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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.P.,

Defendant and Appellant.

B289468

(Los Angeles County
Super. Ct. No. DK20771)

APPEAL from an order of the Superior Court of Los Angeles County, Natalie Stone, Judge. Affirmed.

Janette Freeman Cochran, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, Erica Edelman-Benadon, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

The juvenile court found that Father and Mother¹ had a history of engaging in “violent altercations” that placed their daughter, Amari P., currently seven years old, at substantial risk of serious physical harm. The court declared Amari a dependent of the court under Welfare and Institutions Code² section 300, subdivision (b)(1), and ordered the removal of Amari from the custody of Father and Mother.

Father appeals from the juvenile court’s jurisdictional findings and related dispositional order removing Amari from his custody. He contends the evidence was insufficient to support the juvenile court’s finding of dependency jurisdiction under section 300, subdivision (b)(1), because there was no substantial evidence of current risk of harm to Amari from Father.

We conclude that there was substantial evidence to support the juvenile court’s finding that Father posed a substantial risk of harm to Amari. We therefore affirm the jurisdictional findings and dispositional order of the juvenile court.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Investigation, Petition, and Detention*

1. Referring Incident – December 9, 2016

On December 9, 2016, the Los Angeles County Department of Children and Family Services (hereinafter Department) received a referral alleging that Mother called a domestic

¹ Mother is not a party to this appeal.

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

violence shelter at 3:00 a.m. seeking a place to stay because of the abusive relationship that she was in. Mother reported she and Father got into an argument that started around 11:00 p.m. the previous night, and that Father grabbed mother by her neck, pushed her face down, and threatened her with a box cutter. Mother said that Amari witnessed the abuse and was suffering from emotional problems as a result. Mother said that she did not plan on calling law enforcement and was merely seeking help in finding shelter.

Mother indicated to the reporting party that this was not the first domestic violence incident with Father, who was recently incarcerated due to a prior domestic violence incident in Las Vegas, Nevada, and released from prison in July 2016.³

Mother told the reporting party that Father uses crystal meth, abuses alcohol, and has access to guns due to his gang affiliations.⁴ Mother also disclosed that Father recently threatened that if Mother ever left him, he would “shoot up” maternal grandmother’s house.

2. The Department’s Investigation

On December 9, 2016, the Department initiated its investigation and attempted to locate Amari, Mother, and Father. The social worker spoke with the paternal grandmother, who shared that Mother and Father stayed with her “on and off” and come over “every couple of days.” Paternal grandmother denied

³ The record reflects that Father was previously convicted of battery domestic violence in Las Vegas, Nevada.

⁴ According to Mother and maternal grandmother, Father is a member of the Denver Lanes Blood’s gang.

witnessing domestic disputes or physical altercations between Mother and Father. She did not know if Mother and Father were in a relationship, but said she saw Mother, Father, and Amari “ ‘a couple days ago.’ ”

The social worker met and interviewed maternal grandmother, who stated that Mother lived with Father at paternal grandmother’s home. Maternal grandmother shared that she had a missed call from Mother the previous night at 3:00 a.m., but no voicemail was left.⁵

Maternal grandmother described Father as “aggressive,” “unsafe,” and a “ ‘woman beater,’ ” and shared that this was not the first time Mother had been assaulted or threatened by Father. Maternal grandmother reported that when she last saw Mother a week ago, Mother showed up at her home unannounced and stated that Father threatened her at gunpoint, forced her to strip down naked, and kicked her out of their home. Maternal grandmother also stated that Father “ ‘runs with the Denver Lanes’ ” gang and had made multiple threats to come “ ‘shoot up’ ” her house, where Mother often sought refuge.

Maternal grandmother reported that she called the police many times when Mother fled to her house, but Mother tells the responding officers that the abuse was an “isolated” incident and does not request help. Maternal grandmother complained that Mother “keeps chasing after” Father.

⁵ The missed call coincides with the same date and time as Mother’s telephone call to the domestic violence shelter, i.e., the reporting party.

Later that day, the social worker received a telephone call from Father, who refused to meet the social worker in person. He stated that he did not have a permanent residence and was moving from place to place. Father denied knowing where Amari and Mother resided, and said he last saw them about a month ago. He would not confirm or deny having been arrested for prior domestic violence incidents, and denied having recently threatened Mother with a gun and forcing her to strip naked. Father reported that he completed domestic violence classes and parenting classes while incarcerated in Las Vegas. During the telephone call, the social worker heard individuals talking in the background.

