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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re Enoch Z., a Person Coming  
Under the Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

EDUARDO L. et al.,

Defendants and Appellants.

B292116

(Los Angeles County  
Super. Ct. No. 18CCJP02677A)

APPEAL from orders of the Superior Court of Los Angeles County, Danette J. Gomez, Judge. Affirmed in part and dismissed in part.

Jesse F. Rodriguez, under appointment by the Court of Appeal, for Defendant and Appellant Eduardo L.

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

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Sally Son, Deputy County Counsel for Plaintiff and Respondent.

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## **INTRODUCTION**

Rosa Z. and Eduardo L. appeal from the juvenile court's jurisdiction findings declaring their one-year-old son, Enoch Z., a dependent of the court and from the disposition order removing Enoch from Rosa. Rosa contends substantial evidence supported neither the jurisdiction finding based on her alleged mental and emotional problems nor the removal order. Eduardo contends substantial evidence did not support the jurisdiction finding based on allegations he engaged in criminal activity, including having sex with a minor. Because substantial evidence supported the jurisdiction finding relating to Rosa and the removal order, we affirm them. We dismiss Eduardo's appeal from the jurisdiction finding as to him for failure to raise a justiciable controversy.

## **FACTUAL AND PROCEDURAL BACKGROUND**

### *A. The Detention Hearing*

In April 2018 the Los Angeles County Department of Children and Family Services filed a petition under Welfare and

Institutions Code section 300, subdivision (b)(1),<sup>1</sup> alleging one-month-old Enoch came within the jurisdiction of the juvenile court because of Rosa's failure or inability to supervise or protect him adequately and her inability to provide regular care for him because of her mental illness and substance abuse. The petition alleged Enoch was at substantial risk of serious physical harm as a result of, according to count one, Rosa's "mental and emotional problems, including suicidal ideation and a diagnosis of depression and anxiety," and, according to count two, Rosa's history of illicit drug use.

Fifteen-year-old Rosa was herself a dependent of the juvenile court, but had been missing for a year. According to the Department's detention report, Rosa became a dependent of the juvenile court in January 2013 and thereafter had multiple psychiatric hospitalizations and diagnoses as a result of, among other things, threats of suicide, violence against other children in her foster home, and methamphetamine abuse. In March 2017 she was placed in a conservatorship and committed to a mental health treatment facility from which she ran away the following month. In April 2018 police officers visited a residence in search of Rosa, and although she was not there, she soon after reported voluntarily to a police station with Enoch.

At the police station Rosa told officers and Department social workers that 24-year-old Eduardo was Enoch's father, that Eduardo was "not . . . around," that she and Enoch were living with Eduardo's parents, that her past mental health problems were caused by her drug use, and that she had not used drugs

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

since becoming pregnant with Enoch. After the social workers informed her they intended to detain Enoch, Rosa tried repeatedly to escape from the police station with Enoch. She eventually handed him over to the social workers, but later tried to escape from the police station by herself. Police officers chased her for a block before catching up with her.

At the detention hearing the juvenile court, over the Department's objection, released Enoch to Rosa in the care of a foster home.

B. *The Jurisdiction and Disposition Report and the First Amended Petition*

In May 2018 the Department filed a jurisdiction and disposition report in which a department investigator stated that, during an interview, Rosa "exhibited behaviors" suggesting she "suffers from mental illness," including being "verbally aggressive" and "show[ing] shifts in her mood and affect." A case manager at the group home where Rosa and Enoch lived stated that Rosa had "aggressive outbursts about once each day" and that the case manager was concerned for Enoch because Rosa "ignores him when she's on the phone with the baby[s] daddy," which was "pretty often."

The report also detailed several recent incidents of concern to the Department. In one, group-home staff took Rosa and Enoch to the hospital because Enoch had a stomach infection, but on arriving at the hospital Rosa began arguing on the phone with Eduardo and ignored hospital staff who were asking her questions about Enoch in order to treat him. Group-home staff had to answer the questions about Enoch's symptoms. Later in the visit Rosa became upset and began "to insult the doctors"

with profanity and “aggressive statements” and make “threats to medical staff.” While waiting for Enoch’s test results, Rosa continued to talk on the phone with Eduardo, ignoring Enoch, the group-home staff who were trying to persuade her to comfort him, and the doctors and nurses who asked her questions.

