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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

In re J.M. et al., Persons Coming Under the
Juvenile Court Law.

HUMBOLDT COUNTY DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

Jessica L.,

Defendant and Appellant.

A145738

(Humboldt County Super. Ct. Nos.
JV150068, JV150069-1, JV150069-2,
& JV150069-3)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]

THE COURT:

Appellant having filed a Petition for Rehearing on October 6, 2016, it is ordered that the opinion filed herein on September 20, 2016, be modified as follows:

On page 30, footnote 12 is added after “[t]he judgment is affirmed” as set forth below:

III. DISPOSITION

The judgment is affirmed.¹

There is no change in the judgment. Appellant's petition for rehearing is denied.

Dated:

Ruvolo, P. J.

¹ Mother has asked us to direct the juvenile court to order the Department to notify the Department of Justice (DOJ) that any listing in the CACI relating to her should be modified to indicate that the juvenile court's jurisdictional finding under subdivision (a) of section 300 has proven not to be substantiated. We decline to do so. First, it is not clear on this record whether a report was made to the DOJ and, if so, whether any modification is required as a result of our opinion. In addition, the Department is mandated by statute to ensure the accuracy of its reports to the DOJ. (Pen. Code, § 11169, subd. (a) [DOJ shall be notified in writing "[i]f a report has previously been filed which subsequently proves to be not substantiated"; *id.*, § 11170, subd. (a)(2) ["submitting agencies are responsible for the accuracy, completeness, and retention" of CACI reports].) There is no reason to assume that it will fail to fulfill its responsibilities in this case. Finally, if the Department does decline to take any necessary action, mother has recourse to a grievance process and, should she exhaust her administrative remedies without obtaining her desired result, she may file a petition for writ of administrative mandamus in the trial court. (*In re C.F.* (2011) 198 Cal.App.4th 454, 464-465.) Under such circumstances any action on our part would, at best, be premature.

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After the death of two-year-old Ryder S., the juvenile court removed Jessica L.’s four other children—J.M. (born August 2005), Alyssa S. (born October 2008), Taylor S. (born November 2010), and Skyler S. (born August 2013)—from her physical custody and offered Jessica (mother) reunification services. In this dependency appeal, mother challenges the jurisdictional findings and dispositional order which led to the removal of her remaining children. Specifically, mother argues that the juvenile court’s jurisdictional findings under subdivisions (a), (b), and (f) of section 300 of the Welfare and Institutions Code must all be reversed because they are not supported by substantial evidence and because the juvenile court judge improperly applied the law to the existing

facts.¹ Mother also claims that the juvenile court's dispositional order removing the children from her care was not supported by substantial evidence and that the court improperly failed to state the factual basis for removal. Having reviewed this matter in some detail, we reverse the juvenile court's jurisdictional finding pursuant to subdivision (a) of section 300 as not supported by substantial evidence, but otherwise affirm the jurisdictional findings and dispositional order.

I. BACKGROUND

On March 18, 2015, the Humboldt County Department of Health and Human Services filed dependency petitions pursuant to subdivision (a), (b), and (f) of section 300, alleging that the four minors who are the subjects of these proceedings were at substantial risk of harm because their sibling, Ryder, had died on March 12, 2015; mother had left her children with an inappropriate caregiver, her partner, Matthew R. (Matt); and a homicide investigation had been initiated with respect to both mother and Matt. The children had been detained on March 16, 2015, and were placed with the maternal grandmother. At the detention hearing on March 19, 2015, the parents submitted to detention and the matters were set for a contested jurisdictional hearing.²

At the time of the jurisdictional hearing on May 27 and 28, 2015, the following information was available to the trial court:

First, there was significant evidence presented that mother consistently selected partners with extensive criminal histories, substance abuse issues, domestic violence problems, and gang involvement. For instance, J.M.'s father, Ramsey M., has a criminal history that includes convictions for domestic violence, possession of firearms, and possession of a controlled substance. He reported recent substance abuse after he got divorced and his parents died, but claimed to have been clean and sober for four or five

¹ All statutory references are the Welfare and Institutions Code unless otherwise specified.

² Ramsey M. is the father of J.M. He was elevated to presumed father status at the March 19 detention hearing. Zachary S. is the alleged father of the remaining minors and was the alleged father of Ryder. At the time of the detention hearing, he was in San Quentin serving a 25-year sentence for armed robbery and carjacking.

months prior to J.M.'s detention. At the time of detention, Ramsey M. had 11 children, none of whom he was directly parenting, he claimed, "because of the children's mothers." The Department recommended against immediate placement of J.M. with her father, both because of his history and because he had acted in an aggressive and threatening manner to the social worker and others involved in the case while attending an early hearing in the matter.

As stated above, Zachary S., the father of mother's other four children, is currently serving a 25-year prison sentence following convictions for robbery and carjacking. In addition to this most current incarceration, Zachary S.'s criminal history includes convictions for driving with a suspended license, receiving stolen property, transport and possession of controlled substances, vehicle theft, evading a police officer in disregard of safety, second degree burglary, and being a felon in possession of a firearm. He is reportedly gang-affiliated, being known as a " 'Humboldt County Gangster' " (HCG). According to Detective Wilcox, the officer investigating the circumstances surrounding Ryder's death, Zachary S. had also recently been convicted of murder.

In fact, mother, herself, testified that her relationship with Zachary S. had been a chaotic cycle of incarceration and drug addiction. They were together on and off for eight years during which time they used methamphetamine together while caring for the children. Mother also admitted to domestic violence in their relationship. Further, mother lost her Section 8 housing because she allowed Zachary S. to live with her, even though she knew this was not allowed. According to mother, Zachary is currently incarcerated for an armed robbery he committed while she was in the hospital having Skyler.

After she lost her housing, mother reports she sent Taylor and Ryder to live with the paternal grandfather for eight months to a year. During that same period, J.M. and Alyssa lived with the maternal grandmother, and mother stayed with "family and

friends.”³ Thereafter, mother and her five children moved as a family into the Multiple Assistance Center (MAC) in Eureka, a transitional housing facility, where they stayed for at least a year. During April 2014, while still living at the MAC, mother began a dating relationship with Matt. According to mother, Matt was attentive to her children and engaged positively with them during outings from the MAC.

Matt, unfortunately, also has a significant criminal history, with convictions for the manufacture/possession of a dangerous weapon, being a felon in possession of a firearm, possession of a controlled substance, and possession of a controlled substance for sale. His most recent arrests were for threatening a crime with intent to terrorize in August 2013 and domestic violence in February 2014. Indeed, Matt’s grandmother, while testifying at the jurisdictional hearing, acknowledged Matt had past convictions for drug issues, had a prior drug problem, was charged with domestic battery in 2014, and spent time in San Quentin on a firearm charge. Mother was also aware of the recent domestic violence case—in which an ex-girlfriend claimed he “put his hands around her neck”—but dismissed it, stating that his accuser had falsified reports of abuse in the past.

