Filed 1/31/14 In re H.F. CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re H.F. et al., a Person Coming Under the Juvenile Court Law.	B249602 (Los Angeles County Super. Ct. No. CK96604)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. S.C., Defendant and Appellant.	

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

Law Office of John M. Kennedy, John M. Kennedy for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, Sarah Vesecky, Deputy County Counsel for Plaintiff and Respondent.

INTRODUCTION

Defendant and appellant S.C. (mother) is the mother of three minor children, H.F. born in 1995, S.F. born in 1998, and B.C., born in 2011. Her two older children have the same father, J.F., and B.C.'s father is M.Z.

Mother appeals from the juvenile court's jurisdictional findings and disposition order removing custody of B.C. from her. According to mother, there was insufficient evidence to support the jurisdictional findings based on her conduct and insufficient evidence to support the order removing B.C. from her.

We hold that because the juvenile court's jurisdictional findings based on the conduct of the children's fathers are not challenged on appeal, they are sufficient to support the juvenile court's assertion of dependency court jurisdiction over the children, and therefore we need not address mother's challenge to the jurisdictional findings as to her. We further hold that there was sufficient evidence to support the disposition order removing B.C. from mother. We therefore affirm the jurisdictional findings and disposition order.

FACTUAL AND PROCEDURAL BACKGROUND

On September 17, 2012, mother's family was referred to the Department of Children and Family Services (DCFS) for an immediate response because they were homeless. On September 26, 2012, DCFS received another referral concerning the family alleging that mother was abusing drugs and had threatened to commit suicide.

After almost two months of investigation, DCFS obtained a detention warrant for the children. S.F. and B.C. were detained and placed, but H.F. could not be physically detained because his father, J.F., had taken him to Texas without notifying mother or DCFS.

On November 20, 2012, DCFS filed a petition under Welfare and Institutions Code section 300[1] alleging that mother had placed the children in a detrimental and endangering situation by having them sleep outside overnight. DCFS further alleged that mother had thwarted DCFS's remedial efforts to resolve the family's problems by failing to call shelters or follow through on housing programs. DCFS also alleged that J.F., the father of H.F. and S.F., was unwilling and unable to provide care for and supervision of his two children.

At the November 20, 2012, detention hearing, the juvenile court found that DCFS had made a prima facie showing under section 300 that H.F., S.F., and B.C. were children as defined under section 300. The juvenile court detained S.F. and B.C. and released H.F. to his father in Texas. S.F. was placed with friends of the family and B.C. was placed in foster care. The juvenile court ordered "HUB" medical services for the children, appropriate reunification services for mother, and monitored visits with mother twice weekly.

On December 11, 2012, DCFS filed a first amended petition. The amended petition added counts alleging that mother and B.C.'s father, M.Z., had a history of domestic violence, including an incident in December 2010 during which M.Z. physically assaulted mother and S.F. was physically injured trying to protect mother. The amended petition further alleged that M.Z. had an unresolved history of criminal convictions, including drug possession and violent criminal acts. The amended petition also alleged that M.Z. had a substance abuse history, including recent use of methamphetamine and marijuana. According to the amended petition, mother had permitted M.Z. to have unlimited access to the children despite her concerns about his violent history.

On December 11, 2012, a DCFS dependency investigator filed a jurisdiction/disposition report in the juvenile court. The investigator reported, inter alia, that M.Z. had an extensive criminal history dating back to 1985 that included multiple convictions for possession of controlled substances, as well as convictions for petty theft,

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

battery, inflicting corporal injury on a spouse, burglary, assault with a deadly weapon, inflicting injury on a child, possession or manufacture of a dangerous weapon, vandalism, falsely identifying himself to a police officer, making criminal threats, resisting arrest, battery of a spouse, probation violations, felon in possession of a firearm, vehicle theft, driving under the influence, and the December 2010 battery of mother.

The investigator further reported that during his interview with S.F., she told him that "there were many domestic violence incidents between [M.Z.] and her mother." S.F. observed M.Z. threaten mother by "putting his fist close to her face." M.Z. "'would threaten to shoot [S.F.'s] mother and [S.F. and her family] knew he had a gun, so [they] felt that he would do it.'" M.Z. would make copies of mother's keys "so he could always get into the [family's] apartment . . . ." He also constantly accused mother of sleeping with other men and would lock mother in her room. On one occasion, mother and M.Z. argued, and then mother told the children "to pack up all [their] stuff." While the children packed, M.Z. grabbed B.C., who was in mother's arms, causing B.C.'s head to "hit the wall." S.F. also described the December 2010, domestic violence incident between mother and M.Z. during which S.F. was injured as follows: "'One time, [M.Z.] had his hands around . . . mother's throat and [S.F.] jumped on his back to get him to let go, and he threw [her] off and pushed [her] down to the ground. [M.Z.] acted like he was going to hit [S.F.], but [she] slapped him and he backed away.'" S.F. was the only family member who would "stand up to" M.Z.; her two brothers "knew what was going on but didn't want to get involved."