Minutes later, the social worker received a telephone call from Mother, who stated that Amari was not with her but was in the care of maternal grandmother. When the social worker explained that she had just left maternal grandmother's home and Amari was not present, Mother finally admitted that Amari was with her. Mother denied any recent domestic violence incident and denied having called a domestic violence shelter seeking assistance. The social worker requested to meet with Mother in person, but Mother refused to provide the address where she was currently residing and said, " 'I'm in the care with people I feel safe with. I'm fine.' "

Three days later, on December 12, 2016, the social worker received a text message from maternal grandmother, who stated she was concerned about the safety of Mother, who she believed was living with Father. Maternal grandmother reported that every time Mother came to her house to "get away," Father would threaten to kill maternal grandmother. She said that she had

been trying to help Mother with this “situation” for five years, but that “ ‘she don’t want my help or anybody help.’ ”

Later that same day, Mother called the social worker and said the information provided by maternal grandmother was inaccurate. She stressed that she neither sees nor talks to Father.

The social worker spoke with the principal at Amari’s elementary school, who reported that “ ‘there is something suspicious going on with this family today.’ ” The principal shared that both Mother and Father came to the school on separate occasions requesting to take Amari out of school early. The principal later reported that Amari was taken out of school for the day.

The social worker met with Mother and Amari at a public library later that day. Amari appeared “happy” and “well-nourished.” The social worker attempted to interview Amari privately and separately, but Mother would not consent.

Mother again denied any current or previous domestic violence with Father. When the social worker inquired about the previous case in Las Vegas, Mother stated, “ ‘I don’t want to talk about it.’ ” She said she did not feel “afraid” or “threatened” by Father, and denied having called the domestic violence shelter at 3:00 a.m. on December 9, 2016. She stated that she had not seen Father in “over a month.” Mother turned to Amari and asked, “ ‘Are me and your daddy living together?’ ” Amari looked down, looked at Mother, shook her head, and said, “ ‘no.’ ”

Mother refused to provide information regarding where she and Amari were currently living. She admitted to taking Amari out of school earlier that day because she was worried the Department would take Amari. When asked whether she saw

Father at Amari's school today, Mother said she saw Father "at a distance."

Mother denied that Father was at the library or anywhere in the vicinity. However, after the interview with Mother ended, when the social worker walked to her car to leave, she observed a man on a bike, with tattoos on his face and arms, driving in circles directly in front of and around the social worker's car, preventing her from pulling out of the parking stall. The social worker observed the man pause multiple times to stare her "in the eye."

The next day, on December 13, 2016, the social worker interviewed Father's probation officer. The probation officer stated that Father was convicted of possession of a deadly weapon, and is currently on formal probation. The social worker was provided a photograph of Father, and confirmed that it was Father who drove circles around her car at the library the previous day.

The social worker then interviewed Elizabeth S., the Las Vegas social worker who handled the dependency case for Amari's younger sister.⁶ Elizabeth S. reported that Amari later came to the attention of Las Vegas' Child Protective Services (hereinafter Las Vegas CPS) because of ongoing domestic violence disputes between Father and Mother, as follows:

⁶ A dependency case was opened for Amari's younger sister in 2013 in Las Vegas, due to medical neglect. Amari's younger sister is currently in permanent placement after having undergone the adoption process in Las Vegas.

i) On August 23, 2013, Mother reported to Las Vegas police that Father punched her head and mouth with a closed fist, pulled her hair, and kicked her. The police officer observed consistent injuries on Mother, and Father was arrested for domestic violence.

ii) On October 15, 2013, Mother reported to Las Vegas police that Father bent her arm in a painful manner, threw her by her hair, and knocked her to the ground.⁷

iii) On October 25, 2013, Mother reported to Las Vegas police that Father threatened her with a gun, and hit her in the mouth with his gun. She also told law enforcement that Father grabbed her, forced her in the back bedroom, and prevented her from leaving.⁸ Father was arrested for coercion with force or threat of force, kidnapping in the first degree, three counts of assault with a deadly weapon, and two counts of kidnapping in the second degree; he was incarcerated until June 2015 for charges relating to domestic violence against Mother.

iv) On August 18, 2015, Mother traveled with Amari from Los Angeles County to Las Vegas to visit Father, who was recently released from prison. Undercover police officers on location for an unrelated matter witnessed Mother running out of an apartment, waving her arms, and yelling, “ ‘help, he is going to kill me.’ ” The officers witnessed Father chase after Mother, wrap both of his hands around her neck, squeeze her Adam’s

⁷ It is unknown whether Father was arrested for this incident.