In addition, according to Detective Wilcox, Matt is affiliated with two gangs, the 18th Street Gang and the Crazy White Boys. Apparently, Zachary S., as a member of the HCG, was not happy when mother and Matt became involved with each other. Detective Wilcox further stated that, shortly after mother and Matt got together, Matt’s face was sliced up and he would not talk about it or report anything. As for Ramsey M., J.M.’s father, he reported that he knew Matt from “ ‘the streets.’ ” He further stated that he “could not believe” Ryder’s death was an accident and that the social worker should check into Matt’s background.

For herself, mother has admitted previous substance abuse, with multiple DUI convictions. Further, as stated above, she admitted to methamphetamine use while caring

³ According to the paternal grandfather, he cared for Ryder and Taylor for two years, during which time mother visited the children once. He further stated that mother had always “ ‘farmed out’ ” the children to live with other people and that she had the kids “for the benefits.”

for her children during her eight-year relationship with Zachary S. After Ryder's death, mother claimed to have been clean and sober for two years. However, she tested positive for alcohol and opiates on March 22, 2015, with a testing sample that indicated that it may have been adulterated or diluted. In explanation, mother claimed that she took a Norco from Matt's mother because she was "super stressed out." She did not offer an explanation for the alcohol finding.

From the MAC, mother moved with her children to a MAC annex. At both of those sites, no visitors were allowed. Around December 2014, she left transitional housing and moved in with Luanna J., the mother of some of J.M's half-siblings. While mother and the children lived with Luanna, Matt lived with his grandparents. Matt sometimes took Ryder and Skyler to spend the night at his grandparents' home. It was around this time that mother started noticing Ryder's tendency to bruise. Luanna's sister, who lived in Luanna's house during this same period, noticed that Ryder seemed more bruised than her children.

Mother obtained a housekeeping job at the Holiday Inn in January 2015, and was working five or six days a week. Since she no longer had childcare through the MAC, Matt began helping out, watching the children at Luanna's house or taking them to his grandparents' house. Luanna, however, did not like or trust Matt with her property and believed he was a thief. She told mother not to have Matt watch the children unsupervised at her house. Nevertheless, Luanna came home during lunch one day and surprised Matt alone with the children. Shortly thereafter, Luanna's boyfriend's cell phone went missing. Luanna suspected Matt of the theft and told Jessica she would need to leave.

Around the same time, Luanna's landlord found out how many children were actually living in the house (mother's five plus Luanna's four), and told mother she would have to move by March 1. Later, however, the landlord happened to come by while Matt was out in the front yard watching the children. Apparently the perception of pandemonium prompted the landlord to state that mother had to move out immediately. Mother's boss at the Holiday Inn then agreed to give her a free room at the Comfort Inn

until she could find other housing. Matt quickly moved into the hotel room with the family to better assist with child care. At the time of Ryder's death, mother and Matt had been together for approximately 11 months and had been staying at the Comfort Inn together for about three weeks. Matt had been providing childcare for eight hours a day, six days a week, for about five months.

On March 12, 2015, mother left the children in Matt's care and went to work. At approximately 12:30pm, Matt's aunt and several cousins came by and he visited with them outside for about ten minutes. Thereafter, according to Matt, he put Ryder in the bathtub while Taylor and Skyler were laying down for a nap. He then left the hotel room for about five to seven minutes to have a cigarette. Matt described this as "a normal occurrence and did not find anything wrong with it." Ryder was in the tub because he was potty training and had an accident. Matt reported that the water was about six inches deep. There was an anti-slip mat on the side of the tub, but not in the tub. When Matt returned, he found Ryder face down, submerged in the bath water, and unresponsive. He let the water out of the tub, pulled the child out, and picked up the phone to dial 911. At that exact moment (1:00pm), mother called to ask him to pick up the older children at school. He told mother what was happening, hung up, called 911, and began cardiopulmonary resuscitation (CPR). According to Matt, when he started CPR a lot of water came out followed by what looked like vomit. Once Matt reached 911, the operator directed him on additional CPR until the ambulance arrived. During this time, Matt recalled seeing a " 'goose egg' " next to an existing bruise on Ryder's forehead. The swelling was gone, however, by the time the ambulance appeared.

When emergency response arrived, they found Matt attending to Ryder. Both Matt and Ryder were wet, but there was no water in the tub. The carpet around Ryder was wet, and he was naked. An emergency responder noted that Ryder had no pulse and began chest compressions, during which no water was expelled (as would have been expected with a drowning). When he placed an oral airway in Ryder, he noticed indentations on the top surface of Ryder's tongue, consistent with someone having a seizure and biting down on their tongue. Mother had arrived and was in the hallway

when ambulance personnel received Ryder for transport. She identified herself as Ryder's mother and asked if she could ride with him in the ambulance. Mother, however, never asked any questions about what was happening, where the other children were, or where Matt was. When she was questioned on route, mother reported that Ryder had no history of seizures and no other medical conditions.

Ultimately, Ryder was taken to the hospital, where attempts to resuscitate him were unsuccessful. At that time, he had a number of bruises that were in different stages of healing and that were described as "questionable" in origin. Specifically, "[t]he oldest bruise was to the left of the rectum and was about the size of a nickel. Ryder also had a bruise that was about two inches long and shaped like a golf ball in the middle of his forehead. The newest bruise was deep blue in color on the left side of his abdomen and was about two and a half inches long by one inch wide. Ryder also had bruises on his groin and back, and an abrasion/contusion on the back of his head."

Mother reported that, when she picked the other children up afterwards, 4-year-old Taylor stated that Matt had been out of the room when " 'it happened.' " Taylor seemed to think that Ryder died because he had "two bumps on his head," although she stated that she did not see or hear anything. When she was interviewed several days later on March 17, 2015, Taylor confirmed this report. She was initially very resistant to talking, asking " 'you're not going to tell Matt are you?' " She further reported that she would get in " 'big big trouble.' " In the end, Taylor stated that "she saw Ryder die and she saw Ryder on the ground. Taylor was unable to say if Ryder died or was asleep before, during, or after the bath. Taylor made the statement that " 'Matt wasn't there, he was outside.' " Later, Taylor told the maternal grandmother's partner, Ignacio "Nacho" I., the same thing—that she had seen Ryder die and that he was on the floor, clothed. It was not Nacho's experience that Taylor made up stories.

Dr. Super, the medical examiner in this case, performed an initial autopsy on March 14, 2015. According to the deputy coroner, Trevor Enright (Coroner Enright), Dr. Super found the situation "suspicious," although, there was " 'no smoking gun.' " Specifically, there was fluid in Ryder's body cavity, but no fluid found in Ryder's

stomach. Moreover, there was petechial hemorrhaging on the top of the eyes that was consistent with hanging or choking. Although it was originally thought that this hemorrhaging could have been caused by resuscitation efforts, the medical examiner stated that the evidence does not support this. Finally, there was pooled blood at the back of Ryder's head and on his back, indicating additional bruising that was not yet seen on the skin and likely occurred at or around the time of death. Since Matt reportedly found Ryder face down, Dr. Super found the back injuries more suspicious than some of the other injuries.

