Filed 9/18/18 In re Jordan H. CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re JORDAN H., a Person Coming Under the Juvenile Court Law	B287657 (Los Angeles County Super. Ct. No. 17CCJP00848A)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. H.H., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Frank J. Menetrez, Judge. Reversed in part, affirmed in part, and remanded with directions.

Suzanne Davidson, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Christine S. Ton, Senior Associate County Counsel, for Plaintiff and Respondent.

INTRODUCTION

H.H. appeals from the juvenile court's jurisdiction findings declaring his son Jordan H. a dependent of the court under Welfare and Institutions Code section 300[1] and disposition order requiring H.H. to participate in a counseling program. The court found that H.H. and Jordan's mother, I.S., had a history of "violent altercations" that placed Jordan at risk of serious physical harm and abuse and that I.S.'s mental and emotional problems endangered Jordan's health and safety. The court placed Jordan with H.H.

H.H. challenges the jurisdiction finding based on domestic violence and the disposition order to the extent it rests on that finding. He does not challenge the jurisdiction finding based on I.S.'s mental and emotional problems, and I.S. did not appeal. We exercise our discretion to consider the merits of H.H.'s appeal and reverse the jurisdiction finding H.H. and I.S. had a history of domestic violence that placed Jordan at risk because substantial evidence does not support it. We also reverse the disposition order to the extent it requires H.H. to participate in counseling

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[1] Statutory references are to the Welfare and Institutions Code.

and remand for the juvenile court to reconsider the disposition order in that respect.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Investigation and Petitions*

On September 3, 2017 I.S. went to a hospital complaining of back and abdominal pain but with no visible marks or bruises. She said H.H. pushed her up against a fence after a verbal dispute in front of Jordan, then one year old, and I.S.'s 8-year-old son from a previous relationship, Gabriel. I.S. stated that earlier in the day H.H. had cursed at Gabriel on the way to a laundromat, and I.S. threw a bag of clothes at H.H. In response, H.H. pushed I.S.'s right arm, I.S. tried to swing back, and H.H. swung a fishing pole at her, which she ducked to avoid. An individual who spoke with I.S. at the hospital reported this information to the Los Angeles County Department of Children and Family Services.

Several days later a Department social worker called I.S., who told the social worker she had taken Gabriel to another state where he would live with his paternal grandparents. I.S. stated that when she returned to California she intended to live in a women's shelter with Jordan because she did not feel "safe" living with H.H. in his parents' house. She told the social worker that H.H. pushed her after she threw a bag of clothes at him and that she intended to get a restraining order against him. She also said she and H.H. argued frequently and "have had a few domestic violence issues . . . but only two have been documented." When I.S. returned to California, H.H. picked her up from the airport and agreed to try "to work things out." I.S., however, did not return to live with H.H. She said she could not "take [H.H.'s] abusive behavior" and "there is always an argument."

On September 11, 2017 the social worker met I.S. and H.H. at a motel room. H.H. admitted getting into a verbal altercation with I.S. on their way to a laundromat but denied pushing her. He also denied all allegations of previous domestic violence. The Department confirmed H.H. had no prior arrests or convictions for domestic violence and found no police reports documenting any domestic violence incidents. H.H., who had previously disclosed to the Department he had an expired prescription for medical marijuana and used the substance for pain relief, tested negative for all drugs except marijuana.

The social worker contacted Jordan's doctor, I.S.'s mother, and a friend of I.S. An employee in the office of Jordan's doctor reported the infant received timely immunizations, and Jordan's most recent checkup raised no concerns of abuse or neglect. I.S.'s mother, who lives out of state and had custody of three of I.S.'s children from a previous relationship, said I.S. was "having a hard time with her children that she has now." I.S.'s friend, who had been married to Gabriel's father, said I.S. had led a difficult life. The friend said she was relieved to learn from I.S. that she planned to live in a shelter instead of returning to H.H. because the friend believed I.S. and H.H. "are very toxic together." The friend also said she had stayed in touch with I.S. "to ensure the safety of Gabriel."

