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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

In re ISABELA R., a Person Coming
Under the Juvenile Court Law.

B278072
(Los Angeles County
Super. Ct. No. DK18127)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

HECTOR R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Marguerite D. Downing, Judge. Affirmed.
Ernesto Paz Rey, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,
Assistant County Counsel, and Julia Roberson, Deputy County
Counsel, for Plaintiff and Respondent.

INTRODUCTION

Hector R. appeals from a juvenile court order declaring his daughter, Isabela R., a dependent of the juvenile court pursuant to Welfare and Institutions Code section 300, subdivisions (a) and (b).¹ Hector argues that substantial evidence does not support two of the court's four jurisdiction findings and that the court abused its discretion by denying Hector's request for informal supervision under section 360, subdivision (b). Because Hector does not challenge the other two bases for the court's jurisdiction, and the juvenile court did not abuse its discretion in denying informal supervision, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Altercation*

On the evening of May 26, 2016, Hector and S.P., Isabela's mother, fought in an alley behind the house where they lived with Hector's mother and his two adult siblings. The fight began after S.P. left the house to visit with two friends in their car. Hector, who said he had "trust issues" with S.P., went outside and found S.P. sitting inside the car visiting with one of her friends while the other friend was standing next to the car and talking on the phone. Hector confronted the person standing beside the car and threw a piece of cement or a large rock at the car. S.P.'s friends left, and Hector and S.P. continued arguing.

¹ Statutory references are to the Welfare and Institutions Code.

Someone called the police, and the responding officers found S.P. crying in the alley and Hector trying to hide behind a fence. Hector complied with the officers' commands to come out from behind the fence. When the officers took Hector into custody, one of them smelled alcohol.

S.P. told the police officers she had gone into the alley to visit her friends because Isabela, then two years old, was asleep in the house. S.P. said Hector thought she was cheating on him, demanded to see her cell phone, and "punched" her in the head when she refused. She fell to the ground, scraping her leg. Hector threw his beer on her, "drenching her in alcohol." S.P. told the officers that Hector had assaulted her on four prior occasions, none of which she reported because she and Hector lived with members of his family, who "placed the blame on her." S.P. also told police she felt unsafe staying with Isabela at the house. She left that night with Isabela to live with her relatives and subsequently obtained a protective order against Hector. Hector's mother told police S.P. was a bad mother and used drugs.

B. *The Investigation and Petition*

The next day someone called the Department of Children and Family Services and reported the incident between Hector and S.P. A social worker interviewed both parents. Hector admitted he had been drinking before the fight with S.P. and threw a rock at her friend's car, but he denied hitting her. He also denied previously hitting or assaulting S.P. Hector said he drinks several times a week and had been smoking marijuana regularly until he went to jail following the incident with S.P. He told the social worker the last time he had used marijuana was

the day he got out of jail (at most, several days earlier), but he planned to stop using and “show that he is clean.”

S.P. told the social worker she felt bad about Hector’s arrest because “he did not do anything.” She admitted Hector threw beer on her but denied he hit her. After the social worker told S.P. he had requested a copy of the police report, S.P. conceded that Hector “did push me, but he didn’t hit me.” She also said Hector acted aggressively when he got drunk, but he drank only on special occasions. She denied any prior physical violence, accusing the police of making up her statement that Hector abused her on four prior occasions. Like Hector, S.P. said she used to smoke marijuana regularly, but she stopped after learning she was pregnant with their second child. Family members both confirmed and denied the events S.P. reported to police on the night of May 26.

On June 24, 2016 the social worker called Hector to tell him the juvenile court had issued an order removing Isabela from his care and setting a detention hearing the following week. The social worker informed Hector he was not allowed any personal contact with Isabela other than monitored visits. Hector abruptly ended the phone call, but later called back. Hector gave the phone to his mother, who told the social worker Hector never hit S.P. and said S.P. was there at the time and could confirm that Hector never hit her. The social worker called S.P.’s father, who reported that S.P. had not been home since the previous day and he did not know where she was. Hector and S.P. later denied S.P. was at Hector’s family home that day.

On June 29, 2016 the Department filed a petition under section 300, subdivisions (a) and (b). The petition alleged four bases for jurisdiction: domestic violence (counts a-1 and b-1),

Hector's alcohol and marijuana abuse (count b-2), and S.P.'s marijuana abuse (count b-3). Following a detention hearing the same day, the court detained Isabela, released her to S.P., and granted Hector monitored visits three times per week.

