Filed 5/8/12 In re S.B. 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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 S.B., a Person Coming Under the Juvenile Court Law.	B234042 (Los Angeles County Super. Ct. No. CK87200)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. TRINA M., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Terry T. Truong, Juvenile Court Referee. Affirmed.

Liana Serobian, under appointment by the Court of Appeal, for Defendant and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and Angela Williams, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

This appeal is from the juvenile court's jurisdictional findings and disposition orders as authorized by Welfare and Institutions Code section 395.[1] In capsule format for purposes of this introduction, on March 29, 2011, the Department of Children and Family Services (DCFS) filed its petition alleging that appellant mother (Trina M.) had medically neglected 10-year-old S.B. (minor) by failing to provide appropriate insulin and diet to control a diabetes condition which could ultimately result in kidney failure and that the alleged medical neglect further endangered her older siblings, O.P. and E.P.[2]

Appellant's sole contention on appeal is that substantial evidence did not support the court's finding of jurisdiction pursuant to section 300, subdivision (b).

For the reasons hereafter stated this court affirms the findings of the juvenile court pertaining to the jurisdiction and disposition orders.

FACTUAL AND PROCEDURAL SYNOPSIS

Initial referral.

DCFS received its initial referral on or about March 10, 2011, stating appellant had informed the minor's school on or about February 25, 2011, that insulin injections had been prescribed for the minor. The minor's doctor called the school on or about February 28, 2011, and on or about March 7, 2011, and requested that the school remind appellant to bring the minor's blood test results to her doctor's appointment. The minor's doctor asked the school to contact him any time the minor's blood sugar levels were over 400. The minor's blood sugar levels had ranged between 416 and 460.

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1 Unless otherwise noted, all future references are to the Welfare and Institutions Code.

2 The fathers of the minors are not parties to this appeal and will not be further discussed herein except as necessary as context might require.

Concerns were raised at the school when it found out the school was supposed to provide appellant with testing strips and other supplies because appellant had used all of the strips the doctor had prescribed, and Medi-Cal refused to pay for additional strips. The minor's blood sugar level was measured at 397 on March 11, 2011. Accordingly, the school contacted the minor's endocrinologist, one Dr. Bashar Saad. Dr. Saad authorized the school to administer extra insulin and opined that a good blood sugar level was 100.

Interview of minor at school.

The DCFS conducted its first interview of the minor by going directly to the minor's school on March 17, 2011. The interview revealed that the minor learned she had diabetes in 2009. The minor reported she had been receiving insulin injections for about four weeks. The minor reported she understood how to test her blood sugar levels and that she also was aware that she was required to test four times per day and receive insulin injections three times per day. Normally the minor would receive one injection at school and appellant administered the remaining injections. Because appellant was hospitalized for about three days, the minor administered her own injections while her sister watched.

Scheduling of team decision meeting.

Appellant informed the social worker of her availability date for March 23, 2011, at 4:00 p.m. and DCFS scheduled a team decision meeting ("TDM") on that date to meet with appellant, her three children, and other service providers who had made efforts to work with appellant and her family. Appellant, however, telephoned to cancel the TDM on the premise appellant had mistakenly scheduled the meeting on a date that the minor had a doctor's appointment. The TDM was then rescheduled for March 24, and the social worker urged appellant to attend on March 24, even if she had to arrive a little late. Appellant agreed but failed to attend or contact the department.

A social worker contacted the minor's school on March 24, 2011, and spoke with a health assistant. The health assistant reported that the minor's blood sugar level was frequently high because the minor failed to follow a restricted diet appropriate for a child with diabetes.

Questions pertaining to minor's diabetes treatment and management.

On March 24, 2011, the social worker inquired about the minor's treatment and management for diabetes. The school nurse opined the minor should be receiving four insulin shots per day, as prescribed by her doctor and not three shots per day as reported by the minor. The minor reported that she had one insulin shot after each meal or three per day. The school nurse expressed her worry and concerns that the minor was managing her own diabetes and that appellant did not properly supervise the minor's treatment.

Concerns were also expressed over appellant's failure to manage the diet of the minor because appellant frequently gave the minor snacks which elevated the minor's blood sugar level. At the time, the minor was ten years old and weighed 208 pounds. Because of the combination of the minor's weight and bad diet, the effect on her blood sugar level was apparent. The school nurse also had reported to appellant that the minor needed glasses to correct her poor vision. Accordingly, the nurse provided appellant with the name of a doctor to correct the vision problem but appellant had not followed the recommendation. The school nurse was prompted to make this recommendation when she observed the minor had to read tiny print on syringes to properly administer her insulin which further prompted concern by the nurse that the minor might accidently administer an incorrect amount of insulin.

Detention hearing.

A detention hearing was held on March 29, 2011. The court ordered Dr. Weinraub, who was a Department of Mental Health pediatrician, to coordinate with all treating medical health providers for the minor and to determine and report back to the court whether the minor's diabetes treatment plan was working and to further provide referrals to the family for diabetes training. The court further ordered DCFS to prepare a preadjudication social study report. The matter was set for further hearing on May 4, 2011.

Jurisdiction and disposition report prepared for May 4, 2011 hearing.

