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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re JONATHAN G., et al. Persons
Coming Under the Juvenile Court Law.

B255590
(Los Angeles County
Super. Ct. No. CK99703)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.V.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Carlos E. Vasquez, Judge. Affirmed with directions.

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

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel and Tracey F. Dodds, Principal Deputy County Counsel for Plaintiff and Respondent.

I. INTRODUCTION

The mother, C.V., appeals from the juvenile court's January 29 jurisdictional and February 24, 2014 dispositional findings. The orders were entered under Welfare and Institutions Code section 300, subdivisions (a) and (b), as to two of her three children.¹ We affirm the orders. We direct the juvenile court clerk to correct a clerical error in its January 29, 2014 minute order which relates to two of the children.

II. PROCEDURAL HISTORY AND EVIDENCE

A. The Petition

On May 29, 2013, the Los Angeles County Department of Children and Family Services (the department) filed a section 300 petition on behalf of: eight-year-old Jonathan G.; six-year-old Kimberly G.; and two-year-old Jazmine V. The petition alleges Jazmine, the youngest child, sustained a spiral fracture of the right femur consistent with non-accidental trauma. The petition further alleges Jasmine was diagnosed with failure to thrive due to the mother's neglect.

B. The May 29, 2013 Detention Report

Prior to the present dependency proceeding, on July 27, 2012, the department had investigated a physical abuse allegation involving the mother's three children. It was alleged the mother had hit the children with a metal belt, causing bruises. The mother and the children all denied the allegation. The mother's roommate, Julissa Martinez, also denied the excessive discipline allegation. None of the children had any marks or

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise noted.

bruises. The mother said the allegation was fabricated by a maternal grandmother and uncle. According to the mother, they were upset with her over a decision involving her religion. The mother declined to have the children seen at a county facility for forensic examinations. She opted instead to take them to their pediatrician, Dr. Rosa Gidowski. Dr. Gidowski diagnosed Jazmine with failure to thrive. The excessive discipline referral was closed as unfounded.

The May 29, 2013 detention report in the current matter was prepared by a children's social worker, Mayra C. Gonzalez. Jazmine had been placed at the Children's Welcome Center pending an appropriate placement. The two older children, Jonathan and Kimberly, remained in the mother's home. Ms. Gonzalez wrote that on April 23, 2013, children's social worker Jesus Gomez responded to a severe neglect referral from the Child Abuse Hotline. The mother had brought Jazmine to the emergency room at Pomona Valley Hospital Medical Center (Pomona Valley Hospital). Hospital personnel told Mr. Gomez the mother's explanation for the child's condition was inconsistent with the injury sustained. Jazmine was transported to Children's Hospital of Los Angeles (Children's Hospital) for examination by an orthopedic specialist. Mr. Gomez met with the mother at Children's Hospital. The mother explained that Jazmine had fallen two to three feet off a bed onto a carpeted floor.

As noted in subsequent department reports, City of Pomona Police officers had arrived at the Pomona Valley Hospital to investigate the child abuse allegation. The mother told them: "[S]he was laying on her bed with [Jazmine] when she got up to get [Jazmine] a bottle of milk. [The mother] said while she was getting [the] bottle of milk she heard [Jazmine] begin crying in the room. When [the mother] entered the room, she found [Jazmine] in the space between the wall and the bed. She said that [Jazmine] had fallen off while [s]he was getting the bottle for her. [The mother] said she immediately picked [Jazmine] up and [Jazmine] stopped crying. Approximately one-hour later [the mother] noticed swelling to [Jazmine's] right thigh area and decided to take [her] to Pomona Valley Hospital for a medical checkup." After speaking with the mother, the officers contacted a physician's assistant identified only as Mr. Guzman. The police

report states: “[Mr. Guzman] told [us] that the injury to [Jazmine’s] femur did not seem to be from any sort of strike or impact rather it seemed to be from some type of fall. He stated that if the victim fell a certain way it is likely that she could have broken her femur from falling off the bed.” The officers also spoke with Jazmine’s older siblings, Kimberly and Jonathan. Both denied any abuse had taken place in the home. Both said they wanted to continue to live with their mother. The officers concluded the child abuse report was unfounded.

