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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 AMANDA R. et al., Persons Coming Under the Juvenile Court Law.	B235260 (Los Angeles County Super. Ct. No. CK86625)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. BERTHA R., Defendant and Appellant.	

APPEAL from orders of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed.

Mitchell Keiter, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, Acting County Counsel, James M. Owens, Assistant County Counsel, and Navid Nakhjavani, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Defendant Bertha R. (Mother) appeals from orders removing her daughter, Amanda R., and her son, Andrew R., from her legal and physical custody pursuant to Welfare and Institutions Code[1] sections 300 and 361. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Mother came to the attention of the Department of Children and Family Services (DCFS) through a Child Protection Hotline referral on January 27, 2011. The referral alleged that Mother had been having sexual intercourse with a neighbor's son, Diego, who was 14 years old, and that Mother's children, Amanda, age 16, and Andrew, age 9, were at risk of sexual abuse by Mother. The referral alleged that Diego recently told his mother about the sexual abuse.

According to the DCFS detention report dated February 16, 2011, in the ensuing investigation, during an interview conducted by a DCFS children's social worker (CSW) and Detective Tim Abrahams of the Los Angeles Police Department, Mother admitted having sex with Diego over a four-month period and that she knew Diego was 13 years old when the activity began in September 2010. Detective Abrahams called in a deputy who placed Mother under arrest for the sexual abuse of Diego. Another CSW had met with Diego two days earlier. Diego described one sexual encounter that Mother had initiated with him in the bathroom of her home while her 9-year-old son, Andrew, was in the next room. The CSW learned that Diego was developmentally delayed and functioned between a 7- to 9-year-old age level.

In the evening of the day Mother was arrested, a CSW interviewed the children's father, Rafael R. (Father), at the sheriff's station where Mother was being held. Father

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[1] All further references to statutory sections are to the Welfare and Institutions Code unless otherwise identified.

stated that he did not know that Mother had been having a sexual relationship with Diego. He said he believed the allegations of sexual abuse were made because Diego's family was upset with his family. Father told the CSW that, on January 27, 2011, Mother had explained to him that Diego had raped her. Father said that Mother had been under stress and had made several suicide attempts.

According to the detention report, Amanda told a CSW that she never saw anything happen between Mother and Diego. She also denied ever being inappropriately touched. Andrew told a CSW that, at his home, he played a video game with Diego and Mother would watch them as they played. When asked if Mother and Diego were friends, Andrew responded that Diego used to be friends with Mother, but "not anymore." Andrew denied any physical abuse or sexual abuse and stated he had never been touched on his private parts.

On February 16, 2011, DCFS filed a petition as to Amanda and Andrew. The petition alleged that, within the meaning of section 300, subdivision (b), Mother's failure to protect placed the children at a substantial risk of serious physical or emotional harm, based upon Mother's alleged sexual relationship with Diego (count b-1), Mother's alleged use of marijuana (count b-2), and Mother's alleged mental and emotional problems, including suicidal ideation (count b-3). The petition also alleged Mother's sexual abuse of Diego placed the children at risk of physical and emotional harm and sexual abuse within the meaning of section 300, subdivision (d) (count d-1).

At the detention hearing, the juvenile court detained the children from Mother's custody and released them to Father, with the order that Mother would not be allowed to reside in Father's home if and/or when she was released from custody. Visitation for Mother was to be with a DCFS-approved monitor and in a DCFS-approved setting. DCFS was order to provide Mother appropriate family reunification services based on the allegations raised in the petition.

According to the DCFS jurisdiction and disposition report dated March 23, Mother and Father had been married 22 years and had an adult son in addition to their two minor children. As of March 23, 2011, Amanda and Andrew had had one monitored visit with

Mother while she was incarcerated. Father reported that Mother had been going through a deep depression, in part because her father was terminally ill and had been in a vegetative state for over a year. Father stated Mother had been taking medication for her depression and had been taking Xanax for over six years for anxiety. He said that she had suicidal thoughts and had attempted suicide in January 2011 by taking Xanax. Father reported that Mother would sometimes smoke marijuana, but only when she had friends over. Mother stated that she had never attempted suicide, had used marijuana only one time, and that she did get depressed and suffered from anxiety for which she took Xanax.