⁸ That same day, Amari’s babysitter reported to Las Vegas police that Father held a gun to her head, demanding that she pick-up Mother and drive her to Father’s location.

apple, and yell, “ ‘come here bitch.’ ” The officers had to pull Father off Mother. Father reported to the officers that he did not intend to choke Mother when he grabbed her by the throat, and that he only wanted to stop her from leaving and to talk to her. Mother reported to law enforcement that prior to running out of the apartment, Mother and Father were arguing when Father grabbed Mother by the shirt and punched her left jaw with a closed right fist. When officers entered the apartment, three-year-old Amari was present. Father was arrested, charged with battery domestic violence, and convicted.

Elizabeth S. reported to the social worker that Las Vegas CPS received a referral for Amari and filed a dependency petition on her behalf a few days after the August 18, 2015 domestic violence incident. Amari was taken into protective custody, detained, and placed in foster care, while Mother returned to Los Angeles County.

The Las Vegas dependency court raised issues with jurisdiction and the possibility of transferring the case to Los Angeles County, where Mother resided and where Amari lived prior to detention in Las Vegas. The court was unable to transfer the case to Los Angeles County, as there was no open case regarding Amari with the Department in Los Angeles County. Thus, in December 2015, the Las Vegas dependency court ordered the immediate return of Amari to Mother. The social worker was provided with the dependency case records and related reports related to Amari and her younger sibling.

On December 13, 2016, the social worker called Amari’s school and learned that Amari did not attend school that day. Instead, Mother picked up Amari’s homework and said that

Amari had a fever and would not return to school until after the winter holiday.

On December 14, 2016, the Department's request for expedited removal of Amari was granted. The Department attempted to serve the removal order at paternal grandmother's residence. Although Mother and Father were present in the home, Amari was nowhere to be found. Father denied knowing Amari's whereabouts, and Mother ignored the social worker's questions and left the premises.

Maternal grandmother also reported that she did not know where Amari was. At this time, law enforcement completed a search of maternal grandmother's home address on their database and discovered that Mother had called the police on November 26, 2016, and reported a death threat made by Father. During the phone call with the police, Mother reported that she and Father had recently separated, and that she moved to maternal grandmother's home. Mother reported that Father called her and asked to see her, but when Mother refused to furnish information about her whereabouts, Father became upset and stated, " 'Fine, if you ain't gonna tell me where you at, I'll just come roll up and shoot up yo mama's crib.' " Mother also reported that Father has a history of assaulting her, has committed several acts of domestic violence upon her, is a Denver Lane Blood's gang member, and perceived the verbal threat as credible.⁹

⁹ The police report about the November 26, 2016 incident identifies Mother with maternal grandmother's last name, not Mother's last name. Other information provided on the police report, such as the age of the victim, the name of the victim's mother, inter alia, verify that the alleged victim is Mother.

As Amari's parents refused to relinquish Amari to the Department, Amari was deemed "at large."

3. The Dependency Petition and Detention

On December 19, 2016, the Department filed a dependency petition alleging Amari came within the jurisdiction of the juvenile court under section 300, subdivisions (a) and (b), based on Father's history of engaging in violent altercations with Mother in the presence of the child and his substance abuse. The Department alleged that Mother's failure to protect the child by "allow[ing] the father to reside in the child's home and have unlimited access to the child" endangers Amari's physical health and safety, "creates a detrimental home environment, and place[s] the child at risk of serious physical harm, damage, danger, and failure to protect."

At the December 19, 2016 detention hearing, the juvenile court issued an arrest warrant for Mother and a protective custody warrant for Amari, as their whereabouts were unknown. Father, who was present at the hearing, indicated he has no knowledge of where Amari or Mother were, and that the last contact he had with Mother was in early to mid-November 2016.

The court found a prima facie case for detaining Amari from Father and Mother under section 300, subdivisions (a) and (b). The court further found that "continuance in the home of the Mother and Father is contrary to the child's welfare, and a substantial danger exists to the physical health of the child" and that there are "no reasonable means of protecting the child's physical or emotional health without removing her from her parents' physical custody." The jurisdictional hearing was set for February 27, 2017.

