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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B243288
(Los Angeles County
Super. Ct. No. CK93042)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

KELLY M.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, D. Zeke Zeidler, Judge. Affirmed.

Maureen L. Keaney, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the County Counsel, John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel and Jessica S. Mitchell, Senior Associate County Counsel for Plaintiff and Respondent.

I. INTRODUCTION

Kelly M., the mother, appeals from the juvenile court's jurisdictional order concerning her 16-year-old twin daughters. The mother claims there was insufficient evidence to support jurisdictional findings under Welfare and Institutions Code¹ section 300, subdivisions (b), (g) and (j). We affirm because substantial evidence supports the jurisdictional findings.

II. PROCEDURAL HISTORY

A. The Section 300 Petition

On April 16, 2012, the Los Angeles County Department of Children and Family Services (the department) filed a dependency petition on behalf of the twin girls, Jordan and Jade M. As sustained, the petition alleges: Jade had mental and emotional problems including self-mutilating behaviors; the mother and the father, Troy M., failed to ensure Jade's attendance at two mental health appointments which resulted in Jade's mental health case being closed; the parents' medical neglect endangered Jade's physical health and safety; and the medical neglect placed both Jade and Jordan at risk of physical harm, damage and danger. The children were also placed at risk when, in April 2012, the mother left Jade in the care of an unrelated adult, Alma M. This occurred without an appropriate plan for Jade's ongoing care and supervision. Alma M. did not know the mother's whereabouts.

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

B. Detention

The detention report indicated Jordan lived with the father and his wife, L. O. A high school counselor, Samara Hirsh, stated that in March 2012, Jade came to the office. Jade said she cut her wrist. The injury was very deep. The father was contacted immediately. The father responded to the initial emergency by working with the school, medical experts and a therapist to stabilize Jade.

On March 29, 2012, the father sent Jade to live with the mother. Jade was interviewed. Jade had been living with a classmate's family in the care of Alma M. Social Worker Christie Parkin spoke to Alma M. According to Ms. Parkin's detention report, "[She] . . . confirmed Jade was staying with her family" Ms. Parkin found Alma M. to be an appropriate caregiver. However, the father did not know Alma M. Jade and Jordan continued to attend the same school. Jordan resided with the father. But, the father had not checked on Jade since he allowed the mother to take the teenager. After an emergency Team Decision-Making meeting on April 11, 2012, the father agreed that Jade may continue to stay with Alma M. This was because Jade did not want to return to the father's home.

The mother had failed to return Ms. Parkin's telephone calls or written messages left with Steve Herendicia. The detention report described Mr. Herendicia as a "landlord/friend" of the mother. Mr. Herendicia stated he had offered a room behind his garage to the mother as a favor. Jade received a telephone call from the mother at Alma M.'s home. The mother asked if Jade was okay. However, the mother failed to ensure that Jade attended two important therapy sessions following the self-cutting episode. The maternal grandmother reported that the mother is a chronic drug abuser who has an unstable and unsafe lifestyle. According to the maternal grandmother, the mother lives a very transient life with only short periods of stability. The maternal grandmother stated the mother had used methamphetamine "'off and on'" for years. The maternal grandmother described the mother's behavior as, "'[C]razy screaming, cursing, threats'" According to the detention report, "[M]other has stated often to [the

maternal grandmother] that she ‘just wants to get rid of the kids’ so she can ‘live her lifestyle.’” The maternal grandmother thought this behavior placed Jade and Jordan at risk of emotional and physical harm. The mother’s son, Brandon, lived with Sean P. Sean P. is Brandon’s father. The maternal grandmother stated that the mother and Sean P.’s past relationship included domestic violence. The mother had a 2002 arrest for controlled substance possession; a case which was dismissed.

According to Ms. Parkin, the mother had: not participated in any of the recent activities designed to stabilize Jade’s mental health; not done anything to meet Jade’s basic needs for food, supervision and schooling; and a long history of emotional abuse and chronic neglect of the Jade and Jordan. Both children confirmed that life with the mother was chaotic. When the twins were living with the mother, they were failing in school. However, when they began living with the father, their academic performance greatly improved. They both had perfect attendance at school.

