and Mother's custody. Procedurally, Father contends the juvenile court did not comply with a statute that requires courts to state the facts on which a decision to remove a child from his or her parents is based. We believe the explanation provided by the juvenile court, while brief, was likely adequate—and to the extent Father contends more was required,

his contention is forfeited for failure to raise a contemporaneous objection. Substantively, Father contends the removal order, specifically the finding that there were no reasonable means to protect A.M. absent removing him from the family home, is unsupported by substantial evidence in the record. We conclude to the contrary. The juvenile court had an adequate basis to conclude that neither having A.M.'s paternal grandmother come live in the home nor having Father move out was likely to ameliorate the risk to A.M. because neither parent was yet willing to acknowledge the depth of their domestic violence problems nor the risk of harm those problems posed to A.M.

A. Father Forfeited His Challenge to the Juvenile Court's Statement of Facts on Which It Based Its Decision to Remove A.M.

Section 361, subdivision (c)(1) governs a juvenile court's decision on whether to remove a child from the custody of his or her parents. Removal is justified only where a juvenile court finds, by clear and convincing evidence, that "[t]here 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." (§ 361, subd. (c)(1).) Among the alternatives to removal that the statute directs a juvenile court to consider is the option of removing an offending parent from the home. (§ 361, subd. (c)(1)(A).) "A removal order is proper if it is based on proof of: (1) parental inability to provide proper care for the minor; and (2) potential detriment to the minor if he or she remains with the

parent." (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163 [focus of the statute is on averting harm to the child].)

Subdivision (d) of section 361 states that a juvenile court "shall make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home" and "shall state the facts on which the decision to remove the minor is based." (§ 361, subd. (d).) The evidence a juvenile court considers in making its removal determination includes a "social study" (i.e., a report) prepared by DCFS, which must include a "discussion of the reasonable efforts made to prevent or eliminate removal and a recommended plan for reuniting the child with the family, including a plan for visitation." (Cal. Rules of Court, rule 5.690(a)(1)(B)(i).)

Father asserts he is entitled to reversal of the disposition order removing A.M. from his custody (and from Mother's) because DCFS did not comply with Rule 5.690 and because the juvenile court did not comply with section 361's requirement to state the facts on which a child removal order is based. Our view, however, is that only a violation of the statutory requirement can be grounds for reversal. That is so because the Rule 5.690 requirement has limited *independent* impact; it exists to facilitate the court findings required by statute. (*In re Ashly F.* (2014) 225 Cal.App.4th 803, 809 ["To aid the court in determining whether 'reasonable means' exist for protecting the children, short of removing them from their home, the California Rules of Court require DCFS to submit a social study" including a discussion of the reasonable efforts made to prevent removal] (*Ashly F.*).) When a juvenile court relies on its ongoing familiarity with the facts of a case (from filings by the parties or in-court proceedings) to provide an adequate statement of its reasons for removing a

minor, we are hard pressed to see how reversal would be warranted even if the level of detail in a DCFS social study report leaves something to be desired.[4]

Thus, we focus on Father's argument that the juvenile court failed to state the facts on which it relied to remove A.M., as required by section 361, subdivision (d). At the disposition hearing, the court stated it had read and considered DCFS's jurisdiction report, and the court also heard from counsel for

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[4] *Ashly F.* is not to the contrary. There, the Court of Appeal concluded reversal was required not based solely on the lack of discussion of reasonable efforts to avoid removal in DCFS reports but also because the juvenile court did not state the facts supporting its conclusion that reasonable efforts were made to prevent and eliminate the need for the minors' removal. (*Ashly F.*, *supra*, at p. 810-811.) In any event, we also disagree with the factual premise of Father's argument, namely, that DCFS's reports in this case "are entirely devoid of *any* discussion of reasonable efforts to protect [A.M.], short of removing him from his home." Although the jurisdiction report in this case included only a single sentence under the heading "Reasonable Efforts," other portions of the report included significant detail on the counseling services that had been provided to the parents since the detention hearing and the parents' failure (especially Father's) to make significant progress despite receiving those services. The report also detailed the parents' relatively lackluster efforts at visiting with A.M. since the detention hearing, despite the court having granted DCFS discretion to liberalize the parents' visitation. The provision of counseling services and opportunities for visitation are properly considered efforts, indeed "reasonable" efforts, that might have avoided the need for the juvenile court to order that A.M. remain suitably placed, rather than returned to Mother or Father's custody, at the time of the disposition hearing.