On August 4, 2016 a Department investigator went to Hector's home unannounced and found S.P. and Isabela there with Hector. S.P. admitted she had been bringing Isabela there almost every day. After explaining to S.P. and Hector that their presence violated the terms of the protective and detention orders, the investigator interview both S.P. and Hector. S.P. again denied that Hector had hit her in the head in May 2016 and that he had previously hit her. She said, "When we do argue, we would go outside. Isabela was not there. I mean, normally, we wouldn't get all rowdy. It is mostly yelling. It would happen when he would drink, but only every once in a while." She admitted using marijuana when she was not pregnant, but denied abusing it.

Hector again conceded he threw a brick at the car window during the altercation with S.P., but he denied hitting her. He said, "I threw a little beer at her. Then I did shove her. I did not hit her or drag her and I didn't knock her down. I know I should never have done that." He also admitted he abused alcohol and marijuana when he was younger, but said he had stopped. He agreed the altercation with S.P. was fueled by alcohol, but said his resulting incarceration was "a wake-up call." He said, "Ever since that situation, I am never touching beer again." Hector had enrolled in a domestic violence program ordered by the criminal court and a parenting program. When asked whether S.P. used alcohol or marijuana he said, "Nah, because she is pregnant."

Hector's mother told the investigator, "I don't know why the child is involved in this because she was in her bed safe and I was here in the house." She said she had never seen Hector and S.P. fight when they lived with her and denied Hector abused marijuana or alcohol.

One of the friends S.P. visited in the car on the night of May 26 said she knew of one other physical altercation between S.P. and Hector in which Hector pinned S.P. to the floor. The friend said Hector was drunk at the time. She said other friends of S.P. were concerned about S.P.'s arguments with Hector and advised her to leave him.

Hector's sister confirmed that Hector and S.P. fought, but said she had never seen any physical violence. She said Hector had asked her to take Isabela into her room if he and S.P. were fighting. She said Hector was distraught over losing contact with Isabela and was working on his relationship with S.P.

On August 8, 2016 the Department asked Hector to take a drug test. Hector asked if he could take the test in a few days. An investigator told Hector the test would be considered "dirty" if he did not take it that day. Hector then admitted he had used marijuana the previous day.

In its August 15, 2016 jurisdiction/disposition report, the Department recommended that the court sustain the dependency petition, remove Isabela from Hector, order family maintenance services for S.P., order other services for Hector, and require both Hector and S.P. to submit to random drug and alcohol testing. Following a hearing, the court requested that the Department

submit a follow-up report addressing the propriety of a voluntary services contract under section 301, subdivision (a).²

In its August 31, 2016 supplemental report, the Department did not recommend a voluntary services contract because Hector had been convicted of cohabitant abuse. Instead, the Department recommended the court sustain the petition but proceed under section 360, subdivision (b), which would allow the Department to provide informal supervision for six months rather than declaring Isabela a dependent of the court. The Department noted that both parents had agreed to a voluntary case plan. The Department also recommended that the court release Isabela to both parents on the condition they fully participate in certain programs and comply with Department services.

C. *The Jurisdiction and Disposition Order*

At the September 22, 2016 jurisdiction and disposition hearing the juvenile court sustained all four counts of the petition with minor amendments. In counts a-1 and b-1, the court found that Isabela had suffered or there was a substantial risk that she would suffer serious physical harm because Hector “engaged in a violent altercation” with S.P. in which Hector struck S.P. in the

² Section 301, subdivision (a), provides in relevant part: “In any case in which a social worker, after investigation of an application for petition or other investigation he or she is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the social worker may, in lieu of filing a petition or subsequent to dismissal of a petition already filed, and with consent of the child’s parent or guardian, undertake a program of supervision of the child.”

head causing her to fall to the ground. The court also sustained the allegations that Hector struck S.P. on prior occasions and that S.P. knew of Hector's violent conduct and failed to protect Isabela by allowing Hector to have unlimited contact with her. The court sustained the allegations in counts b-2 and b-3 based on Hector's abuse and history of marijuana and alcohol abuse and S.P.'s abuse of marijuana.

Contrary to the Department's recommendation that the court proceed under section 360, subdivision (b), and allow for informal supervision, the juvenile court declared Isabela a dependent of the court. The court found that informal supervision was "insufficient" in light of Hector's regular use of alcohol and anger management problem, Hector's ongoing relationship with S.P., Hector's and S.P.'s failure to acknowledge or take full responsibility for repeated incidents of domestic violence, and both parents' lack of credibility. The court granted Hector and S.P. custody of Isabela and required them to participate in a variety of programs, including random drug and alcohol testing.

Hector timely appealed. S.P. did not appeal.

