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

In re Jasmine C. et al., Persons
Coming Under the Juvenile
Court Law.

B341615

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. 24CCJP01961B-D)

Plaintiff and Respondent,

v.

DEBORAH Z.,

Defendant and Appellant.

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

Linda S. Votaw, under appointment by the Court of Appeal, for Defendant and Appellant.

Dawyn R. Harrison, County Counsel, Kim Nemoy, Assistant County Counsel, and Avedis Koutoujian, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Deborah Z. (Mother) appeals from the juvenile court's jurisdictional findings and dispositional orders, declaring her son, Dominic C., and two of his siblings dependents of the court under Welfare and Institutions Code¹ section 300, subdivisions (a), (b), and (j), and removing Dominic from Mother's custody. On appeal, Mother challenges the sufficiency of the evidence supporting the jurisdictional findings and the removal order. We conclude there was substantial evidence to support the juvenile court's exercise of jurisdiction over the children based on Mother's physical abuse of Dominic and the removal of Dominic from Mother's custody. We accordingly affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Section 300 petition

Mother and R.C. (Father) are the parents of seven children, four of whom were minors at the start of these proceedings. Those four children are Aurora C. (born 2006), Jasmine C. (born 2007), Dominic (born 2009), and C.C. (born 2011). Following the parents' divorce in 2022, Mother was granted physical custody of the children with visitation for Father. Father is not a party to this appeal.

On June 20, 2024, the Los Angeles County Department of Children and Family Services (DCFS) received a referral alleging that then 14-year-old Dominic was a victim of physical abuse by Mother after a neighbor brought the child to the police station to report the abuse. In an interview with the police, Dominic disclosed that earlier that day, he pushed his sister, Jasmine,

¹ Unless otherwise stated, all further undesignated statutory references are to the Welfare and Institutions Code.

during an argument about chores. After Mother returned home, Dominic's siblings told her that Dominic hit Jasmine. Mother became upset and used a cord to strike Dominic on his left arm, leaving several welts. Mother then pushed Dominic up against a wall and used both of her hands to grab the child around his neck, making it difficult for him to breathe. Immediately after the incident, Dominic went outside and asked a neighbor to drive him to the police station. When Mother and his siblings arrived at the station, Aurora slapped Dominic in the face.

The police also interviewed Mother and two of Dominic's siblings. Mother stated that when she returned home that day, Dominic and Aurora began to argue, and Dominic used both hands to push Aurora. Aurora responded by pushing Dominic back with one hand, but Mother did not see Aurora hit Dominic with any objects. Mother then left the room because she was having an asthma attack. Dominic's older brother, Diego, told the police that Dominic pushed Jasmine during an earlier argument, but he did not see what occurred when Mother returned home because he was outside. In her statement to the police, Aurora reported that Dominic and Jasmine argued while Mother was at work, and Dominic pushed Jasmine. When Mother arrived home, the girls told her about the incident, and during an ensuing argument, Aurora used a hanger to strike Dominic several times on his arm. The officer who spoke with Aurora noticed she was nervous and hesitant with some of her answers. The officer also found it suspicious that Aurora claimed she used a hanger to hit Dominic when the marks on his arm were more consistent with a looped cord or similar object. Based on Dominic's statement and injuries, the police arrested Mother for willful cruelty to a child and child endangerment.

Upon receiving the referral, DCFS conducted interviews with the family in June 2024. In his interview, Dominic reported that Mother became angry because he was arguing with Jasmine over chores, and she began hitting him with a “wire,” causing painful lashes on his arm. Dominic also disclosed that Mother hit him in the past, and that he was fearful of both parents. In her interview with DCFS, Mother recounted that, during an argument between Dominic, Aurora, and Jasmine, Dominic began to punch Aurora, who responded by hitting Dominic with a cord “in self-defense.” Mother stated that she walked away then because she was having an asthma attack. She further asserted that Dominic was lying about being a victim of abuse. In their interviews, Aurora, Jasmine, C.C., and two of their adult siblings reported that Aurora was the one who hit Dominic with the cord, and that Mother never used corporal punishment. In his interview, Father denied being aware of any physical abuse by Mother, but acknowledged that he did not have much contact with the children.

On June 24, 2024, DCFS filed a dependency petition for Aurora, Jasmine, Dominic, and C.C. under section 300, subdivisions (a), (b), and (j). Aurora was later dismissed from the petition because she turned 18 prior to the adjudication hearing. The petition alleged that the children were at substantial risk of harm based on Mother’s physical abuse of Dominic and Father’s failure to protect Dominic from Mother’s abuse.