Amanda and Andrew stated that they thought their mom was a good mother. They said they had never seen Mother do anything inappropriate with Diego. Each of them reported that Mother cried and appeared to be sad most of the time.

At a hearing on March 24, 2011, the juvenile court set the case for a contested hearing to be held May 18. On May 3, Mother filed notice of objections to certain hearsay statements in the DCFS reports. On the hearing date, the court continued the matter until July 7 in order for Mother to be brought to the trial from state custody.

A July 7, 2011 DCFS addendum report stated that, on April 6, 2011, Mother pled no contest to violation of Penal Code section 288, subdivision (c)(1), lewd or lascivious acts upon a child of 14 or 15 years by a person who is at least 10 years older than the child. The DCFS report included the minutes of the Los Angeles Superior Court for the criminal case filed against Mother, *People v. Bertha R.* (2011, No. BA380798). The criminal trial court sentenced Mother to three years in state prison and ordered her to register as a convicted sex offender.

On July 7, the juvenile court conducted the contested hearing on the petition. Mother waived her appearance. The court accepted the DCFS detention report of February 16, 2011, the jurisdiction and disposition report dated March 24, and the addendum report dated July 7 into evidence. Mother's adult son, Rafael Alan R., testified in defense of Mother. He testified that he was 21 years old and had lived with Mother all of his life. When asked if, based on his experiences, he had any concerns about how Mother parented him, he responded, "No." He testified that Mother prepared food for the

children, cleaned the home, asked the children about—and helped them with—their homework, and talked to them about any problems they were having. Rafael Alan R. testified that he never heard Mother say something to the children or do something to them that concerned him. He was not aware of Mother having any mental or emotional problems. He was not aware that Mother was having sexual relations with the child from next door.

The juvenile court sustained objections to questions by Mother's counsel regarding whether Rafael Alan R. ever observed Mother doing anything that he considered sexually inappropriate to him, whether he had any concerns about Mother's parenting of Amanda and Andrew, whether he ever observed any concerning behavior by Mother and how she parented the children, whether he ever observed Mother neglect the children and whether he had observed Mother using marijuana. There were no further witnesses. The juvenile court acknowledged reading and considering Mother's trial brief.

After closing arguments, the juvenile court sustained counts b-1 and b-3 of the petition and dismissed the remaining counts. The court found that it had jurisdiction and declared the children to be dependent children of the court under section 300, subdivision (b). As to disposition, the court ordered that the children be placed with Father. The court further ordered that jurisdiction would be terminated when counsel provided and the court issued a family law exit order providing for Father to have sole physical and legal custody of the children. Mother lodged an objection to the case being closed at that time and requested that she be provided family reunification services. The juvenile court denied the request.

The family law custody order and final judgment were issued on July 13, 2011. The court ordered that Father had legal and physical custody of Amanda and Andrew and that the children's primary residence was with Father. Mother was granted monitored visitation as follows: "Minimum 2 visits per week, 2 hours per visit once [Mother] is released. Additional visits as parents agree." The court ordered the monitor to be "Father or monitor approved by Father." The order terminated the juvenile court's jurisdiction over the children.

DISCUSSION

Mother contends that the juvenile court's jurisdictional findings were not supported by substantial evidence. She also claims that the court erred in making certain evidentiary rulings and in denying her visitation and family reunification services. We disagree.

A. *Sufficiency of the Evidence Supporting Jurisdiction*

When a plaintiff challenges the sufficiency of the evidence, we review jurisdictional and dispositional findings to determine if there is any substantial evidence, contradicted or uncontradicted, which supports the juvenile court's decision. (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1433; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) If substantial evidence supports the juvenile court's findings, we must affirm the court's decision. (*In re Rocco M.*, *supra*, at p. 820.) "'[W]e must uphold the court's findings unless, after reviewing the entire record and resolving all conflicts in favor of the respondent and drawing all reasonable inferences in support of the judgment, we determine there is no substantial evidence to support the findings. [Citation.] Substantial evidence is evidence that is reasonable, credible, and of solid value. [Citation.]' [Citation.]" (*In re Christopher C.* (2010) 182 Cal.App.4th 73, 84.) "Evidence from a single witness, even a party, can be sufficient to support the . . . court's findings." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) We may affirm a juvenile court's decision if the evidence supports the decision on any ground. (*In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875.)

