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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION TWO

In re Elijah P., a Person Coming Under the  
Juvenile Court Law.

ALAMEDA COUNTY SOCIAL  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

I.P.,

Defendant and Appellant.

A141502

(Alameda County  
Super. Ct. No. OJ13021994)

I.P. (Mother) was 19 years old when her three-month-old son, Elijah, was detained by the Alameda County Social Services Agency (agency). Mother's family had gathered to discuss with Mother their concerns about her parenting, but Mother became angry and left the house for two hours, leaving Elijah behind. The agency filed a juvenile dependency petition pursuant to Welfare and Institutions Code section 300<sup>1</sup> alleging that Elijah had suffered or was at substantial risk of suffering serious physical harm or illness due to the inability of Mother to provide regular care because of her mental health issues and substance abuse.

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<sup>1</sup> Further statutory citations are to the Welfare and Institutions Code unless otherwise indicated.

The juvenile court, following contested jurisdiction and disposition hearings, declared Elijah to be a dependent of the court and ordered an out-of-home placement for Elijah and reunification services for Mother. On appeal, Mother contends that the court's jurisdictional finding was unsupported by substantial evidence. We disagree and affirm.

### **BACKGROUND**

On November 25, 2013, the agency filed a juvenile dependency petition, alleging pursuant to section 300, subdivision (b), that Elijah, then aged three months, had suffered or was at substantial risk of suffering serious physical harm or illness "by the inability of the parent or legal guardian to provide regular care for the child due to the parent's or legal guardian's mental illness, developmental disability, or substance abuse."

The agency filed a detention report on November 26, 2013, recommending that Elijah, who had been taken into custody on November 21, 2013, be detained while the investigation continued. According to Elijah's aunt, Anita F. (Anita), family members had been concerned with Mother's parenting because she would yell at Elijah when he cried and she had Elijah out of the house, at a park with her friends, until 9:00 or 10:00 p.m. The family gathered at the house of Elijah's great aunt, with whom Mother and Elijah lived, to discuss their concerns with her. Mother, who was 19 years old, became angry and left the house, leaving Elijah behind. The family called the police, who took Elijah into custody. Anita told a child welfare worker that Mother had been diagnosed with bipolar disorder as a minor, had exhibited violent behavior, and had frequent hospitalizations.

On November 26, 2013, the court ordered continued detention of Elijah.

On December 11, 2013, the agency filed a jurisdiction/disposition report recommending that the court declare Elijah a dependent of the court with out-of-home placement and reunification services for Mother. It noted that the father, whose paternity had not been established, was incarcerated. Mother reported that the father had never been involved with the care of the minor and his name was not on Elijah's birth certificate. A social worker had met with Mother, who denied emotionally and physically abusing Elijah. Mother admitted using marijuana, but stated she did not

smoke around Elijah and had stopped using after he was detained. She admitted being diagnosed with bipolar disorder as a young child, but she was not willing to participate in therapeutic services or take medication. She asserted that her family had lied and she took Elijah to the park during the day, but not at night. Mother admitted yelling at Elijah because he cried.

On December 23, 2013, the agency filed an addendum report. It noted that Mother was no longer refusing services, and she had been referred for a psychological evaluation. Mother had obtained housing through the Beyond Emancipation program and was living in a residence for single females, but could obtain placement as a parent if Elijah were returned to her custody.

The matter came before the court for a jurisdiction and disposition hearing on December 26, 2013. Mother's counsel requested that the hearing be reset for a contest and the matter was continued to February 26, 2014.

On February 11, 2014, the agency filed a second amended section 300 petition.<sup>2</sup> The petition stated the following allegations in support of jurisdiction:

“B-1 The mother has a history of mental health and anger problems to wit:

“a. The mother was diagnosed as Bi-Polar as a child with frequent hospitalizations and violent behavior that included destruction of property and violent lashing out at her family.

“b. The mother was observed by the maternal family yelling at the minor and on about 12/9/13 the mother admitted that she was yelling at the minor because she stated ‘I have an anger problem and he was crying and crying.’

“c. After the removal of the minor from the mother the mother became angry at the home of the maternal great aunt over issues involving laundry and threatened to get a gun and shoot the house, she threatened to have the house ‘hit’ (robbed) and she went outside and start[ed] hitting the car window of the maternal great aunt.