After reviewing the medical report, Detective Wilcox indicated that there were concerns because the explanation for what happened to Ryder did not "completely match" what the medical examiner found. According to Wilcox, it did not look like Ryder drowned, although he might have been put into the water while unconscious. The burst blood vessels in the eyes could be caused by strangulation, but not by hitting his head. Thereafter, when Detective Wilcox spoke to Dr. Super, the medical examiner indicated that he was "absolutely not calling the death a drowning" and that the findings were not consistent with the story given. According to Dr. Super, the quantity and location of bruising on Ryder was consistent with, if not probative of, abuse. Dr. Super also stated that Ryder's brain and spinal cord had been sent out to be examined for signs of shaken baby. Later, Coroner Enright described the autopsy as the most comprehensive with which he had ever been involved. Nevertheless, Dr. Super indicated that he was unsure whether the science would ever be able to determine exactly what happened.

With respect to Ryder's many prior injuries, both mother and Matt separately described Ryder as a "careless and reckless child who climbed up things and fell down." They also stated that Ryder "bruised and broke" easily. According to mother, Ryder's father had a hemophilia-like blood disorder as a child and she was "working on getting Ryder checked out for it." At the jurisdictional hearing, mother testified that Ryder was not like most two-year-old active boys because he did "crazy things" and "test[ed] his limits." Other family members also reported Ryder to be rambunctious, constantly jumping off things and climbing up things. For instance, the maternal grandmother and

Nacho stated that Ryder got himself in sticky situations by climbing on things and going where he shouldn't, even one time falling between the porch and the house during a construction project. In contrast, Luanna commented that Ryder was a very quiet child when he lived with her. And Matt's grandfather also stated that Ryder was quieter than expected and rarely spoke, even when asked a direct question. In his opinion, there appeared to be something " 'not right' " with the child.

When asked about the injuries on Ryder's head at the time of his death (an older bruise on his forehead and an abrasion/contusion on the back of his head), mother and Matt initially reported in separate conversations that the injuries were caused after he was climbing on the toilet trying to get a towel and he fell and hit his head on the toilet and then fell backwards onto the floor. Mother had a picture from that time which showed an additional bruise on the other side of Ryder's forehead. According to mother, that bruise was from the same fall, but it had gone away. Mother was not present, however, at the time of the incident. Moreover, although Matt reported to mother that Ryder seemed groggy the day he hit his head and that he was watching the boy to make sure he didn't immediately go to sleep and didn't have a concussion, mother did not take Ryder to the doctor, or even call the doctor to check in about the injury.

Thereafter, in a later telephone conversation with the Coroner, mother changed her story, reporting that only one of the bruises on Ryder's forehead was from falling off the toilet. Specifically, with Matt in the background feeding her information, mother reported that the other bruise was caused by Ryder slipping in the hot tub, banging his head, and going under the water. According to Matt, there was a female friend with him who grabbed Ryder after he fell under the water.

At the time of his death, Ryder also had a bruise on the midline of his back that appeared older. Neither mother nor Matt initially had any explanation for this bruise. Mother then stated that Ryder had an abrasion on his back and she had initially thought that something was going on at school. She later noticed, however, that the maternal grandmother had a chair at her house that Ryder would rub his back against incessantly. Mother thought that this might have caused both the abrasion and the bruise.

As mentioned above, Ryder had additional injuries at the time of his death, other than those to his head and back. For instance, he had a deep blue bruise on the left side of his abdomen that was about two and a half inches long by one inch wide. Ryder also had bruises in his groin area and to the left of his rectum. Finally, there was an abrasion on his tailbone and a small abrasion on the left shoulder blade area. Despite evidence of these many injuries, mother testified at the jurisdictional hearing that Ryder had no other signs of past injury other than the fading bump on his head at the time of his death.

When asked if she ever had any concerns that Matt might be hurting any of her children, mother said no, but then went on to explain at length: “And that’s another thing. Like when my kids get hurt, if I am at work, when I come home, like I want them to explain to me like what happened, you know. And that’s like something I would normally do. Like I would ask, did you have an okay day? Did you get punished? Why you got punished. If you got hurt, tell me how you got hurt. Show me.”

Mother also mentioned one particular time when she was “freaking out,” because she took Ryder’s shirt off to put him in the shower “[a]nd it looked like he just like a thousand blood vessels his stomach.” Her response was to take a picture and send it to a friend who was staying at Luanna’s house where Ryder had been. The friend did not know what the injury was and, although mother came up with a possible explanation—that he had repeatedly rubbed his stomach on the edge of the couch—she acknowledged the whole thing “just seemed weird.” Another time, Ryder returned with a swollen ankle from spending the night with Matt at his grandparents’ house.

When then nine-year-old J.M. was interviewed on March 17, 2015, she stated that she had seen a bump on the front and back of Ryder’s head from jumping in the pool, but did not see the actual incident. She reported that Taylor, Alyssa, and Ryder were the ones who usually got spankings, which were on the bottom with an open hand. Finally, J.M. stated that “Ryder used to have bruises grow on his stomach and she was unsure where they came from.”

Then six-year-old Alyssa reported on that same date that the rules of the home were “ ‘no mess, no stains.’ ” When her mother got angry, she and Matt would go

outside, leaving J.M. or Alyssa to watch the younger children. Alyssa further stated that spankings occurred on their backs and that her mother hit her back when she did not go fast enough. When asked if Ryder ever had any marks, Alyssa responded “ ‘yes, a bruise on his back.’ ” She described Ryder falling off the toilet after Matt walked in and startled him, but stated she did not see it happen. Matt told her. Further, according to Alyssa, Ryder hurt his arm because he bumped it and had a bruise on his tummy because he bumped the bed. Again, however, she did not see these incidents happen: Matt told her. When asked about Ryder’s death she stared blankly without speaking for significant periods of time before answering: “ ‘He keeps hurting himself.’ ”

Detective Wilcox also provided information from the paternal grandfather about Kelli S., a 16-year-old half-sibling who would babysit the children every couple of weeks. Kelli reported to the paternal grandfather that she had seen Ryder approximately two weeks before his death. At that time, he was gesturing to his shoulder/chest area and saying “ ‘owe,’ ” while playing. Kelli noticed a number of new bruises on his body. When Kelli asked Ryder about it, the two year old stated “ ‘mommy told me to tell you I fell off my bike.’ ” According to the paternal grandfather, when Kelli confronted mother regarding Ryder’s injury, mother stated that the sisters had hit Ryder.⁴

With respect to lack of supervision, the afternoon front desk clerk from the Comfort Inn (3:00pm to 11:00pm) testified that she saw the children at the pool with other adults and children present, but she never saw Matt at the pool and did not recall ever seeing mother. The afternoon clerk also stated that she had seen Matt outside smoking without the minors. Similarly, hotel staff had informed Detective Wilcox that, when mother was not at the hotel, Matt often went outside to smoke and that “there was a lot of traffic in and out of the room.” Staff also reported to Detective Wilcox that, on the morning Ryder died, Matt had left Ryder “unattended and unrestrained” in a high chair in the breakfast area of the hotel while he went back to the room to get Taylor and Skyler.

