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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re A.S., a Person Coming Under the
Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.S.,

Defendant and Appellant.

B236559

(Los Angeles County
Super. Ct. No. CK89475)

APPEAL from orders of the Superior Court of Los Angeles County,
Rudolph Diaz, Judge. Affirmed.

Liana Serobian, under appointment by the Court of Appeal, for Defendant
and Appellant.

Office of the County Counsel, John F. Krattli, Acting County Counsel,
James M. Owens, Assistant County Counsel, Melinda S. White-Svec, Deputy
County Counsel, for Plaintiff and Respondent.

T.S. (father) appeals the jurisdictional findings and dispositional order entered with respect to his now four-year-old daughter, A.S. Father contends the jurisdictional findings and dispositional order must be reversed because there was no evidence A.S. was at risk of harm at the time of the jurisdictional hearing. We reject this claim and affirm the orders of the juvenile court.

BACKGROUND

1. Detention.

A.S. came to the attention of the Los Angeles County Department of Children and Family Services (the Department) on August 21, 2011, after mother left the child at a church nursery and asked maternal aunt to pick the child up because mother was struggling with drug addiction and was “going to get some help for my addiction and go to a shelter.” The referral indicated mother had a history of leaving A.S. at the nursery and at school but the child’s godmother had picked her up in the past.

The next day, a social worker met with maternal aunt and the child at the home of maternal aunt. Maternal aunt stated mother intermittently had been living on the streets for the past few months. Maternal aunt indicated she had concerns about father’s home environment, stating he raised pit bulls which resulted in A.S. having flea bites. Maternal aunt did not feel father was an appropriate care-giver and she believed mother did not leave the child with father because mother may have had concerns about father’s ability to care for A.S. The social worker observed flea bites on A.S.’s arms and legs but the child was neatly dressed and groomed and she had no other marks or bruises.

Father told the social worker mother had been using cocaine “off and on” and “has left in the past for 3-4 days at a time.” However, father was unaware that mother was living on the streets. Father denied alcohol or drug use and indicated he last saw mother when she went to church with A.S. on August 21, 2011. Father stated he has been involved in A.S.’s care her entire life.

Father claimed A.S. was not very well acquainted with maternal aunt and requested placement of the child in his home.

The Department filed a dependency petition alleging mother had unresolved substance abuse issues which rendered her unable to care for the child, and father knew of mother's drug abuse and failed to protect A.S. by allowing mother to have unlimited access to the child.

At the detention hearing, the juvenile court declared father A.S.'s presumed father, detained A.S. from mother and, over the Department's objection, released the child to father with family maintenance services, including unannounced home visits a minimum of once per week and random alcohol and drug testing.

2. Jurisdiction and disposition.

The jurisdiction and disposition report indicated mother admitted she had a substance abuse problem and needed help. Mother and father denied that father failed to protect A.S., claiming mother never used drugs in the home or in the presence of the child. However, mother admitted she "would be gone for three or four days at a time." Mother indicated father frequently had to go looking for mother to return her to the home and, without father's help, mother "would probably be gone forever." Mother stated that, after three days of drug abuse, "I would look like a monster. One time [A.S.] said, 'that's not my mommy.' That Sunday, I took [A.S.] to the nursery at church because I had plans on getting high."

Mother stated she started using drugs in the 1980's, she has been on and off drugs for the past several years and attributed her criminal history to drug addiction. Mother admitted she was unable to stay sober without the help of an inpatient drug treatment program. Mother indicated she and father have known each other since 1984 and they have been a couple for approximately nine years.

Father stated mother never used drugs in the home, as he did not allow it. Father claimed he took mother to two treatment programs but was unable to enroll her. Father was aware of mother's relapse but denied mother was ever around A.S. when mother was "high or drunk."

On September 9, 2011, mother pleaded no contest to the dependency petition and father submitted on the social reports. The juvenile court sustained the petition, declared A.S. a dependent child and placed her in father's custody. The juvenile court ordered family reunification services for mother and family maintenance services for father. Father's case plan consisted of individual counseling to address case issues, including the effects of drug use on a child, and group counseling through Alanon or a similar support group for partners of addicts.

DISCUSSION

1. Father's arguments.

Father contends the jurisdictional findings are not supported by substantial evidence because there was no evidence A.S. was at risk of harm at the time of the jurisdictional hearing. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) Father claims mother's drug use, without evidence she used drugs in the home or was under the influence while caring for A.S., does not support jurisdiction under Welfare and Institutions Code section 300, subdivision (b).¹ Father notes A.S. was observed to be neatly groomed and free of any marks or bruises indicative of abuse or neglect. Although father allowed mother to take the child to church, it is an inherently safe environment and the child was unharmed when maternal aunt picked her up. Father did not allow mother to use drugs in the home and he attempted to enroll her in two treatment programs. Father claims the order releasing A.S. to father at the detention hearing indicates

¹ Subsequent unspecified statutory references are to the Welfare and Institutions Code.

the child was not at risk of harm in his care. Father argues that, because mother was enrolled in a residential drug treatment program and father was providing adequate care for A.S., the juvenile court sustained the petition based on mere speculation. (*In re James R.* (2009) 176 Cal.App.4th 129, 136-137; *In re David M.* (2005) 134 Cal.App.4th 822, 829-832.) Father concludes the jurisdictional findings and the dispositional order must be reversed.