B. *Jurisdiction and Disposition*

At the February 27, 2017 jurisdictional hearing, the court continued the matter to August 28, 2017, as Father was not present,¹⁰ and Mother's and Amari's whereabouts remained unknown.

Amari remained "at large" from December 14, 2016 until July 13, 2017, when the Department received a hotline referral from paternal aunt, who reported having Amari in her care. Paternal aunt told the social worker that Father would alert Mother when the Department would come by and, as a result, Mother would leave home with Amari. The Department thereafter recovered Amari and placed her in a foster home.

At the August 28, 2017 jurisdictional hearing, Mother was present but Father was not.¹¹ The court continued the matter to October 20, 2017.

The Department interviewed Mother on September 13, 2017. Mother admitted she was aware the Department was searching for her and Amari. She reported that she allowed Amari to have visits with Father at the paternal relatives' homes. Mother reported that she and Father have had verbal confrontations, but that he never struck her at any time, and that they never had any arguments in front of Amari.

The Department interviewed Amari on September 19, 2017. The social worker noted that it appeared as though Amari was "coached by the parent(s)" as to what to say. Although Amari

¹⁰ Father was not present because of "transportation issues" and Mother's whereabouts remained unknown.

¹¹ Father was incarcerated for carrying a loaded firearm in public; he was released from jail on September 20, 2017.

initially denied having seen Father, she later admitted to the social worker that Father visited her at paternal grandmother's home and at paternal aunt's home.

At the October 20, 2017 jurisdictional hearing, Amari was present, but Father and Mother were not present. The court continued the matter to December 8, 2017.

On December 8, 2017, Father and Mother were present for adjudication. Father's counsel asked the court to dismiss all counts of the dependency petition, arguing that: 1) both Mother and Father deny that any domestic violence incident took place in December 2016; 2) there is no ongoing domestic violence; 3) any domestic violence incident that took place between the parents is "remote in time" and occurred "28 months ago"; 4) there was no evidence that Amari was present during any kind of altercation between her parents such that she would be at risk of suffering harm; and 5) there was no evidence submitted that proved Father was currently using drugs or that Father's history of substance abuse placed Amari at risk of harm.

After considering the evidence presented at the jurisdictional hearing, the juvenile court sustained the petition, finding Amari was a person described by section 300, subdivision (b)(1), and struck the remaining allegations.¹² The court found that the parents have a "history of engaging in violent altercations" and that there are "admissions of continuing domestic violence" from Mother. The court found that there is evidence of continuing abuse, and referred to the incident in Las Vegas and Father's threat to "shoot up" maternal grandmother's

¹² The court sustained count b-1, and struck counts a-1 and b-2 of the dependency petition.

home. The court further found that Father's "violent conduct and Mother's failure to protect" warrant the court finding "a current risk [of harm to Amari] based on the continuing patterns of domestic violence."

The court also commented that although the dependency petition was initially filed on December 19, 2016, it is "only now being adjudicated because the parents were missing." The court asked the parties if they were ready to proceed to disposition, but both Father's counsel and Mother's counsel requested a continuance, which the court granted. The disposition hearing was set for January 11, 2018.

The Department submitted a last minute information report to the court on January 11, 2018, including attachments of Amari's and Amari's younger sister's prior dependency matters from Las Vegas CPS. The records reflect that on January 2, 2014, Mother reported to Las Vegas CPS that she saw Father on Christmas, and that it hurt her that he was not remorseful about how he could have killed her with the gun he held to her head. Mother stated that Father wanted to control her from jail, and that he called all her family members looking for her. The records also reflect that when Las Vegas CPS interviewed Mother on August 21, 2015,¹³ Mother initially minimized the domestic abuse, but began to cry when the Las Vegas CPS social worker reminded her of Father putting a gun to her head and mouth. Mother stated that Father "didn't do that this time – that was last time." The Las Vegas CPS social worker discussed with

¹³ The interview took place during Las Vegas CPS's investigation and detention of Amari after the August 18, 2015 domestic violence incident witnessed by law enforcement.

Mother the fact that she returned to Father despite the history of domestic violence between them and despite the domestic violence program for victims that Mother completed, and Mother began to cry harder and admitted that she “needs help.”