⁴ When Detective Wilcox spoke directly with Kelli, she confirmed the incident generally, but could not say who had instructed Ryder to tell the story about falling off of his bike.

Matt admitted that he left two-year-old Ryder unattended in the breakfast area that day, while one-year-old Skyler and four-year-old Taylor were alone in the hotel room, but claimed he ran back to the room “ ‘real quick.’ ”⁵

Hotel staff additionally reported that, after Ryder’s death, the family was asked to leave the hotel by the morning staff because of the children being unsupervised and being left “ ‘on their own.’ ” The children had been found swimming in the pool without an adult present, and there was no lifeguard. The oldest daughters, including J.M., seemed to take on the role of the parent for the younger ones. J.M., however, by her own report was just learning to swim and, at that point, only knew how to dog paddle.

According to mother, prior to the incident with Ryder, Matt told her he would walk the children outside with him whenever he went outside to smoke. Mother testified that Matt went out to smoke three or four times between 5:00pm and 9:00pm when she was present. When mother was not present, “she was under the impression *most of the time* the kids were with him” while he smoked (italics added). Following Ryder’s death, Detective Wilcox was investigating an unrelated incident at another motel where mother and Matt happened to be staying and he observed security video for the night of March 19, 2015. The video showed Matt stepping outside his hotel room to smoke more times than he could recall ever seeing anyone else do so previously. Motel staff indicated they felt the same way. What was of note to the officer was the frequency of Matt’s need/desire to smoke.

Mother was also aware that Matt smoked marijuana and had a history of smoking, although she stated she was “pretty sure” he didn’t smoke marijuana while watching the children. Matt tested positive for tetrahydrocannabinol (THC), the active ingredient in marijuana on March 22, 2015, after Ryder’s death. Although mother had previously told the social worker that both she and Matt were sober, she testified at the jurisdictional

⁵ Mother interjected that this was an abnormal situation because she is usually in the room with the kids when Matt goes to get food, but she had to leave early that morning. However, she had previously told Detective Wilcox that she followed her typical daily routine on the day of Ryder’s death, leaving at approximately 7:30 to take J.M. and Alyssa to school before heading to work.

hearing that she was not surprised by this result. After Ryder's death, mother informed the social worker that she had a referral for Changing Tides and would begin childcare with them. In fact, mother stated that the referral had already been in place and she " 'should of had the kids already going.' "

After considering all of this evidence, at the conclusion of the contested jurisdictional hearing on May 28, 2015, the juvenile court determined the allegations in the petition to be true and found the minors to be children described by subdivisions (a), (b), and (f) of section 300. In finding jurisdiction in this case, the court first noted that Ryder's death was "clearly a tragedy" and that it appeared to the court that mother dearly loved her children and that her intentions were good. The court went on to state that, while it might not be happy with mother's lack of permanent housing or her penchant for involving herself with people with a history of substance abuse, violence, and gang activity, such bad parenting choices were not sufficient to support a finding of jurisdiction. Rather, the juvenile court concluded that it all came down to notice—whether mother had notice that she was placing her children in a position of danger by leaving them with Matt. Although it stated that it was "a very close call," the court determined, looking at the totality of the circumstances, that mother did have such notice. In particular, it was influenced by the statements of the medical examiner that Ryder's death did not occur as Matt described it.⁶ And, the court indicated that Ryder's history of injury should have provided mother with some form of notice, stating: "I think that the—the bruising and other injuries, which are evident, that are suggested by the totality of the circumstances and all of the reports here are significant enough to have given mother notice."

⁶ Specifically, the court stated: "I have to look at the totality of the circumstances. In particular, the expert testimony. The death did not occur in the fashion that it is described by Mr. [R.]" On appeal, mother argues repeatedly that the juvenile court's jurisdictional analysis must be rejected because it was based on an erroneous understanding of the facts—that is, that there was expert testimony in the case when there was not. We find this argument specious. Clearly, the juvenile court was referring to the statements of the medical professionals in this case which, as discussed below, were properly admitted through their inclusion in the social worker's reports.

When a jurisdictional finding is sustained under subdivision (f) of section 300—due to a parent causing the death of another child through abuse or neglect—the juvenile court is not permitted to order reunification services unless it finds, by clear and convincing evidence, that reunification is in the best interest of the child. (§ 361.5, subd. (c).) In its dispositional reports in these matters, the Department argued that reunification services should not be offered to mother. Specifically, it argued that reunification was not in the children’s best interests based on: Skyler’s age and developmental stage; the children’s traumatic exposure to the death of their brother; mother’s failure to engage in any pre-dispositional services; mother’s decision to leave the children in Matt’s care, even after Ryder suffered repeated injury; mother’s failure to obtain medical treatment for any of Ryder’s injuries; the Department’s belief that mother was lying when she stated that she was no longer with Matt; mother’s pattern of obtaining abusive and violent partners and allowing them unfettered access to her children; and the fact that the children had spent most of their lives out of their mother’s care. A contested dispositional hearing was set for July 8, 2015. Ramsey M. indicated he was contesting the Department’s decision not to place J.M. with him as the noncustodial parent. Minor’s counsel filed an at-issue memorandum arguing that providing reunification services to mother would be in the minors’ best interests and opposing placement of J.M. with her father.

After considering evidence and argument, the juvenile court— at the conclusion of the contested hearing on July 9, 2015—found, by clear and convincing evidence, that it would be detrimental to the children not to order reunification services for mother. In reaching this decision the court noted that mother had never had the benefit of reunification services in the past and that the children were bonded to her and would suffer detriment if forced to endure another loss while still grieving the loss of their brother. It therefore continued the matter to allow the Department to develop and

present an appropriate case plan.⁷ Thereafter, at the continued hearing on July 21, 2015, the juvenile court, without further argument by any of the parties, declared the four minors to be juvenile court dependents, removed them from the physical custody of their mother, and ordered reunification services for both mother and Ramsey M.

Mother's timely notice of appeal now brings the matter before this court.

II. DISCUSSION

A. *Jurisdictional Findings*

On appeal, mother challenges the juvenile court's jurisdictional findings under each of the section 300 subdivisions established in this case—subdivisions (a), (b), and (f). Proof by a preponderance of the evidence is necessary to support a finding under section 300. (§ 355, subd. (a).) However, on appeal, “[a] dependency court’s jurisdictional findings are reviewed under the substantial evidence test. [Citation.] Under this test, we resolve all conflicts in the evidence, and indulge all reasonable inferences that may be derived from the evidence, in favor of the court’s findings.” (*In re Mia Z.* (2016) 246 Cal.App.4th 883, 891 (*Mia Z.*)). Ultimately, the test is “whether a reasonable trier of fact would make the challenged ruling in light of the entire record.” (*In re Isabella F.* (2014) 226 Cal.App.4th 128, 137-138 (*Isabella F.*)).