According to S.F., she did not "'want to go back with [her] mom because [she] had been hurt emotionally and [did not] want to go back to that situation. [She had] a pretty strong feeling that when [M.Z. was released from] jail, [mother would] go back to him.'"

When the investigator interviewed mother, she explained that M.Z. began abusing her a couple of months after they began dating. Mother said that M.Z. would hit her and threaten her with more violence. He threatened mother in front of the children. According to mother, she and M.Z. would fight constantly over his continuous

accusations that she was sleeping with other men. Mother knew M.Z. had a criminal history because he had just been released from prison when they met. M.Z. served 10 months for the domestic violence against mother in December 2010. She learned she was pregnant with B.C. during that 10-month incarceration. Mother said the criminal court issued a "no-contact" order against M.Z., but he nevertheless found her, and she moved in with him between December 2011 and February 2012.

The investigator attached, inter alia, copies of the police report for the December 2010 domestic violence incident between mother and M.Z., as well as a Sheriff's Department report of a June 11, 2012, incident involving M.Z. The June 11, 2012, report stated that a sheriff's deputy had been dispatched to an apartment complex based on a report of two juveniles involved in an assault. After arriving at the scene, a concerned citizen informed the deputy that she knew deputies were looking for M.Z, and that he was in the apartment complex. She believed M.Z. was armed and dangerous. The deputy returned to his patrol vehicle, called for back-up, and confirmed that M.Z. was wanted for a parole violation and was considered armed and dangerous. The deputy also confirmed that M.Z. had an extensive criminal history with numerous weapons charges, parole violations, and drug violations. As the deputy awaited back-up, he saw mother arrive at the scene and contacted her. Mother, who was carrying a baby, informed the deputy that she thought M.Z. was hiding in her apartment. Mother gave the deputy permission to search the apartment, but wanted to remove her children from the apartment first. When mother and the deputy entered the apartment, the deputy saw M.Z. hiding in the bedroom. The deputy told M.Z. to come out of the bedroom and show his hands. M.Z. refused to comply, asking the deputy "to put [his] taser away." M.Z. produced a knife and threw it on the floor in front of the deputy claiming it was the only weapon he had. When the deputy refused to holster his taser, M.Z. said, "'It's all over anyway. Just pull your real gun and do it.'" As back-up deputies arrived, M.Z. made a "quick move" and the deputy "deployed his taser" causing M.Z. to fall to the ground. M.Z. continued to resist as deputies attempted to handcuff him, but he was ultimately handcuffed.

The deputies received permission from mother to search her apartment, where they recovered a knife, a loaded .22 handgun, .22 handgun ammunition, a charred methamphetamine pipe, and baggies. When the deputy interviewed M.Z., he told the deputy he was at the apartment to visit his infant daughter, that the bedroom where the handgun was located belonged to mother's teenage son, H.F., and that the weapon did not belong to M.Z. H.F. told the deputy that the weapon and the pipe did not belong to him. M.Z. was booked for violation of Penal Code section 29800, subdivision (a)(1), felon in possession of loaded handgun.

In January and February 2013, DCFS filed second and third amended petitions, the former pleading adding, inter alia, allegations of domestic violence between mother and M.Z., including the June 11, 2012, incident during which M.Z. was arrested, and the latter pleading adding allegations concerning J.F., the father of H.F. and S.F. On February 21, 2013, DCFS filed an addendum to the jurisdiction/disposition report in which it advised the juvenile court, inter alia, that mother had leased for one-year a two-bedroom apartment that was furnished and "adequately kept." H.F. was residing with mother, and she informed DCFS that her new address would be kept confidential. DCFS recommended in the addendum that H.F. be released to mother and that S.F. and B.C. be suitably placed. DCFS also recommended transferring the case to Riverside County because mother resided there.

At a February 21, 2013, hearing, the juvenile court detained H.F. from his father[2] and released him to mother. The juvenile court also released S.F. to mother and granted DCFS discretion to release B.C. to mother on an extended visit prior to the next hearing.

In a May 2, 2013, last minute information for the court, DCFS reported that it was concerned about the safety and well being of H.F. and S.F. in mother's home based on the conduct of their adult sibling, Jason, who also resided in the home. Mother had represented to DCFS over the prior two months that Jason would move out, but mother

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[2] During argument, H.F.'s counsel explained that the minor's father had flown him to Los Angeles from Texas to attend a "delinquency" hearing.

allowed him to remain in the home. On the day before the last minute information was filed, mother reported that Jason had moved out of her home.