At the January 11, 2018 disposition hearing, neither Father nor Mother were present.¹⁴ Father’s counsel requested a continuance, and the court continued the disposition hearing to March 2, 2018.

On March 2, 2018, the juvenile court admitted into evidence all of the exhibits submitted by the Department, including the Department’s reports, documents pertaining to the November 2016 threat made by Father, and documents pertaining to the Las Vegas domestic violence incidents and dependency actions.

The court declared Amari a dependent of the court. The court found, by clear and convincing evidence, that “there is or would be a substantial danger to the physical health and safety of [Amari] if [she] were returned home to the parents.” In issuing the ruling, the court stated that “there is plenty of evidence of domestic violence after Father’s incarceration in 2015.”

The court also found that the Department made “reasonable efforts to prevent or eliminate the need for removal,” and that there were no reasonable means by which the child’s physical health can be protected without removing the child from the home and care of Mother and Father. The court ordered

¹⁴ Counsel for Mother stated Mother “started a new job” and was “unable to get the day off.” The record is silent as to why Father was not present.

Amari placed under the supervision of the Department for suitable placement.

The court ordered family reunification services and monitored visitation for Amari's parents for a minimum of six hours per week. The court also ordered Father to complete a 52-week-long domestic violence class, parenting classes, and random weekly drug testing.

Father timely appealed.

DISCUSSION

A. *Standard of Review*

In reviewing a challenge to the sufficiency of the evidence supporting jurisdictional findings and related dispositional orders, we “consider the entire record to determine whether substantial evidence supports the juvenile court’s findings.” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133; accord, *In re I.J.* (2013) 56 Cal.4th 766, 773.) “Substantial evidence is evidence that is ‘reasonable, credible, and of solid value’; such that a reasonable trier of fact could make such findings. [Citation.]” (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 199.)

In making our determination whether substantial evidence supports the jurisdictional findings and disposition, “ ‘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.*, *supra*, 56 Cal.4th at p. 773; see *In re Alexis E.* (2009)

171 Cal.App.4th 438, 451 “[w]eighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn from evidence are the domain of the trial court, not the reviewing court”].)

“Evidence from a single witness . . . can be sufficient to support the trial court’s findings.” (*In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451.) However, “substantial evidence ‘is not synonymous with any evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal. [Citation.]’ ” (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 992.) “ ‘ “Inferences may constitute substantial evidence, but they must be the product of logic and reason. Speculation or conjecture alone is not substantial evidence.” ’ ” (*Patricia W. v. Superior Court* (2016) 244 Cal.App.4th 397, 420; see *In re Donovan L.* (2016) 244 Cal.App.4th 1075, 1093 [a “juvenile court’s conclusion ‘supported by little more than speculation’ [is] not based on substantial evidence”].)

We may not “consider whether there is evidence from which the dependency court could have drawn a different conclusion,” but are limited to determining “whether there is substantial evidence to support the conclusion that the court did draw.” (*In re Noe F.* (2013) 213 Cal.App.4th 358, 366.) The dependency court’s determination “will not be disturbed unless it exceeds the bounds of reason.” (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.)

On appeal the appellant has the burden to show “ ‘there is no evidence of a sufficiently substantial nature to support the finding or order.’ ” (*In re Travis C.* (2017) 13 Cal.App.5th 1219, 1225.) Here, Father contends the court’s jurisdictional findings under section 300, subdivision (b) are not supported by substantial evidence. Father asserts that at the time of the

jurisdictional hearing in December 2017, there was no evidence that the domestic violence between Mother and Father was ongoing or likely to continue, and that it placed Amari at risk of physical harm. Father also challenges the court's dispositional orders, but only on the ground that substantial evidence did not support its underlying jurisdictional findings.

We disagree, and conclude the juvenile court's findings and orders were supported by substantial evidence.

B. Jurisdictional Order

The Department must prove by a preponderance of the evidence that the child who is the subject of the dependency petition comes under the court's jurisdiction under section 300. (§ 355, subd. (a); see also *In re N.M.* (2011) 197 Cal.App.4th 159, 168.) Section 300, subdivision (b)(1), provides a basis for jurisdiction if the child "has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child" (§ 300, subd. (b)(1).) A jurisdictional finding under section 300, subdivision (b)(1), requires the Department to demonstrate the following three elements by a preponderance of the evidence: "(1) neglectful conduct by the parent; (2) causation; and (3) 'serious physical harm or illness' or a 'substantial risk' of serious physical harm or illness." (*In re Yolanda L.*, *supra*, 7 Cal.App.5th at p. 993.)