In the present case, the court considered the social worker's detention report, jurisdiction report, and jurisdictional addendum report, along with the attached preliminary police report and social worker logs when making its jurisdictional findings. In addition, as summarized above, it also heard testimony from several witnesses, including mother, a hotel employee, and Matt's grandmother. We will thus consider all of these materials in conducting our substantial evidence analysis, keeping in mind that “ “[w]e do not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. . . . and [will] affirm the order if supported by substantial evidence even if other evidence supports a contrary conclusion.’ ” (*In re Liam L.* (2015) 240

⁷ The court also concluded that placement of J.M. with her father would be detrimental to the minor.

Cal.App.4th 1068, 1087 (*Liam L.*.) Moreover, it is the appellant who “ ‘has the burden of showing the finding or order is not supported by substantial evidence.’ ” (*Ibid.*)

Before we turn to mother’s specific challenges to the jurisdictional findings, however, we note as a preliminary matter that mother filed a number of hearsay objections to the Department’s evidence in the juvenile court in accordance with section 355. Pursuant to that statute, generally speaking, “[a] social study prepared by the petitioning agency, and hearsay evidence contained in it, is admissible and constitutes competent evidence upon which a finding of jurisdiction pursuant to Section 300 may be based.” (§ 355, subd. (b).) However, “[i]f a party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence *shall not be sufficient by itself* to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based,” unless an exception is established by the petitioner. (*Id.*, subd. (c)(1), italics added.) Exceptions exist for statements otherwise admissible pursuant to an acknowledged hearsay exception; certain statements of the minors who are the subject of the proceedings; statements of police officers, social workers, teachers, and certain health practitioners; and statements where the declarant is available for cross-examination. (*Id.*, subd. (c)(1)(A)-(D).)

Here, mother complains on appeal that the juvenile court never ruled on her section 355 objections, further complicating review of the sufficiency of its jurisdictional findings. Specifically, mother objected below to various statements in the jurisdictional reports made by mother, Matt, an “unknown person” at the Eureka Police Department, Dr. Super, unknown hotel staff from the Comfort Inn where Ryder’s death occurred, and an unnamed “ ‘Medical Examiner.’ ” However, in its at-issue memorandum filed in advance of the jurisdictional hearing, the Department thoroughly reviewed and responded to each of mother’s hearsay challenges, indicating that they were all covered by various exceptions expressly permitted under section 355.

For instance, as the Department explained, the unnamed Medical Examiner was Dr. Super and all of his statements were exempt from the strictures of section 355

pursuant to subdivision (c)(1)(C), which expressly permits use of statements by a health practitioner described in paragraphs (21) through (28) of subdivision (a) of Penal Code section 11165.7. (§ 355, subd. (c)(1)(C).) Since Dr. Super is a neuropathologist and the medical examiner assigned to Ryder's case, his statements were permissible under both paragraphs (21) and (28). (Pen. Code, § 11165.7, subd. (a)(21) [exemption for physicians]; *id.*, subd. (a)(28) [exemption for medical examiners]. Similarly, the unknown person at the Eureka Police Department was Detective Wilcox, and his statements are excepted under section 355 as statements of a peace officer. (§ 355, subd. (c)(1)(C); Pen. Code, § 830.1, subd. (a).) Moreover, as the Department correctly pointed out, mother's statements are all excepted from the limitations of section 355 as party admissions. (§ 355, subd. (c)(1)(A); Evid. Code, § 1220.) Further, with respect to the unknown hotel employee, the Department indicated that it would provide mother with the necessary contact information so that mother could subpoena the person if desired. There is no indication in the record that the Department failed to provide this information. Indeed, to the contrary, mother called one member of the hotel staff as a witness and did not re-raise the hearsay issue before the juvenile court. Under such circumstances, we will presume that the declarant of the statement at issue was "available for cross-examination," another exemption under section 355. (§ 355, subd. (c)(1)(D).)

This leaves the statements attributed to Matt, which involved his description of his response to finding Ryder on the date of his death and his explanations with respect to certain previous injuries sustained by the minor. We agree with the Department that these statements are generally not offered for their truth and therefore fall outside the purview of the hearsay rule. (See Evid. Code, § 1200, subd. (a) [defining hearsay evidence as "evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated"].) Indeed, the most interesting thing about the challenged statements is that other evidence in the case appears to support the conclusion that they are *not* true. Moreover, even if we were to deem the statements by Matt which were objected to by mother to be "specific hearsay evidence" that is not otherwise exempt under the exceptions articulated in section

355, the only result would be that the statements *by themselves* would not be sufficient “to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based.” (§ 355, subd. (c)(1).) But these statements were at least partially corroborated by information from a number of other parties and, even more importantly, are only one piece in the complex evidentiary puzzle which was confronted by the juvenile court in this case. They were therefore properly considered by the juvenile court in making its jurisdictional determinations. In sum, since none of mother’s section 355 objections required the juvenile court to exclude evidence from its consideration, its failure to comment on those objections in connection with the contested hearing does not require reversal. And, as stated above, we will consider all of the evidence presented in our substantial evidence review.

1. *Section 300, Subdivision (a) Findings*

We turn first to the juvenile court’s jurisdictional finding under section 300, subdivision (a). Pursuant to that statute, dependency jurisdiction is warranted if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child’s parent or guardian.” To support this finding in the present case, the Department, in its initial petitions, alleged the following: “The children’s sibling died on 03/12/2015. Law Enforcement and the Coroner report indicate a homicide investigation has been initiated in regard to the mother, Jessica [L.], and her partner, Matthew [R.] The violent maltreatment of the deceased sibling creates substantial risk of future harm to these children.”

Since, at the time of the contested jurisdictional hearing in May 2015, the criminal investigation was still ongoing and no final conclusions had been reached by either law enforcement or the coroner, the Department requested in its at-issue memorandum that the juvenile court amend the subdivision (a) allegation as follows: “The child’s sibling, Ryder [S.], died on 03/12/2015. Law Enforcement and the Coroner reported a homicide investigation has been initiated in regard to the mother, Jessica [L.], and her partner, Matthew [R.] The violent maltreatment of the sibling preceding his death creates a substantial risk of future harm to the child(ren).” After reviewing all of the evidence and

hearing the testimony in the case, however, the juvenile court declined to make the amendment as requested by the Department. Rather, the court stated: “I am going to take jurisdiction in this matter. . . . I am not going to make the amendment specifically as county counsel has suggested. It’s going to read that the child’s sibling, Ryder [S.], died on March 12, 2015. Law enforcement and the coroner reported a homicide investigation that has been initiated in regard to mother, Jessica [L.], and her partner, Matthew [R.] And this is where I am going to make the change. The *negligent mistreatment* of the sibling preceding his death creates a substantial risk of future harm to these children, and that would be as to all of the children” (italics added). The juvenile court went on to sustain the petitions, as amended, concluding—by clear and convincing evidence—that the children were described by subdivisions (a), (b) and (f) of section 300. Thereafter, the Department filed amended petitions conforming to the juvenile court’s findings.

Mother attacks the juvenile court’s subdivision (a) finding on at least 16 different grounds. We need not address all these many claims of error, however, because one was sufficient. Specifically, mother asserts that subdivision (a), by its terms, requires evidence of nonaccidental injury inflicted by a parent or guardian.⁸ Since the juvenile court expressly indicated that the basis for its finding under subdivision (a) was the “negligent mistreatment” of Ryder prior to his death, the evidence, mother argues, was patently insufficient for purposes of subdivision (a). We agree.