On April 24, 2013, Ms. Gonzalez interviewed Kimberly and Jonathan. The two older children were not at home when Jazmine was injured. The older siblings told Ms. Gonzalez the mother disciplined them by giving them time-outs or taking away their television privileges. Both Kimberly and Jonathan denied being afraid of anybody.

Jazmine was discharged from the hospital on April 26, 2013. A full body scan had been performed. The results were negative. A forensic examination was to be scheduled. A final report by Dr. Cornelia Kaminsky concluded: “Oblique right mid femoral shaft fracture as described. This would not exclude nonaccidental trauma in the right clinical setting, correlate.”

On April 29, 2013, Ms. Gonzalez spoke with Elizabeth Wilson, a social worker at Children’s Hospital. Ms. Wilson said the mother had denied speaking with a department social worker. Ms. Wilson described the mother as “odd” and “eccentric.” In addition, the mother was hesitant to provide any background information including Jazmine’s medical history.

On May 3, 2013, Ms. Gonzalez met with the mother’s roommate, Ms. Martinez. Ms. Martinez was not at home when Jazmine was injured. Ms. Martinez said that during the time the mother had lived with the father, “[The] mother had dealt with domestic violence and father’s excessive alcohol use” Ms. Martinez also reported the mother at times became frustrated with or overwhelmed by being a single parent. Ms. Martinez attempted to assist the mother at those times.

Also on May 3, 2013, Ms. Gonzalez and Purita Abad-Heman, a public health nurse, met with the mother. Ms. Abad-Heman observed that Jazmine was very thin and

had little to no eye contact. Ms. Abad-Heman discussed Jazmine's eating habits and nutrition with the mother. Ms. Gonzalez and Ms. Abad-Heman advised the mother it was important to follow up with Jazmine's pediatrician given the child's low weight. Jazmine was also behind on her vaccinations. The mother said Jazmine had an appointment with Dr. Gidowski on May 7, 2013. As noted, Dr. Gidowski was Jazmine's pediatrician. On May 7, 2013, Ms. Abad-Heman telephoned Dr. Gidowski's office and learned the mother had rescheduled the appointment for May 29, 2013. Ms. Abad-Heman urged the staff to reschedule the appointment for an earlier date. The staff complied and the appointment was set for May 9, 2013. The mother later said she had rescheduled the visit. This was because it was difficult to transport Jazmine in her cast. Ms. Gonzalez, the social worker wrote, "[Ms. Abad-Heman, the public health nurse.] observed . . . Kimberly . . . appears thin for her stated age." Ms. Gonzalez reviewed Kimberly's immunization records. It appeared that Kimberly was missing a hepatitis shot. The children had not been seen by a dentist for 11 months even though they were covered by Medi-Cal. Children's social worker Jose Ramirez noted that the children all appeared to be underweight.

Dr. Gidowski examined Jazmine on May 9, 2013. Dr. Gidowski noted that Jazmine had an existing failure to thrive diagnosis. Dr. Gidowski observed that the child looked apathetic and cried throughout the examination. A blood test showed Jazmine was anemic. Dr. Gidowski prescribed iron. Dr. Gidowski's May 10, 2013 progress note stated: "Mom lied to me stating [the department's] case was closed. Spoke to [Ms. Abad-Heman] regarding this child and my concerns-FTT [failure to thrive]/and mom spiral fracture femur, child is in cast. Apathetic, crying, no eye contact and mother totally detached behavior with not displaying any concerns or worries about the daughter. Spiral fracture femur [was] not caused by fall from bed I am very concerned about this child!!! And I told [Ms. Abad-Heman] about concern. I ordered skeletal survey—which I don't know will get ordered. Also child has FTT [failure to thrive]." Dr. Gidowski told Ms. Abad-Heman she had diagnosed Jazmine with failure to thrive on October 24, 2012, but the mother had failed to come back for follow-up. Dr. Gidowski confirmed that the mother's explanation for Jazmine's injury was inconsistent with the

fracture: “[I]t has to be a strong force for Jazmine to sustain a spiral fracture of the femur, not just by falling from a bed” Dr. Gidowski told Ms. Abad-Heman: “This is just unacceptable. This is the scenario, yesterday child was laying down with her cast, looked so pathetic, no eye contact and very skinny, was crying and was looking out at a wall, mom not even interested; mom is so detached and mom lied to me. This case stays on my desk.”