DCFS further reported that M.Z. had attempted to contact mother by mail. Mother was participating in the safe at home program through the victims of violent crimes program. But DCFS was concerned about releasing B.C. to mother because "there was no verification from a professional therapist addressing any progress that the family [had] made in alleviating the issues that [had] brought them to the attention of DCFS and the [juvenile court]." Mother had just started individual counseling, but had not made much progress. Moreover, H.F. and S.F. had not started individual counseling, and the family had yet to participate in conjoint therapy. Mother had participated in a 10-session cooperative parenting course.

In a May 7, 2013, last minute information for the court, DCFS reported that although mother had leased an apartment and was working as a housekeeper, she had made "minimal progress" in recommended programs and services. In addition to completing a 10-session parenting program, mother had attended three sessions of individual therapy through the victims of violent crime program. DCFS had recommended individual and conjoint family therapy for H.F. and S.F., but mother had refused DCFS's referral, choosing instead to wait for funding from the victims of violent crime program. Mother did not want any services offered through DCFS. DCFS concluded that because the family had not had enough time in a "peaceful home" environment, it could not recommend returning B.C. to mother's home. DCFS recommended that the juvenile court order the family to participate in individual counseling and conjoint family counseling and order mother to complete a domestic violence program prior to releasing B.C. to mother.

At the May 8, 2013, jurisdiction/disposition hearing, the juvenile court sustained the third amended petition in its entirety, including the allegations that mother failed to protect the children from M.Z.'s domestic violence, criminal background, and drug use, as well as the allegations against M.Z. based on his violent criminal history and drug use

and the allegations against J.F., the father of H.F. and S.F., based on his failure to provide support for his children.

The juvenile court then held a hearing on disposition. The maternal grandmother testified on behalf of mother as follows. The maternal grandmother monitored mother's visits with B.C. and found them to be appropriate. She had no concerns about anything mother had done during the visits. Mother worked for the maternal grandmother's housekeeping business. The maternal grandmother had also observed mother parenting H.F. and S.F. and had no concerns about mother's parenting.

Mother testified on her own behalf as follows. She had completed a 10-week parenting program and had begun individual therapy. She was not enrolled in a domestic violence program, but was willing to enroll in a program in Riverside County. Through the victims of violent crimes program, she had relocated with a confidential address. To her knowledge, M.Z. did not know her new address. Mother and her older children were not in conjoint therapy, but she had applied and was waiting approval. Mother had leased an apartment and was working at least five days a week. She was financially able to provide for her children. Her adult son Jason no longer lived in the apartment. Mother believed H.F. and S.F. would benefit from therapy.

If M.Z. located mother, she would not allow him in her apartment and would immediately contact the authorities. Mother did not have a civil restraining order against M.Z., but the criminal court had issued a no contact order.

If B.C. was returned to mother, she would have the resources to care for her. Mother would be able to keep B.C. safe from harm. Mother wanted B.C. returned to her.

A DCFS dependency investigator confirmed that mother had not been provided referrals in Riverside County because she had previously refused to accept all services from DCFS. Mother had also refused services from the Department of Mental Health. In addition, mother had refused to sign an authorization for a regional center assessment of B.C. The investigator did not recommend that H.F. or S.F. be placed with mother, and he believed B.C. would be at risk if she was placed with mother.

After argument, the juvenile court made the following findings: "The Court is going to find that the care, custody, control of the children are taken from their fathers, and [H.F.] and [S.F.] are ordered home of parent mother, that [B.C.] is detained from mother and father as the court finds by clear and convincing evidence there's a substantial danger to the minor's physical and mental well-being. There is no reasonable means to protect without removal, and reasonable efforts have been made to prevent removal. [¶] [B.C.] is ordered suitably placed. [¶] . . . [¶] The Court: All you need to do is reread the police report of 2010, [mother], and realize the significance of what's gone on in your life that caused the chaos that your children are faced with. That is dramatic. It's intense. I mean, [S.F.] was, what, 12 at the time, saw what was going on between you and [M.Z.], jumped in to try to save you. I don't know if she got injured or not, but the fact remains that she's visualized all this going on and this is just one time. It's significant. It's got to sink in at some point for you to take control of your life and not have this go on so that these children can see some sanity. That's why [H.F.] wants to get out. It's obvious."