Subdivision (a) requires a substantial risk of serious physical harm “inflicted nonaccidentally upon the child by the child’s parent or guardian.” (§ 300, subd. (a).) A juvenile court “may find a substantial risk of future injury ‘based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings, or a combination of these and other *actions by the parent or guardian which indicate the child is at risk of serious physical harm.*’ ” (*Isabella F.*,

⁸ Section 300 expressly provides that “[a]s used in this section, ‘guardian’ means the legal guardian of the child.” Since Matt—an informal caregiver to the minors—cannot be considered their “guardian” for purposes of section 300, any evidence suggesting physical abuse by Matt is legally insufficient to support a finding under subdivision (a).

supra, 226 Cal.App.4th at p. 138, italics added.) Thus, the common denominator for all of these methods of proof is some evidence of the intentional infliction of physical harm on a child or a child’s sibling *by the parent*. Here, the repeated injuries to Ryder that preceded his death under suspicious circumstances would likely be sufficient to support a finding under subdivision (a) if there was substantial evidence that mother, herself, had inflicted those injuries. The record, however, is devoid of such proof. (Cf. *In re Daisy H.* (2011) 192 Cal.App.4th 713, 716 [reversing a finding under subdivision (a) where “[t]here was no evidence that Father ever intentionally harmed any of his children or that the children were at risk of intentional harm”].)

At most, the record in these matters contains evidence, through Alyssa’s statement, that mother “spanked” the children on the back as punishment and the inference that mother knew *something* nonaccidental was happening to Ryder because she encouraged him to lie about the source of his injuries to his half-sibling, Kelli. This is manifestly insufficient to support a finding under subdivision (a). We thus agree with mother that concluding, on these facts, that mother had herself physically abused any of her children would amount to little more than impermissible speculation. (See *In re David M.* (2005) 134 Cal.App.4th 822, 828 [inferences that are the result of mere speculation or conjecture cannot support a jurisdictional finding].)

Instead, the evidence in this case supports negligence on mother’s part—negligence in choosing a caretaker for her children that placed them at substantial risk of physical harm and, ultimately, lead to Ryder’s death through Matt’s abuse or neglect. The juvenile court clearly recognized this when it changed the petition language to allege only the “negligent mistreatment” of Ryder prior to his death rather than the “violent maltreatment” for purposes of subdivision (a). But once the juvenile court characterized the abuse suffered as negligent rather than intentional, it was simply insufficient under the statute. Indeed, on appeal, the Department does not even attempt to justify the assumption of jurisdiction under subdivision (a), arguing instead that the findings under subdivisions (f) and (b) are sufficient. Under these circumstances, we reverse the juvenile court’s jurisdictional finding under subdivision (a).

2. Section 300, Subdivision (f) Findings

We next consider the jurisdictional finding made by the juvenile court pursuant to subdivision (f) of section 300. As we have previously discussed, this statute permits the assumption of dependency jurisdiction by the juvenile court where the child's parent "caused the death of another child through abuse or neglect." (§ 300, subd. (f).) In such a situation, a finding of current risk to any surviving children is not required for the assumption of jurisdiction. (*Mia Z.*, *supra*, 246 Cal.App.4th at p. 891.) Rather, in its adoption of subdivision (f), "[t]he Legislature apparently concluded that a parent's or guardian's neglectful or abusive responsibility for a *child fatality* may *inherently* give rise to a serious concern for the current safety and welfare of living children under the parent's or guardian's care, and may thereby justify the juvenile court's intervention on their behalf without the need for separate evidence or findings about the current risk of such harm." (*In re Ethan C.* (2012) 54 Cal.4th 610, 638 (*Ethan C.*).

Moreover, in *Ethan C.*, our high court held that ordinary negligence is sufficient for purposes of establishing jurisdiction pursuant to subdivision (f), noting the appellate court's conclusion that such a construction is "consistent with the dependency statute's civil nature, and with its nonpenal purpose to protect children who are at risk." (*Ethan C.*, *supra*, 54 Cal.4th at pp. 617-618, 623, 637.) The *Ethan C.* court also set forth a test for determining when a parent's negligent conduct may be found to have "caused" a child's death within the meaning of section 300, subdivision (f). Specifically: "One's wrongful acts or omissions are a legal cause of injury if they were a substantial factor in bringing it about. [Citations.] If the actor's wrongful conduct operated concurrently with other contemporaneous forces to produce the harm, it is a substantial factor, and thus a legal cause, if the injury, or its full extent, would not have occurred but for that conduct. Conversely, if the injury would have occurred even if the actor had not acted wrongfully, his or her conduct generally cannot be deemed a substantial factor in the harm. [Citations.]" (*Id.* at p. 640; see also *Mia Z.*, *supra*, 246 Cal.App.4th at p. 892.)

Under these standards, we conclude that substantial evidence supports the juvenile court's finding that mother's neglect caused Ryder's death for purposes of subdivision

(f). While the actual cause of Ryder’s death is not known and may never be known, a reasonable inference from the evidence adduced in the juvenile court is that Ryder died from intentional abuse inflicted by Matt and/or as a result of Matt’s very lax supervision of the toddler. There were numerous “questionable” injuries on Ryder at the time of his death, which Dr. Super concluded were consistent with, if not probative of, abuse. Moreover, the evidence strongly suggests that Ryder’s death did not occur as reported by Matt, based on both the medical examiner’s analysis of Ryder’s injuries and on Taylor’s statements that she saw Ryder die, fully clothed, while Matt was out of the room. Thus, it appears that Matt was trying to cover something up, something more than his lack of supervision of the minor, which he freely admitted. Further, mother indicated that she first noticed Ryder’s tendency to bruise in December 2014, the exact same time that she moved out of the MAC with its restrictive visitation policies and Matt obtained more access to Ryder, who he would sometimes have spend the night with him at his grandparents’ home. There was also evidence from the hotel staff that Matt routinely left Ryder inappropriately supervised. Finally, that something more disturbing than repeated accidental injury was going on here is supported by the fact that mother told Ryder to lie to his 16-year-old half-sibling about the origin of some fairly serious injuries to his chest mere weeks before his death.⁹ Although other conclusions could possibly be drawn from the evidence, we find reasonable the juvenile court’s implicit determination that Ryder’s death came about due to Matt’s presence in, and almost total control over, his young life. (See *Liam L.*, *supra*, 240 Cal.App.4th at p. 1087 [we affirm a jurisdictional order on

⁹ In reaching its jurisdictional decision in this case, the juvenile court commented about a “level of discomfort with how this all came about.” On appeal, mother argues repeatedly that the “level of discomfort” which the court had regarding how Ryder’s death occurred was not a proper factor for the court to consider in its jurisdictional analysis. To the contrary, the court was expressing its belief that the true facts were not being disclosed, a credibility determination which was clearly within its province. Moreover, it went on to base its decision on the totality of the circumstances, including existing medical opinion and whether mother was on notice that she was placing her children at risk by leaving them with Matt. We see no error.

appeal if supported by substantial evidence even if other evidence supports a contrary conclusion].)