The mother had six prior child abuse investigations involving Jade and Jordan dating from 1998 to 2011. The child abuse allegations were for: general neglect dated November 20, 1998, found to be inconclusive; physical abuse and substantial risk of abuse date June 12, 2004, found to be inconclusive; emotional abuse and general neglect dated September 30, 2004, determined to be unfounded; physical abuse dated November 16, 2005, determined to be unfounded; and emotional and physical abuse dated November 3, 2006, determined to be unfounded. More recently, on January 25, 2011, allegations of emotional abuse and general neglect by the mother were substantiated. In regard to the January 25, 2011 substantiated allegations, an emergency social worker, Kevin Timmons, found the mother screamed and cursed at the children. Jade and Jordan then engaged in the same negative behavior while together and with the mother. Jade and Jordan were polite and appropriate one-on-one. A voluntary family maintenance case was opened by the department for the children and the father. The mother was not involved and essentially gave the twins to their father. The mother’s seven-year-old son, Brandon, who lives with Sean P., was not detained by the department. Family preservation services were provided for nine months to Jade, Jordan and the father and

his wife. There were no allegations against the father at that time. However, the current allegations included severe neglect by the mother and the father as to Jade, which also put Jordan at risk.

The father had: a drug conviction in 1991; a 1993 arrest on a weapons charge with a misdemeanor conviction; a 1999 arrest for use of controlled substance with no noted disposition; and a 2000 contempt of court conviction. The father reported he also had a history of drug use preceding the past 12 to 13 years. He stated he used drugs and methamphetamines, with the mother for years. But, he was committed to a drug-free lifestyle for the past 12 to 14 years. The father has a full-time job, is married and has a stable home. The father participated in drug testing for the department during the 2011 family maintenance services case. No positive drug tests were returned. According to Ms. Parkin, there was no current suspicion by any department social worker that the father is using illegal drugs or violating the law.

The father agreed his decision to have the mother take over Jade's care was a failure. The father turned Jade over to the mother even though he was advised not to do so by a social worker, Karineh Gharibian. The father stated: the mother's lifestyle was unstable for years; she is completely unreliable, does not follow through with calls or visits with the children; and she can be very emotionally combative and abusive. The father was very responsive and accepted responsibility for failing to follow-up on Jade's welfare. The father knew where Jade was attending school but failed to check on her and verify her living arrangements. In addition, he failed to ensure that she saw a mental health provider. Because Jade missed two appointments her case was closed and set to reopen on April 23, 2012.

Denae Powers, a therapist, met with Jade and the father. The meeting occurred on the day Jade cut her wrist. The meeting occurred after Jade received medical treatment. Ms. Parkin paraphrased Ms. Powers recollection, "Jade told her that she believes her father will give her up to her mother . . . which Jade did not want . . ." Jade did not want that at the time. Ms. Powers assessed Jade for suicidal ideation and found none. Jade had a history of cutting but not recently. Ms. Powers related that, according to Jade, the

past cutting was superficial. Ms. Powers was aware of recent conflicts in the home. Ms. Powers and another therapist had arranged for family therapy sessions. When Jade missed two important therapy sessions after the crisis intervention meeting, Ms. Powers closed the case. She later agreed to reopen the case. The high school counselor, Ms. Hirsh, told Ms. Parkin the cutting in fact was “very deep” and required multiple stitches to repair.

Ms. Parkin spoke to Jade who wanted to remain with her family. While living with the father, Jade missed her mother. Jade had no intention to live with the mother who was unreliable about returning calls. While living with the mother, Jade experienced some emotional abuse and neglect. Jade stated the stepmother made derogatory remarks about the cutting episode. The father then took Jade to his office to decide what to do about her. The father’s wife, L. O., did not want Jade back in their home. Jade felt safe in Alma M.’s home. The father stated that Jade wanted contact with the mother. According to the father, Jade wanted to stay with the mother. Jade stated she was willing to return home to the father in the future. According to Ms. Parkin: “Jade felt betrayed by her father’s decision to send her to her mother with no attempt at follow-up. She stated she feels safe” at Alma M.’s home. Jordan wanted to stay with the father and the stepmother. Jordan had no interest in living with the mother. Jordan confirmed the stepmother’s negative reaction to Jade’s cutting.

The department recommended that the children be detained from the mother and placed in the legal custody of the father. The department also recommended family maintenance services for the father and the children. However, the department also recommended that Jade return home to the father after the family worked out conflicts and received therapy.

At the detention hearing, the juvenile court found : a prima facie case existed for detaining Jade and Jordan under section 300, subdivisions (b) and (g); a prima facie case existed under section 300, subdivision (j) as to Jordan only; and the father was the children’s presumed father. The children were released to the father under the department’s supervision. But, the father was permitted to make arrangements for Jade

to reside with Alma M. The department was ordered to provide family maintenance services to the father and family reunification services to the mother. The mother was given weekly monitored visits. The mother was ordered to participate in weekly random and on-demand drug testing. The children were ordered to continue to undergo counseling.