Ms. Gonzalez made an unannounced visit to the mother’s home on May 21, 2013. Jazmine appeared clean and her cast was adequately maintained. However, Jazmine was thin and in a sullen state. Ms. Gonzalez greeted Jazmine. But Jazmine did not make eye contact with Ms. Gonzalez. Also, Jazmine avoided eye contact with the mother. This occurred even when the mother spoke to Jazmine. The mother said Jazmine had a follow-up appointment at Children’s Hospital on May 24, 2013. The mother admitted she had been the victim of domestic violence at the hands of the biological father, Jose G. The mother declined any domestic violence referrals saying she received help through her church. The mother reported that the father was likely living in Tijuana, Mexico. Ms. Gonzalez discussed the child’s failure to thrive diagnosis with the mother. The mother said she had not understood the diagnosis in October 2012. The mother admitted she had stopped giving Jazmine the recommended Pediasure and vitamins. Ms. Gonzalez reported, “There is growing concern that siblings, Kimberly and Jonathan[,] are at risk of physical abuse as well.”

C. The May 29, 2013 Last Minute Information for the Court Report

Prior to the detention hearing, the department changed its placement recommendation as to Kimberly and Jonathan. The department recommended the children be removed from the mother’s home and detained. Ms. Gonzalez stated: “Based on observations and medical documentation, it appears that the conduct of mother, [C.V.], constitutes, but is not limited to, possible physical abuse and continued long-term severe neglect. Although Jazmine appears to be the ‘target child,’ mother’s

jud[g]ment and insight appears very limited and Jonathan and Kimberly, while older than Jazmine, are young children who need appropriate care and supervision. Mother has also not been very forthcoming with the doctors in charge of treating her children. [¶] Additionally, there is growing concern for the child Kimberly, as she also had been documented as appearing thin for her age, and does not have her immunizations up to date.”

D. The May 29, 2013 Detention Hearing

On May 29, 2013, the juvenile court detained the three children from the mother. The mother was granted monitored visits in a neutral setting. The juvenile court ordered the department to provide family reunifications services.

E. The July 31, 2013 Jurisdiction and Disposition Report

The July 31, 2013 jurisdiction and detention report was prepared by dependency investigator Guadalupe Eakman. Jonathan and Kimberly were in foster care. Jazmine had been placed in the Moreno Foster Family Home. The current whereabouts of the father remained unknown. The mother was working full-time on a night-shift and had no criminal record. The mother had been visiting her children regularly. The mother was appropriate and interacted with her children.

Ms. Eakman interviewed the 34-year-old mother on June 27, 2013. The mother repeated that Jazmine had fallen two to three feet from a bed to a carpeted floor. This occurred when the mother had gone to get Jazmine a bottle. By the time the mother returned with the bottle, Jazmine was on the floor lying face up. Within an hour, the mother changed Jazmine’s diaper and noticed the youngster’s right upper leg was swollen. Jazmine was not crying even when she was being changed. The mother then took Jazmine to Pomona Valley Hospital. The mother stated, “I cannot explain the spiral fracture other than the fall from the bed.” The mother said Jazmine had fallen from the

bed a year earlier and had limped for one to two weeks but then had been fine. The mother had not taken Jazmine to the doctor at that time. The mother told Ms. Eakman, “Yes, Dr. Rosa Gidowski told me [Jazmine] was failure to thrive back in October 2012 and again in May 2013.” Jazmine was eating three meals a day with snacks between meals. She was also drinking six to eight ounces of Pediasure twice a day. The mother thought Jazmine was receiving sufficient nutrition. The mother acknowledged, “I know that it was my fault for not following-up with the Dr. Gidowski [*sic*] for the failure to thrive after [October 24,] 2012.” The mother said: “I was giving [Jazmine] liquid vitamins for toddlers that Dr. Rosa Gidowski prescribed her in October 2012. It was my mistake for not going back [to Dr. Gidowski] for refills for the vitamins.”