Section 300, subdivision (b), provides that a child comes within the jurisdiction of the juvenile court 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 . . . or by the inability of the parent . . . to provide regular care for the child due to the parent's . . . mental illness . . . ." In order to sustain a petition pursuant to section 300, subdivision (b), the juvenile court must

find three elements: "(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the minor, or a 'substantial risk' of such harm or illness." (*In re Rocco M.*, *supra*, 1 Cal.App.4th at p. 820; accord, *In re James R.* (2009) 176 Cal.App.4th 129, 135.)

The juvenile court sustained count b-1 based upon the finding that Mother sexually abused the neighbor's child, Diego, engaged in sexual intercourse with him, orally copulated him and threatened Diego with physical harm to keep him from disclosing their sexual relationship, and the finding that, as a result, the children were at risk of harm within the meaning of section 300, subdivision (b). Undisputed evidence supports the finding that Mother sexually abused a minor. Mother admitted initiating and maintaining a sexual relationship with Diego, knowing he was 13 years old when she began the abuse. Criminal court records admitted into evidence showed that Mother entered a no contest plea as to criminal charges of sexual abuse of a minor (Pen. Code, § 288, subd. (c)(1)), was sentenced to state prison, and registered as a sex offender. Mother's own statements are sufficient as substantial evidence to support the sexual abuse finding. (*In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451 [statements by a party are sufficient to support a finding].)

Mother contends that substantial evidence does not support the juvenile court's finding that her sexual abuse of a minor put Amanda and Andrew at risk within the meaning of section 300, subdivision (b). Mother claims that there is no evidence she was sexually abusive to the children and that evidence of her sexual relationship with the child Diego does not support a finding that the children were at risk of sexual abuse.

Mother relies on *In re B.T.* (2011) 193 Cal.App.4th 685. The *B.T.* court held that, even though substantial evidence supported a finding that the mother had an improper sexual relationship with the neighbor's 14- or 15-year-old son and he was the father of the mother's child, B.T., there was no evidence that B.T. was at risk of abuse or neglect by the mother and, hence, there was no evidence that the child was at risk of harm within the meaning of section 300, subdivision (b). The court noted that the mother "had an exemplary track record of child rearing. While her relationship with [the neighbor's

minor son] certainly reflected poorly upon her judgment in one area, nothing suggested that it would cause her to neglect or abuse her baby daughter [B.T.], especially since there was no evidence at all of any past abuse of her three other children[, ages 17, 12, and 9], or of any other children." (*B.T.*, *supra*, at p. 687.) The court reversed the juvenile court's jurisdictional finding made pursuant to section 300, subdivision (b). Mother's argument, in reliance on the *B.T.* court's holding, addresses but one type of harm of which Amanda and Andrew may be at risk based upon Mother's sexual relationship with Diego.

The absence of evidence that Mother ever sexually abused her own children provides no guarantee that such a risk does not exist; all of the facts must be considered in making that determination. In *In re Andy G.* (2010) 183 Cal.App.4th 1405, Division Eight of this court affirmed a juvenile court's jurisdictional finding that a father's aberrant sexual behavior in the home with his two-year-old son's half sisters placed his son at risk of sexual abuse, even though there was no evidence that the father had ever sexually abused a male child. (*Id.* at pp. 1414-1415.) In that case there was also evidence that the father used the male child to lure the half sisters to the father. In light of all of the evidence, the court concluded that "'aberrant sexual behavior by a parent places the victim's siblings who remain in the home at risk of aberrant sexual behavior.' [Citation.]" (*Id.* at p. 1414.)