C. Jurisdiction/Disposition Report And Proceeding

The June 1, 2012 jurisdiction/disposition report stated Jordan lived with the father. Jade remained with Alma M. Dependency Investigator Dawn Bazler attempted to interview the mother. The mother was called on April 25, 2012, and stated she would call back. The mother never called back. Six messages were left for the mother between April 26 and May 7, 2012. The mother was contacted on May 1, 2012, but was very difficult and uncooperative. The mother refused to schedule an appointment for an interview.

The father was interviewed. He had only learned he was the biological father when the children were eight years old. Jade had cut herself when she was young. But, the cuts were “not bad” in the father’s view and left no scars. The March 2012 mutilation was her first major cutting episode. The father thought Jade’s acting out on this occasion was in response to the mother. The mother had not tried to call or visit the children. The father took Jade to get care for the cut, which required 15 stitches. With the voluntary family maintenance plan, the family was required to go to counseling. After it was no longer required, the father kept the children in counseling for months. After the cutting incident, the father contacted the maternal grandfather. The maternal grandfather said he thought the mother seemed clean and sober. He took Jade to see the mother. According to the maternal grandfather, the mother was willing to take custody of Jade. The father told Jordan to tell Jade at school that he would take them to counseling. But, he only took Jordan to counseling because Jade, who lived with Alma M., did not contact him.

Ms. Parkin interviewed Jade for the Jurisdiction/Disposition report. Jade stated that she used to cut herself a long time ago. Jade admitted cutting herself in March 2012, was a stupid thing to do. The cutting incident occurred one year to the day since Jade saw the mother. Jade was in counseling three times a week. She participated in group and family counseling with the father, stepmother and Jordan. Jade said she missed two mental health appointments. This was because the mother did not know about the appointments. The second time the mother called and left a message with the therapist. The message said that Jade would be unable to attend because she did not have a ride. The mother's plan was for Jade to stay with Alma M. for a little while. Jade had the mother's telephone number. The mother always called or texted to see how Jade was doing. Alma M. had the mother's cellular phone number but not the father's. The mother had Alma M.'s cellular phone number.

Jordan was also interviewed. Jordan had not seen the mother in over a year. Jordan talked to the mother on Mother's Day. They also spoke on Jordan's birthday. When Jordan saw the mother in court, they did not speak. Jordan initially wanted to be with the mother. However, she was "okay" living with the father. Jordan just would like to see the mother. Jordan knows the mother sees Brandon. Jordan wanted the mother to make more of an effort to see them. Jordan stated they "were close to" the mother. Jordan felt safe with the mother and was never scared. The mother would stand up for them. However, the stepmother was nice and did a lot for them. Jordan liked living with Jade but the two of them fought a lot. Jade had a harder time getting along with the father and the stepmother. They got "grounded a lot"; but, it was better where they lived now.

The maternal grandmother thought the father was doing pretty well for the girls. The maternal grandmother said they were attending school and getting A's. While the mother had custody of the children, the maternal grandmother would take Jade and Jordan one at a time. The mother told Jade that the maternal grandmother liked Jordan better. The mother said, "Jade was bad forever" The mother would leave the girls with anyone just so she could go and drink. The mother said: "I'm pretty. I can get

anything I want.” The maternal grandmother said Jade “can’t be safe with” the mother now and in the future. According to the maternal grandmother, the girls cannot rely on the mother for their health or safety.

Alma M. stated the mother left Jade with strangers. Alma M.’s daughter said Jade had been kicked out of the father’s house. The father took Jade to the mother. And, then the mother brought Jade to Alma M. However, the mother did not meet Alma M. Jade was with Alma M. for four days and then returned to the mother. The mother’s friend subsequently returned Jade to Alma M. on his motorcycle. The mother never said Jade needed counseling. Alma M. did not know where the mother lived. Alma M. found out the mother was out of town twice. When Alma M. called the mother, the call would go to voicemail.

The matter was set for a contested adjudication hearing on August 7, 2012. In an August 3, 2012 last minute information for the court document, the department reported that a social worker, Dawn Bazler, had tried to reach the mother 19 times between June 8 and July 27, 2012. A voicemail indicated it belonged to the mother. Messages were left for the mother to return Ms. Bazler’s calls to arrange for an interview. Ms. Bazler went to the mother’s home in Altadena. A resident at the home said the mother had moved out a long time ago. On July 27, 2012, Ms. Bazler telephoned the father and asked if he had a telephone number to reach the mother. The father stated that he and the children had no recent contact with the mother. The mother had not called nor made any attempt to see the children.

