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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re ADRIAN G., a Person Coming Under
the Juvenile Court Law.

B241186
(Los Angeles County
Super. Ct. No. CK91500)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANTOINETTE G.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Veronica S. McBeth, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.). Affirmed.

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

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Stephen D. Watson, Associate County Counsel, for Plaintiff and Respondent.

I. INTRODUCTION

Antoinette G., the mother of the child, A. G., appeals from the juvenile court's jurisdictional and dispositional orders. The mother argues there was insufficient evidence to support the juvenile court's jurisdiction under Welfare and Institutions Code section 300, subdivision (b).¹ In addition, the mother contends the juvenile court erred by declaring the youngster a dependent child rather than implementing a voluntary case plan under section 360, subdivision (b). We disagree and affirm the jurisdictional and dispositional orders.

II. PROCEDURAL HISTORY

On January 20, 2012, the Department of Children and Family Services (the department) filed a section 300 petition on behalf of the 14-year old child. The petition names the mother and Arthur S. as the parents. The petition alleges the mother was "a current abuser of illicit drugs" including amphetamine, methamphetamine and marijuana. In addition, the petition alleges the mother had a positive drug test for amphetamine and methamphetamine on January 12, 2012. The January 20, 2012 addendum report states the child was detained in the home of David M., a non-related extended family member.

At the January 20, 2012 detention hearing, the mother stated she would do whatever the juvenile court ordered including participation in a drug program. She requested the child be released to her on condition she immediately enroll in a drug program, return negative drug tests and obtain parenting and individual counseling. The juvenile court denied the mother's request to have the child placed with her. The juvenile court explained: "I am concerned about the results of the drug test and I am concerned about the methamphetamine or crystal meth. [¶] If it's crystal meth it's not an innocuous drug and very, very difficult to get over." The juvenile court ordered the child detained

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

with Mr. M. with temporary custody vested with the department. The juvenile court ordered: weekly testing for the parents; low or no cost parenting referrals for the parents; drug counseling for the mother; individual counseling for the child; and the department to interview the mother regarding the medications she was taking and how they might have affected her drug test results.

On March 8, 2012, the department filed an amended petition adding two new counts against the father relating to his history of drug use and domestic violence. At the March 8, 2012 hearing, the department social worker informed the juvenile court that the mother claimed to have returned four negative drug test results. However, the department social worker had not received any supporting documentation. Social workers stated the department would consider a section 301 contract with the family. The juvenile court granted the department discretion to allow the mother unmonitored visits with the child after she returned two more negative drug test results. The juvenile court also allowed the father unmonitored visits provided he had seven negative random drug tests and the department could verify he was attending parenting class.

On April 18, 2012, the department recommended the child be released to the mother's custody and she be ordered to continue with her programs and testing. The juvenile court: commented the mother was "doing a great job"; encouraged her to stay in therapy and to continue testing negative for drugs; and released the child to her custody. The parties agreed to continue the adjudication hearing to April 30, 2012.

On April 30, 2012, the juvenile court found the child was a dependent of the court under section 300, subdivision (b). The juvenile court sustained the following count in the amended petition: "The [mother] is a current abuser of illicit drugs, including amphetamine, methamphetamine and marijuana, which renders the mother unable to provide regular care and supervision of the child. On 01/12/2012, the mother had a positive toxicology screen for amphetamine and methamphetamine. On prior occasions, the mother was under the influence of illicit drugs while the child was in the mother's care and supervision. Such illicit drug abuse by the mother endangers the child's physical health and safety and places the child at risk of physical harm, damage and

danger.” The juvenile court dismissed the counts related to the father upon the department’s recommendation.

The juvenile court denied the mother’s request to proceed under section 360, subdivision (b). The juvenile court ordered the mother to complete a parenting program and 10 more clean drug tests. If any of the tests were missed or positive, the mother was to attend a drug program. The department was ordered to provide the mother with family preservation services including help with housing. The father was ordered to participate in Alcoholics or Narcotics Anonymous and comply with the terms of his parole. The juvenile court stated it would consider termination of jurisdiction at the review on October 29, 2012. The termination possibility was linked to the parents doing well within the next six months and the mother completing her parenting classes and testing negative for drugs.