On the question of whether mother's decision to leave her five children—and especially her very young children, ages one, two, and four—in Matt's almost constant care constituted neglect for purposes of subdivision (f), we agree with the juvenile court that the issue boils down to one of notice. Thus, we must determine whether mother had notice that she was placing her children in a position of danger by leaving them with Matt. We believe that the record supports the conclusion that she did have such notice, and yet she nevertheless chose to leave her children inappropriately supervised.

First, mother certainly had cause to worry about Matt's character, given his history of gang involvement and violence. When they first got together, Matt's face was sliced, likely due to his gang affiliation, and he refused to talk about it or report it, a clear sign that he was involved in a violent lifestyle. At the same time, Matt was also dealing with an arrest for domestic violence based on an incident in which his ex-girlfriend claimed he "put his hands around her neck," but mother dismissed these charges as unfounded. Moreover, mother's friend Luanna did not like or trust Matt with her property. Ultimately, Luanna asked mother to move out after the theft of her boyfriend's cell phone, a crime Luanna suspected Matt had committed. Although mother's choice of partner had again jeopardized her housing, as it had when Zachary S. caused her to lose a prior residence, she remained with Matt.

Mother also had cause to worry about Matt's lack of appropriate supervision where her children were concerned, especially Ryder. She was aware of Matt's frequent need to step outside to smoke, a need that Detective Wilcox characterized as more intense than he had seen in any other person. It is reasonable to infer that mother would understand that Matt did not gather up all of her numerous young children each time he left the room. Indeed, the best mother could say while testifying at the jurisdictional hearing was that she was "under the impression" that "most of the time" the kids were with Matt while he smoked. Mother was also aware that Matt smoked marijuana and was not surprised when he tested positive for the substance after Ryder's death. Yet she could

testify only that she was “pretty sure” he didn’t smoke marijuana while watching the children.

These supervision issues were particularly serious with respect to Ryder, a toddler who was universally described as a rambunctious boy who was constantly jumping off things and climbing up things. Although Matt and mother pointed to this fact as an explanation for his many injuries, it is also evidence that Ryder would have required almost constant supervision to protect him from harm, supervision that would be difficult to provide while also watching one-year-old and four-year-old siblings. And, the fact that Ryder wasn’t getting the level of supervision needed was evident because, reportedly, Ryder kept hurting himself.

Indeed, it was this history of injury that the juvenile court specifically identified, in the totality of circumstances, as significant enough to put mother on notice. We agree. Starting in December 2014—when Matt began to have more access to Ryder—mother began to notice his tendency to bruise. Luanna’s sister, who lived with the family during this timeframe, stated that Ryder bruised more than her children. The repeated injuries were obvious enough that nine-year-old J.M. remarked that “Ryder used to have bruises grow on his stomach and she was unsure where they came from.” Four-year-old Alyssa was aware of a series of injuries to Ryder, all described as accidental by Matt. Further, when asked about Ryder’s death she stated, after a lengthy pause: “ ‘He keeps hurting himself.’ ” Thus, the evidence supports the conclusion that the constant bruising was evident enough that mother was aware of it. Indeed, the sheer number of injuries on Ryder’s body at the time of his death would be difficult to dismiss.¹⁰

Moreover, mother was clearly concerned. She reported interrogating her children on a daily basis regarding whether and how they had been injured during the day while in Matt’s care. She also tried to come up with explanations for Ryder’s various injuries.

¹⁰ In addition, during this same timeframe where the injuries were occurring, both Luanna and Matt’s grandfather described Ryder as unusually quiet. Matt’s grandfather also indicated that it seemed as if something was “ ‘not right’ ” about the boy, both circumstances that could be viewed as consistent with abuse and that could have given mother notice that something was wrong with the child.

For instance, a back abrasion made her speculate that something was “going on” at school. A back bruise could have come from rubbing up against a chair in the maternal grandmother’s house. And, when “a thousand blood vessels” appeared on Ryder’s stomach, she decided it was caused by Ryder repeatedly rubbing his stomach on the edge of the couch at Luanna’s house. Nevertheless, the injury had her “freaking out” and she acknowledged that the whole thing “just seemed weird.” Finally, that mother knew or suspected that something more than accidental injury was going on with Ryder is supported by the fact, mentioned above, that she told Ryder to lie to his 16-year-old half-sibling about how he had injured his chest several weeks before his death.

Nevertheless, despite mother’s documented awareness of, and concern about, Ryder’s many injuries, mother did not take him to the doctor or otherwise seek medical advice, even when Matt reported that Ryder had been “tired” all day after receiving several blows to his head in a bathroom fall. Since mother claims she thought Ryder might have inherited a potentially serious blood disorder from his father, this lack of professional attention to his injuries is even more disturbing. Finally, despite whatever concerns mother may have had regarding Matt’s treatment or supervision of Ryder, she failed to place her children in professional child care, even though it was available to her and she “ ‘should of had the kids already going’ ” at the time of Ryder’s death. In sum, the evidence presented below supports the conclusion that mother had notice of the danger Matt posed to her children and neglected to take appropriate action based on that knowledge in order to protect them. Tragically, as a result, Ryder died. Since Ryder’s injury, or its full extent, would not have occurred absent mother’s neglectful conduct in leaving her children with Matt, that conduct was a “substantial factor” contributing to Ryder’s death. (*Ethan C.*, *supra*, 54 Cal.4th at p. 640; see also *Mia Z.*, *supra*, 246 Cal.App.4th at p. 892.) Under such circumstances, we will not disturb the juvenile court’s jurisdictional finding under subdivision (f) of section 300.

3. *Section 300, Subdivision (b) Findings: Justiciability*

Mother also challenges the juvenile court’s jurisdictional findings under subdivision (b) of section 300—that her remaining children were at substantial risk of

harm because she had left them with Matt, an inappropriate caregiver. However, having found that the dependency court correctly exercised its jurisdiction under subdivision (f) of section 300, we need not explore whether this additional ground for jurisdiction was also supported by substantial evidence. Rather, we may rely on the doctrine of justiciability to decline to reach the issue.

“It is a fundamental principle of appellate practice that an appeal will not be entertained unless it presents a justiciable issue.” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489 (*I.A.*)). Pursuant to this doctrine of justiciability, “ “[a] judicial tribunal ordinarily may consider and determine only an existing controversy, and not a moot question or abstract proposition.” ’ ’ (*Id.* at p. 1490.) Application of the doctrine in the dependency context leads to the conclusion that “[w]hen 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.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) This is true because no effective relief could be granted in such a situation, as jurisdiction would be established regardless of the appellate court’s conclusions with respect to any such additional jurisdictional grounds. (See *I.A.*, *supra*, 201 Cal.App.4th at p. 1490 “[a]n important requirement for justiciability is the availability of ‘effective’ relief—that is, the prospect of a remedy that can have a practical, tangible impact on the parties’ conduct or legal status”].)