Mother and Father, who argued the court should consider the very alternatives to removal the parents now highlight on appeal: ordering Father to leave the family home or ordering his mother to move in. After hearing the proposed alternatives from counsel, the juvenile court expressly found DCFS had made reasonable efforts to avoid the need for removal and no alternatives would suffice to protect A.M. And, critically, the court explained the basis for its finding, albeit briefly: "There have been essentially numerous incidents of emotional and physical violence set out in the reports and no clear indication of awareness or progress." In other words, the court explained Mother and Father had not gained sufficient awareness of their domestic violence issues such that the court had any confidence that merely removing Father from the home or having Father's mother join the family would reduce the risk to A.M. to a tolerable level.

We think the court's explanation was likely adequate, under the circumstances, to satisfy the dictates of section 361. But just as important, Father cannot be heard to complain now that the juvenile court should have said more. Father forfeited his ability to assert procedural error by failing to raise a contemporaneous objection.

Well-settled precedent holds a reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been made in the trial court but was not. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293; accord, *In re Alexandria P.* (2014) 228 Cal.App.4th 1322, 1346.) "Otherwise, opposing parties and trial courts would be deprived of opportunities to correct alleged errors, and parties and appellate courts would be required to deplete costly resources 'to address purported errors which could have been rectified in the trial court had an objection been

made.'" (*In re S.C.* (2006) 138 Cal.App.4th 396, 406.) "The forfeiture doctrine has been applied in dependency proceedings in a wide variety of contexts, including cases involving failures to obtain various statutorily required reports [citation]; failure to object to the adequacy of an adoption assessment [citations]; failure to request an alternative placement [citation]; and failure to require expert testimony and to make the required findings using the beyond-a-reasonable-doubt standard as mandated by ICWA [citation]." (*In re G.C.* (2013) 216 Cal.App.4th 1391, 1398-1391.)

Father and his attorney were both present at the disposition hearing and both addressed the court. Neither raised an objection to the juvenile court's explanation of the factual basis for its decision to remove A.M. from his parents' custody. The forfeiture doctrine therefore applies and forecloses Father's procedural challenge to the court's disposition ruling.

B. Substantial Evidence in the Record Supports the Juvenile Court's Dispositional Order Continuing A.M.'s Placement in Foster Care

In addition to faulting the juvenile court for failing to state the basis for its removal order, Father argues "the evidence simply fails to support the court's conclusion that there were no less drastic alternatives to [A.M.'s] removal that would have protected him from substantial danger." To the contrary, our review of the record leaves us convinced that substantial evidence supports the court's finding that reasonable efforts had been made but no alternative short of removing A.M. from his parents' custody would suffice to protect the child.

We review a challenge to a disposition order of the sort here for substantial evidence. (*In re Francisco D.* (2014) 230 Cal.App.4th 73, 80.) Although a juvenile court must find that removal of a child from his or her parent is supported by clear and convincing evidence (see, e.g., *In re Abram L.* (2013) 219 Cal.App.4th 452, 461), that standard "is for the edification and guidance of the trial court and [is] not a standard for appellate review." (*Sheila S. v. Superior Court* (2000) 84 Cal.App.4th 872, 880 (*Sheila S.*), citing *Crail v. Blakely* (1973) 8 Cal.3d 744, 750.) "[O]n appeal from a judgment required to be based upon clear and convincing evidence, 'the clear and convincing test disappears . . . [and] the usual rule of conflicting evidence is applied, giving full effect to the respondent's evidence, however slight, and disregarding the appellant's evidence, however strong.' (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 365, p. 415.)" (*Sheila S.*, *supra*, at p. 881; accord, *In re F.S.* (2016) 243 Cal.App.4th 799, 812.)

Father proposed two alternatives to removal: that the paternal grandmother could move in with him and Mother "to keep an extra set of eyes on the situation," or Father could move out of the home. The evidence before the juvenile court entitled it to reject both.

