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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B240214
(Los Angeles County
Super. Ct. No. CK70554)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

Z.C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Amy Pellman, Judge. Affirmed.

Eva E. Chick, under appointment by the Court of Appeal, for Defendant and Appellant.

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

* * * * *

We affirm the juvenile court's jurisdictional order over A.C., who was born with a positive toxicology for marijuana.

FACTUAL AND PROCEDURAL BACKGROUND

In 2007, Z.C.'s (mother's) eldest child, J.R., became a dependent of the juvenile court after mother was arrested for driving under the influence. Mother did not reunify with J.R. She did not complete court-ordered drug and alcohol testing.

On November 2, 2011, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition, which, as later sustained, alleged mother used marijuana during her pregnancy with A.C. A.C. was born with a positive toxicology for marijuana. Mother has a history of substance abuse, including alcohol.

In October 2011, both mother and A.C. tested positive for marijuana at A.C.'s birth. There was conflicting evidence whether A.C. suffered any medical problems as a result of exposure to marijuana. On November 2, 2011, a social worker reported that A.C. was born full term "with no medical problems." But, the maternal aunt who cared for A.C. reported that he had breathing problems, congestion, and kidney problems. DCFS also reported that A.C. may have slight developmental delays as a result of prenatal exposure to marijuana.

In 2008, mother tested positive for cocaine. In October 2011, mother also admitted to smoking marijuana one time while pregnant. In December 2011, mother admitted using marijuana before she was pregnant and acknowledged that she first started using marijuana at age 15. A.C.'s alleged father told a social worker that mother used other drugs in addition to marijuana.

Between the detention hearing and the jurisdictional hearing, mother made progress. She enrolled in a substance abuse program and was complying with her program, including random drug testing. Mother had not yet completed the substance abuse program. Mother's first two drug tests were positive for marijuana, and the latter 10 were negative. By January 2012, mother enrolled in a 12-step relapse prevention program, anger management, domestic violence, health education, and life skills classes.

The court took jurisdiction over A.C. under Welfare and Institutions Code section 300, subdivision (b).¹ The court found mother's statement she used marijuana only once during her pregnancy was not credible. The court granted mother reunification services because mother had done an "excellent job" in addressing her substance abuse problem.

DISCUSSION

Mother argues that the record lacks substantial evidence to support the juvenile court's jurisdictional finding. "When the sufficiency of the evidence to support a finding or order is challenged on appeal, the reviewing court must determine if there is any substantial evidence, that is, evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. [Citation.] In making this determination, all conflicts [in the evidence and in reasonable inferences from the evidence] are to be resolved in favor of the prevailing party, and issues of fact and credibility are questions for the trier of fact. [Citation.]' [Citation.]" (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.)

"Section 300, subdivision (b) provides a basis for juvenile court jurisdiction if the child has suffered, or there is a substantial risk the child will suffer, serious physical harm or illness caused by the parent's inability to provide regular care for the child because of the parent's mental illness, developmental disability or substance abuse. A jurisdictional finding under section 300, subdivision (b) requires: "(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) 'serious physical harm or illness' to the minor, or a 'substantial risk' of such harm or illness." [Citation.]' [Citations.]" (*In re James Jr.* (2009) 176 Cal.App.4th 129, 135.)

Mother's use of marijuana while pregnant was neglectful, and mother does not argue otherwise. Mother's argument that the record lacks any evidence of causation ignores the appropriate standard of review. While there was some conflict in the evidence whether A.C. suffered as a result of mother's drug use, the juvenile court was

¹ Undesignated statutory citations are to the Welfare and Institutions Code.

entitled to credit the evidence that her drug use resulted in A.C. suffering from slight developmental delays. Moreover, mother does not dispute that her conduct placed A.C. at substantial risk of harm even if it did not actually cause harm.

At the time of the jurisdictional hearing, there was reason to believe mother's substance abuse posed a risk to A.C. Mother used marijuana from a young age, drove under the influence, used other drugs prior to her pregnancy, and used marijuana on more than one occasion during her pregnancy. Mother failed to recognize the risk to A.C. from her use of marijuana during her pregnancy. Mother had not completed a substance abuse program at the time of the jurisdictional hearing. She also minimized her drug use, stating that she used marijuana only once during pregnancy, a statement the court discredited. (*In re Shelley J.* (1998) 68 Cal.App.4th 322, 329 [“Issues of fact and credibility are matters for the trial court alone”].) Contrary to mother's argument, the juvenile court could have inferred mother would not provide A.C. “a home environment free from the negative effects of substance abuse” as required by section 300.2. Although mother's progress was commendable, she had not yet completed her substance abuse program. Substantial evidence supported the court's finding that A.C., an infant, continued to be at substantial risk of harm at the time of the jurisdictional hearing.² (See *In re Troy D.* (1989) 215 Cal.App.3d 889, 897 [fact that an infant is born with a positive toxicology test supports dependency jurisdiction].)

Finally, mother argues the juvenile court erred in requiring her to have monitored visitation.³ We find no abuse of discretion. (*In re Emmanuel R.* (2001) 94 Cal.App.4th

² This case is distinguishable from *In re David M.* (2005) 134 Cal.App.4th 822, 830-831, in which the court found a mother's substance abuse posed no substantial risk to her child A. In contrast to A.C., A. tested negative for all controlled substances at his birth (*id.* at p. 826), and there was no evidence that mother's substance abuse was tied to actual harm to A. (*Id.* at pp. 829-830.) Additionally, here there was evidence mother abused substances in addition to marijuana.

³ Mother's request for unmonitored visits was sufficient to preserve the issue. Additional requests by mother's counsel would have been futile.

452, 465 [“A juvenile court’s determination as to whether parental visits are in the best interests of a dependent child may be reversed only upon a clear showing of abuse of discretion”].) A.C. was only a few months old at the time of the jurisdictional hearing and mother had not yet completed a substance abuse program. Additionally, mother had lied about the extent of her substance abuse problems. Under these circumstances, it was reasonable for the court to conclude a monitor would safeguard A.C.’s interests.

DISPOSITION

The order is affirmed.

FLIER, J.

We concur:

BIGELOW, P. J.

RUBIN, J.