We agree with DCFS that, even if Amanda and Andrew were not at risk of sexual abuse by Mother, nonetheless, Mother's conduct showed they were at risk within the meaning of the dependency statutory scheme. DCFS cites *In re Maria R.* (2010) 185 Cal.App.4th 48, in which the appellate court reviewed jurisdiction imposed pursuant to section 300, subdivision (j) (and not subdivision (b) as in the present case) as to two children, whose siblings had been sexually abused. (*Maria R.*, *supra*, at pp. 52-53.) In the instant case, no sibling of Amanda or Andrew had been sexually abused, nevertheless, the basis for the *Maria R.* court's decision is equally applicable to uphold the jurisdictional findings as to Amanda and Andrew.

The *Maria R.* court stated that "[t]he purpose of the dependency system 'is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, *and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm*.' (§ 300.2, italics added.) 'When a parent abuses his or her own child, or permits such abuse to occur in the household, the parent also abandons and contravenes the parental role. Such misparenting is among the specific compelling circumstances which may justify state intervention, including an interruption of parental custody.' [Citation.]" (*In re Maria R.*, *supra*, 185 Cal.App.4th at p. 63.)

The fact that Diego was unrelated to Amanda, Andrew or Mother does not nullify the potential for future harm to the children. The Legislature recognized the significance of a parent's misconduct with an unrelated child in enacting section 355.1, subdivision (b), which makes evidence of a parent's misconduct with an unrelated child admissible in a dependency proceeding. (See *In re Y.G.* (2009) 175 Cal.App.4th 109, 115-116.) "Depending on the circumstances, a parent's abuse of an unrelated child may well tend to prove that the parent suffers from characteristics that also place the parent's child at substantial risk of similar abuse as a result of the parent's inability to adequately supervise or protect" within the meaning of section 300, subdivision (b). (*Y.G.*, *supra*, at p. 116.)

Another provision of section 355.1 also applies, given that, prior to the contested jurisdiction hearing, Mother had been convicted of sexual abuse of a minor and required to register as a sex offender. Section 355.1, subdivision (d), provides that if a parent has been previously convicted of sexual abuse or is required to register as a sex offender, those facts are prima facie evidence that the parent's child "is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect."[2] In *In re John S.* (2001) 88 Cal.App.4th 1140, the court noted that the bill

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[2] Section 355.1, governing evidence in dependency hearings, provides: "(d) Where the court finds that . . . a parent . . . [of] a minor who is currently the subject of the

amending section 355.1 to include subdivision (d) contains a declaration of legislative findings and purpose which states, "'The Legislature finds that children . . . are placed at risk when permitted contact with a parent . . . who has committed a sex crime.'" (*Id.* at p. 1145, italics omitted.) The court concluded that "the intent of the Legislature was to focus on the heightened risk facing minors who come into contact with sex offenders . . . . [¶] . . . [¶] . . . [T]he presumption in the statute is not conclusive and affects only the burden of producing evidence." (*Ibid.*) Thus, a parent is free to present evidence that his or her conviction of sexual abuse and status as a registered sex offender does not place his or her child "at substantial risk of abuse or neglect." (*Id.* at pp. 1145-1146.) The legislative reference to risk is broad and does not limit the nature of the risk solely to risk of sexual abuse of the parent's child. Even if we assume arguendo the truth of Mother's claim that there is no evidence she had ever sexually abused her children, the Legislature has recognized that sufficient risk remains to find that the children are at substantial risk of abuse and neglect as required to exercise jurisdiction over them under subdivisions (a), (b), (c) and (d) of section 300. Mother did not present any further evidence to overcome the presumption created by section 355.1, subdivision (d).

Evidence shows that Mother failed to, and showed an indifference to her parental responsibility to, adequately supervise and protect her children from harm. Mother did more than simply permit sexual abuse to occur in the children's home; she was the abuser and initiated and repeated the sexual abuse of Diego in the home over at least four months, knowing that her children were or could be nearby. Mother's attention to her sexual relationship with Diego, even leaving the family home looking for him, resulted in her being unavailable to supervise and protect the children during those times. Although

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petition filed under Section 300 (1) has been previously convicted of sexual abuse as defined in Section 11165.1 of the Penal Code, . . . or (4) is required, as the result of a felony conviction, to register as a sex offender pursuant to Section 290 of the Penal Code, that finding shall be prima facie evidence in any proceeding that the subject minor is a person described by subdivision (a), (b), (c), or (d) of Section 300 and is at substantial risk of abuse or neglect. The prima facie evidence constitutes a presumption affecting the burden of producing evidence."