A child's exposure to domestic violence may support jurisdiction under section 300, subdivision (b)(1). (*In re Jesus M.* (2015) 235 Cal.App.4th 104, 112–113; *In re R.C.* (2012) 210 Cal.App.4th 930, 941; *In re E.B.* (2010) 184 Cal.App.4th 568, 575–576.) Jurisdiction under section 300, subdivision (b)(1),

applies when a parent fails, or is unable, to protect the child from a substantial risk of serious physical harm because of exposure to domestic violence. (*In re R.C.*, at p. 941; *In re E.B.*, at p. 576.)

“ ‘[D]omestic violence in the same household where children are living . . . is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.’ ” (*In re E.B.*, at p. 576.) Jurisdiction is therefore appropriate under section 300, subdivision (b)(1), since “[c]hildren can be ‘put in a position of physical danger from [spousal] violence’ because, ‘for example, they could wander into the room where it was occurring and be accidentally hit by a thrown object, by a fist, arm, foot or leg’ ” (*Ibid.*)

To support the exercise of dependency jurisdiction under section 300, subdivision (b)(1), the Department must provide evidence that the domestic violence is “ongoing or likely to continue” and that it “directly harmed the child physically or placed the child at risk of physical harm.” (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 717 (*Daisy H.*); accord, *In re M.W.* (2015) 238 Cal.App.4th 1444, 1453.) Thus, the “court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child.” (*In re R.V.* (2012) 208 Cal.App.4th 837, 843.) “The focus of section 300 is on averting harm to the child.” (*In re T.V.*, *supra*, 217 Cal.App.4th at p. 133.)

To establish a defined risk of physical harm to the child, the Department must show that the child is at risk of physical harm in the future; there must be “ ‘some reason beyond mere speculation to believe the alleged conduct will recur.’ ” (See *In re D.L.* (2018) 22 Cal.App.5th 1142, 1146.) “Although ‘the question

under section 300 is whether circumstances *at the time of the* [jurisdictional] hearing subject the minor to the defined risk of harm’ [citation], the court may nevertheless consider past events when determining whether a child presently needs the juvenile court’s protection.” (*In re T.V.*, *supra*, 217 Cal.App.4th at p. 133.)

Father contends that, at the time of the jurisdictional hearing in December 2017, there was no evidence that the domestic violence between him and Mother was ongoing or likely to continue. He denies the alleged domestic violence incident of December 2016 took place;¹⁵ he argues that even Mother has denied any domestic violence incident between them. Father argues that the court did not have evidence of domestic violence related arrests, restraining orders, convictions, bruises, or other evidence of domestic violence from the inception of the dependency case in December 2016 until the jurisdictional hearing in December 2017. He claims that the prior incidents of domestic violence from 2013 and 2015 were “remote in time” from the jurisdictional hearing of December 2017, and thus, did not place Amari at risk of physical harm at that time. Father further argues that there was no evidence that Amari was present during any kind of altercation between Father and Mother such that she would be at risk of suffering harm.

Father likens his case to *Daisy H.* and asserts that we must reverse the juvenile court’s findings and orders. The *Daisy H.* court reversed the juvenile court’s findings because the domestic violence incident took place “at least two, and probably seven” years before the filing of the dependency petition, and was thus

¹⁵ Said incident was the basis of the referral to the Department, which initiated the Department’s investigation.

deemed too remote in time. (*Daisy H.*, *supra*, 192 Cal.App.4th at p. 717.)

However, *Daisy H.*, cited by Father, is distinguishable. In *Daisy H.*, dependency jurisdiction was based on a single domestic violence incident between the parents and the evidence showed no present threat of violence as the parents were separated for several years and no new domestic violence had been reported. (*Daisy H.*, *supra*, 192 Cal.App.4th at pp. 716–717.) Here, however, there is evidence of repeated, ongoing domestic violence incidents between Father and Mother, and the evidence suggests that Mother and Father will not separate, as Mother continues to return to Father despite the history of domestic violence between them. (See *In re E.B.*, *supra*, 184 Cal.App.4th at p. 576 [“Mother’s remaining in the abusive relationship, and her record of returning to Father despite being abused by him, supports the juvenile court’s finding that her conduct in the domestic altercations endangered the children.”].)