DISCUSSION

A. Hector Does Not Challenge All Bases for the Juvenile Court's Jurisdiction

Hector argues that substantial evidence does not support the court's jurisdiction findings based on counts a-1 and b-1 concerning incidents of domestic violence. Hector, however, does not challenge the jurisdiction findings based on counts b-2 and b-3 concerning his history of alcohol and marijuana abuse and

S.P.'s marijuana abuse. Thus, even if we were to agree with Hector that substantial evidence does not support the court's jurisdiction findings on counts a-1 and b-1, the juvenile court would still have jurisdiction over Isabela on the basis of the unchallenged findings.³ (See *In re Briana V.* (2015) 236 Cal.App.4th 297, 308 ["a jurisdictional finding good against one parent is good against both"; "[m]ore accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent"]; *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [juvenile court could exercise jurisdiction over minor based on allegations of the mother's conduct even though father appealed from findings based on his conduct].) Therefore, we do not consider whether substantial evidence existed to support the jurisdiction findings he challenges.

³ Although Hector's opening (and only) brief asserts in general that "the juvenile court lacked substantial evidence to support its finding that Isabela was a person described by section 300, subdivisions (a) and (b)," he does not provide any reasoned argument or legal authority supporting that assertion with respect to the court's findings on b-2 and b-3. Hector argues only that substantial evidence does not support the court's findings on counts a-1 and b-1. Thus, Hector has forfeited any challenge to the court's jurisdiction findings on counts b-2 and b-3. (See *In re J.M.* (2012) 206 Cal.App.4th 375, 381; *In re Daniel M.* (2003) 110 Cal.App.4th 703, 707, fn. 4; Cal. Rules of Court, rule 8.204(a)(1)(B).)

B. *The Juvenile Court Did Not Abuse Its Discretion in Declaring Isabela a Dependent of the Court*

Hector argues the juvenile court abused its discretion in refusing to order informal supervision under section 360, subdivision (b). The Department takes no position on Hector's argument because it recommended the juvenile court proceed under section 360, subdivision (b).

Once a juvenile court exercises jurisdiction under section 300, it must adjudicate the child a dependent of the court unless the facts of the case warrant nothing more than supervision of family maintenance services. (*In re N.M.* (2011) 197 Cal.App.4th 159, 171; see § 360, subd. (b); Cal. Rules of Court, rule 5.695(a)(2).) Under section 360, subdivision (b), the juvenile court may "determine on its own or following a request by one of the parties that even though it has jurisdiction, the child is placed in the home, and the family is cooperative and able to work with the social services department in a program of informal services without court supervision that can be successfully completed within 6 to 12 months and which does not place the child at an unacceptable level of risk. In such cases the court may order informal services and supervision by the social services department instead of declaring the child a dependent." (*In re Adam D.* (2010) 183 Cal.App.4th 1250, 1259.) "Whether to exercise this option under section 360, subdivision (b), is a discretionary call for the juvenile court to make; it may opt to do so, but it need not. 'The court has broad discretion to determine what would best serve and protect the child's interest and to fashion a dispositional order in accord with this discretion.'" (*In re N.M.*, at p. 171; see *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.) We will not reverse the court's

disposition order absent a clear abuse of discretion. (*In re M.R.* (2017) 7 Cal.App.5th 886, 902; *In re N.M.*, at p. 171.)

The juvenile court did not abuse its discretion in determining that formal supervision was appropriate under the circumstances. In rejecting the Department's recommendation and the parties' request for informal supervision, the court cited Hector's drinking and anger management problem and S.P.'s history of marijuana abuse. Based on these factors, along with Hector's admission to drug use, the trial court reasonably could have concluded that formal supervision of the parents' substance abuse programs was appropriate. The court also cited Hector's failure to take responsibility for the May 2016 incident and S.P.'s "back pedaling" on her accusation that Hector physically abused her on prior occasions, which the trial court reasonably could have found showed Hector and S.P. had failed to grasp the severity of the situation putting Isabela at risk. The court also found both parents were not credible, and the record included evidence that they violated the terms of a protective order and the detention order, which understandably could have undermined the court's faith in their commitment to a voluntary case plan informally overseen by the Department. (See *In re N.M.*, *supra*, 197 Cal.App.4th at p. 171 [unlike a voluntary case plan, a formal reunification plan provides monitoring and progress reports of the parents' participation in the services].) Under these circumstances, the juvenile court did not abuse its discretion in declaring Isabela a dependent of the court and denying the request for informal supervision. (See *ibid.* [denial of informal supervision was not an abuse of discretion where the potential for a recurrence of circumstances that led to the abuse remained].)

DISPOSITION

The jurisdiction findings and the order declaring Isabela a dependent of the juvenile court are affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.