Amanda and Andrew were not direct observers or victims of Mother's aberrant sexual behavior, Mother involved the children in her behavior. Mother told Andrew to tell Diego that she was pregnant with his child. Mother told Amanda that Diego was beating her. In engaging in such conduct, Mother abandoned her parental role. (*In re Maria R., supra,* 185 Cal.App.4th at p. 63.)

As a CSW reported, Mother either was in denial about the wrongfulness of her conduct or she lacked understanding of the wrongfulness. For example, she told a CSW that she did not understand why she was going to be arrested and detained because, after all, she had told the truth about her sexual relationship with Diego. Such a serious flaw in her judgment indicates a significant deficiency in her ability to fulfill her parental role to adequately supervise and protect the children from harm. The foregoing parenting deficiencies put the children at risk of harm in the future. (See *In re Maria R., supra,* 185 Cal.App.4th at p. 63.)

Whether Amanda and Andrew suffered physical harm or illness as a result of Mother's conduct does not mean they were not at risk of such harm. Nor does it eliminate the risk to the children if they remained in Mother's custody. The juvenile court's finding of jurisdiction is consistent with "[t]he paramount purpose underlying dependency proceedings [which] is the protection of the child. [Citations.] . . . Section 300 states in part: 'It is the intent of the Legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, *and to protect children who are at risk of that harm . . . .*'" (*In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214-1215, italics added.) We conclude that substantial evidence supports the juvenile court's finding of risk of harm to the children within the meaning of section 300, subdivision (b), based upon Mother's sexual abuse of Diego (count b-1), and that the risk warranted the juvenile court's intervention with respect to Mother's custody of the children. (§ 300.2; *In re Maria R., supra,* 185 Cal.App.4th at p. 63; *In re Andy G., supra,* 183 Cal.App.4th at p. 1414.)

Our conclusion that the juvenile court properly found jurisdiction based upon Mother's sexual abuse of Diego (count b-1) is a sufficient basis to affirm jurisdiction. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492; *In re Christopher C.*, *supra*, 182 Cal.App.4th at p. 83.) Nevertheless, we will also address whether the juvenile court properly found jurisdiction on the basis of Mother's alleged emotional and mental health problems (count b-3).

The juvenile court sustained count b-3 based upon its finding that Mother had demonstrated mental and emotional problems including suicidal ideation which rendered her incapable of providing the children with regular care and supervision. Mother argues that there was no evidence of harm to the children due to her alleged mental or emotional problems and, as a result, no evidence of causation of harm as required by section 300, subdivision (b).

Contrary to Mother's contention, the absence of evidence that the children were harmed by Mother's emotional and mental problems is not determinative for jurisdictional purposes. As authority for her contention of the need for evidence of actual harm caused by her emotional and mental problems, Mother cites the discussion of the elements required for jurisdiction under section 300, subdivision (b), in *In re David M.* (2005) 134 Cal.App.4th 822 at page 829. She asserts that mere evidence of emotional problems does not support jurisdiction; rather there must be evidence that the parent's emotional problems have affected the parent's care for the children.

We acknowledge that the *David M.* court parenthetically gives the following example of the type of evidence required: "evidence showing a substantial risk that *past* physical harm will reoccur." (*In re David M.*, *supra*, 134 Cal.App.4th at p. 829, italics added.) The *David M.* court said, however, the evidence required is "'evidence indicating that the child is exposed to a substantial risk of [a] serious physical harm or illness." [Citation.]' [Citation.]" (*Ibid.*, italics omitted.) Past harm is but one type of evidence that may demonstrate the requisite risk of future harm to the child.