Ms. Eakman interviewed Dr. Gidowski by telephone on July 12, 2013. Dr. Gidowski said, “I doubt a fall from a bed would cause a spiral fracture as it requires significant force.” Dr. Gidowski was highly concerned about Jazmine. Dr. Gidowski noted that the mother had made false statements concerning Jazmine. The mother told Dr. Gidowski the department’s case had been closed. Dr. Gidowski had seen Jazmine on June 18, 2013. The doctor said: there had been a “180 degree turn around” in Jazmine’s condition; she appeared cheekier and responsive; she made eye contact; and she had gained weight.

Ms. Eakman interviewed the mother’s roommate, Ms. Martinez, on July 15, 2013. Ms. Martinez was picking the older children up from school when Jazmine sustained a leg fracture. The mother had called Ms. Martinez. The mother was taking Jazmine to the hospital. According to the mother, Jazmine had fallen off the bed and a leg was swollen. Ms. Martinez told Ms. Eakman this was not the first time Jazmine had fallen off the bed. In 2013, she fell off the bed and was limping thereafter. But within a week Jazmine was fine according to Ms. Martinez. There had not been any bruising or swelling. Ms. Martinez had never seen the mother physically abuse the children. She said: “I saw her get frustrated and impatient because she couldn’t provide them with like good shoes. She would get sad. She didn’t get support from anyone. She doesn’t have a good relationship with her mother because her mother was very negative and not supportive of her. She

told me the father of the children was an alcoholic and there was domestic violence. He would say bad words to her. She told me that he once pulled her hair while in Tijuana.” With respect to Jazmine’s nutrition, Ms. Martinez told Ms. Eakman: “Yes, [the mother] would feed her. Like in the morning, she would give her an egg and small pieces of bread. For snack she gave her jell-o. For lunch, she made her spaghetti. She also drank regular milk and Pediasure.”

The mother had a monitored visit with Jazmine on July 15, 2013. Jazmine’s caretaker said the youngster recognized the mother. But at first Jazmine did not want to get out of her stroller.

F. The October 3, 2013 Last Minute Information Report

On October 3, 2013, the juvenile court expanded the mother’s monitored visitation from two to a minimum of six hours a week. The mother presented a certificate stating that as of September 5, 2013, she had completed a 10-week parenting program. The mother also said she was attending individual counseling. But the department had not yet verified that information.

G. Dr. Carol D. Berkowitz’s November 21, 2013 Report

Dr. Berkowitz, a pediatrics professor at the David Geffen School of Medicine at the University of California, Los Angeles, issued a report dated November 21, 2013. Dr. Berkowitz addressed two issues. Dr. Berkowitz discussed whether Jazmine had suffered severe physical abuse. And Dr. Berkowitz discussed whether there was any “genetic or non-environmental explanation” for Jazmine’s injury or her failure to thrive. Dr. Berkowitz concluded: “. . . Jazmine had a spiral fracture of the midshaft of her right femur and . . . the preponderance of evidence is that this fracture did not occur as a result of a fall off a bed. A femur fracture is a serious injury that requires medical attention to both reduce pain and prevent the subsequent development of a deformity. I do not

believe there is sufficient information in the form of multiple growth parameters to conclude with medical certainty that Jazmine suffered from failure to thrive.”