Jade testified. Jade had lived with the mother. Jade left when she was 15 years old. Jade admitted cutting herself twice. She had been in group and regular therapy for two months. While living with the father, Jade contacted the mother several times through Facebook. Jade began living with Alma M. because the mother did not have a stable place to live. While living with Alma M., they had the mother’s telephone number. Jade talked to the mother every day or every other day. Jade missed two counseling sessions while living with Alma M. Jade explained, “I didn’t have a ride, and I didn’t like [to] tell people I had to go to therapy.” However, Jordan said the father

would take Jade to therapy. Jade testified that the mother did not know much about the therapy sessions.

The mother testified the girls lived with her for 15 years. She signed a voluntary custody agreement with the father. The mother said this is because she did not have a place for them and she was struggling. Mr. Timmons, the emergency social worker, told the mother the father would only take custody if she had nothing to do with the children. The mother visited with the children on Facebook a couple of times. They called the mother on their birthday. The mother was “under the impression” she was not allowed to see the children. The mother was unaware that Jade had any mental or emotional problems. The mother was aware of the cutting incident involving Jade in the eighth grade. The mother testified, “She had in like the 8th grade a little bit.” The mother was asked what she did when she found out about that cutting incident. The mother responded: “Well, it was kind of like . . . I’m not trying to demise it or anything, but it was like a fad. Like all the kids—all the kids were doing it at school.”

Jade was placed in the mother’s care in March 2012. The mother was told that Jade had 15 stitches. Also, the mother was told, “[S]he needs her mom.” Jade stayed with the mother the first night at the home of a friend. The next two nights Jade stayed at another classmate’s home. During the Easter break, Jade stayed with the mother. When school started, Jade stayed with Alma M. According to the mother, this was because she did not have a car. Jade attended school in Monrovia and the mother lived in Altadena. The mother’s plan was to have a safe, stable place for Jade and a way for the teenager to get to school. The mother spoke with Jade every day. The mother would text or call Jade on Alma M.’s phone. And, Alma M. knew how to reach the mother. The mother’s plan gave Alma M. written permission to temporarily take care of any of Jade’s medical needs. The mother was unaware of any medical appointments that Jade missed. The mother was unaware of the appointments until later. Neither Jade nor Alma M. ever told the mother about any medical appointments. The mother was unable to take the twins back into her care and custody at the time of the August 7, 2012 jurisdictional and dispositional hearing.

The mother found out about Jade's cutting incident which required 15 stitches from the father. However, she did not have a discussion about the cutting incident. They could not discuss it because the mother and the father's spouse got into an argument. The mother did not call him up after that to discuss Jade's situation. The mother did not look into counseling for Jade. Jade raised the possibility of living with Alma M. The mother talked to Alma M. on the telephone. But, the mother admitted not knowing Alma M. before Jade left. The mother made sure the house was okay and suitable for Jade to go to school every day. The plan was "temporary" but not "certain" in the mother's words. When asked about providing Jade with financial support, the mother said, "I gave her a little bit of money at first."

The mother admitted not seeking any medical attention when the first cutting incident occurred when Jade was in eighth grade. The mother was asked what she meant about the cutting being a "fad." The mother explained: "It means like all the kids in that grade were wearing these beaded bracelets like to here. And, all the girls were wearing them, and it was just a thing that they cover up like little cuts or whatever." The mother did not think it was "normal" to have little cuts. The mother did not know why she did not seek medical attention. But, the mother was aware that it was dangerous behavior.

The juvenile court sustained the petition under section 300, subdivisions (b), (g), and (j). The children were found to be persons described under those sections. The juvenile court ruled, "The reason why the mother's actions with [Alma M.] continue to be an issue is because the mother continues to have—unable to care for the kids herself and ensure that there is an appropriate plan in place for them and the relevance of her previous actions is relevant to the future care of the children." The juvenile court then emphasized the mother's minimization of Jade's self-mutilation behavior.

For the disposition hearing, the mother testified again. The mother was "willing" to have visits with Jordan and Jade. The mother wanted unmonitored overnight visits. The mother denied ever using any type of illegal drugs. The mother drug tested with no positive results in April 2012. The mother testified that she was "aware" the father told the department she had abused drugs with him. The mother testified that she never tried

to visit the children through the social worker. This was because the father conditioned custody on the mother not having anything to do with them. The mother testified she was living in a room behind a garage.