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<sup>2</sup> On December 17, 2013, the agency had filed a first amended petition, modifying the factual allegations from the original petition.

“d. The mother stopped participating in therapeutic services to address her mental health and issues with anger in or about April 2012.

“B-2 The mother neglected the care of the minor when in her care and she frequently had the minor out late in the evening during the very cold months of November 2013 and December 2013 until 10 or 11 p.m. at night.

“B-3 The minor was crying a great deal in the mother’s care and the mother admitted to the maternal aunt that she hit the minor on the mouth.

“B-4 On or about 11/21/13 when the minor came into custody he had cradle cap, foot hand and mouth virus and very enlarged startled eyes.<sup>[3]</sup>

“B-5 The maternal family attempted to confront the mother about her harmful parenting and the mother left during the meeting with no concern about leaving the baby behind.

“B-6 The mother admits to marijuana use and she expressed concern that a hair follicle drug test would test positive for marijuana due to casual contact at a bus stop.

“B-7 The biological father [D.S.] remains incarcerated at Santa Rita Jail.”

On February 18, 2014, the agency filed an addendum report. The report stated: “The mother has cooperated with several of the services recommended for her such as the drug treatment and she has met with the psychological evaluator several times, but the evaluation is not complete.<sup>[4]</sup> However, the mother has not gotten into individual therapy and the visits with the minor are significantly difficult. During the majority of the mother’s visits the minor has descended into profuse crying.” Mother was attending a treatment program at the East Oakland Recovery Center (EORC) and all of her drug tests had been negative. She was also participating in anger management and parenting classes.

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<sup>3</sup> In closing argument at the contested jurisdiction hearing, the agency asked the court to delete allegation B-4. The court made no finding on that allegation.

<sup>4</sup> A preliminary psychological report was filed on February 20, 2014. However, at the contested jurisdiction hearing the court stated that because it was only a preliminary report, containing “none of the methodology and all of the results,” it would not be considered for jurisdiction.

A contested jurisdiction hearing began on February 26, 2014, and continued on March 10, 2014. Anita, Mother's sister, testified that prior to Elijah's detention, she observed Mother and Elijah together at the home of Anita's mother, where Mother and Elijah were living.<sup>5</sup> Anita would arrive between 10:00 a.m. and 2:00 p.m., and Mother would leave with Elijah about 40 minutes later because Mother did not want to be around Anita. Mother would not return until after 10:30 p.m. and would say she had been at Brookdale Park, which was about four blocks away and not visible from the house. On the day Elijah was detained, Anita saw him alone in the park in his stroller with no one watching him. Mother came up to Anita's car and told Anita that she had gone home to get something and that there were people she knew watching Elijah.

Anita was concerned that Elijah was not being properly fed because when Mother fed him, Elijah "would drink his bottle so fast like he was so hungry." When Mother was angry with Elijah she would scream at him: "Why the 'f' are you crying? Shut the 'f' up." Anita saw Mother become frustrated with Elijah's crying, lose her temper, and yell at him on multiple occasions. On one such occasion, Elijah was crying so hard he "could barely catch his breath because he was so scared," and Anita took the baby to calm him.

Once, when Mother and Anita were alone in a car, something, perhaps a radio story, prompted Anita to ask why someone would hit a child. According to Anita, Mother responded "Oh, I popped him in the mouth before."

Anita related that on the day Elijah was detained, family members had gathered to talk to Mother and offer their help with Elijah. When Mother arrived at about 7:00 p.m., she went to her room and several family members followed. Mother became angry, stormed out of the house, leaving Elijah, and was gone for about two hours. The family called the police because they believed Mother's anger and frustration posed a possible danger to Elijah.

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<sup>5</sup> There was conflicting testimony concerning relationships. Anita stated that Mother is her sister and that Mother was living in the home of Anita's mother. However, Mother stated that it was the home of her great aunt.

Anita reported that about “a month before Christmas” in 2013 there had been an argument about blankets and Mother threatened to hit Anita’s sister-in-law. Mother also threatened to have the house robbed and said she “would get a gun and come back and shoot.” Anita called the police to respond. Later in the evening, Anita’s mother told Mother that she would have to find another place to live, and Mother became upset. Mother was about to throw a television across the room, but Anita and another person present got it away from her. Mother then left the house and began punching the windows of Anita’s mother’s car. Anita again called the police to respond.