At a detention hearing held on June 25, 2024, the juvenile court detained Dominic from both parents, but ordered that the other children remain released to Mother under the supervision of DCFS. Dominic was placed in foster care pending adjudication of the petition.

2. Jurisdictional and dispositional report

For its jurisdiction/disposition report, DCFS conducted additional interviews with the family in July 2024. In his second interview with DCFS, Dominic maintained that Mother, and not Aurora, hit him with the cord. As described by Dominic, he got into an argument with Jasmine about chores while Mother was at work, and at one point, he pushed Jasmine with both of his hands. The argument ended when Aurora stepped between him and Jasmine. When Mother returned home, Aurora told her that Dominic hit Jasmine. Mother became upset and used a cord to hit Dominic multiple times, leaving marks on his arms and chest. Afterward, Dominic went outside and spoke to a maintenance worker, who advised him to tell someone if he was being abused. Dominic then approached a neighbor, who drove him to the police station. While Dominic was in front of the station, Mother and Aurora arrived, and Aurora slapped him in the face. Dominic stated that, on prior occasions, Mother hit him with shoes or her hand, but she never left marks on him until this incident. Dominic did not feel safe residing with Mother, and he was concerned that she would start treating his younger brother, C.C., the same way she treated him. Dominic also believed his siblings would lie for Mother about the abuse because they were afraid of her.

In her second interview, Mother continued to state that Aurora hit Dominic with the cord during an altercation between the two of them. According to Mother, after she and Aurora returned home from running errands, Jasmine disclosed to Aurora that Dominic hit and pushed her because she told him to clean the kitchen. When Mother confronted him, Dominic grabbed her by the shoulders and pushed her, which led Aurora

to intervene. Aurora and Dominic then began hitting each other with closed fists, while Mother walked away because she was experiencing an asthma attack. While Mother was in another room, Aurora grabbed a cord and hit Dominic with it. Mother and Aurora later went looking for Dominic and learned that a neighbor took him to the police station. When Mother and Aurora arrived at the station, Aurora argued with Dominic again and slapped him. Mother noted that Dominic sometimes had temper tantrums and went into “crazy rages.”

In their interviews, Dominic’s siblings similarly reported that Dominic had a history of temper tantrums and would throw things and stomp when he became angry or upset. None of the male siblings witnessed the incident involving the cord, but Aurora told them that she was the one who hit Dominic. Both Aurora and Jasmine indicated that they were present during the incident, and that Aurora struck Dominic with the cord after he began swinging his arms at her. Aurora claimed she was confused when she told the police that she hit Dominic with a hanger rather than a cord. She also asserted that she hit Dominic because he was “going after” her and Mother during the altercation and he was much larger than them. Each of the siblings denied that Mother ever physically abused them, and both Jasmine and C.C. stated that they felt safe in Mother’s care. In his interview with DCFS, Father likewise reported that Dominic tended to have temper tantrums, and that Mother did not have a history of hitting the children.

DCFS also interviewed the maintenance worker whom Dominic approached shortly after the incident. He confirmed that Dominic had marks on his chest and arms, was crying, and

appeared scared. Dominic told him that his mother hit him and he was afraid to go home.

Prior to the adjudication of the petition, Dominic participated in a forensic interview with the Children's Advocacy Center. During that interview, Dominic recounted that Mother repeatedly struck him with a thick white cord. Mother then choked Dominic with her hands until Aurora pulled her off him. While Mother was choking Dominic, his head started "getting a bit fuzzy," and he felt like he could not breathe. Dominic told Mother in a hushed voice, "[Y]ou're going to kill me," and she replied, "[I]f you die, that's God's problem." Dominic also described prior acts of physical abuse by Mother, including one occasion when she pushed him into the bathroom door and dug her nails into his neck, leaving red marks on his skin. He recalled another incident when Mother disciplined him and C.C. by hitting their hands with a belt numerous times, leaving their hands "kind of like busted up." Dominic stated that Mother primarily used a belt to discipline him, but there were instances where she used other objects such as a "big painting stick" to hit his arms and legs.