Another incident occurred when group-home staff took Rosa and Enoch to the emergency room because Rosa had a urinary tract infection. Rosa talked on the phone with someone she referred to as “sugar daddy” while medical staff tried to ask her questions, then she became disrespectful and “used profanity against” them. When group-home staff suggested she avoid using her phone and talk respectfully with the doctor, Rosa said, “Fuck off, I can do whatever I want, and do not fucking touch my baby.” She continued to talk on the phone, ignoring suggestions from group-home staff that she check on Enoch, who had begun to cry. When group-home staff again encouraged Rosa to attend to Enoch because he began crying more loudly, Rosa became upset, slammed her phone down, and told them, “I am a street bitch, and I will get you fucked up.” As staff backed away to give her space, she continued to slam things and make “statements like: ‘I will fuck up anyone that tried to touch me or tried to hurt me,’ ‘I do not give a fuck, I will fuck you up,’ and ‘Try me, no one will believe you.’” Afterward, as a group-home staff person was driving Rosa and Enoch from the hospital, Rosa was still “belligerent” and continued to say, “I am a street bitch, and I will get you fucked up.” And when the staff tried to turn the radio down, Rosa grabbed the driver’s wrist with both her hands, causing the driver to momentarily “lose control of her driving.” The following day Rosa was observed “aggressively punch[ing] her bedroom walls while she was holding . . . Enoch in her arms.”

After filing its report, the Department filed a first amended petition that added, to count one, allegations that Rosa “assaulted a group home staffperson while the staffperson was driving a car in which [Rosa] and . . . Enoch were passengers, causing the driver of the vehicle to lose control of the vehicle” and that Rosa “punched her bedroom walls while she was holding . . . Enoch in her arms.” The amended petition also added a third count, alleging Enoch was in substantial danger of physical harm as a result of Eduardo’s history of drug abuse and criminal history, which included a conviction for a drug-related offense.

C. *The Jurisdiction Hearing on the Allegations Relating to Rosa*

On May 30, 2018 the juvenile court held a jurisdiction hearing on the allegations relating to Rosa. Rosa was present, but Eduardo was not. Several witnesses testified, including Evelyn Hernandez, a supervising services social worker with the Department. Hernandez had known Rosa since January 2016, when Rosa’s dependency case was assigned to her, and she visited with Rosa on several occasions during that period. In those visits Rosa’s behavior would change dramatically, from “very calm” to angry “yelling and screaming.” On one occasion Rosa became physically aggressive with Hernandez, slapped a police officer who responded to the incident, and eventually had to be hospitalized because she was a danger to herself and others.

Hernandez testified Rosa’s current behavior was the same as it was in 2016 and made Hernandez believe Rosa’s mental health issues were not resolved. For example, on the day of the jurisdiction hearing, Hernandez was with Rosa and Enoch at a diaper-changing station in the courthouse bathroom when Rosa

became so upset and aggressive with Hernandez that she stepped away from the changing table, leaving Enoch lying on the table unattended, until Hernandez told her to “grab the baby before the baby falls.” Hernandez stated she thought Enoch was at risk of harm from rolling off the table. She stated that in her “professional opinion” Rosa was “unstable mentally,” did not focus on Enoch as she should, and often became “so angry it seems like she just forgets the baby.”

The juvenile court sustained the first amended petition, finding true the allegations in count one, regarding Rosa’s mental and emotional problems, and dismissed the allegations in count two, regarding Rosa’s history of drug use. The court continued the matter for a hearing on the allegations in count three, which concerned Eduardo, and for disposition. Enoch remained placed with Rosa.

#### D. *The Section 385 Petition To Detain Enoch*

In early June 2018 the Department filed a petition under section 385 seeking to detain Enoch from Rosa. The Department reported it had learned that, when Rosa previously took Enoch to the hospital because of his stomach infection, she left the hospital with him that day, rather than leave him overnight, against medical advice. The Department also reported receiving a letter from a manager for one of Rosa’s service providers detailing the manager’s concerns about Enoch in Rosa’s care, including that Rosa “ignores Enoch’s needs when she is talking or engaging in verbal altercations on the phone” and “often leaves her bottles dirty for long periods of time and is challenged with maintaining a clean environment for her and her son.”