The mother filed her notice of appeal on May 4, 2012.

III. EVIDENCE

A. Detention Report

The January 20, 2012 detention report was prepared by Children’s Social Worker Viviann Huynh. On January 9, 2012, a caller telephoned the department’s child abuse hotline reporting that in mid-October 2011, the mother gave temporary custody of the child to Anthony G. Mr. G. was the child’s half-brother. The mother needed time to resolve an outstanding methamphetamine possession arrest warrant. The caller stated between October 2011 and January 7, 2012, the mother came to see the child once in early December. The caller observed the mother was under the influence of methamphetamine. The mother was twitching, avoiding eye contact, constantly fidgeting and spontaneously screaming at random. After the visit, the child disclosed that he had seen the mother and her friends use methamphetamine frequently. This disclosure was made both to the caller and Mr. G. The caller reported the child was aware of where the

mother kept methamphetamine and often found “crystal meth” in the bathroom at home. The child also stated he never used crystal methamphetamine but had easy access to the drug at home.

The caller also reported on January 7, 2012, the mother came to pick up the child and again appeared intoxicated. The caller and Mr. G. tried to convince the mother to let the child stay longer. The mother refused to allow the child to stay. The mother stated everything was resolved and she wanted the child to come home. The next day, the caller and Mr. G. spoke to the child on the phone. The child informed them he had not found any crystal methamphetamine at home; he had not seen his mother using it; but he knew she was high because of her behavior. The mother was twitching, stuttering, and picking at her arms as if bugs were crawling on them. The caller and Mr. G. spoke with the child for about one minute before the mother interrupted the call and asked them not to call again. The caller had been unable to contact the child since that time.

The child never stated he is afraid of the mother. Nor had the child said his mother’s drug use had affected him. However, the caller was concerned because the child had previously found crystal methamphetamine in the home on multiple occasions. The last time the child found crystal methamphetamine in the home was in September 2011, two weeks before moving in with Mr. G. The caller worried the child might have access to drugs in the near future once the mother stopped being careful about hiding her narcotics usage. The caller did not know how frequently the mother used methamphetamine. Nor did the caller know whether the mother used other drugs.

On January 12, 2012, Ms Huynh interviewed the mother concerning the referral. Ms. Huynh noted the mother was tired and occasionally became frustrated. From time to time, the mother yelled at Ms. Huynh. The mother stated she had nothing to hide. The mother said the department had been involved a few times and never found any problem. The family had five prior referrals for physical abuse and general neglect by the mother which were either unfounded or inconclusive. The sexual abuse reported on August 13, 2001, was classified as substantiated. In addition, a referral for emotional abuse by the father was deemed substantiated.

The mother admitted she had used marijuana in the past. She denied any current drug use and reported she has been sober for one month from marijuana. The mother acknowledged she was arrested and received a citation about four months ago for methamphetamine possession. She reported she was “fighting” the citation because she claimed the father put a bag of methamphetamine in her purse.

The mother had sole custody of the child because the father was frequently in and out of rehabilitation programs. The mother explained last year she had financial difficulties and gave the child to Mr. G. The mother did this so she could “figure out” her problem. The mother wanted the child back in her care because she missed him and he missed her.

Ms. Huynh also interviewed the child. Ms. Huynh wrote, “[T]he child . . . stated his mother is a good mother.” The child looked confused and said “no” when asked whether he had told anyone he saw his mother using drugs with her friends. The child denied seeing or knowing his mother used any type of illegal drugs. When asked why people would be saying his mother used drugs when it was not true, the child stated he did not know. The child said he was in seventh grade. The child was an honors student and received certificates for good participation and helping as a teacher’s aide.