Subdivision (b) of section 300 does not specify a formal procedure for evaluating whether a parent suffers from an emotional or mental health disability. (*In re Khalid H.*

(1992) 6 Cal.App.4th 733, 736.) At issue "at the jurisdictional hearing is whether a child is at substantial risk of harm at the hands of a parent, due to parental acts or inaction." (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 202.) While a psychologist or psychiatrist may have greater insight into the parent's purported disability than a lay person, "whether [the parent] is a danger to [his or] her child can be evaluated by the court without an expert." (*Ibid.*)

Review of the record reveals statements by not only the children and Father but also by Mother about the history and seriousness of Mother's mental health issues. Both Amanda and Andrew reported that Mother cried and was sad most of the time. Father told a CSW that Mother had been taking medication, including Xanax, for her depression and anxiety during the months preceding the filing of the dependency petition. He said that Mother had suicidal thoughts, had made statements about wanting to "end her suffering," and had attempted suicide several times, including taking an overdose of Xanax in January 2011. Mother told a CSW that she had experienced increased anxiety in the past few months and that she suffered from "stress headaches." She denied any suicide attempts but admitted making a statement that she did not want to "be around." Mother's sexual abuse of a neighbor's child is also an indicator that Mother had serious emotional or mental health problems. Her indirect involvement of her children in her aberrant sexual relationship with their friend adds to the evidence of her emotional and mental health disability.

We conclude that substantial evidence supports a finding that Mother had serious emotional and mental health problems which placed the children at risk of harm, as required for jurisdiction under section 300, subdivision (b). (*In re Jason L., supra*, 222 Cal.App.3d at pp. 1214-1215.)

B. *Evidentiary Rulings*

Mother contends that certain evidentiary rulings by the juvenile court constitute reversible error. Mother claims that the court erroneously denied her hearsay objections to admission of the DCFS reports and attached documents and failed to require the

preparers of the reports to testify at the contested hearing. She also claims the juvenile court erred in sustaining DCFS's objections to certain testimony of Mother's adult son. We disagree.

We generally review evidentiary rulings for abuse of discretion. (See *In re Robert L.* (1993) 21 Cal.App.4th 1057, 1065.) An error in an evidentiary ruling does not require reversal unless it can be shown that, absent the error, the result obtained in the case would be more favorable to the party appealing the ruling. (Cal. Const., art. VI, § 13; Evid. Code, §§ 353, 354; *People v. Watson* (1956) 46 Cal.2d 818, 836.) Otherwise the error is harmless. The same standard applies in dependency matters. (*In re Celine R.* (2003) 31 Cal.4th 45, 59-60.)

Fifteen days prior to May 18, the date set for the contested hearing, Mother filed written objections "to all hearsay statements contained in DCFS reports . . . and all other documentation that DCFS seeks to introduce as evidence in the instant matter." For 12 statements, she identified the DCFS or law enforcement report and person making the statement and quoted the statement.[3] She also included a request that DCFS make available at the hearing all hearsay declarants that DCFS intended to rely on in support of a judicial finding.

DCFS filed a response, in part claiming that Mother's filing was untimely. The contested hearing was continued to July 7. As the juvenile court ordered, a CSW was on call for the initial hearing date of May 18. The court also ordered a CSW to be on call for the July 7 hearing.

At the hearing, the juvenile court admitted the DCFS reports, including attached law enforcement reports, into evidence. Mother's counsel did not raise an objection

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[3] Mother listed statements from the DCFS detention report and/or the DCFS jurisdiction and disposition report for the anonymous caller to the Child Protection Hotline; Ara A., a mental health therapist engaged by Diego's mother; Diego; his sister, Jocelyn R.; and his mother, Maria B. She listed statements from reports created by the Los Angeles County Sheriff's Department and attributed to Diego and his mother Maria B.

orally at the hearing or request the court to rule on the written objections. She also did not call any CSW or any hearsay declarant for purposes of cross-examination. Mother's only witness was her adult son, Rafael Alan R. Mother challenges the juvenile court's denial of her objections and its admission of the reports into evidence at the hearing.