H. The November 25, 2013 Last Minute Information Report

A multidisciplinary assessment team report was attached to the November 25, 2013 last minute information report. The report, prepared by Theresa M. Collins of Almansor Clinical Services, was completed on August 23, 2013, and relates that the mother: had maintained regular contact and consistent visitation with the children; appeared to have a close relationship all three children; wanted to reunite with all of her children as soon as possible; remained employed full time; and planned to relocate to a three-bedroom home. Ms. Collins’s report states, “[The m]other explained she will be moving in with a female friend with whom she knows from church.” Jazmine had been seen by an unidentified orthopedic surgeon at Children’s Hospital on July 26, 2013. The surgeon reported Jazmine’s leg had healed. Jazmine was scheduled for a “forensic exam” at the hospital on August 26, 2013.

I. The Two January 28, 2014 Last Minute Information Reports

In a last minute information for the court report dated January 28, 2014, Ms. Eakman reported that the mother had been visiting the three children. Ms. Eakman stated: “The mother is appropriate during the visits with the children and has not missed any visits. The mother is consistent with her monitored visits with the children.” The mother had also been receiving individual counseling. Ms. Eakman referred to an attached progress report. Ms. Eakman noted it was unclear whether the mother’s therapist knew about the severe physical abuse allegation. Ms. Eakman further observed it did not appear the mother had accepted responsibility for Jazmine’s injury.

The referenced progress report was prepared by Enriqueta Chipana Appel, a family counselor with the Family Service of Pomona Valley. It was dated October 28,

2013. Ms. Appel had been counseling the mother since June 10, 2013. The mother had attended two intake sessions, on June 10 and 17, and 12 individual counseling sessions between June 14 and October 24, 2013. Ms. Appel reported: “During assessment process [the mother] was resistant and not cooperative in offering information regarding her case and was negative about her situation. Initially progress was slow, as she needed to develop a trusting relationship, be open to share her feelings and life stressors. [The mother] denies allegations and has difficulty accepting responsibility in younger daughter’s health issues, through the process of therapy worked on issues of trust, separation, depressed symptoms, parenting and stress management. [¶] [The mother] finds counseling to be helpful as she started to [gain] awareness of her own feelings and was able to work them during sessions. At this time, [the mother] reports to be more aware of her responsibility to provide good care for her children, as she realized consequences of neglect and poor management of stress.”

In a second last minute information for the court report dated January 28, 2014, Ms. Eakman wrote: “On [January 27,] 2014, [I] spoke to the mother’s therapist, Enriquetta Chipana Appeal She reported the mother continues to deny the allegations and has difficulty accepting responsibility in younger daughter’s health issues. Further, the mother continues to say the child Jazmine sustained her leg fracture when she fell off the bed. The Court is respectfully referred to the attached progress report for the mother dated [December 16,] 2013. [¶] Given the mother’s denial of the allegations and not taking any responsibility of the child Jazmine’s sustained spiral fracture of the femur, puts the children at grave risk for further abuse and neglect.”

Ms. Appel’s December 16, 2013 progress report advised the mother had continued to attend individual counseling sessions, on November 7, 20 and 28, and December 1 and 11, 2013. Ms. Appel otherwise repeated verbatim the analysis in her October 28 report. Those statements are set forth above.

J. The January 28, 2014 Jurisdiction Hearing

The juvenile court admitted into evidence, without objection, 24 exhibits offered by the department. The 24 exhibits included all of the above as well as certain medical and dental records. At the department's request, the juvenile court dismissed the failure to thrive allegations.