At the hearing on the section 385 petition, Eduardo made his first appearance. The juvenile court sustained the petition and detained Enoch from Rosa and Eduardo.

E. *The Jurisdiction Hearing on Allegations Relating to Eduardo and Disposition*

In late June 2018 the Department filed a subsequent petition under section 342 alleging Enoch came within the juvenile court's jurisdiction under section 300, subdivisions (b) and (d), because Eduardo's criminal activity, including having sex with a minor, for which he was facing criminal charges, put Enoch at substantial risk of serious physical harm. In August 2018 the juvenile court held a jurisdiction hearing on all allegations concerning Eduardo. The court sustained the section 342 petition, finding true its allegations concerning Eduardo, and dismissed the allegations against Eduardo in the first amended petition.

The court proceeded to disposition. Among other evidence it considered was a last minute information reporting Rosa had recently left her foster home with an unidentified man and arrived at school under the influence of marijuana. The court removed Enoch from Rosa, placed him with Eduardo on the condition Eduardo reside in the home of his parents, and ordered monitored visits for Rosa. Eduardo and Rosa timely appealed.



## DISCUSSION

### A. *Substantial Evidence Supported the Jurisdiction Finding Based on Allegations Regarding Rosa’s Mental and Emotional Problems and the Removal Order*

#### 1. *Applicable Law and Standard of Review*

Section 300, subdivision (b)(1), authorizes the juvenile court to assert jurisdiction when the social services agency proves by a preponderance of the evidence there is a substantial risk 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 “the inability of the parent . . . to provide regular care for the child due to the parent’s . . . mental illness, developmental disability, or substance abuse.” (See *In re M.R.* (2017) 7 Cal.App.5th 886, 896 [the petitioner ““““must prove by a preponderance of the evidence that the child . . . comes under the juvenile court’s jurisdiction””””]; see also *In re R.T.* (2017) 3 Cal.5th 622, 624 [the parent need not be “at fault or blameworthy for her failure or inability to supervise or protect her child”].) “Although section 300 generally requires proof the child is subject to the defined risk of harm at the time of the jurisdiction hearing [citations], the court need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child.” (*In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1383; accord, *In re T.V.* (2013) 217 Cal.App.4th 126, 133.) To physically remove a child from his or her parent, the juvenile court “must find, by clear and convincing evidence, the child would be at substantial risk of harm if

returned home and there are no reasonable means by which the child can be protected without removal.” (*In re T.V.*, at p. 135; see § 361, subd. (c)(1).)

“In reviewing the jurisdictional findings and the disposition, we look to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] 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.” (*In re R.T.*, *supra*, 3 Cal.5th at p. 633; see *In re T.V.*, *supra*, 217 Cal.App.4th at p. 136 “[w]e review the court’s dispositional findings for substantial evidence”).)

## 2. *Substantial Evidence Supported the Jurisdiction Finding and Removal Order*

There was ample evidence Rosa’s failure or inability to supervise Enoch put him at substantial risk of serious physical harm. The incidents at the hospital and the incident at the courthouse diaper-changing station vividly demonstrated Rosa’s tendency to become so disturbed, mentally and emotionally, that she ignored Enoch and his apparent needs. And the incident at the diaper-changing station, when Rosa left Enoch unattended on the changing table where he could roll off and fall onto the floor, illustrated the risk of physical harm her inattention created. That she did not follow medical advice to leave Enoch at the hospital overnight when he had a stomach infection further supported an inference Rosa’s mental and emotional condition posed a risk of harm to him. Rosa argues substantial evidence

did not support the jurisdiction finding because, “from the detention hearing on April 27, 2018, through the May 30, 2018 jurisdiction [hearing,] Enoch safely remained with [Rosa].”<sup>2</sup> But, as stated, the juvenile court need not wait for a child to be seriously injured before assuming jurisdiction. (*In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1383.)

Substantial evidence also supported the removal order. As discussed, the evidence amply supported a finding that returning Enoch to Rosa’s care would put him at substantial risk of harm. “The jurisdictional findings are *prima facie* evidence the minor cannot safely remain in the home. [Citations.] The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.” (*In re J.S.* (2014) 228 Cal.App.4th 1483, 1492; accord, *In re A.F.* (2016) 3 Cal.App.5th 283, 292.)