In compliance with the court's order, DCFS included in its report to the court the following: an interview with the minor's two older siblings which revealed that neither had attended any doctor appointments or diabetes medical training; a statement by E.P. that he knew nothing about diabetes monitoring or treatment with the exception that the minor needed to follow a special diet; and that he did not know that diabetes was a serious illness; O.P. explained she had occasionally administered insulin injections to the minor, but she learned about diabetes from the minor and appellant and did not realize that diabetes was a serious illness; appellant was interviewed and reported that the minor was diagnosed with borderline diabetes in July of 2009 but was not officially diagnosed with diabetes until June of 2010; that appellant had received documentation and a book on treating, monitoring and managing diabetes which included information on dieting; that the minor's doctor had also provided her with information about diabetes but admitted she had not managed the minor's diet very well and appellant needed to follow more closely dietary requirements; that the minor's blood sugar level readings were too high because of the minor's diet; the minor explained she knew how to administer insulin and how to monitor her blood sugar levels; that her condition had dietary restrictions but she could only eat the food that appellant bought; that the minor would not exercise because appellant would not exercise with her; that in the opinion of the social worker the minor was very well educated and knowledgeable about diabetes.

The DCFS's report was supplemented with a report by Dr Weinraub in letter format dated May 3, 2011, in which he determined Dr. Saad was not an appropriate "medical home" for coordinating the minor's medical treatment, although there was nothing to interfere with future prescription of insulin being prescribed by Dr. Saad. Dr. Weinraub explained that the primary treatment for the minor's type II diabetes was diet, exercise and weight loss. In a letter dated May 16, 2011, Dr. Saad acknowledged that the minor's blood sugar levels were uncontrolled but had improved since she first began insulin injections in February of 2011.

Further supplemental information was given to the court indicating that the minor had attended two appointments with a new endocrinologist at Los Angeles County USC hospital's pediatric clinic, three appointments with a registered dietician and three medical training sessions and that LAC-USC was the minor's new medical home for coordinated diabetes treatment.

Court hearing on June 1, 2011.

At the hearing on June 1, 2011, the following occurred: the court admitted documentary evidence and heard argument by counsel; the court struck O.P. and E.P. from the petition and further struck all allegations save the allegations pertaining to "b-1"; as amended, the court sustained the b-1 allegations so that the ruling of the court stated "The child [S.B.] has been diagnosed with diabetes. The child's mother, Trina M[.] has limited ability to properly provide for the child. The mother has failed to consistently follow the child's prescribed diet, resulting in the child's sugar levels frequently increasing to unsafe levels placing the child at risk of kidney failure. Such medical neglect of the child [S.B.] on the part of the mother places the child [S.B.] at risk of harm." The court declared S.B. a dependent child, placed her with appellant and ordered appellant to participate in counseling and S.B.'s medical treatment.

Notice of appeal.

Appellant mother filed a timely form notice of appeal on June 1, 2011. In it, she stated that the appeal, in her words, was from the findings and orders of the court on June 1, 2011, during which the court sustained a petition against mother and ordered her to complete individual counseling.

DISCUSSION

Standard of review.

There is no dispute by the parties pertaining to the standard of review to be employed by an appellate court in reviewing a juvenile court's jurisdiction findings. Clearly, it is well established that the standard is whether there is substantial evidence, contradicted or uncontradicted, to support the jurisdictional findings of the court. (*In re David M.* (2005) 134 Cal.App.4th 822, 829; *In re Heather A.*(1996) 52 Cal.App.4th 183,

193.) It has been held, however, that substantial evidence is not synonymous with any evidence and any inferences from the properly admitted evidence must be the product of logic and reason and not merely speculation or conjecture. The ultimate test is whether it is reasonable for the trier of fact to make the ruling in question in light of the whole record. (*In re David M., supra,* 134 Cal.App.4th at pp. 828, 829.) Further, all reasonable inferences must be drawn in support of the findings of the juvenile court and the record is to be viewed in the light most favorable to the juvenile court's order. (*In re Jeannette S.* (1979) 94 Cal.App.3d 52, 58.) The trier of fact may accept part of a witness's testimony and reject other parts. (*Kelly-Zurian v. Wohl Shoe Co.* (1994) 22 Cal.App.4th 397; *Friddle v. Epstein* (1993) 16 Cal.App.4th 1649, 1659.) With these principles in mind, we now search the record for substantial evidence in support of the ruling of the juvenile court.

Substantial evidence supporting the juvenile court's jurisdiction findings.

Appellant's argument on appeal can be condensed into a rather brief description of purported juvenile court error. In substance, appellant contends that the statements of the minor's school nurse and a receptionist at the medical office of Dr. Saad do not provide substantial evidentiary support that appellant medically neglected the minor. This court disagrees as hereafter explained.

As held in *In re Jeanette S., supra,* 94 Cal.App.3d at page 58, under the substantial evidence standard of review, the juvenile court need not rely on all the evidence presented. In the case at hand the juvenile court could have legitimately relied on the following evidence that supported its conclusion appellant had medically neglected the minor because appellant had not provided a diet that was appropriate for the diabetic minor: the minor consistently had high blood sugar levels at schools; per Dr. Saad, as of May 16, 2011, the minor's blood sugar levels remained "uncontrolled" but had improved since she began insulin injections in February 2011; despite the fact that the minor was diagnosed with diabetes in June 2010, appellant still did not consistently provide the minor with her prescribed diet, even though appellant acknowledged she had received appropriate education; appellant, herself, admitted she had not properly managed the

minor's diet; the minor was significantly overweight for her age; the minor's school, Dr. Saad, Dr. Saad's receptionist, the minor siblings and appellant all discussed the minor's inappropriate diet; and Dr. Weinraub described the importance of diet, exercise and weight loss to control the minor's type II diabetes.

Considering all the above facts, we discern that adequate substantial evidence supported the juvenile court's jurisdictional findings.

DISPOSITION

The order of the juvenile court is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

JACKSON, J.