Mother based her written objections upon section 355. Section 355, subdivision (a), provides that "[a]t the jurisdictional hearing, . . . [a]ny 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." Section 355, subdivision (b), establishes that a social study, such as a DCFS report, is legally admissible evidence. (*In re Lucero L.* (2000) 22 Cal.4th 1227, 1243.) Pursuant to section 355, subdivision (b), "[a] social study prepared by the petitioning agency, and hearsay evidence contained in it, is admissible and constitutes competent evidence upon which a finding of jurisdiction . . . may be based," subject to subdivisions (c) and (d).[4]

Section 355, subdivision (c)(1), provides that if a "party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in" the DCFS report, "the specific hearsay evidence *shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based* unless the petitioner establishes one or more" of specified exceptions. The exceptions are: if a hearsay exception applies (*id*., subd. (c)(1)(A)); if the "hearsay declarant is a minor under the age of 12 years who is the subject of the jurisdictional hearing" (*id.*, subd. (c)(1)(B)); if the hearsay declarant is a peace officer, health practitioner, social worker, or teacher (*id.*, subd. (c)(1)(C)); or if the "hearsay declarant is available for cross-examination," including being available on telephone standby (*id.*, subd. (c)(1)(D)). (See Cal. Rules of Court, rule 5.684.) Section 355, subdivision (d),

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[4] Section 355, subdivision (b)(1), describes "social study" as "any written report furnished to the juvenile court and to all parties or their counsel by the . . . welfare department . . . involving . . . a minor in a dependency proceeding."

confirms the right of any party to subpoena a hearsay declarant as a witness or "to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant."

Contrary to the implication of Mother's arguments, section 355, subdivision (c), does not provide that hearsay in a social study is inadmissible if a timely objection is made; subdivision (c) simply limits the effect of the hearsay as support for a jurisdictional finding. The California Supreme Court has held, "consistent with . . . section 355, subdivision (b), . . . the hearsay statements contained in social studies should be admissible . . . . [A]lthough subdivisions (c) and (d) limit the extent to which such social study hearsay evidence can be relied on exclusively, there is no limitation, except for fraud, deceit, or undue influence, on the admission of hearsay evidence." (*In re Lucero L., supra*, 22 Cal.4th at pp. 1242-1243, fn. omitted.) Accordingly, the juvenile court did not err in admitting the DCFS reports, including their attachments, into evidence.

As discussed above, Mother's own statements supported the jurisdictional finding of sexual abuse by Mother and were sufficient in themselves to support the finding. (*In re Alexis E., supra*, 171 Cal.App.4th at p. 451.) There is ample corroborating evidence. (See *In re R.R.* (2010) 187 Cal.App.4th 1264, 1280-1281.) Thus, not one of the hearsay statements to which Mother objected was the sole basis to support the sexual abuse finding and the jurisdictional finding based upon it. (§ 355, subd. (c).)

Mother also claims the juvenile court erred in admitting the reports, in that the preparers were not present and did not testify about the reports. Section 355, subdivision (b)(2), provides that the preparer of a social study shall be made available for cross-examination upon timely request and that the court may deem being on telephone standby as being available. The juvenile court satisfied the statutory requirement by ordering a CSW to be on call for the July 7 hearing. "[D]ue process [does] not require the government [e.g., DCFS or the juvenile court] to make available persons quoted in a social study as long as the parties opposing the government [have] an opportunity to subpoena them." (*In re Lucero L., supra*, 22 Cal.4th at pp. 1243-1244.) Mother could have, but did not, subpoena or call as witnesses any CSW, other preparer or hearsay

declarant whose statements appear in the reports. Mother did not inquire as to whether a preparer was available. Therefore, Mother forfeited the issue on appeal. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293 and fn. 2.) For the foregoing reasons, the juvenile court did not err in admitting the DCFS and attached law enforcement reports into evidence.

Mother also claims that the juvenile court erred in sustaining objections during the testimony of her adult son, Rafael Alan R. The first objection was when Mother's counsel asked, "While you were living with your mother, had you ever witnessed your mother do anything that you considered to be sexually inappropriate to you?" The juvenile court sustained the objection on the ground that the response being sought was irrelevant. Mother's counsel argued that it was relevant to show that Mother never had any inappropriate contact with the adult son and, therefore, there may not be a risk of such contact with Amanda and Andrew. We agree with DCFS that the juvenile court did not abuse its discretion in sustaining the objection. Evidence is relevant only if it has "any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210.) There was no issue before the court regarding whether Mother had had inappropriate contact with her adult son.