On October 4, 2017 the Department filed a juvenile dependency petition under section 300, subdivisions (a) and (b). The Department alleged: "[H.H. and I.S.] have a history of engaging in violent altercations. On 9/3/17, the father pushed the mother while the child was present. On a prior occasion, the mother threw objects at the father. On prior occasions, the father verbally abused the mother. Such violent conduct by the child's parents endanger[s] the child's physical health and safety and

place[s] the child at risk of serious physical harm, damage, danger, and physical abuse." The Department also alleged H.H. abused marijuana, rendering him incapable of providing Jordan with regular care and supervision. On October 5, 2017 the court detained Jordan and, one week later, released him to H.H.

The Department interviewed I.S. again on November 20, 2017. She recanted her allegations of domestic violence and stated, "I was just pissed off so I went to the [emergency room] and started saying all type[s] of things that are not true." When asked why she went to a hospital, she said, "Because I was mad. I just wanted to report some bull crap." She denied she had been hurt or in pain in any way when she went to the hospital. The social worker suggested I.S.'s story, if true, raised mental health concerns. I.S. explained that in 2012 she had been diagnosed with post-traumatic stress disorder (PTSD) and borderline personality disorder, and, regarding the hospital incident, she stated, "I guess this is where my PTSD kicks in." I.S. believed she suffered from PTSD because her parents physically abused her as a child. I.S. said H.H. never physically assaulted her and she was the one with the anger problem. She admitted she hit H.H. once on his arms and slapped him. I.S. also denied having any concerns about Jordan's safety in H.H.'s home.

The Department attempted to contact H.H. and his family numerous times. The Department reported the juvenile court had removed H.H. and his siblings from their home and declared them dependents of the juvenile court because of their parents' failure to adequately supervise them, incidents of domestic violence, and substance abuse. H.H.'s case history notes indicated he "struggled with anger and disruptive behavior." H.H. eventually spoke with a social worker on November 20,

2017, again denied I.S.'s allegations of domestic violence, and agreed to meet with the social worker several days later.

At that meeting the social worker observed H.H. and Jordan in the home H.H. shared with his parents. The social worker observed no marks or bruises on Jordan and no developmental delays. She reported Jordan appeared healthy and comfortable in the home and with H.H. H.H. "seemed to become easily frustrated" with Jordan when Jordan tried "to get into things he was not supposed to get into which is normal for a child his age," but H.H. "also appeared to be loving to the child in that he picked him up to hold him on numerous occasions."

H.H. again denied I.S.'s original version of the events of September 3, 2017. He said, "I never did nothing to [I.S.] When she's upset, that's how she is. She does things like that." When asked what kinds of things I.S. did when she is upset, H.H. said, "Like run to the ER to tell them I hit her. How did I hit her? Did she get bruises? Marks?" H.H. admitted he argued with I.S. before she went to the hospital but said the children were not present. He also admitted I.S. "scratched" and "hit" him during that argument, but said he did not physically respond. H.H. told the social worker the Department should not be involved with Jordan because H.H. did not abuse him.

The Department filed an amended petition on November 22, 2017. The amended petition repeated the counts of domestic violence (b-1) and marijuana abuse (b-2), and added a new count (b-3) under section 300, subdivision (b), alleging I.S.'s mental and emotional problems hindered her ability to provide

Jordan regular care and supervision.[2] The Department recommended the court declare Jordan a dependent, remove him from his parents, and order reunification services for H.H. and I.S.

B. *Jurisdiction Findings and Disposition Order*

There were no witnesses at the December 11, 2017 combined jurisdiction and disposition hearing. Regarding counts a-1 and b-1 alleging domestic violence, counsel for H.H. argued I.S.'s initial statements to the hospital and the Department describing the September 3, 2017 incident were not credible. Counsel for H.H. acknowledged victims of domestic violence sometimes retract their accusations, but noted the hospital did not identify any injuries to I.S., which called into question I.S.'s mental state and credibility. Counsel for H.H. also noted I.S. told the Department there had been two "documented" incidents of domestic violence involving I.S. and H.H., but there was no documentary or other evidence, such as police reports or arrest records, to corroborate her statement. Counsel for H.H. also pointed to inaccurate statements I.S. made to the Department about the custody status of her five older children, all of whom

