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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re KHALIL P., a Person
Coming Under the Juvenile
Court Law.

B281509

(Los Angeles County
Super. Ct. No. DK21407)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

R.G.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Pete R. Navarro, Commissioner. Affirmed.

Christopher R. Booth, under appointment by the Court of Appeal, for Defendant and Appellant.

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

INTRODUCTION

R.G., mother of one-year-old Khalil P., appeals from the juvenile court's jurisdictional and dispositional orders. (Welf. & Inst. Code, § 395.)¹ We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The juvenile court sustained a petition, as amended, alleging under section 300, subdivision (b) that: (1) Mother and father² have a history of engaging in physical altercations while Khalil is home; (2) Mother has a history of substance abuse, including the use of methamphetamine, which limits her ability to care for the child. Mother also used methamphetamine in the early stages of her pregnancy; and (3) Mother has mental and emotional problems, including a diagnosis of bipolar disorder, mood swings, and depression, but as of the date of the petition had failed to seek appropriate mental health treatment for these disorders.

The record shows that Khalil was born premature in July 2016 and was placed in the neonatal intensive care unit with an infection. Mother admitted using “lots of methamphetamine during pregnancy to deal with her mental illness.” She most recently used the drug a month before the baby was born, which was just before she was hospitalized for preterm labor. Mother's urine did not contain methamphetamines when Khalil was born, but the test of the baby's meconium was still pending when the Department of Children and Family Services (the Department) was notified of Khalil. Mother agreed to participate in a voluntary family maintenance plan that included drug testing and a domestic violence class.

¹ All further statutory references are to the Welfare and Institutions Code.

² Presumed father Malik P. is not a party to this appeal.

In November 2016, deputy sheriffs responded to a 911 call at mother's home reporting that Khalil's father punched and bit mother when Khalil was home. The sheriffs notified the Department. Mother signed a safety plan agreeing to restrict father's contact with her and Khalil during the Department's investigation. Acknowledging the drug-testing component of her voluntary maintenance plan, mother claimed the reason she had not tested was that she lacked transportation. Mother's test the following day produced a negative result.

The juvenile court detained Khalil from father but released him to mother's care, and ordered mother to undergo weekly drug testing. The Department filed the above-described petition.

For the Department's jurisdiction report, mother stated she only smoked crystal methamphetamine once during her pregnancy, in June of 2016, a month before the baby was born. She admitted using methamphetamine previously. Mother also acknowledged that she was diagnosed with bipolar disorder, mood swings, and depression, but failed to seek additional treatment after her release from a mental hospital in November 2015, and ceased taking her prescribed medication because she " 'didn't need it anymore.' " The Department learned that in January 2016, mother's then boyfriend assaulted her. Mother had been drinking at the time. The Department believed that the incident further demonstrated mother's unresolved history of domestic violence and substance abuse.

Between July 2016 and January 2017, mother tested negative for drugs and alcohol four times. However, she did not appear for tests *nine* times, and once her urine specimen leaked in transit.

At the jurisdiction and disposition hearing, mother submitted to count b-1 alleging physical violence between the parents, but argued that the record contained insufficient evidence to support counts b-2 and b-3. After sustaining all three counts as above described, the juvenile court ordered mother to

undergo alcohol and drug counseling and random testing once a week, enroll in parenting classes, and undergo counseling to address case issues, including substance abuse, violence, and anger management. The court directed mother to apply for outpatient treatment at Tarzana Treatment Center. Mother appealed.

DISCUSSION

Mother contends that the record contains insufficient evidence to sustain counts b-2 and b-3 concerning her substance-abuse and mental-illness. She does not challenge count b-1 alleging the violence between her and Khalil's father.

Khalil falls within the jurisdiction of the juvenile court based on count b-1 and so we affirm the order taking jurisdiction over the child without addressing the merits of mother's challenge to counts b-2 and b-3.³ "As long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate. [Citations.]" (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979; accord, *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

We recognize our discretion to reach the merits of mother's challenge to the jurisdictional findings concerning counts b-2 and b-3. We may exercise our discretion when the jurisdictional finding is prejudicial, such as when it serves as the basis for dispositional orders that are also challenged on appeal. (*In re D.M.* (2015) 242 Cal.App.4th 634, 639.) Toward that end, mother argues that the jurisdictional findings as to the substance-abuse and mental-illness allegations in counts b-2 and b-3 are prejudicial because they infected her case plan and have a

³ Given our holding here, we need not address mother's further argument that we should not follow *In re J.K.* (2009) 174 Cal.App.4th 1426, and should reconsider our own opinion in *In re Adam D.* (2010) 183 Cal.App.4th 1250, that followed *J.K.*

negative impact on her ability to reunify successfully with Khalil. We disagree.

The order sustaining the petition's counts b-2 and b-3 is not prejudicial because inclusion of the drug and mental-illness related components in mother's case plan would have been a proper exercise of juvenile-court discretion, *even had the court not sustained those counts.* (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.)

Whenever a child is declared a dependent, the juvenile court "may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child." (§ 362, subd. (a).) The court has " 'broad discretion to determine what would best serve and protect the child's interests and to fashion a dispositional order accordingly.' " (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311.) "The reunification plan ' "must be appropriate for each family and be based on the unique facts relating to that family." ' [Citation.]" (*In re Christopher H., supra*, 50 Cal.App.4th at pp. 1006-1007.) But, the "court is not limited to the content of the sustained petition when it considers what dispositional orders would be in the best interests of the children." (*In re Briana V.*, at p. 311 ["The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition."]; *In re Rodger H.* (1991) 228 Cal.App.3d 1174, 1183; *In re Christopher H.*, at pp. 1006-1008.) The juvenile court is empowered to consider the evidence as a whole when fashioning a disposition plan. (*In re D.M., supra*, 242 Cal.App.4th at p. 647.)

Mother's substance abuse and mental illness pervade the entire record. In view of her admitted use of methamphetamine, especially during her pregnancy with Khalil; her inability to comply with the drug-testing portion of her *voluntary* maintenance plan; her failure to submit to testing more than twice as often as she did test; and her untreated mental illness, the juvenile court would have been remiss if it did not require

mother to address these issues. The court reasonably concluded that mother's substance abuse and mental illness were obstacles to reunification that had to be addressed in the reunification plan. (*In re Christopher H.*, *supra*, 50 Cal.App.4th at p. 1008.) Including these components will assist mother in complying with her case plan and providing Khalil with a safe and suitable home.

As jurisdiction was proper based on count b-1, we decline to consider mother's challenge to counts b-2 and b-3. We only reverse for error if it appears reasonably probable that without the error mother would have obtained a more favorable result. (*In re Jonathan B.* (1992) 5 Cal.App.4th 873, 876.) It is clear that mother would not obtain a different result here.

DISPOSITION

The orders are affirmed.

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DHANIDINA, J.*

We concur:

EDMON, P. J.

LAVIN, J.

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