Dr. Berkowitz testified on behalf of the department. Dr. Berkowitz reviewed medical records from the Pomona Valley Hospital as well as Children's Hospital. Dr. Berkowitz testified as follows. Jazmine had suffered a complete spiral fracture of the mid shaft of the right femur. Dr. Berkowitz described a spiral fracture: "A spiral fracture is a fracture that has a twist to it. It would be at an angle to the bone and twisted around kind of like a spiraled staircase would have a twist to it." The fracture was caused by a "twisting force" applied to the femur. Because the femur is the strongest bone in the body, Jazmine could not have caused that fracture herself. Nor could another child have caused the fracture. The injury could only have been caused by an adult. Moreover, the injury was inconsistent with falling off a bed. Dr. Berkowitz thought it was "very unlikely" the injury occurred in the manner asserted by the mother. Dr. Berkowitz explained: "A fall from the bed would not explain the injury that Jazmine sustained." "If in fact [the child] was jumping up and down . . . and then fell off, it would be [possible her] leg twisted underneath [her] and she landed on it that the fracture could have been sustained in that way." But it would require 600 pounds of force to cause the type of injury Jazmine sustained. Further, Dr. Berkowitz had never seen a child sustain this type of injury by falling off a bed. The only causes of the same injury she had personally seen resulted from trauma or child abuse or a child being struck by a car. Further, had Jazmine not received treatment with a specific cast, the injury would likely have led to a permanent deformity of the femur.

Dr. Thomas J. Grogan, an orthopedic surgeon, testified for the mother. Dr. Grogan's November 25, 2013 written report was admitted into evidence. In his written report, Dr. Grogan stated in part: "[T]his fracture (closed spiral fracture of the femur) is a

rather common sequelae of a 2-year-old child either falling or jumping off a bed [¶] In my professional opinion, this mechanism of injury of falling from the bed is certainly a plausible explanation for the injury, although directed infliction injury can obviously not be excluded.” Dr. Grogan testified. Jazmine suffered a spiral fracture of her right femur. In his view, it is possible the injury was sustained from falling off a bed. Dr. Grogan testified, “I think as long as it is more likely a jump than a fall, meaning there has to be compression and rotation force that would have occurred.” Dr. Grogan explained: “If the bed were very high, for example, and the minor slid off of it or fell off the bed, it was a bunk bed or even a bed 3 or 4 feet in height, so there was enough room for a compression to occur with the rotation, then [the injury could occur]. [¶] But . . . this particular fracture is almost a classic no more monkeys jumping on the bed fracture that we see. Kids put themselves in the air, and that provides the compression force as the strength.” If Jazmine, a small child, had been stuck and someone pulled and rotated her leg, the fracture could occur. Dr. Grogan had never seen a spiral fracture in a child of Jazmine’s age and size that had been intentionally inflicted. If Jazmine was sitting still and fell 2 to 3 feet off the bed to the floor, this type of injury could occur. It was more likely to occur if she had jumped, but it could have occurred even if she rolled, fell, and landed leg first and twisted; this was a significant possibility.

The juvenile court found the presumption in section 355.1, subdivision (a) applied. Jazmine sustained an injury of a nature that would ordinarily not be sustained except as a result of the mother’s unreasonable or neglectful acts or omission. Pursuant to section 355.1, subdivision (a), “[T]hat finding shall be prima facie evidence that the minor is a person described by subdivision (a), (b), or (d) of Section 300.” The juvenile court sustained the following allegations in counts a-1, b-1 and e-1: “On [April 24, 2013,] two year old Jazmine V[.] was medically examined, hospitalized and diagnosed with a detrimental and endangering condition consisting of a spiral fracture of the child’s right femur. The child’s mother, [C.V.]’s explanation of the manner in which the child sustained the child’s injury is inconsistent with the child’s injury. The child’s injury is consistent with non-accidental trauma. Such injury would ordinarily not occur except as

the result of deliberate, unreasonable, and neglectful acts by the child's mother who had care, custody and control of the child. Such deliberate, unreasonable, and neglectful acts on the part of the mother endanger the child's physical health, safety and well-being, create a detrimental home environment, and place the child and the child's siblings, Jonathan [G.] and Kimberly [G.], at risk of physical harm, damage and danger." The juvenile court struck the allegations in count j-1 concerning abuse of the two older siblings. At no time did the juvenile court state it was sustaining the count e-1 allegation as to Jonathan and Kimberly.