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[2] Count b-3 alleged I.S. "has mental and emotional problems including a diagnosis of Post-Traumatic Stress Disorder and Borderline Personality Disorder that hinders her ability to provide [Jordan] with regular care and supervision. [I.S.] has failed to maintain treatment for her diagnosed mental health conditions. [I.S.'s] mental and emotional problems and failure to maintain appropriate mental health treatment endangers [Jordan's] physical health and safety and places [Jordan] at risk of serious physical harm, damage, and danger."

either lived with I.S.'s mother or had been adopted by others. Counsel for H.H. conceded the friend of I.S. whom the Department interviewed had "nothing nice to say" about H.H. and I.S., but noted the friend "also ha[d] nothing to say about domestic violence." Counsel for H.H. asked the court to dismiss counts a-1 and b-1 for lack of evidence. She also asked the court to dismiss count b-2 alleging marijuana abuse.

The court stated, "It is a bit of an odd case and a little hard to know how to evaluate the evidence." The court dismissed count a-1 but found the evidence supporting count b-1 sufficient "based on both the mother's statements and the statements from the collaterals," specifically the statement provided by I.S.'s friend. The court acknowledged I.S.'s friend did not "mention domestic violence," but said her statement corroborated I.S.'s "initial statement about the physical altercations between the parents."

The court dismissed count b-2 regarding H.H.'s marijuana abuse as "too speculative." Regarding count b-3, which concerned I.S.'s mental condition, the court stated that "really all we have on that is [I.S.'s] self-report" of PTSD and borderline personality disorder and that "[I.S.] does have credibility problems for all the reasons identified by [counsel for H.H.]." The court continued, "But, at the same time, there is her conduct in this case and the situation with her other five children. So those might support inferences from her own self-reports about her mental health that would tell in favor of [count b-3]. . . . So I am going to sustain [count b-3]."

Based on the sustained counts, the court declared Jordan a dependent of the court, removed him from I.S., placed him with H.H., and ordered, among other things, family maintenance

services including counseling for H.H.[3] H.H. timely appealed, and I.S. did not.

DISCUSSION

A. *Justiciability*

The Department argues H.H.'s appeal is not justiciable because the unchallenged jurisdiction findings against I.S. support the court's jurisdiction over Jordan even if we reverse the court's jurisdiction findings on count b-1. The Department is correct that, in general, a jurisdiction finding involving one parent is good against both. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [""the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent""]; *In re X.S.* (2010) 190 Cal.App.4th 1154, 1161 [a "jurisdictional finding good against one parent is good against both"].) "'However, when, as here, the outcome of the appeal could be "the difference between father's being an 'offending' parent versus a 'non-offending' parent," a finding that could result in far-reaching consequences with respect to these and future dependency proceedings, we find it appropriate to exercise our discretion to consider the appeal on the merits.'" (*In re Andrew S.* (2016) 2 Cal.App.5th 536, 542, fn. 2; see *In re Quentin H.* (2014) 230 Cal.App.4th 608, 613.)

The Department contends this exception does not apply to H.H. because the court placed Jordan with him, "and thus, [H.H.]

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[3] We take judicial notice of the juvenile court's July 18, 2018 order that modified the order placing Jordan in the home of his father and instead placed Jordan in the home of his parents. (See Evid. Code, §§ 452, subd. (d), 459.)

was not injuriously affected by the jurisdictional finding." "[W]e generally will exercise our discretion and reach the merits of a challenge to any jurisdictional finding," however, "when the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) 'could have other consequences for [the appellant], beyond jurisdiction.'" (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763; see *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452 [same].) Here, among other things, H.H. challenges the juvenile court's disposition order requiring him to participate in a counseling program to the extent it is based on his status as an offending parent. We therefore exercise our discretion to reach the merits of his appeal.