On January 17, 2012, Ms. Huynh received the mother’s drug test result showing positive results for amphetamines and methamphetamine. Ms. Huynh informed the mother about her positive drug test for amphetamines and methamphetamine. The mother responded, “[I]mpossible.” When Ms. Huynh asked why, the mother replied: “Because I haven’t done anything. I done nothing.” When the mother was asked to explain her drug use, she stated: “This has never happened to me. It has to be wrong.” Ms. Huynh also re-interviewed the child. The child continued to deny telling Mr. G. about the mother’s drug use with her friends. Mr. G. denied witnessing any drug use by the mother. Mr. G. also stated the child never said anything about the mother’s drug use.

On January 18, 2012, the father contacted Ms. Huynh. The father stated he was unaware of the mother’s drug use. The father said he was “not around to see the mother’s” lifestyle. He said he had never seen the mother use drugs. The father admitted

he used drugs recreationally. His drug of choice was methamphetamine. The father said he has been sober for a few months. In addition, he was currently on parole for petty theft and had been in prison three times. The father lives with the child's adult sister, V.S. The father could not provide stable housing to care for the child. The father stated the child's current placement was better for the youngster. The father needed to save enough money to provide the child with housing. Also, the father would let the child decide where the youngster wanted to live.

B. Jurisdiction/Disposition Report

The March 8, 2012 jurisdiction/disposition report was prepared by Dependency Investigator Jimah Littlefield. Ms. Littlefield reported the parents had prior criminal convictions. The mother was previously convicted of: misdemeanor theft on January 10, 2002; misdemeanor petty theft with a prior conviction on June 30, 2004; and misdemeanor receiving stolen property on July 20, 2010. The father was convicted of: two domestic violence misdemeanors on December 1, 1998, and March 13, 2000; misdemeanor driving with a suspended license on November 4, 2002; felony burglary on July 5, 2007; felony second degree burglary on September 13, 2010; and a misdemeanor being under the influence of a controlled substance on June 6, 2011.

Ms. Littlefield interviewed the child concerning the allegations relating to the mother's drug use. The child stated: "My mom really is trying to do the right thing. She tries but sometimes she messes up. She messed up again because now I don't live with her and they said that I can't live with her. I am not sure what she did wrong this time. But I think the reason why they took her away from me was because the lights were off but she had just paid for the lights and the people didn't have time to come turn it back on before you guys came and picked me up. My mom also said that they were trying to tell her she was using drugs. She doesn't use drugs, she just knows people who use drugs sometimes. She has stayed away from drugs and has not done anything in a long time. I know because she told me. She said that when she gets stressed out she thinks about

using but she said it's not worth it. I think if you give my mom another chance she will stop doing all the drugs and will prove that she is ready to care for me. She will prove this to the Judge too and you will see that she didn't mean to use drugs." The child wanted to live with the mother and visit the father. He stated, "I really am having a hard time because I have never been told that I couldn't live with my mom."

Ms. Littlefield also interviewed the mother about the drug abuse allegations. The mother stated: "You think if I used I would tell you? I mean I know how you people do things. This is why I am fighting this drug charge. I told the first Worker that I was not using drugs and that the positive test result was from something else. I told her, I told that Worker that the positive results from methamphetamine came from herbs my mother gives me. I told her so you should look in your notes and see. Matter of fact why are you asking me to tell you the same thing I already told her. I don't understand how this place does things. I mean, don't you think you're wasting my time? I don't think there is much to say especially when I already said it all over again. My mom warned me that you would try to catch me in a lie and try to tell me that I tested positive for drugs when I didn't. I am fighting this you know and I am hiring an attorney and will sue your department, you can write that down in your report. I mean I won't lie that I tried marijuana when I was younger like last year, but I am not doing that [drug], I have other problems and struggles. Like I need help with my rent and I need someone to help me out and so all this time spent taking my son, all we need is help paying the rent. . . ."

Also, the mother stated: "I don't have a drug problem and the test results are wrong. I will prove I don't need any programs."