The juvenile court found by clear and convincing evidence a substantial danger existed to the childrens' physical and mental health. Care, custody and control of the children was taken from the mother. The children were placed home with the father under the department's supervision. The department was ordered to provide family maintenance services to the father. The father, the stepmother and the children were ordered to immediately participate in family counseling. The department was ordered to provide the mother with "enhancement services." The mother was ordered to: participate in individual counseling to address case issues; submit to weekly random and on-demand drug testing; participate in another parenting program; and obtain and maintain stable housing. The juvenile court ruled that drug testing was needed based on the evidence of drug use, including statements by the maternal grandmother and the father. Jordan was referred to family preservation services. Jade was to be referred for wrap-around services. Jade was ordered to receive individual therapy, psychiatric care and group counseling. The mother was ordered to participate in individual counseling with Jade when the therapist recommended it. The mother was given weekly monitored visits and telephone calls. The mother filed a timely appeal from the jurisdictional order.

III. DISCUSSION

The mother argues the department failed to carry its burden on any of the jurisdictional findings against her. The juvenile court's jurisdictional findings are reviewed for substantial evidence. (*In re Mariah T.* (2008) 159 Cal.App.4th 428, 438; *In re P.A.* (2006) 144 Cal.App.4th 1339, 1344; *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1649.) The argument there was no substantial evidence to support the jurisdictional findings is frivolous.

We begin by noting the department is correct that the juvenile court's jurisdictional findings can be affirmed if any one of the bases for jurisdiction is supported by substantial evidence. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; *In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) And, here the juvenile court could declare jurisdiction over the children based on the actions of both parents. (§ 302, subd. (a); *In re Alysha S. supra*, 51 Cal.App.4th at p. 397; see also *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16.) No challenge is made to the jurisdictional findings as to the father so this by itself is sufficient to uphold the jurisdictional order. The rationale for the rule is that the dependency law is based on protection of the children rather than punishment of the parent. (*In re Alexis E., supra*, 171 Cal.App.4th at p. 451; *In re Alysha S., supra*, 51 Cal.App.4th at p. 397.) For that reason, the unchallenged jurisdictional findings against the father supports the order. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492; *In re P.A.* (2007) 155 Cal.App.4th 1197, 1212; *In re Joshua G.* (2005) 129 Cal.App.4th 189, 202.)

In any event, the findings against the mother are supported by substantial evidence. The record is replete with evidence supporting jurisdiction against the mother under section 300 subdivisions (b), (g) and (j). Section 300, subdivision (b) applies when a child has suffered or is at risk of suffering serious physical harm due to the parent's failure to adequately supervise or protect the youngster. Or, it applies when the parent fails to provide adequate medical care or regular care for the child. The undisputed evidence shows: Jade began cutting herself when she was in the eighth grade; the mother did not seek medical treatment for Jade; the mother testified that she thought it was a fad; in March 2012, the mother was told that Jade had cuts which required 15 stitches; again the mother did not seek medical attention for Jade; rather, the mother then turned Jade over to a complete stranger, Alma M.; Jade missed two mental health therapy appointments after moving in with Alma M.; Alma M. was unaware of the appointments; the mother's only plan was to "sign" Jade over to Alma M.; there was no plan for the return of Jade or to meet any of the youngster's basic needs; the mother's whereabouts were unknown to everyone; the mother gave Alma M. a telephone number; when

Alma M. called the telephone number the mother left, it went into voicemail; and the maternal grandmother, Jade, and the father all provided statements showing the mother's lifestyle was unstable. This is sufficient evidence to satisfy the section 300, subdivision (b) requirements.

The aforementioned evidence also supports the jurisdictional findings under section 300, subdivision (g) for leaving a child without any support and the parents' whereabouts are unknown. There was evidence: the mother's lifestyle was unstable; the mother gave Jade to a stranger; the mother did not provide for Jade's support except to give her "a little money" at first; the mother's sole plan included giving Jade to a stranger and leaving a telephone number which went into voicemail when called; and the mother had a well documented history of ignoring messages left in her voicemail. Thus, the evidence supported the finding under section 300, subdivision (g).

Jordan was placed at risk under section 300, subdivision (j) because of the mother's conduct with Jade. The mother failed to provide Jade with appropriate and necessary care given the youngster's mental and emotional state. The mother had no stable place for Jade in March 2012. The mother then turned Jade's custody over to a stranger without an appropriate plan for the youngster's care or a plan to return. Thus, the juvenile court had sufficient evidence to find jurisdiction as to Jordan under section 300, subdivision (j). There is no proper legal basis for attacking the jurisdictional order.

IV. DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.