From 2013 until 2016, Father grabbed Mother by her neck and threatened her with a box cutter in Amari’s presence;¹⁶ threatened Mother at gunpoint and forced her to strip down naked; punched Mother’s head and mouth with a closed fist, pulled her hair, and kicked her; hit Mother in the mouth with a gun and prevented her from leaving their bedroom; and threatened to “shoot up” maternal grandmother’s house when Mother and Amari resided there. This all constitutes substantial evidence of a present threat of danger to Amari.

¹⁶ The referral reported to the Department that Mother said Amari witnessed the abuse and is suffering from emotional problems as a result.

On another occasion, undercover law enforcement had to pull Father off Mother after witnessing him chase after her on the street, wrap both of his hands around her neck, and squeeze her Adam's apple. Mother had reported to law enforcement that prior to running out of the apartment, Father was arguing with her and punched her jaw with a closed fist; upon entering the apartment where the domestic violence incident began, officers saw Amari, then three years old, present. Domestic violence affects and impacts children "even if they are not the ones being physically abused, 'because they see and hear the violence and the screaming.'" (*In re T.V.*, *supra*, 217 Cal.App.4th at p. 134.)

Father argues that there is no "current" risk of physical harm to Amari, because there was no evidence of domestic violence from December 2016 when the Department initiated the dependency matter until December 2017 when the jurisdictional hearing finally took place. However, the severity of the ongoing domestic violence incidents is not lessened by the fact that the jurisdiction hearing was delayed by about 10-12 months; indeed, Mother and Amari were "at large" and their whereabouts unknown for seven months from December 14, 2016 until July 13, 2017, during which time Mother and Father made great efforts to conceal Amari from the Department. A parent cannot conceal a child and then argue lack of evidence of domestic violence occurring during the period of concealment. Additionally, numerous continuances of the jurisdictional hearing took place as a result of Father's incarceration and/or Father and Mother not appearing at the hearing because of "transportation issues." The delay in the jurisdictional hearing did not mitigate the ongoing and current risk to Amari, based on the domestic violence incidents from 2013 until 2016.

Father's behavior and attitude with respect to his past conduct also constitutes substantial evidence of risk of harm to Amari, as " 'evidence of the parent's current understanding of and attitude toward the past conduct that endangered a child, or participation in educational programs, or other steps taken, by the parent to address the problematic conduct in the interim . . . would help a parent avoid a recurrence of such an incident.' " (*In re John M.* (2013) 217 Cal.App.4th 410, 418–419.) Here, during Father's interviews with the Department, he continued to deny that any domestic violence occurred between him and Mother, and minimized the gravity of the situation, despite Father's conviction on charges of domestic violence for which he served prison time. "One cannot correct a problem one fails to acknowledge." (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197.)

Although Father represented that he took "concrete steps to correct his behavior" and reports having completed "domestic violence and parenting classes while in prison 2014/2015," he did not provide the court with any evidence of same. Further, if Father did complete a domestic violence program in 2014-2015, he did not correct his behavior thereafter, as the record shows that law enforcement observed Father attempt to choke Mother in 2015. The past conduct of a parent "is a good predictor of future behavior," and may be considered in determining whether a child needs protection. (*In re T.V., supra*, 217 Cal.App.4th at p. 133.) The record here reflects that Father has a serious history of engaging in "violent altercations" with Mother that may likely continue, such that returning Amari to Father's custody and care would be detrimental to the safety, protection, or physical well-being of Amari.

Reviewing the record in the light most favorable to the court's determination, we conclude the record contains sufficient evidence supporting the court's jurisdictional findings under section 300, subdivision (b)(1). We therefore affirm the court's jurisdictional orders over Amari.

C. Dispositional Order

Father contends that because the juvenile court's jurisdictional finding was improper, the dispositional order premised on the findings must be reversed. Because we uphold the juvenile court's jurisdictional findings, there is no basis for reversing the dispositional order. (See *In re E.B.*, *supra*, 184 Cal.App.4th at p. 578 [substantial evidence standard of review applies to jurisdictional findings and dispositional orders].)

DISPOSITION

The juvenile court's jurisdictional findings and dispositional orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

STRATTON, J.

We concur:

BIGELOW, P. J.

RUBIN, J.