B. *Substantial Evidence Does Not Support Jurisdiction Based on Domestic Violence*

1. *Applicable Law and Standard of Review*

The Department has the burden of proving by a preponderance of the evidence that a child is a dependent of the court under section 300. (*In re I.J.* (2013) 56 Cal.4th 766, 773; *In re M.W.*, *supra*, 238 Cal.App.4th at p. 1453.) A court may declare a child a dependent under section 300, subdivision (b), 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.'" (*In re D.L.* (2018) 22 Cal.App.5th 1142, 1146; see § 300, subd. (b)(1).) "The juvenile court need not find 'that a parent is at fault or blameworthy for her failure

or inability to supervise or protect her child.'" (*In re D.L.*, at p. 1146; see *In re R.T.* (2017) 3 Cal.5th 622, 624.)

"Physical violence between a child's parents may support the exercise of jurisdiction under section 300, subdivision (b) but only if there is evidence that the 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; accord, *In re M.W.*, *supra*, 238 Cal.App.4th at p. 1453.) The social services agency must show that at the time of the jurisdiction hearing the child is at risk of serious physical harm in the future. (See *In re D.L.*, *supra*, 22 Cal.App.5th at p. 1146; *In re B.T.* (2011) 193 Cal.App.4th 685, 692.) "To establish a defined risk of harm at the time of the hearing, there 'must be some reason beyond mere speculation to believe the alleged conduct will recur.'" (*In re D.L.*, at p. 1146; see *In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383-1384 ["[a] parent's "'[p]ast conduct may be probative of current conditions" if there is reason to believe that the conduct will continue'"].) The court, however, need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. (*In re D.L.*, at p. 1146; *In re Kadence P.*, at p. 1383; *In re N.M.* (2011) 197 Cal.App.4th 159, 165.)

We review a challenge to the sufficiency of the evidence supporting jurisdiction findings for substantial evidence. (*In re I.J.*, *supra*, 56 Cal.4th at p. 773; *In re D.C.* (2015) 243 Cal.App.4th 41, 51.) ""'In making this determination, 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.*, 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"].)

'"'Substantial evidence is evidence that is 'reasonable, credible, and of solid value'; such that a reasonable trier of fact could make such findings."'" (*In re D.C.*, *supra*, 243 Cal.App.4th at p. 52; see *In re S.A.* (2010) 182 Cal.App.4th 1128, 1140.) "'Evidence from a single witness . . . can be sufficient to support the trial court's findings.'" (*In re D.C.*, at p. 52; see *In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451.) "'But substantial evidence "is not synonymous with any evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal."'" (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 560.) '"'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., Jr.* (2016) 244 Cal.App.4th 1075, 1093 [a "juvenile court's conclusion 'supported by little more than speculation' [is] not based on substantial evidence"].) The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order. (*In re D.C.*, at p. 52; see *In re A.E.* (2014) 228 Cal.App.4th 820, 826.)

2. *The Juvenile Court Discredited the Evidence Supporting Jurisdiction Under Count b-1*

H.H. contends substantial evidence does not support the court's finding on count b-1 that domestic violence placed Jordan at risk of current physical harm. Because the court discredited the evidence it found supported jurisdiction on the domestic violence count, and because there is no other substantial evidence to support jurisdiction on that count, H.H.'s contention has merit.

The court's finding on count b-1 rested on (1) "statements from the collaterals" and (2) statements by I.S. Regarding the first category, the "collateral" witnesses the Department interviewed included I.S.'s mother, the adoptive mother of one of I.S.'s other children, a person in the office of Jordan's doctor, two officials in another state's department of family services, and I.S.'s friend and former wife of Gabriel's father. None of their statements mentioned any instance of domestic violence involving H.H., including the statement by I.S.'s friend to which the court referred. The court acknowledged this fact, but stated, "I think, in other respects, [the statement from I.S.'s friend] is corroborative of [I.S.'s] initial statement about the physical altercations between the parents." The court did not identify these "other respects," but nothing in the Department's notes of the interview with I.S.'s friend fits the bill. The friend did tell the Department that I.S. and H.H. "are very toxic together," but she did not identify any consequences of their toxicity. She also told the Department she was glad to hear I.S. planned to live in a shelter rather than staying with H.H. "because of the conditions of the home," and mentioned H.H. and his family used drugs with the children present, but she did not refer to any instance of domestic violence. Finally, the friend stated I.S. told her "Jordan would be left in the care of the child Gabriel" when the family left