DISCUSSION

A. Standard of Review

"'In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. "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 Heather A.* (1996) 52 Cal.App.4th 183, 193 [60 Cal.Rptr.2d 315].) "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.] '"[T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine

whether it discloses substantial evidence . . . such that a reasonable trier of fact could find [that the order is appropriate].”’ [Citation.]” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321 [247 Cal.Rptr. 100].)’ (See *In re Angelia P.* (1981) 28 Cal.3d 908, 924 [171 Cal.Rptr. 637, 623 P.2d 198].)” (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

B. Jurisdiction

“‘When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.’ [Citation.]” (*In re I.J., supra,* 56 Cal.4th at p. 773.) “It is commonly said that the juvenile court takes jurisdiction over children, not parents. [Citations.] While this is not strictly correct, since the court exercises *personal* jurisdiction over the parents once proper notice has been given [citation], it captures the essence of dependency law. The law’s primary concern is the protection of children. [Citation.] The court asserts jurisdiction with respect to a child when one of the statutory prerequisites listed in section 300 has been demonstrated. [Citation.] The acquisition of personal jurisdiction over the parents through proper notice follows as a consequence of the court’s assertion of dependency jurisdiction over their child. [Footnote omitted.] [Citations.] Parental personal jurisdiction allows the court to enter binding orders adjudicating the parent’s relationship to the child [citation], but it is not a prerequisite for the court to proceed, so long as jurisdiction over the child has been established. [Citation.] Further, every parent has the option not to participate in the proceeding, even if properly noticed. [Citation.] [¶] As a result of this focus on the child, it is necessary only for the 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—e.g., a risk of serious physical harm (subds. (a) & (b)),

serious emotional damage (subd. (c)), sexual or other abuse (subds. (d) & (e)), or abandonment (subd. (g)), among others—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. [Citations.]" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492.)

Mother challenges the sufficiency of the evidence in support of the counts alleged against her. She does not, however, challenge the sufficiency of the evidence in support of the counts involving the conduct of J.S., the father of H.F. and S.F., or the counts involving B.C.'s father, M.Z. Under the authorities cited above, the jurisdictional findings based on the counts against both fathers were sufficient to support the juvenile court's jurisdiction over the children. Therefore, we do not need to address the jurisdictional findings based on mother's conduct[3] because once the juvenile court obtained jurisdiction over the minors for any of the reasons alleged in the petition, it had corollary jurisdiction over mother, after proper notice, to make orders affecting the welfare of the children.

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[3] Mother argues that we should address the jurisdictional findings based on her conduct because the findings could "taint" the record in future proceedings. But, as explained below, there was sufficient evidence to support the juvenile court's disposition findings that mother's conduct created a substantial risk of harm to B.C. and justified removing her from mother, which findings will be part of the record in future proceedings regardless of whether we address the jurisdictional findings as to mother.

B. Disposition

Mother contends that there was insufficient evidence to support the juvenile court's disposition order removing B.C. from her custody. According to mother, there was no evidence to support the juvenile court's finding that there was a current risk of harm to B.C. in mother's custody.

There was evidence that B.C.'s father, M.Z., had a long history of serious criminal behavior and a long history of substance abuse. There was also evidence that M.Z. had assaulted mother in June 2010, while her children were present, an assault for which M.Z. was incarcerated for 10 months. And, there was additional evidence supporting the disposition. In late 2011, after B.C. was born, mother allowed M.Z. to live with her and her children for several months. S.F. reported that M.Z. often physically abused mother and threatened to kill her. During one such incident, B.C., who was in mother's arms, struck her head against a wall. S.F. also reported that she was concerned that once M.Z. was released from custody, mother would reunite with him.

There was further evidence in a police report of the incident that led to M.Z.'s June 2012 arrest showing that M.Z. was hiding in mother's apartment with the children present while armed with a handgun and knife and in possession of drug paraphernalia. When police arrived, M.Z. resisted arrest, causing a deputy to use his taser on M.Z. and arrest him for, inter alia, probation violations and being a felon in possession of a firearm. That incident supported a reasonable inference that M.Z. presented a serious risk of physical and emotional harm to mother and her children, including B.C., yet mother continued to allow him into her apartment with her children, apparently oblivious to the serious risk to her children.

In addition, notwithstanding that DCFS had offered mother services to address case issues and assist mother in reuniting with B.C., there was evidence that mother refused such services, including individual and conjoint therapy for her and the children.[4]

[4] Mother contends that the programs and services for which she applied through agencies other than DCFS were the equivalent of the programs and services she had refused to accept from DCFS, but the record does not support that contention.

Mother's refusal to accept services and complete recommended programs supported a reasonable inference that, at the time of the disposition order, she still did not fully appreciate the risk her conduct posed to her children, including B.C.

When the foregoing evidence is viewed in a light most favorable to the disposition order, indulging all reasonable inferences and resolving all factual conflicts in favor of that order as we are required to do, it supports the juvenile court's finding that returning B.C. to mother's custody would not be in her best interests because mother's history with M.Z. and her apparent inability to comprehend the seriousness of the risk he posed to her and her children supported a reasonable inference of a current risk of physical and emotional harm to B.C.

DISPOSITION

The jurisdiction and disposition orders are affirmed.

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MOSK, J.

We concur:

TURNER, P. J.

KRIEGLER, J.