Just before Christmas in 2013, Anita came to her mother’s house and smelled marijuana. Anita confronted Mother, who became “extremely defensive.” Mother started yelling loudly and banging on the gate to the house.

Anita testified that as a minor, Mother had been hospitalized pursuant to section 5150<sup>6</sup> more than once, the last time when she was between 11 and 13 years old.

Mother testified that when her family confronted her on the day Elijah was detained, she handed Elijah into the care of her cousin Vanessa before she left the house. Mother confirmed that she had been diagnosed with bipolar disorder when she was seven years old and admitted that she had anger issues. Mother had been in therapy and had taken medication for bipolar disorder but discontinued both more than two years before. She stated “therapy really doesn’t work for me.” Mother admitted threatening her family by mention of a gun—she told them “You wouldn’t want me to have a gun in my possession.” She admitted threatening to have the house “hit” and trying to throw a television. Mother denied keeping Elijah out until after 10:00 p.m. and said that when she had Elijah at the park, they spent most of their time indoors at a park center. She said that she usually returned home with Elijah around 6:00 or 7:00 p.m.

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<sup>6</sup> Section 5150, subdivision (a) provides that “[w]hen a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled,” the person may be taken into custody for up to 72 hours for assessment, evaluation, crisis intervention and treatment.

Mother admitted that she had smoked marijuana but said that she stopped on November 24, 2013. She would smoke at the park or outside her house on the steps, but not inside the house. Mother said that she would smoke about 20 blunts<sup>7</sup> a day with friends. She would typically take three or four hits from a blunt. Mother denied smoking marijuana while she was pregnant or while she was breastfeeding Elijah. She would not smoke while Elijah was very close to her.

Mother testified that when she left the house, she would be with Elijah and her boyfriend, Will. Elijah never seemed cold or uncomfortable when she was out of the house. On the day that Anita thought Elijah was alone in the park, Will was watching him while Mother went back to the house to get Elijah's shoes. She was gone only five minutes. When she returned to the park, Will was about 13 feet away from Elijah because he was smoking.

Mother denied telling Anita that she had hit Elijah in the mouth. She said that she and Anita were "talking about something and because of how I grew up I didn't really get disciplined, and [Anita] said, 'Well, your kid is going to be ten times badder than you were,' and I said 'No, he is not. He will get disciplined. He is not going to act like I used to act. There will be discipline and if I have to pop my child, I will pop him.'" Mother denied ever using physical discipline with Elijah.

Kim Yancy, a dependency investigation worker for the agency, had observed Elijah in both the home of the foster parent with whom he was currently placed and in supervised visits with Mother. The foster parent described Elijah to Yancy as a happy baby who laughs and doesn't cry unnecessarily. However, most of Elijah's visits with Mother had gone poorly because Mother had "difficulty in determining what he needs and then being willing to provide what he needs and then Elijah descending into profuse crying, which causes the mother to become angry." Mother expressed concerns about overfeeding Elijah. Elijah would cry because he was hungry and Mother seemed

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<sup>7</sup> Mother described a blunt as a cigar from which the tobacco had been removed and the space inside filled with marijuana.

reluctant to give him enough formula to satisfy him. Yancy believed that Mother demonstrated “a lack of compassion, incidents of harshness, not being attuned and disengaged behavior.” The third visit “was the roughest visit of all for the baby. The mother would not go to the bottle and the visit just descended.” When Elijah became hungry and started to cry, Mother “got a chew toy and started to rub it on his gums. He started to scream harder and she said to him, ‘Your teething is your problem and not my problem.’ When she finally got the bottle out, she held it up to him and said, ‘Oh, is this what you want? Oh, this is what you want.’ It appeared to be taunting.” On another visit, Mother “snapped at [Elijah] for crying, raised her voice, told him ‘I told you to stop [c]rying. Why are you crying? Stop crying.’ She then put a blanket on him and it covered his face and he screamed even harder and she did not remove the blanket.” The foster parent reported that Elijah comes back from visits “very sad. He doesn’t smile. It takes several hours before he is back to his normal, smiling and happy self.”