2. *General principles.*

At a jurisdictional hearing, the juvenile court determines whether the child falls within any of the categories specified in section 300. (*In re Michael D.* (1996) 51 Cal.App.4th 1074, 1082.) As relevant here, Welfare and Institutions Code section 300, subdivision (b) permits the exercise of dependency jurisdiction where a “child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, . . . or by the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s . . . substance abuse. . . . The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.” (§ 300, subd. (b).)

The jurisdictional finding must be supported by a preponderance of the evidence. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 248; § 355, subd. (a).) In reviewing a juvenile court’s jurisdictional finding, we apply the substantial evidence test. (*In re N.M.* (2011) 197 Cal.App.4th 159, 168; *In re V.M.* (2010) 191 Cal.App.4th 245, 252.) Under this standard, we resolve all conflicts in the evidence in favor of the juvenile court’s order and “indulge every inference in favor of the court’s decision so long as those inferences are ‘a product of logic and reason’ and ‘. . . rest on the evidence’ [citation]’ not on ‘mere speculation or conjecture.’ [Citation.]” (*In re R.M.* (2009) 175

Cal.App.4th 986, 988-989; *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393-1394.)

3. *The evidence supports the exercise of dependency jurisdiction.*

The evidence before the juvenile court showed mother had a longstanding problem with cocaine addiction which prevented her from providing appropriate care and supervision for A.S. Mother went on drug sprees that lasted three to four days and father frequently had to go looking for mother to return her safely to the home. These incidents resulted in mother looking “like a monster” and, on one such occasion, A.S. did not recognize mother. The fact mother was in a residential treatment program at the time of the jurisdiction hearing did not resolve mother’s inability to care for A.S. Indeed, mother admitted she was unable to remain sober without the assistance of a residential treatment program. Thus, the evidence supported the juvenile court’s finding there currently was substantial risk of harm to A.S. as a result of mother’s drug addiction.

Given that jurisdiction was appropriate based on this finding with respect to mother, we need not separately consider whether substantial evidence supports the juvenile court’s finding father failed to protect A.S. by allowing mother to have unlimited access to the child. The juvenile court properly may exercise jurisdiction over a child “if the actions of either parent bring the child within one of the statutory definitions in section 300. [Citation.]” (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 202; *In re P.A.* (2007) 155 Cal.App.4th 1197, 1212.)

Indeed, for jurisdictional purposes, it is irrelevant which parent created the circumstances that led to the dependency. (*In re Alexis H.* (2005) 132 Cal.App.4th 11, 16.) Thus, 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. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1495; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330.)

However, even if the foregoing authority is disregarded, substantial evidence indicated father's failure to protect A.S. from mother's drug use posed a substantial risk of harm to A.S. As noted above, mother regularly abused cocaine for days at a time. Although father was aware of mother's drug abuse, he nonetheless permitted mother to have unlimited access to A.S. and mother alone regularly took A.S. to Sunday services. Given that mother's addiction remained ongoing and required residential treatment, the juvenile court reasonably could conclude jurisdiction was necessary to ensure father did not permit mother to have unrestricted access to the child while her drug addiction remained ongoing. Thus, the finding that A.S. remained at substantial risk of harm due to father's failure to protect the child from mother's drug abuse is supported by the record.

Father seeks to avoid this conclusion by comparing this case to *In re James R.*, *supra*, 176 Cal.App.4th at pp. 136-137 and *In re David M.*, *supra*, 134 Cal.App.4th at pp. 829-830. However, both cases are distinguishable.

In *In re James R.*, *supra*, 176 Cal.App.4th 129, the mother had a negative reaction to taking prescription ibuprofen and drinking beer. (*Id.* at p. 136.) The mother also had a history of mental instability but there was no evidence she abused illegal drugs or was regularly intoxicated and unable to care for her children. (*Id.* at pp. 136-137.) The evidence indicated the father was able to protect and supervise the children and there was no evidence he might leave them alone with mother while she drank. Because the risk of harm to the children was speculative, *James R.* reversed the jurisdictional findings under section 300, subdivision (b). In reaching this decision, *James R.* noted evidence of a specific, defined risk of harm was required to support a finding that a child is at substantial risk of harm. (*Id.* at pp. 136-137.)

Here, there was a specific, defined risk of harm to A.S. Mother's ongoing substance abuse rendered her unable to provide appropriate care for A.S. and placed A.S. at risk of serious harm. Further, unlike the father in *James R.*, father did not adequately protect A.S. from mother's drug abuse and permitted mother unfettered access to the child.

In *In re David M.*, *supra*, 134 Cal.App.4th 822, a dependency petition was filed with respect to two-year-old David and his two-day-old sibling, A. The evidence showed the mother used marijuana on at least one occasion while pregnant with A. and she failed to obtain prenatal care early in the pregnancy. However, A. tested negative for drugs at birth, both children were healthy, the home was tidy and there was no showing the mother's delusional mental disorder or the father's mental problems placed the children at substantial risk of serious physical harm. (*Id.* at p. 830.) Although the record demonstrated the mother had a continuing problem with marijuana abuse, there was no evidence of substantial risk of serious harm to either child. (*Id.* at p. 830.) *David M.* concluded the evidence was not sufficient to establish the parents had failed to protect the children based on their mental health and substance abuse issues.

Here, mother's drug addiction had an adverse impact on A.S. and required residential treatment. Thus, *David M.* is not on point.

In sum, father's attacks on the juvenile court's exercise of jurisdiction in this case uniformly fail.

DISPOSITION

The orders of the juvenile court are affirmed.

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KLEIN, P. J.

We concur:

CROSKEY, J.

KITCHING, J.