the house. While these statements might support other bases for the court's jurisdiction, they do not evidence, corroborate, or suggest domestic violence between I.S. and H.H. Thus, the statements from the "collaterals" were not substantial evidence of the "violent altercations" the Department alleged in count b-1. (See *In re Roxanne B.* (2015) 234 Cal.App.4th 916, 920 ["[a]lthough substantial evidence may consist of inferences, the inferences '"must be 'a product of logic and reason' and 'must rest on the evidence' [citation]; inferences that are the result of mere speculation or conjecture cannot support a finding"'"].)

The statements by I.S. cited by the court as evidence of domestic violence between I.S. and H.H. were similarly insufficient. In ruling on count b-3, the court discredited those same statements, finding I.S. had "credibility problems for all the reasons identified by [counsel for H.H.]." Those reasons related to statements by I.S. concerning the only alleged incidents of domestic violence: the September 3, 2017 incident, which led I.S. to seek medical attention despite having no injuries, and two purportedly "documented" incidents, for which there was no documentation. The juvenile court sustained count b-3 in spite of I.S.'s "credibility problems" because the court found I.S.'s conduct and previous interventions involving I.S.'s other children "support[ed] inferences" that corroborated her mental illness.

To be sure, credibility determinations are the domain of the trial court, not the reviewing court. (See *In re L.K.* (2011) 199 Cal.App.4th 1438, 1446 ["'it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends'"].) And the juvenile court may credit part of a statement and discredit other parts. As trial courts instruct jurors in civil and criminal cases, the trier of fact "may believe

all, part, or none of a witness's testimony." (CACI 5003, CALCRIM No. 226; see *In re Daniel G.* (2004) 120 Cal.App.4th 824, 830 [the trier of fact may believe and accept as true only part of a witness's testimony].) But the court may not discredit a statement in one context and credit the same statement in another. Evidence that a court discredits cannot be substantial evidence. (See *People v. Lewis and Oliver* (2006) 39 Cal.4th 970, 1047-1049 [an expert's opinion regarding the defendant's competence was not substantial evidence because the trial court found the opinion was not credible].)

Disregarding the statements by the "collaterals" that did not mention domestic violence and the statements by I.S. that the juvenile court discredited leaves one relatively minor incident of domestic violence, which is not substantial evidence to support the court's jurisdiction finding on count b-1. H.H. admitted that on September 3, 2017 I.S. scratched and hit him during an argument outside their home and not in the presence of the children. There is no evidence, however, that such violence was "ongoing or likely to continue and that it directly harmed [Jordan] physically or placed [him] at risk of physical harm." (*In re Daisy H., supra*, 192 Cal.App.4th at p. 717; see *In re M.W.*, *supra*, 238 Cal.App.4th at p. 1453.) Cases affirming a juvenile court's jurisdiction under section 300, subdivision (b), based on domestic violence between parents rely on far more serious conduct. For example, in *In re R.C.* (2012) 210 Cal.App.4th 930 the court stated: "This case does not involve a single act which endangers a child. Rather this case involves: two separate acts of domestic violence; repeated threats to kill the mother; a threat to take the children to Mexico; domestic violence in the presence of one of the children; and one of the children, R.C., being afraid of the father." (*Id.* at p. 944.) In *In re T.V.* (2013) 217 Cal.App.4th

126 the court cited "a lengthy history of domestic violence, often requiring police intervention," the father's felony convictions for spousal abuse, and two restraining orders against him. (*Id*. at p. 134.) The record in this case does not include evidence of any such serious incidents of domestic violence or of a history of violent altercations evidencing a risk of ongoing violence between H.H. and I.S.