Concerning the mother's drug use, the father said: "I know she had 'something something' that happened to her back in the days I don't know if she is having the same problems. I mean I have not really lived with this woman for a while and I can't tell you what she has been up to. I know that she is trying but maybe she slipped here and there and that's why you are involved. I am sure it happens to a lot of people. I wished that she is doing what she has to do to allow the court to take our son out of the system. I

mean, I am trying to focus on what I got to do.” The father also stated, “I am willing to do whatever you people want me to so I can see my son.”

Ms. Littlefield also interviewed Mr. M., an extended family member. The child was placed with Mr. M. after being detained. As to the mother’s drug use, Mr. M. stated: “I heard from Anthony that his mom did drugs. I never really asked because I didn’t want to get involved, but he would share things like she was not doing the right thing and that she was under the influence of some drugs, but like I told you, I try not to get involved in all of that, I have my own life to focus on. I just know that [the child] has always been like a little brother to me. His mom would drop him off for a couple of months during the summer at our house and he would remain there the entire summer. I was used to our family caring for him and my parents never said no.”

C. April 13, 2012 Last Minute Information For The Court Document

The department’s April 13, 2012 last minute information for the court document, which was prepared by Ms. Littlefield, discussed the possibility of a section 301 contract with the mother. Ms. Littlefield wrote: “During this period of supervision, the mother . . . continues to participate at [National Council on Alcoholism and Drug Dependence] parenting and group counseling. However, on 03/26/12, the mother was incarcerated as a result of an active warrant for unpaid tickets. The mother was released on 04/03/2012. When questioned why she did not take care of the warrant earlier, the mother explained she thought she would have the means to pay for the said tickets however was unable to come up with the money and as a result decided to turn herself in. The mother is currently not working and stated she is living off the \$65 a month child support provided by the father. The mother currently remains in her section 8 apartment; however this [dependency investigator] was informed by [Department of Public Social Services] eligibility worker, Ms. Acosta that due to the child not residing with the mother, the family may [lose] their current status by the end of the month [.] [W]hen asked of her living arrangement if this happens, the mother explained she did not know what this

[dependency investigator] was talking about and that she is not in the process of being kicked out.”

Ms. Littlefield further wrote: “The current case was conference to Family Preservation Services on 04/12/2012, it was determined that the family will be eligible for [family preservation] services upon the return of the child into the home. Some concerns were brought to this [dependency investigator’s] attention by Family Preservation which involved the mother being able to maintain her current place of residence and the mother obtaining employment. Though it appears that the mother continues to make progress over this period of supervision, the department is concerned of the mother being able to provide for her and the child’s basic needs based on her only means of [income] being \$65 per month. However, the main concern is that the mother does not believe she has any financial struggles ahead of her and when the concern is brought to her attention, she minimizes the issue and often states, ‘I don’t know why you are trying to not return my child to me, we can manage, we have always been able to do that.’ However, this [dependency investigator] would remind the mother that some of her past struggles of not being able to provide a stable home for the child were the result of unstable financial situations. Based on the above concerns, it appears it would be in the best interest of the youth to return into the care of his mother while receiving Family Maintenance Service with Family Preservation under court jurisdiction.”

Ms. Littlefield reported the mother tested negative for narcotics on March 13, 2012, but did not appear for testing on March 27, 2012. The mother explained she decided to turn herself in for unpaid tickets on March 26, 2012. After her release, the mother continued to participate in random drug testing with National Council on Alcoholism and Drug Dependence.

D. April 30, 2012 Last Minute Information For The Court Document

The department's April 30, 2012 last minute information to the court document recommended the mother be given primary custody with the father allowed unmonitored visits including overnight weekends. The department also recommended the counts against the father be dismissed without prejudice. In addition, the department requested that the father continue to comply with all the terms of his probation.