In a last minute information report filed in September 2024, DCFS indicated that Mother still had not accepted any responsibility for her actions and instead blamed Dominic for DCFS's involvement with the family. Mother also continued to criticize Dominic, stating that he was messy and incapable of cleaning up, did not know how to dispose of trash, ate excessively, and lied frequently. Mother did not want DCFS to refer her other children for services because she preferred that the family's issues remain private. Both Jasmine and C.C. conveyed to DCFS that they were doing well and felt safe in Mother's care. DCFS

reported that Dominic was also doing well in his foster care placement, and remained adamant that he did not want to return to the home of either parent. DCFS further reported that the district attorney declined to file criminal charges against Mother due to insufficient evidence.

3. Jurisdictional and dispositional hearing

On September 20, 2024, the juvenile court held a combined jurisdictional and dispositional hearing. DCFS's counsel and Dominic's counsel joined in requesting the court sustain the petition as pled, arguing that Dominic was credible and consistent in his statements that Mother physically abused him. Counsel for Jasmine and C.C. asked the court to dismiss these children from the petition based on their statements denying any physical abuse. While Father's counsel requested dismissal of the allegations against him, Mother's counsel asked the court to dismiss the petition in its entirety. Mother's counsel argued that DCFS failed to meet its burden of proof because Mother and each of Dominic's siblings maintained that Aurora rather than Mother hit Dominic during the physical altercation.

After hearing the argument of counsel, the court sustained an amended version of the petition, striking the failure-to-protect allegations against Father and finding true the physical abuse allegations against Mother. In its ruling, the court found that Dominic's statements insisting that Mother was the one who hit him were "believable." Turning to disposition, the court declared Dominic a dependent of the court under section 300, subdivisions (a) and (b), and Jasmine and C.C. dependents of the court under section 300, subdivisions (a), (b), and (j). The court removed Dominic from the custody of both parents, and ordered that Jasmine and C.C. remain in the home of the parents under the

supervision of DCFS. The court granted the parents family maintenance services for Jasmine and C.C. and reunification services for Dominic.

Mother filed a timely appeal from the jurisdictional findings and dispositional orders.

DISCUSSION

On appeal, Mother challenges the jurisdictional findings as to each of the children and the order removing Dominic from her custody. Mother contends the evidence was insufficient to support a finding that any of the children were at substantial risk of serious physical harm based on her alleged physical abuse of Dominic. Mother also claims the evidence was insufficient to support a finding that there were no reasonable means to protect Dominic other than removal. Based on the totality of the record, we conclude the jurisdictional findings and removal order were supported by substantial evidence.

1. Standard of review

We review challenges to the sufficiency of the evidence underlying jurisdictional findings and dispositional orders for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

“ “[W]e 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.”” (*Ibid.*) “When reviewing a finding that a fact has been proved by clear and convincing evidence, the question before the appellate court is whether the record as a whole contains substantial evidence from which a reasonable fact finder could have found it highly probable that the fact was true.” (*Conservatorship of O.B.* (2020) 9 Cal.5th 989,

1011.) “The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or orders.” (*In re E.E.* (2020) 49 Cal.App.5th 195, 206.)

2. Jurisdictional findings

2.1. Governing law

Section 300, subdivision (a), provides that a child comes within the jurisdiction of the juvenile court if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally . . . by the child’s parent.” (*Ibid.*) Under section 300, subdivision (b), the juvenile court may assert jurisdiction if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of . . . ¶ . . . [t]he failure or inability of the child’s parent . . . to adequately supervise or protect the child.” (*Id.*, subd. (b)(1)(A).) Section 300, subdivision (j), allows jurisdiction if “[t]he child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions.” (*Id.*, subd. (j).)

A parent’s use of inappropriate physical discipline on a child may support a finding of jurisdiction under section 300, subdivision (a), (b), and/or (j) depending on the circumstances of the case. (See *In re David H.* (2008) 165 Cal.App.4th 1626, 1644–1645 [jurisdiction proper under section 300, subdivision (a) where mother disciplined child with belt, cord, or ruler causing bruises, red marks, welts, and broken skin]; *In re Mariah T.* (2008) 159 Cal.App.4th 428, 438–439 [jurisdiction proper under section 300, subdivisions (a), (b), and (j) where mother’s conduct in striking child with belt on stomach and forearms leaving deep bruises placed both child and his sibling at substantial risk of

future harm].) In general, “[w]hether a parent’s use of discipline on a particular occasion falls within (or instead exceeds) the scope of [the] parental right to discipline turns on three considerations: (1) whether the parent’s conduct is genuinely disciplinary; (2) whether the punishment is ‘necess[ary]’ (that is, whether the discipline was ‘warranted by the circumstances’); and (3) ‘whether the amount of punishment was reasonable or excessive.’” (*In re D.M.* (2015) 242 Cal.App.4th 634, 641.)