We also disagree with Mother's claim that the juvenile court erred when it sustained objections on the ground of vagueness to the following two questions posed to Rafael Alan R.: (1) "And during those times that you observed your siblings and your mother together, did you ever observe any concerning behavior on the part of your mother and how she parented your siblings?" and (2) "Did you ever observe your mother neglect your siblings?" By the use of terms such as "did you ever," "concerning behavior," and "neglect," the questions lack specificity required to identify the information sought and, thereby, its relevance to the issues in this case. In any event, counsel asked many other questions which elicited testimony from Rafael Alan R. about several ways in which Mother took care of the children consistent with good parenting practices.

As discussed above, the jurisdictional findings are supported by substantial evidence which is not inadmissible hearsay—Mother's own statements. Therefore, even

if any evidentiary ruling Mother challenges were in error, it would be harmless error. We conclude that the challenged evidentiary rulings provide no basis to reverse the juvenile court's decision. (*In re Celine R.*, *supra*, 31 Cal.4th at pp. 59-60.)

C. *Propriety of the Disposition Order*

The disposition order specified that Father was granted sole legal and physical custody of Amanda and Andrew and that the children would live with him (as they had been living during the entire dependency proceeding). As to Mother, the disposition order provided for " 2 visits per week, 2 hours per visit once [Mother] is released," but did not order visitation during Mother's incarceration and did not order any other family reunification services to be provided to Mother. The disposition order is in error, Mother claims, because the juvenile court failed to order family reunification services for her or visitation during her incarceration. Mother asserts that the disposition order must be reversed, in that the court failed to make a finding of detriment as required under section 361.5 before a juvenile court may deny family reunification services.[5]

Mother is mistaken. As Division One of this court held, "section 361.5 is inapplicable when at the disposition hearing a child is returned to the custody of a parent." (*In re Pedro Z.* (2010) 190 Cal.App.4th 12, 19.) Pursuant to section 362, when a child is placed in the custody of a parent subject to supervision of a CSW, the only services required to be provided are family maintenance services (§ 16506). "[W]hen the child remains in a parent's home, . . . the court is not concerned with reunification, but in

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[5] Section 361.5, subdivision (a), provides that a parent must be provided an opportunity for family reunification services, including visitation, unless one of the grounds in subdivision (b) applies or the juvenile court makes a finding of detriment under subdivision (e)(1). Mother cites the holding in *In re Kevin N.* (2007) 148 Cal.App.4th 1339 at page 1344: "Reunification services *must* be offered to an incarcerated parent *unless* the juvenile court finds services would be *detrimental to the child*. (§ 361.5, subd. (e)(1).)" The *Kevin N.* court concluded that, because the juvenile court failed to consider the detriment issue, the court's order had to be reversed. (*Kevin N.*, *supra*, at pp. 1344-1345.) The *Kevin N.* holding and disposition apply to a parent to whom section 361.5 applies.

determining 'whether the dependency should be terminated or whether further supervision is necessary.' [Citations.] . . . The goal of dependency proceedings—to reunify a child with at least one parent—has been met when, at disposition, a child is placed with a former custodial parent and afforded family maintenance services." (*Pedro Z.*, *supra*, at p. 20.) Section 16507, subdivision (b), states: "Family reunification services shall only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court." Section 16507 does not require or authorize family reunification services under the circumstances present in the instant case.

Pursuant to the disposition order, Amanda and Andrew remained in their home in the custody of Father, as they had been throughout the dependency proceedings. In their case, the juvenile court terminated jurisdiction and, in so doing, terminated its authority to issue even family maintenance services orders. Under the circumstances, there was no statutory authority requiring any order to provide Mother with family reunification services or additional visitation. (*In re Pedro Z.*, *supra*, 190 Cal.App.4th at pp. 19-20.)

DISPOSITION

The orders are affirmed.

JACKSON, J.

We concur:

PERLUSS, P. J.

ZELON, J.