Following presentation of evidence and argument, the juvenile court found that it had jurisdiction over Elijah pursuant to section 300, subdivision (b). It found allegations B-1, B-3 and B-7 to be true. The court modified allegation B-2 to read “The mother frequently had the minor out late” and found the modified allegation to be true. It modified allegation B-5 to “The maternal family attempted to confront the mother about her parenting and the mother left the meeting with no concern about leaving her baby behind” and found the modified allegation true. It modified allegation B-6 to “The mother admits to substantial and prolonged marijuana use while the minor was in her care at a time when the minor was age one month to three months old” and found the modified allegation true. The court stated: “there is enough going on here that jurisdiction is completely appropriate and it doesn’t strike me as a close call.”

On March 12, 2014, at the conclusion of a contested disposition hearing, the court ordered an out-of-home placement for Elijah and reunification services for Mother.

Mother timely filed a notice of appeal on April 8, 2014.

## DISCUSSION

Mother urges us to reverse the juvenile court's jurisdictional finding pursuant to section 300, subdivision (b), contending both that several of the factual allegations the court found to be true were unsupported by substantial evidence and that, in any case, those factual findings are insufficient for the court to assert its jurisdiction over Elijah. We disagree.

In a dependency proceeding, the agency has the burden to prove by a preponderance of the evidence that the minor comes under the jurisdiction of the juvenile court. (§ 355; *In re Isabella F.* (2014) 226 Cal.App.4th 128, 137.) We review the juvenile court's jurisdictional finding for substantial evidence. (*In re James R., Jr.* (2009) 176 Cal.App.4th 129, 134-135 (*James R.*)) “[W]e draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if other evidence supports a contrary finding.” (*Id.* at p. 135.)

Section 300, subdivision (b)(1) provides that the court may assert its jurisdiction over a minor when “[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 . . . the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.”

As a preliminary matter, the juvenile court found allegation B-7, that Elijah's father was incarcerated, to be true. Mother challenges only the allegations concerning herself and the sufficiency of those findings to support jurisdiction—she does not challenge the finding that the father is incarcerated. Because of this, the agency contends that we must affirm the court's jurisdictional finding, relying on *In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492. In *I.A.* we observed: “[I]t 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.] . . . For jurisdictional purposes it is irrelevant which parent created those circumstances. . . . 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.” (*Ibid.*) It is apparently the agency’s argument that allegation B-7 alone would have supported the court’s jurisdiction over Elijah and, thus, we need not consider Mother’s challenge, which does not involve allegation B-7. The problem with the agency’s argument is that it cites no authority, not could it, for the proposition that one parent’s incarceration, standing alone, is sufficient for a juvenile court to assert jurisdiction over a child. (See *In re Noe F.* (2013) 213 Cal.App.4th 358, 366 [mother’s incarceration, without more, cannot provide a basis for jurisdiction].)

Mother challenges the sufficiency of the evidence supporting allegations B-2, B-3 and B-5, which the court found to be true (after amending B-2 and B-5). We conclude that the court’s findings on these allegations were supported by substantial evidence.

The court amended allegation B-2 to read “The mother frequently had the minor out late” and Mother challenges the sufficiency of the evidence. This allegation was well supported by Anita’s observation that when she visited the home, Mother would not return home with Elijah until between 10:00 and 11:00 p.m.

Allegation B-3 was that the child cried a great deal in Mother’s presence and Mother hit him on the mouth. That Elijah cried excessively with Mother was supported by Anita’s observations, Yancy’s observations of Mother’s meetings with Elijah, and the foster parent’s reports of Elijah’s behavior in the foster home and his disposition following visits with Mother. That Mother hit Elijah in the mouth was supported by Anita’s report that Mother had admitted doing so. It is true that Mother denied such an admission, but that does not render Anita’s testimony insubstantial.