The juvenile court also may consider the totality of a parent’s inappropriate disciplinary methods, including past incidents, to determine whether a child presently needs the court’s protection. (*In re D.D.* (2019) 32 Cal.App.5th 985, 995.) “‘A parent’s “[p]ast conduct may be probative of current conditions’ if there is reason to believe that the conduct will continue.’” (*In re J.A.* (2020) 47 Cal.App.5th 1036, 1048.)

2.2. Substantial evidence supported jurisdiction over each of the children based on Mother’s physical abuse of Dominic

In exercising jurisdiction over Dominic, Jasmine, and C.C., the juvenile court sustained the following language in counts a-1, b-1, and j-1 of the amended section 300 petition: “The children[’s] . . . mother, Deborah [Z.], physically abused the child Dominic. On or about 06/20/2024, the mother repeatedly struck the child Dominic with a cable cord causing the child Dominic to sustain multiple red linear and loop marks on the child Dominic’s left arm. The mother was arrested for Willful Cruelty to a Child and Child Endangerment. On prior occasions, the mother struck the child Dominic. Such physical abuse was excessive and caused the child Dominic unreasonable pain and suffering. The child is fearful of the mother and father and refused to return to the

home of either parent. The physical abuse of the child Dominic by the mother endangers the child Dominic's physical health, safety and well-being, creates a detrimental home environment and places the child Dominic, and the child's siblings Jasmine[] and [C.C.], at risk of serious physical harm, damage, and physical abuse."

Viewing the evidence in the light most favorable to the juvenile court's ruling, we conclude there was substantial evidence to support the jurisdictional findings that Mother's physical abuse of Dominic placed Dominic and his siblings, Jasmine and C.C., at risk of suffering serious physical harm. In his various interviews about the June 20, 2024 incident, Dominic consistently stated that, after his siblings told Mother that he hit Jasmine during an earlier argument, Mother became upset and used a cord to strike Dominic on his arms and chest multiple times. Mother's actions in repeatedly hitting Dominic with the cord caused the child physical pain and left several welts on his body. Dominic also disclosed that, after she struck him with the cord, Mother grabbed Dominic by the neck and began to choke him, causing him to feel lightheaded and unable to breathe. At one point, Dominic told Mother, "[Y]ou're going to kill me," to which she replied, "[I]f you die, that's God's problem."

In contesting the jurisdictional findings on appeal, Mother seeks to characterize the June 20, 2024 incident as a "one-time occurrence" that was unlikely to reoccur. However, Dominic told DCFS that Mother also hit him in the past, and during his forensic interview, he disclosed more details about some of these prior incidents. As described by Dominic, on one occasion, Mother pushed him into a door and dug her nails into his neck, leaving marks on his skin. On another occasion, Mother

repeatedly hit both Dominic and C.C. on their hands with a belt to the point that Dominic had bruising and swelling on his hands. Dominic further disclosed that, while Mother mostly used a belt to discipline him, there were times when she used other objects such as a large painting stick to hit his arms and legs. On this record, the juvenile court reasonably could find that Mother's conduct in beating Dominic with the cord was not an isolated incident, but rather part of a pattern of abuse.

Additionally, at the time of the jurisdictional hearing, Mother still had not accepted responsibility for her abusive conduct toward Dominic. Instead, Mother maintained that Dominic's sister, Aurora, was the one who struck him with the cord during the June 20, 2024 incident and that Aurora did so in self-defense because Dominic attacked her. Mother also blamed Dominic for DCFS's involvement with the family, and accused him of lying about the abuse because of his own anger issues. A parent's refusal to accept responsibility for the conduct giving rise to the dependency proceedings supports a finding the child faces a current risk of harm. (*In re E.E.*, *supra*, 49 Cal.App.5th at p. 213; *In re D.B.* (2020) 48 Cal.App.5th 613, 622.) Indeed, “[o]ne cannot correct a problem one fails to acknowledge.” (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 197.)

