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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re I.M., et al., Persons Coming
Under the Juvenile Court Law.

B293056

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. 18CCJP02524)

Plaintiff and Respondent,

v.

D.C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Kim Nguyen, Judge. Reversed and remanded with directions.

Lori Fields, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Jacklyn K. Louie, Principal Deputy County Counsel, for Plaintiff and Respondent.

Appellant D.C. (Mother), challenges the juvenile court's jurisdictional finding that her daughter, I.M. was a person described by Welfare and Institutions Code section 300, subdivision (e),¹ based on Mother's physical abuse of I.M.'s sibling, N.M. She asserts, and the respondent, the Department of Children and Family Services (DCFS) concedes that section 300, subdivision (e) only applies to the child who suffers physical injury inflicted by a parent; it does not apply to that child's sibling, who was not abused. Mother points out that the record contains no evidence that she physically abused I.M. and, thus, she maintains that the court erred in finding that section 300, subdivision (e) applied to I.M. We agree and therefore reverse and remand to the juvenile court to strike the section 300, subdivision (e) jurisdictional finding as to I.M.

FACTUAL AND PROCEDURAL BACKGROUND²

In mid-April 2018, DCFS received a referral from Torrance Memorial Hospital staff concerning three-year-old I.M. and her 20-month-old sibling N.M., alleging Mother physically abused N.M.³ The report indicated that Mother had disclosed that she had placed the children in a bathtub, intending to bathe them. She stated that she briefly stepped out of the bathroom, and when she returned, the faucet was on, and N.M.'s hand was underneath the flowing hot water, and the toddler was accidentally burned. Mother called 911,

¹ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

² Only the facts and procedural history relevant to the issue on appeal are described here.

³ Neither the children nor their father are parties to the appeal.

and N.M. was transported to the Torrance Memorial Hospital and placed in the burn unit of the ICU. The physician in the burn unit determined N.M.'s injury was not consistent with Mother's explanation; based on the nature of N.M.'s third-degree burn, it "appear[ed] as if the child's hand was submerged into hot water as opposed to flowing hot water falling on the child's hand."

DCFS conducted an investigation and filed a petition under section 300, subdivisions (a), (b), (e) and (j) as to both children, alleging that N.M. had sustained third-degree hot liquid burns to his right hand; and his injuries had been found consistent with nonaccidental trauma. The petition alleged such injuries would not ordinarily occur except as the result of acts by the Mother who had care and custody of N.M.⁴ The petition alleged both children were at risk of serious physical harm under section 300, subdivisions (a), (b), and (e), and that I.M. was also at risk of serious harm under section 300, subdivision (j).

The court ordered the children detained from Mother's custody. After a contested adjudication hearing, the court found I.M. and N.M. to be described by section 300, subdivisions (a), (b), (e) and (j), declared them dependents of the juvenile court, removed them from the physical custody of Mother and ordered DCFS to provide the reunification services and visitation.

Mother timely filed an appeal.

⁴ The children's father, M.M., was incarcerated at the time.

DISCUSSION

When 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 enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether all of the other alleged statutory grounds for jurisdiction are supported by the evidence. (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.) An appellate court will not consider an issue raised by an appellant if the court "cannot render any relief to [an appellant] that would have a practical, tangible impact on his position in the dependency proceeding." (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492.)

Here, Mother does not assert that the court erred in exercising jurisdiction over I.M. under section 300, subdivisions (a), (b) or (j), based on the allegations that Mother non-accidentally inflicted injuries on N.M. nor does Mother challenge any of the disposition orders. Thus, I.M. will remain a dependent child of the court, and the juvenile court will be able to adjudicate parental rights regardless of the outcome of this appeal. (See *In re Drake M.* (2012) 211 Cal.App.4th 754, 762.) Mother, however, contends that the court erred as matter of law in finding that I.M. was a person described under section 300, subdivision (e), based solely on injuries Mother inflicted on the child's sibling, N.M., and Mother thus requests that this court exercise its discretion to consider the merits of her challenge because the finding will prejudice her in future custody or family law proceedings. (See *In re Drake M.*, *supra*, 211 Cal.App.4th at pp. 762–763 [observing that appellate courts may review jurisdictional findings, even though jurisdiction

is proper under other jurisdiction allegations when the challenge finding could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings[.] Assuming that the jurisdictional findings under section 300, subdivision (e) might adversely affect Mother in future proceedings, we reach the merits.

Section 300, subdivision (e) authorizes dependency jurisdiction over a child when the juvenile court finds that “[t]he child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child.” (§ 300, subd. (e).)

On its face, section 300, subdivision (e) does not provide the juvenile court with authority to apply that subdivision to any child other than the direct victim of the severe physical abuse. And we have found no other authority indicating that section 300, subdivision (e) applies to a sibling of the victim, like I.M., who was not the victim of the abuse. As Mother argues, DCFS concedes, and we agree, the juvenile court had no basis in fact or law to find I.M. was a person described by subdivision (e) of section 300. (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 718 [The juvenile court has “no authority to assert jurisdiction on grounds not contained in the code.”].) Therefore, the juvenile court’s jurisdictional finding for I.M. under section 300, subdivision (e) was erroneous and must be reversed.

DISPOSITION

The juvenile court's jurisdictional order is reversed solely as to the finding that I.M. is a person described under Welfare and Institutions Code section 300, subdivision (e). The matter is remanded with directions to the juvenile court to strike the finding as to I.M. under section 300, subdivision (e), and correct the record and order accordingly.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

WEINGART, J.*

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