The Department cites *In re John M.* (2013) 217 Cal.App.4th 410 (*John M.*) for the proposition that a single incident of domestic violence may support jurisdiction under section 300, subdivision (b), where the parents engage in "repeated verbal altercations over the course of their relationship." The single incident that occurred between the parents in *John M.*, however, was far more serious than the single incident in this case. Indeed, at the time of detention in *John M.*, the father was incarcerated for beating the mother repeatedly with his fists, causing bleeding and head injuries. (*John M.*, at p. 416.) The child in that case also told the Department that his parents "fought at home" and that he had seen his mother hit his father. (*Ibid.*) In affirming the jurisdiction finding, the court stated: "The parents' history of domestic violence evidences an ongoing pattern that, while not yet causing harm to [the child], presented a very real risk to [his] physical and emotional health. Both parents hit each other; verbal altercations were frequent; and father engaged in reckless driving with mother in the car. . . . [The child's] age would do little to protect him from father's violent outbursts. Finally, the severity of the [beating] incident is not lessened by the fact it was isolated and [one year before the (delayed) jurisdiction/disposition hearing]; indeed, father was incarcerated for his conduct in that incident that resulted in mother's injury." (*John M.*, at p. 419.)

Unlike the facts in *John M.*, there is no evidence here of an "ongoing pattern" of domestic violence or of violent outbursts. There is evidence of one incident, on September 3, 2017, in which H.H. concedes I.S. scratched and hit him outside Jordan's presence. This incident, without more, does not establish a substantial risk of serious physical harm to Jordan or a risk that the conduct will recur. (*In re D.L.*, *supra*, 22 Cal.App.5th at p. 1146; see *In re S.O.* (2002) 103 Cal.App.4th 453, 461.)

C. *On Remand the Court Must Reconsider the Disposition Order*

H.H. argues the disposition order "as to count b-1 should be reversed, and the case remanded with instructions to dismiss that count and all related dispositional orders." The disposition order required H.H. to participate in a counseling program.[4]

At disposition "the juvenile court has broad discretion to make 'all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child.'" (*In re D.M.* (2015) 242 Cal.App.4th 634, 647; see § 362, subd. (a).) "The problem that the juvenile court seeks to address need not be described in the sustained Welfare and Institutions Code section 300 petition. [Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order." (*In re D.M.*, at p. 647; accord, *In re D.L.*, *supra*, 22 Cal.App.5th at p. 1148.) Where a court requires a parent to participate in a counseling or education

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[4] The disposition order also required H.H. to submit to random or on-demand drug testing. Because that portion of the disposition order is not related to count b-1, it is not a part of H.H.'s appeal.

program, the program must "be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300." (§ 362, subd. (d).) We will not reverse a juvenile court's determination of what will best serve and protect a child's interests absent a clear abuse of discretion. (*In re Natalie A.* (2015) 243 Cal.App.4th 178, 186; *In re Briana V.* (2015) 236 Cal.App.4th 297, 311.)

We cannot determine from the record whether the court required H.H. to participate in a counseling program to eliminate the conditions that led to the court's jurisdiction finding under count b-3 relating to I.S.'s mental condition. (See, e.g., *In re Jasmin C.* (2003) 106 Cal.App.4th 177, 182 [reversing a disposition order regarding parenting classes for a non-offending parent].) For example, the court ordered individual counseling and parent counseling for both H.H. and I.S. and required the Department to provide, among other things, "all therapists with [a] copy of [the] sustained petition." To the extent the court intended the sustained petition to guide H.H.'s therapists, they may assume H.H. needs counseling to address his "history of engaging in violent altercations," when in fact there was no substantial evidence to support that allegation. Therefore, we reverse the disposition order for family maintenance services for H.H. and remand for the court to exercise its discretion to make an order designed "'to eliminate [the] conditions that led to the court's [still valid jurisdictional] finding.'" (See *In re D.M.*, *supra*, 242 Cal.App.4th at p. 639.)

DISPOSITION

The jurisdiction findings on count b-1 and the disposition order requiring H.H. to participate in counseling are reversed. The matter is remanded to the juvenile court with directions to reconsider family maintenance services and counseling for H.H. in accordance with section 362. In all other respects the jurisdiction findings and disposition order are affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.