K. The February 24, 2014 Last Minute Information Report

In a last minute information for the court report dated February 24, 2014, Ms. Eakman noted: the mother continued to consistently visit her children; the mother was punctual, did not miss visits and behaved appropriately; the mother was interacting with her two older children and they responded to her; the mother was affectionate with Jazmine; and Jazmine was happy to see the mother. But Jazmine did not display any separation anxiety at the end of the visits. Ms. Eakman had spoken with the mother's therapist, Ms. Appel, on February 20, 2014. Ms. Eakman reported: "[Ms.] Appel stated . . . the mother continues to deny the allegations and does not explain how the child Jazmine sustained the spiral fracture to her femur. Further . . . [the] agency cannot continue to provide services to the mother as she continues to deny the allegations and [Ms. Appel] is recommending for the mother to be seen by a court appointed forensic psychologist."

L. The February 24, 2014 Disposition Hearing

The juvenile court admitted into evidence the department's 24 exhibits plus the last minute information report dated February 24, 2014. All three children were declared dependents of the juvenile court and removed them from the mother's physical custody.

The juvenile court ordered the mother to complete a parenting course and individual counseling. The juvenile court ordered reunification services as to Jonathan and Kimberly, but not as to Jazmine.

III. DISCUSSION

A. The January 29, 2014 Jurisdictional Findings and Order

The mother contends there was insufficient evidence to support the juvenile court's jurisdiction under section 300, subdivisions (a) and (b), as to Jonathan and Kimberly. Section 355, subdivision (a) provides: "At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300" Section 300, subdivisions (a) and (b)(1) state: "[¶] (a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm [¶] (b) 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 or guardian to adequately supervise or protect the child, . . . or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical

treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.” (Stats. 2005, ch. 630, § 1, pp. 4772-4773.)

We review the juvenile court's jurisdictional findings and orders for substantial evidence. (*Los Angeles County Department of Children and Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966; *In re R.C.* (2012) 210 Cal.App.4th 930, 940-941.) Substantial evidence is relevant evidence which adequately supports a conclusion; it is reasonable in nature, credible and of solid value. (*In re A.B.* (2014) 225 Cal.App.4th 1358, 1363; *In re E.B.* (2010) 184 Cal.App.4th 568, 574-575.) We draw all reasonable inferences from the evidence to support the findings and orders of the juvenile court. Issues of fact, weight and credibility are the provinces of the juvenile court. (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 941; *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393-1394.)

Substantial evidence supports the juvenile court's jurisdictional order as to Jonathan and Kimberly. The mother was a single parent of three young children. At times, she became frustrated with and overwhelmed by her responsibilities. She had been a victim of domestic violence. The mother exhibited dishonesty. There is evidence the mother: lied to the hospital social worker, Ms. Wilson, about having spoken with a children's social worker, Mr. Gomez; lied to Dr. Gidowski when claiming the department's case had been closed; and hesitated to provide information about Jazmine's medical history. Also, the mother neglected the children's medical needs. Jazmine had been diagnosed with failure to thrive in October 2012. But the mother had failed to follow up with Dr. Gidowski. And, the mother ceased providing Jazmine with needed nutritional supplements. The mother admitted being at fault for failing to follow up with Dr. Gidowski and not refilling Jazmine's vitamin prescription. Jazmine's weight was too low. Jazmine's older siblings also appeared to be underweight. Jazmine and Kimberly were both behind on their immunizations. And none of the children had been seen by a dentist for 11 months.

Following her injury, Jazmine was apathetic and sullen. Jazmine did not make eye contact with the mother or with others. And the mother was detached. The mother displayed a lack of concern for the child. Moreover, the mother's explanation for Jazmine's condition was inconsistent with the youngster's injury. Dr. Kaminsky at Children's Hospital, Dr. Gidowski, Jazmine's own pediatrician, and Dr. Berkowitz, concluded Jazmine's injury was the possible or likely result of nonaccidental trauma. Dr. Berkowitz testified Jazmine's injury was nonaccidental; it could not have been caused by a fall from the bed as the mother claimed had occurred. After Jazmine had been in foster care for roughly a month, her condition improved immensely. Dr. Gidowski described it as a "180 degree turn around" in terms of Jazmine's condition. According to Dr. Berkowitz, Jazmine became more responsive, made eye contact and had gained weight. And the mother had been receiving individual counseling. Notwithstanding that counseling, the mother had difficulty accepting responsibility for Jazmine's failure to thrive. And the mother continued to deny the allegation that Jazmine's broken femur was caused nonaccidentally. The juvenile court could reasonably conclude the foregoing circumstances put Jonathan and Kimberly at substantial risk of suffering physical abuse or harm.