E. Jurisdiction/Disposition Hearing

At the April 30, 2012 jurisdiction and disposition hearing, the mother argued the section 300, subdivision (b) allegations against her should be dismissed because of insufficient evidence. She asserted the department failed to meet its burden of proof. The child's counsel and the father joined the mother in asking the juvenile court to dismiss the section 300 petition. The department's attorney argued the allegations should be sustained because the mother tested positive for methamphetamine on January 12, 2012, but denied using the drug. In addition, the department's lawyer argued the mother missed a test on March 27, 2012, by opting to surrender to the authorities because of unpaid traffic tickets. This occurred the day before she was to appear for drug testing. After hearing argument on the jurisdiction issue, the juvenile court sustained the count b-1 allegations because of the mother's positive and missed drug tests. The juvenile court explained: "I am glad to see that [the child] has not been affected. [The] mother has been having some problems at home and sometimes people seek recourse in places they shouldn't have; and [fortunately], it didn't affect him, but certainly if it would have continued it would have affected him, that is the reason that the court does take jurisdiction in these cases. I am taking jurisdiction."

Concerning disposition, the mother argued the juvenile court should proceed under section 360, subdivision (b) instead of declaring the child a dependent of the court. The juvenile court denied the request, stating: "I am uncomfortable. I don't see any excuse.

That is two dirty tests. So I am not inclined to grant the [section] 360B; and as I said I am really happy that mother is in parenting and I believe that this was maybe nipped in the right time; but I think there should be continued jurisdiction for at least the next six months to see how things are going.” The mother then explained she missed the drug test because she was pulled over while driving and taken into custody on the outstanding warrant. The mother claimed she was unable to call because she was in jail. In response, Ann Cooney, the department’s counsel, stated this was the first time she had heard this explanation for missing the test. After considering the arguments, the juvenile court stated, “I had at first considered that this might be a good case for a contract, but I am not inclined to do that with drugs especially the drugs of the kind that are involved in this case.”

IV. DISCUSSION

A. Standard of Review

We review the juvenile court’s jurisdictional and dispositional findings for substantial evidence. (*In re E.B.* (2010) 184 Cal.App.4th 568, 574-575; *In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.) Substantial evidence is relevant evidence which adequately supports a conclusion; it is evidence which is reasonable in nature, credible, and of solid value. (*In re E.B.*, *supra*, 184 Cal.App.4th at p. 575; *In re J.K.*, *supra*, 174 Cal.App.4th at p. 1433.) We draw all reasonable inferences from the evidence to support the challenged orders; issues of fact, weight and credibility are the provinces of the juvenile court. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393; *In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.)

Under section 360, subdivision (b), the juvenile court has discretion to order the department to provide services to keep the family together under informal supervision. This can be accomplished without adjudicating the child a dependent of the court. (§ 360, subdivision (b); *In re N.M.* (2011) 197 Cal.App.4th 159, 171.) We review the

juvenile court's determination for abuse of discretion. (*In re N.M., supra*, 197 Cal.App.4th at p. 171.) A juvenile court abuses its discretion when its determination is arbitrary, capricious or patently absurd. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *In re N.M., supra*, 197 Cal.App.4th at p. 171.)

B. Jurisdictional Findings Under Section 300, Subdivision (b)

Section 300, subdivision (b) states: "Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] . . . (b) The 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. . . ." Section 355, subdivision (a) provides: "At the jurisdictional hearing, the court shall first consider only the question whether the minor is a person described by Section 300. Any legally admissible evidence that is relevant to the circumstances or acts that are alleged to bring the minor within the jurisdiction of the juvenile court is admissible and may be received in evidence. Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300" To establish jurisdiction under section 300, subdivision (b), the department must prove by a preponderance of the evidence that: there was neglectful conduct by the parent in one of the specified forms; causation; and "serious physical harm or illness" to the child or "substantial risk" of such injury. (*In re Ricardo L., supra*, 109 Cal.App.4th at p. 567; *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.)