At the initial detention hearing, Mother had suggested the paternal grandmother move in with the family as an alternative to removal. Father informed the court that his mother was then living in Israel but he could "bring my mom from over-seas." The juvenile court explained that DCFS can only investigate people "that are here" and ordered DCFS to investigate, discuss, and interview all relatives "that are present here in this country." There is no indication in the record that the paternal

grandmother ever arrived in the United States or made herself available for an interview with DCFS. Thus, there was no basis on which DCFS or the juvenile court could assess the impact she could have had on the family situation.[5]

As for Father's second suggestion, that he move out of the home, there is substantial evidence this too would not have been sufficient to protect A.M.'s physical health, safety, and emotional well-being. There was evidence that Father did not represent the sole risk to A.M. in the home; both parents had been aggressors in past incidents of domestic violence and their documented "misleading statements, denial[s], and minimizing of the volatile nature of their relationship and how this creates a detrimental environment for [A.M.]" posed a substantial risk to the very young child. In addition, the director of the center who had been providing counseling services to the parents opined that Mother "does not believe that [Father] has done anything wrong," which meant, in the words of DCFS's jurisdiction report, that "no matter how much [Mother] learns and participates in programs, until she is able to develop insight not only into her role but [Father's] role in the current family situation, she is not likely to be able to set proper boundaries and limits with [Father]; therefore, she will not be able to keep herself or [A.M.] safe." These assessments, in combination with the parents' dissembling interview statements, the facts of the prior domestic violence

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[5] For reasons we discuss next, we also find it unlikely (as could the juvenile court) that the presence of a grandparent in the home would sufficiently mitigate the risk of harm to A.M. given the parents' longstanding, unresolved domestic violence issues.

episodes, and the parents' expressed commitment to continuing their relationship, provided an adequate basis for the juvenile court to conclude Mother and Father were unlikely to consistently abide by an order barring Father from the home or to refrain from violent behavior when they inevitably crossed paths, even if residing separately. (See *In re A.M.* (2013) 217 Cal.App.4th 1067, 1077 [no services will prevent future abuse where a parent refuses to acknowledge the abuse in the first place]; see also *In re M.R.* (2017) 8 Cal.App.5th 101, 109 [substantial evidence supported jurisdiction finding in part because the parents' acceptance of responsibility for drunk driving and the risk it posed to their child seemed to worsen, rather than improve, as dependency proceedings progressed].)

Indeed, Mother and Father's attitude toward domestic violence and their general lack of progress in counseling programs is mainly what distinguishes this case from the case on which Father heavily relies, *Ashly F.* In that case, a mother who had used physical discipline on at least one of her three daughters was arrested and convicted of misdemeanor child abuse. (*Ashly F.*, *supra*, 225 Cal.App.4th at p. 806.) The mother removed herself from the family home after the initial detention hearing during dependency proceedings, and the father told the mother "never to discipline any of the children like that again or their relationship would end." (*Id.* at pp. 806-807.) By the time of the disposition hearing, the mother had moved back in the family home (the children were not then living there), but had expressed remorse for the injuries she inflicted on the child and was "enrolled in a parenting class 'to learn other ways to discipline [her] children.'" (*Id.* at pp. 807, 810.) The father by that time had also completed a parenting class. (*Id.* at p. 810.)

On those facts, the Court of Appeal concluded "there is a reasonable probability that had the juvenile court inquired into the basis for the claims by DCFS that despite its efforts there were no reasonable means of protecting the children except to remove them from their home the court would have found that claim was not supported by clear and convincing evidence" because alternatives to removal could have included (again) excluding the mother from the home or implementing a regime of unannounced visits to the home by DCFS. (*Id.* at pp. 810-811.)

In contrast, we are presented with a record in which both parents deny there is a problem and have only just started counseling and services, achieving thus far what can at best be described as limited progress. On the facts already detailed *ante*, substantial evidence supported the juvenile court's disposition order.

DISPOSITION

The juvenile court's disposition order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, J.

We concur:

KRIEGLER, Acting P.J.

LANDIN, J.*

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