B. The February 24, 2013 Dispositional Order

The mother asserts there was insufficient evidence to support the order removing the two older children from her physical custody. The mother argues: there was no evidence of any risk in the family home; she never abused or neglected her two older children; the children were old enough to verbalize any potential problem; both were in school with regular access to teachers and other mandated reporters; she had cooperated with the department, successfully completed a parenting course and had made progress in individual counseling despite an unwillingness to admit harming Jazmine; she had maintained regular, positive and appropriate visitation; she was employed fulltime; she had a car and a driver's license; she was about to move into a three-bedroom home; and

she was close to her children who wanted to live with her. The mother suggests the juvenile court entered the removal order to ensure her continued participation in therapy or to obtain services for the family.

Section 361, subdivision (c) provides: “A dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, 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. . . .”

Section 361, subdivision (d) states: “The court shall make a determination as to whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home. . . . The court shall state the facts on which the decision to remove the minor is based.” The purpose of section 361, subdivision (d) is to avert harm to the children. The parent need not be dangerous nor the child actually harmed before removal is appropriate. (*In re J.S.* (2014) 228 Cal.App.4th 1483, 1492; *In re T.V.* (2013) 217 Cal.App.4th 126, 135–136.) The juvenile court may consider both the parent’s past conduct and the present circumstances. (*In re John M.* (2012) 212 Cal.App.4th 1117, 1126; *In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) We review the removal order for substantial evidence. (*In re J.S.*, *supra*, 228 Cal.App.4th at p. 1492; *In re Lana S.* (2012) 207 Cal.App.4th 94, 105.)

Substantial evidence supports the removal order. As discussed above, the mother was a single parent who, at times, became frustrated with and overwhelmed by her responsibility for three young children. The mother had been a victim of domestic violence. And as noted, the mother exhibited dishonesty under varying circumstances. Moreover, as we have previously set forth in detail, the mother repeatedly neglected her children’s medical needs. Additionally, after her injury, Jazmine was apathetic and sullen in the mother's presence. Also, the mother's explanation for Jazmine's injury was

materially contradicted in whole or in part by three physicians—Dr. Kaminsky, Dr. Gidowski and Dr. Berkowitz. As we have also discussed, after Jazmine had been in foster care for roughly one month, her condition dramatically improved. Finally, the mother continued to deny complicity in Jazmine’s injury despite credible evidence to the contrary. The foregoing constitutes substantial evidence which supports the dispositional order as to Jonathan and Kimberly. There is no evidence the juvenile court acted with any intent other than to protect Jonathan and Kimberly.

C. Clerical Error

The mother asks us to direct the juvenile court clerk to correct clerical errors in the January 29, 2014 minute order. An appellate court may order correction of clerical errors. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185; see *People v. Wahidi* (2013) 222 Cal.App.4th 802, 804, fn. 1.) The juvenile court sustained counts a-1 and b-1 of the petition. Those counts pertain to all three children. The juvenile court also sustained the allegations in count e-1. Count e-1 pertains only to Jazmine, not Jonathan and Kimberly. The juvenile court’s January 29, 2014 minute order, lines 10 and 15, must be corrected to state the petition was sustained only as to counts a-1 and b-1 as to Jonathan and Kimberly.

IV. DISPOSITION

The January 29 jurisdictional and February 24, 2014 dispositional orders are affirmed. Upon remittitur issuance, the juvenile court is to correct the clerical error in its January 29, 2014 minute order, lines 10 and 15, as discussed in section IIIC above.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

KRIEGLER, J.

GOODMAN, J.*

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