And substantial evidence supported the juvenile court’s finding there were no reasonable means of protecting Enoch without removal. Indeed, from the April 2018 detention hearing until the June 2018 hearing on the Department’s section 385 petition to detain Enoch, Enoch remained in Rosa’s care, and during that time the juvenile court and the Department tried various means of addressing the conditions that posed a risk to him. In support of its section 385 petition to detain Enoch, the Department reported that it had made reasonable efforts to prevent the need to remove him from Rosa—by ensuring Rosa received mental health services, parent training, and childcare

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<sup>2</sup> In fact, Enoch remained in Rosa’s care until June 8, 2018, when the juvenile court granted the Department’s section 385 petition to detain him.

for Enoch while she was at school, among other services—but that those efforts were not effective in preventing the need to remove Enoch from Rosa.

Rosa mentions other “appropriate services” that could have prevented the need to remove Enoch, such as unannounced visits and random drug testing, but she does not explain how those services would have addressed the principal threat to Enoch’s safety: Rosa’s failure to supervise and protect him as a result of her unstable mental and emotional condition. Moreover, the record supports a reasonable concern that Rosa was a flight risk and likely to take Enoch with her, beyond the reach of any of the services she suggests might have prevented removal. Rosa also complains the juvenile court did not “mention the alternatives to out-of-home placement,” but she does not cite any authority requiring the court to do that.

Finally, Rosa argues the juvenile court did not state the facts on which it based its decision to remove Enoch, as required by section 361, subdivision (e). (See § 300, subd. (e) [“The court shall state the facts on which the decision to remove the minor is based.”].) But the juvenile court adequately explained the basis of its decision. The court stated it found that returning Enoch to Rosa’s care would be detrimental to his “safety, protection, or physical . . . well-being” and that “there are no services available to prevent” removing Enoch. In its remarks to Rosa at disposition, the court made clear the root of its concerns: “I think there’s definitely some mental health issues. I think there is some depression. There’s some suicidal ideation. Those really concern me. The not-eating. The self-medicating with marijuana and hashish. That’s concerning. And I think those are things

you need to get under control . . . .” Rosa cites no authority requiring more.

B. *Eduardo’s Appeal Is Not Justiciable*

“[I]t is necessary only for the [juvenile] court to find that one parent’s conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300 . . . the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. A jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is “good against both. More accurately, the minor is a dependent if the actions of either parent bring [him] within one of the statutory definitions of a dependent.” [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence.” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492; accord, *In re Briana V.* (2015) 236 Cal.App.4th 297, 308; see *In re Travis C.* (2017) 13 Cal.App.5th 1219, 1224 [“we need only find substantial evidence to support any one statutory basis for jurisdiction”].)

Eduardo concedes a jurisdiction finding based on Rosa’s conduct was sufficient to support the juvenile court’s jurisdiction,

and he does not challenge the finding based on her conduct or the disposition order. He argues we should reach the merits of his challenge to the jurisdiction finding relating to him, however, because the finding prejudices him. He suggests the finding prejudices him because it stigmatizes him and renders him “an ‘offending’ parent versus a ‘non-offending’ parent,” a distinction he argues “bear[s] on the issue of placement of the child pursuant to section 361” and is “relevant to how the juvenile court exercises its general power to make ‘reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child[ ]’ under section 362, subdivision (a).”

A reviewing court may indeed exercise its “discretion and reach the merits of a challenge to any jurisdictional finding when the finding . . . could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings.” (*In re D.P.* (2015) 237 Cal.App.4th 911, 917.) To establish such prejudice, however, Eduardo must identify some “specific legal or practical consequence” from the finding he challenges. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1493.) This he has not done. The closest he comes is suggesting his status as an offending parent could have affected the juvenile court’s decision on Enoch’s placement. Which is not a good argument because the juvenile court placed Enoch with Eduardo. Therefore, we decline to reach the merits of Eduardo’s appeal and dismiss it as not justiciable. (See *In re I.A.*, at p. 1495 [declining to review superfluous jurisdiction allegations and dismissing appeal challenging them].)

## **DISPOSITION**

The juvenile court's jurisdiction finding based on Rosa's conduct and the order removing Enoch from her care are affirmed. Eduardo's appeal is dismissed.

SEGAL, J.

We concur:

PERLUSS, P. J.

STONE, J.\*

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