The court amended allegation B-5 to read “The maternal family attempted to confront the mother about her parenting and the mother left the meeting with no concern about leaving the baby behind.” This is well supported by the evidence—Mother

admitted that she left Elijah in her cousin's care and did not state that she was concerned about leaving him behind.<sup>8</sup>

Finally, Mother contends that the allegations found true by the juvenile court do not show that Elijah was at substantial risk of physical harm, and thus are insufficient to support the court's jurisdictional finding. She relies on *In re David M.* (2005) 134 Cal.App.4th 822, 828 (*David M.*): “ “[w]hile substantial evidence may consist of inferences, such inferences must be ‘a product of logic and reason’ and ‘must rest on the evidence’ [citation]; *inferences that are the result of mere speculation or conjecture cannot support a finding* [citations].” ’ ’ ” Here, far more than mere speculation supports the juvenile court's determination that there was a substantial risk of harm to Elijah.

Mother admitted that she has a history of serious mental health problems that led to involuntary hospitalizations under section 5150 and for at least two years she had received no therapy and taken no medication. Mother also admitted that she currently has an anger management problem. These admissions support the implication that Mother currently suffers from a mental disorder. (See *Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 202 [no expert testimony concerning parent's mental illness is required at jurisdictional hearing in proceeding to declare child dependent; dispositive issue, whether child is at substantial risk of harm at hands of parent, can be assessed with ordinary experience].)

Mother's problem with containing her anger led her to threaten Anita's sister-in-law with personal violence and to have her house robbed or shot at. She would have thrown a television across the room if her sister had not intervened. Afterwards, Mother punched at the windows of a car. Mother's anger has been directed not only at adult members of her family, but at Elijah as well. Anita had observed Mother yelling at the

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<sup>8</sup> Although allegation B-5 was supported by substantial evidence, we agree with Mother that it is not relevant to the court's jurisdictional finding. There was no evidence that Mother's family was unprepared to care for Elijah and no evidence that Mother *should* have been concerned about leaving him with them.

baby as it cried, and Yancy had observed Mother's frustration with Elijah. Moreover, Anita testified that Mother had admitted hitting Elijah in the mouth.

The evidence supports the inference that Mother's anger management issues place Elijah at substantial risk of harm. The inference is not mere speculation and is sufficient to support the court's jurisdictional finding. But there is more. Mother demonstrated a lack of concern for Elijah's well-being by taking him to a park for substantial parts of the day where she smoked a significant amount of marijuana with her friends during a period when he was three months of age or less. She also showed a lack of concern by leaving Elijah in the park without attentive supervision while she made a trip to the house and back. Although Mother had been taking anger management and parenting classes, she had not completed those services, supporting the inference that her anger and parenting issues were ongoing at the time of the jurisdiction hearing.

Substantial evidence supports the juvenile court's factual findings and those findings are sufficient to establish the court's jurisdiction over Elijah. Arguing against such a conclusion, Mother relies on cases in which a fact analogous to one of the allegations in her case has been held, standing alone, not to support a jurisdictional finding. (See *In re Rocco M.* (1991) 1 Cal.App.4th 814, 824 ["the past infliction of physical harm by a caretaker, standing alone, does not establish a substantial risk of physical harm"]; *In re Drake M.* (2012) 211 Cal.App.4th 754, 769 [marijuana use, standing alone, does not establish a substantial risk of physical harm].) Mother's reliance on such cases is misplaced. Here, the court's jurisdictional finding was not based on a single fact that only speculatively implies a current or ongoing risk of harm.

Nor is Mother's case similar to *David M.*, *supra*, 134 Cal.App.4th 822, or *James R.*, *supra*, 176 Cal.App.4th 129. In *David M.*, the court determined that "the evidence of mother's mental and substance abuse problems and father's mental problems was never tied . . . to a substantial risk of serious harm." (*David M.*, at p. 829.) In *James R.*, the court concluded that even though the mother had mental health and substance abuse issues, "[a]ny causal link between [appellant's] mental state and future harm to the minors was speculative." (*James R.*, at p. 136.) In contrast to these two cases, Mother's

mental state has caused her to threaten serious harm to others, to yell on multiple occasions at her three-month-old crying son, and to hit him on the mouth. There is a non-speculative causal link between Mother's mental state and a risk of future harm to Elijah.

**DISPOSITION**

The juvenile court's jurisdiction and disposition orders are affirmed.

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STEWART, J.

We concur.

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RICHMAN, Acting P.J.

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MILLER, J.