Indeed, mother acknowledges that if we uphold any one of the juvenile court’s jurisdictional findings in this case, we may decline to address the evidentiary support for the other jurisdictional findings on justiciability grounds. Nevertheless, she asks us to exercise our discretion to review *all* of the findings, arguing that each one has had adverse collateral consequences for her or may well have such consequences in the future. (See *In re Drake M.* (2012) 211 Cal.App.4th 754, 762-769 (*Drake M.*)). It is true

that several courts have used this argument as a justification for reaching the merits of a jurisdictional challenge that would otherwise not be deemed justiciable. (See, e.g., *In re Quentin H.* (2014) 230 Cal.App.4th 608, 613; *In re D.P.* (2014) 225 Cal.App.4th 898, 902; *In re Drake M.*, *supra*, 211 Cal.App.4th at pp. 762-769 [noting courts generally exercise discretion to reach the merits of a jurisdictional challenge when the finding serves as the basis for dispositional orders that are also challenged on appeal; could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings; or could have other consequences for the appellant beyond jurisdiction].) Division One in the First District, in contrast, refused to apply this rationale where the parent failed to suggest “a single specific legal or practical consequence” from the jurisdictional finding, “either within or outside the dependency proceedings.” (*I.A.*, *supra*, 201 Cal.App.4th at pp. 1493-1495.)

Here, mother cites numerous reasons why all of the jurisdictional findings are potentially prejudicial to her and should therefore be reviewed on appeal. Specifically, she maintains (1) that the jurisdictional findings served as the basis for the challenged dispositional orders in this case; (2) that the findings could potentially impact current or future dependency proceedings, especially orders regarding custody, visitation, and reunification requirements; (3) that certain of the jurisdictional findings may result in mother’s name being included in the Child Abuse Central Index (CACI) (see Pen. Code, §§ 11165.2, subd. (a), 11169); (4) that the findings—involving the death of a child under suspicious circumstances—are “pernicious” and carry a “particular stigma;” (5) that the findings could be used by the Department as part of mother’s child abuse history, potentially supporting the future removal of a child or children from her care; and (6) that the findings could negatively impact mother in future family law proceedings. Given our resolution of this matter, however, we find all of mother’s many arguments unavailing.

In a nutshell, we have here affirmed the juvenile court’s jurisdictional finding under subdivision (f) of section 300—that mother caused the death of Ryder through abuse or neglect. Thus, all of the potential negative consequences mother fears are already possibilities based on this single, serious finding. Indeed, the subdivision (f)

finding was based on the juvenile court's determination that mother was on notice that she was placing her minor children in a position of danger by leaving them with Matt, and that she negligently did so anyway, leading to Ryder's death. The finding that mother contests under subdivision (b) of section 300, that her children are at substantial risk of harm because she had left them with Matt, an inappropriate caregiver, is based on exactly the same facts. Under such circumstances, reaching the merits of mother's subdivision (b) claim would have not "a single specific legal or practical consequence . . . , either within or outside the dependency proceedings." (*I.A., supra*, 201 Cal.App.4th at p. 1493.) We therefore decline to review it.

B. *Dispositional Removal Order*

Mother also argues that the juvenile court's dispositional order in these matters should be reversed because substantial evidence does not support removal of the minors from mother's care and because the court failed to state a factual basis for its removal decision. As described above, however, the argument at disposition in this case was over whether mother should be granted reunification services at all, given the sustained finding under subdivision (f) of section 300 that mother had caused the death of another child through abuse or neglect. Mother never argued that removal of the minors from her care was unwarranted. Rather, once mother prevailed on the reunification issue at the contested dispositional hearing on July 8 and 9, 2015—and the proceedings were continued for development of an appropriate reunification plan for her—the subsequent hearing adopting that plan and the related dispositional orders (including the removal order) proceeded on an uncontested basis. Indeed, it is not surprising that mother's attorney failed to argue for return of the minors at the continued dispositional hearing on July 21, 2015, because the record reflects that mother was present in custody at that hearing, requiring the court to authorize jail visits between her and the children.

That mother only intended to dispute the jurisdictional findings in this case is further supported by reference to her notices of appeal. The first—filed prematurely on July 17, 2015, before dispositional orders were entered—indicates an appeal from the jurisdictional findings and orders and states in particular: "Jurisdiction only. Not

disposition. Specifically 300F finding.” Of course, challenges to the jurisdictional or dispositional orders in dependency proceedings are generally only appealable from the *dispositional* order in the case, which is viewed as the judgment. (*In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1150; *In re Jennifer V.* (1988) 197 Cal.App.3d 1206, 1209.) Perhaps recognizing this, mother filed an amended notice of appeal on July 23, 2015, indicating she was appealing from the dispositional findings and orders of July 21, 2015. This second notice of appeal, however, still states: “Jurisdiction only. Not disposition. Specifically 300F finding.” Further, the box for appealing an order involving removal from parental custody is not checked.

Under all of these circumstances, we decline to address mother’s challenges to the juvenile court’s removal order.¹¹ Arguably, mother’s amended notice of appeal does not cover an appeal of the orders entered at disposition. However, even if we were somehow to construe it to extend to the juvenile court’s dispositional removal order, we would conclude that mother has forfeited her right to contest that order by failing to object to it in the juvenile court. (*In re T.G.* (2015) 242 Cal.App.4th 976, 984.) While we have the discretion to excuse such a forfeiture in a case presenting an important legal issue (*ibid.*), we see no such issue here. Rather, the juvenile court took jurisdiction over mother’s four remaining children in this case after finding, under subdivision (f) of section 300, that mother had caused Ryder’s death through abuse or neglect, a finding that we have upheld on appeal. As mentioned above, in such a situation, dependency jurisdiction is established without requiring evidence of current risk of harm to the remaining children.

¹¹ We reject out of hand mother’s additional claim of dispositional error—that the juvenile court’s dispositional order is internally inconsistent because it states at several points that reunification services will be provided to mother, but also states at another point that such services “are not appropriate for the mother.” As described above, the juvenile court went out of its way in this case to make the findings necessary to allow reunification services for mother. It continued the dispositional hearing for development of an appropriate reunification plan for her, and thereafter ordered compliance with that plan. Thus, the unassailable conclusion from the record in this case is that reunification services were ordered for mother. Any statement to the contrary in the minute order is an obvious clerical error that does nothing to undercut the validity of the juvenile court’s clear dispositional determinations and is therefore not worthy of our appellate attention.

(*Ethan C.*, *supra*, 54 Cal.4th at pp. 637-639.) Whether the risk of current harm assumed for purposes of jurisdiction was sufficiently supported by the facts and circumstances of this case, thereby justifying dispositional removal, is a factual question specific to mother rather than a legal issue of general concern. Moreover, mother was represented by counsel throughout these proceedings and, in fact, by availing herself of the court process, was able to overcome the Department's recommendation that reunification services not be provided to her. Given all of these facts, we see no reason to exercise our discretion to interfere with the juvenile court's thoughtful dispositional order.

III. DISPOSITION

The judgment is affirmed.

REARDON, J.

We concur:

RUVOLO, P. J.

STREETER, J.

In re J.M. A145738