In contending that the evidence was insufficient to support jurisdiction in this case, Mother asserts that Dominic's account of the June 20, 2024 incident was contradicted by five of his siblings, who similarly reported that Aurora, and not Mother, hit him with the cord. Mother also argues that Dominic's claim of prior physical abuse was contrary to the statements of his siblings, each of whom denied that Mother ever used corporal punishment. However, in sustaining the section 300 petition,

the juvenile court found that Dominic's version of events was "believable." As a reviewing court, " "[w]e do not reweigh the evidence, evaluate the credibility of witnesses or resolve evidentiary conflicts."'" (*In re M.M.* (2015) 240 Cal.App.4th 703, 721.) Rather, our task is to determine if there is substantial evidence, contradicted or uncontradicted, to support the juvenile court's findings. (*In re I.J., supra*, 56 Cal.4th at p. 773.) Here, Dominic's account of Mother's physical abuse, which the juvenile court credited, provided substantial evidence to support the exercise of jurisdiction over each of Mother's minor children.

Mother argues that even if jurisdiction was proper over Dominic, the evidence was insufficient to support a finding that either Jasmine or C.C. was at substantial risk of serious physical harm. In support of this argument, Mother asserts that there was no evidence that she ever inflicted any injuries on Jasmine or C.C., and notes that both children maintained that they felt safe in Mother's care. "Although section 300 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 Cole L.* (2021) 70 Cal.App.5th 591, 601–602.) In this case, the juvenile court reasonably could infer that Mother not only physically abused Dominic, but that she also convinced Dominic's siblings to falsely claim to the police and DCFS that Aurora was the person who inflicted the injuries. The court also reasonably could infer that, given Mother's refusal to take any responsibility for her conduct toward Dominic, both Jasmine and C.C. were similarly at risk of suffering serious physical harm in the future, but they might be unwilling to disclose such abuse in order to protect Mother.

Under these circumstances, the juvenile court's finding that each of the minor children came within the jurisdiction of the court based on Mother's physical abuse of Dominic was supported by substantial evidence.

3. Dispositional order

3.1. Governing law

"At the dispositional hearing, a dependent child may not be taken from the physical custody of the parent under section 361 unless the court finds there is clear and convincing evidence there is or would be a substantial danger to the child's physical health, safety, protection, or physical or emotional well-being if returned home, and that there are no reasonable means to protect the child's physical health without removing the child.' " (*In re D.P.* (2020) 44 Cal.App.5th 1058, 1065.) In determining whether to remove a child, the court "may consider the parent's past conduct and current circumstances, and the parent's response to the conditions that gave rise to juvenile court intervention." (*In re D.B.* (2018) 26 Cal.App.5th 320, 332.) The court "must also consider whether there are any reasonable protective measures and services that can be implemented to prevent the child's removal from the parent's physical custody." (*Ibid.*) "The parent need not be dangerous and the minor need not have been harmed before removal is appropriate. The focus of the statute is on averting harm to the child." (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163; accord, *In re D.B.*, at p. 328.)

3.2. Substantial evidence supported the order removing Dominic from Mother's custody

Mother also challenges the sufficiency of the evidence supporting the dispositional order removing Dominic from her custody. She contends the evidence was insufficient to establish

that removal from her care was the only reasonable means of protecting Dominic from the risk of harm. We disagree.

The same evidence that supported the juvenile court's exercise of jurisdiction over Dominic based on Mother's physical abuse of the child also supported the removal order. (§ 361, subd. (c)(1); *In re D.B.*, *supra*, 26 Cal.App.5th at p. 332.) As discussed, there was substantial evidence to support a finding that Mother engaged in a pattern of abusive conduct toward Dominic that left welts, marks, and bruises on the child's body. When Dominic reported the abuse to the police and DCFS, Mother denied any wrongdoing and falsely claimed that Aurora inflicted Dominic's injuries in self-defense. Dominic repeatedly expressed to DCFS that he did not feel safe residing with Mother, and did not want to be returned to her care because he was afraid of what she would do after he reported the abuse.

The evidence also showed that Mother failed to gain any insight into her abusive conduct toward Dominic over the course of the dependency proceedings. When DCFS spoke with Mother shortly before the jurisdictional and dispositional hearing, she continued to blame Dominic for the agency's involvement with the family. She also continued to criticize Dominic and accuse him of lying about the abuse. While Mother claims on appeal that one reasonable alternative to removal was placement in her home with a requirement for services, Mother expressed to DCFS that she did not want services for her children because she preferred the family's issues remain private. Given the totality of this record, the court reasonably could find that Dominic would be at substantial risk of harm if returned to Mother's care, and that removal was the only reasonable means of protecting the

child from such risk. The juvenile court's removal order was supported by substantial evidence.

DISPOSITION

The jurisdictional findings and dispositional orders are affirmed.

VIRAMONTES, J.

WE CONCUR:

STRATTON, P. J.

WILEY, J.