The mother argues there is insufficient evidence to support the juvenile court's jurisdiction under section 300, subdivision (b). The mother asserts the department failed to prove she neglected or inadequately supervised the child. The mother also contends: aside from the positive drug test at the beginning of the case in January 2012, she has consistently returned negative testing results; she is taking a parenting class; and the child was returned to her custody. In addition, the mother asserts there was no proof she had a

history of drug abuse or the child had suffered prior harm. She stresses the child is on the honor roll and a certified teacher's aide. Also, the mother argues the juvenile court itself agreed there was no causal connection between her January 2012 positive test and substantial risk of serious physical harm to the child. She argues the juvenile court found, "[The child] has not been affected . . . if it would have continued, it would have affected him." The mother's arguments are unpersuasive.

Substantial evidence supports the juvenile court's section 300, subdivision (b) jurisdictional order. There is a *substantial risk* the child will suffer serious physical harm as a result of the mother's failure to adequately supervise or protect him. At the very least, the child is at risk of harm. The family was brought to the department's attention on January 9, 2012, when a caller reported the mother had given Mr. G., who was 18-years old, temporary custody of the child. This was done so the mother could resolve an arrest warrant for methamphetamine possession. The caller informed the department between October 2011, and January 7, 2012, the mother had only visited the child once in early December. During the visit, the caller observed the mother was under the influence of methamphetamine. The mother was twitching, avoiding eye contact, constantly fidgeting and spontaneously engaging in outbursts of random screaming. The caller spoke to the child about the mother's drug use. The child said he saw the mother and her friends use methamphetamine frequently. In addition, the child said he knew where the mother kept methamphetamine and often found "crystal meth" in the bathroom at home. Also, Mr. M., a non-related extended family member, stated he heard from Mr. G. that the mother used narcotics.

Although the child told Ms. Littlefield the mother did not use drugs, he also stated: "I think if you give my mom another chance she will stop doing all the drugs and will prove that she is ready to care for me. She will prove this to the Judge too and you will see that she didn't mean to use drugs." In addition, the mother admitted using marijuana in 2011 and stated in January 2012 that she was sober for the preceding month. Also, the mother tested positive for amphetamines and methamphetamine on January 17, 2012, and missed a drug test on March 27, 2012. The mother claimed she missed the drug test

because she decided to turn herself in the day before the scheduled urinalysis for unpaid tickets. At the jurisdictional hearing, the mother gave a different explanation for missing the drug test. At the jurisdictional hearing, the mother said she missed the drug test because she was pulled over while driving and arrested on the outstanding arrest warrant for unpaid tickets. The juvenile court considered the missed drug test a “dirty” one.

Here, the mother’s drug abuse causes substantial risk of physical harm to the child because of her failure to adequately supervise or protect him. The mother created an environment where the child had easy access to dangerous drugs by leaving crystal methamphetamine in the home including the bathroom. And the mother used drugs and allowed her friends to use narcotics in the child’s presence. The juvenile court could reasonably infer the child was subjected to a substantial risk of serious physical harm because of the access to narcotics. (§ 300.2 [“The provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child”]; *In re Rocco M.*, *supra*, 1 Cal.App.4th at p. 825.) In addition, the mother acknowledged her inability to adequately supervise or protect the child. The mother repeatedly left the child in the care of other people, including Mr. G., an 18-year old. Substantial evidence supports the juvenile court’s jurisdiction under section 300, subdivision (b).

The mother contends there is no substantial risk of future serious physical harm similar to the situations in *In re David M.* (2005) 134 Cal.App.4th 822, 829-830 and *In re James R.* (2009) 176 Cal.App.4th 129, 137. But *David M.* is distinguishable from this case. In *David M.*, the two children were detained and a petition was filed alleging: the mother tested positive for marijuana at the time of the younger child’s birth; the mother used marijuana during her pregnancy; the mother had an extensive, unresolved history of substance abuse; the parents had a history of mental illness; and a half-sibling had been declared a dependent child because of the mother’s marijuana use during her pregnancy with that child. (*In re David M.*, *supra*, 134 Cal.App.4th at pp. 825-826.) The appellate court found there was insufficient evidence to support the juvenile court’s jurisdiction based on section 300, subdivision (b). The Court of Appeal held the evidence of the

mother's emotional and substance abuse problems and the father's mental problems were never tied to any actual or substantial risk of serious harm to the children. (*Id.* at p. 829.) Unlike the situation in *David M.*, here, the mother's substance abuse created a substantial risk of serious physical harm to the child. Here, the mother used methamphetamine and allowed her friends to use drugs in the child's presence. And as noted, the mother left crystal methamphetamine in the bathroom at home, allowing the child easy access to this dangerous drug.

Likewise, the mother's reliance on *In re James R.* is misplaced. In *James R.*, three children were detained after the mother, who had a history of depression and suicide attempts, was hospitalized for consuming eight ibuprofen pills with alcohol. (*In re James R.*, *supra*, 176 Cal.App.4th at pp. 132, 136.) The Court of Appeal reversed the jurisdictional findings under section 300, subdivision (b) because: there was no evidence of actual harm to the children from the conduct of either parent; there was no showing the parents' conduct created a substantial risk of serious harm to the children; any causal link between the mother's mental state and future harm to the minors was speculative; there was no evidence the mother used illegal drugs after the children were born; the father was able to protect and supervise the children; and the mere possibility of alcohol abuse coupled with the absence of causation was insufficient to support the jurisdictional finding under section 300, subdivision (b). (*Id.* at pp. 136-137.) Unlike the father in *James R.*, the father here is unable to protect or supervise the child. The father does not have stable housing. The father admitted to "recreational" use of methamphetamine. And, the mother has full and sole custody of the child because the father is "always in and out of" drug programs. Moreover, in *James R.*, there was some evidence of possible alcohol abuse by the mother. But there was no causal link between the possible alcohol abuse and future harm to the children. Here, as previously discussed the mother's drug use places the child at risk of harm.

C. Voluntary Services Pursuant To Section 360, Subdivision (B)

Once jurisdiction is found, the juvenile court may, pursuant to section 360, subdivision (b), order the department to provide family maintenance services. (*In re N.M., supra*, 197 Cal.App.4th at p. 171; *In re Adam D.* (2010) 183 Cal.App.4th 1250, 1259.) Section 360, subdivision (b) states, “If the court finds that the child is a person described by Section 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child’s parent or guardian under the supervision of the social worker for a time period consistent with Section 301.”

When informal supervision is ordered pursuant to section 360, subdivision (b), the juvenile court no longer has direct authority in overseeing the services or the family. The juvenile court can regain the authority to supervise if the department files a section 332 petition. (*In re Adam D., supra*, 183 Cal.App.4th at p. 1259.) In *Adam D.*, the Court of Appeal explained: “If the court agrees to or orders a program of informal supervision, it does not dismiss the dependency petition or otherwise set it aside. The true finding of jurisdiction remains. It is only the dispositional alternative of declaring the child a dependent that is not made. This is because if the family is unwilling or unable to cooperate with the services provided, the social worker may institute proceedings pursuant to [section] 332 (petition to commence proceedings), alleging that a previous petition has been sustained and that informal supervision was ineffective. [Welf. & Inst. Code § 360, subd. (c).] After hearing the petition, the court may either dismiss it or order a new disposition hearing [Citation.]” (*Id.* at p. 1260.)

The mother argues dismissal of the petition is warranted because the child was not neglected or seriously harmed by her one positive drug test. We disagree. The juvenile court could correctly order judicial supervision in this case because the mother continually denied drug use despite her positive narcotic and missed drug tests. In addition, the mother was uncooperative with the department. The mother threatened to sue the department. Also, juvenile court supervision is appropriate because there is

evidence the mother used drugs in the child's presence and left drugs in the home, allowing him easy access to them. And the aforementioned evidence of her drug use supports the juvenile court's disposition. The juvenile court did not abuse its discretion in denying the mother's request to proceed under section 360, subdivision (b) rather than declare the child a dependent.

V. DISPOSITION

The jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

TURNER, P. J.

We concur:

ARMSTRONG, J.

MOSK, J.