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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re KEVIN R., a Person Coming Under
the Juvenile Court Law.

B246931
(Los Angeles County
Super. Ct. No. CK73579)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

DORA R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Stephen Marpet, Juvenile Court Referee. Affirmed.

Barry L. Greenhalgh for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, Kim Nemoy, Principal Deputy County Counsel, for Plaintiff and Respondent.

Dora R., mother of Kevin R., appeals from the order entered after the juvenile court declared her son a dependent of the court under Welfare and Institutions Code section 300, subdivision (b),¹ and made disposition findings. Mother contends substantial evidence does not support the jurisdiction determination. We disagree and thus affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

On October 19, 2012, the Department of Children and Family Services (DCFS) filed a petition as to Kevin, then age eight, alleging against mother and father under section 300, subdivision (b), as relevant, that they “placed the child in a detrimental and endangering situation in that the parents exposed the child to illicit drug trafficking, in the child’s home. On 10/11/12, the father was arrested for Federal Conspiracy to Distribute Illegal Controlled Substance, Drug Sales and Money Laundering. Such a detrimental and endangering situation established for the child by the parents endangers the child’s physical health and safety and creates a detrimental home environment, placing the child at risk of physical harm, damage and danger.”

At the detention hearing, also on October 19, the juvenile court found a prima facie case for detaining Kevin, no reasonable means to protect the child without removal and reasonable efforts to prevent or eliminate the need for removal. The court vested temporary placement and custody with DCFS, which had placed Kevin in foster care, and granted mother monitored visitation of at least three times per week for three hours per visit. About a month later, the court placed Kevin with his maternal aunt. Kevin’s father was in custody.

The juvenile court held a jurisdiction and disposition hearing on January 24, 2013. DCFS and Kevin’s counsel argued in favor of jurisdiction, while mother’s and father’s counsel opposed it. After hearing argument and reviewing exhibits, the court sustained the allegation against mother and father under section 300, subdivision (b), and declared Kevin a dependent. The court stated that, “[a]t this point in reviewing all of the

¹ Statutory references are to the Welfare and Institutions Code.

information before the court[,] in addition to the sustained petition in 2008[,] in June of [2012] the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force was involved with apprehending people involved in drug abuse and once again [father] was arrested[.] \$139,284 w[as] located in a trunk, a vehicle he and two other people—relatives were in. Mother was involved peripherally in the matter. It’s just impossible for me to believe that mother didn’t know something was going on with father on a consistent ongoing basis and the 300(b) . . . states that, a child has suffered or there is a substantial risk that this child will suffer serious physical [harm] or illness as a result of the failure of his parent[.]s to properly supervise. This child has spent a lot of time in father’s home where all of this was active and going on and clearly that puts this child at risk.” The court placed Kevin in mother’s care and directed DCFS to provide mother and Kevin family maintenance services and “to assist the mother in taking care of the child.” According to the court, mother or an approved party, could take Kevin to visit father in custody once per month and that upon release from custody, father was to have reasonable, monitored visitation with his son.

Mother filed a timely notice of appeal. (§ 395, subd. (a)(1); see *In re Tracy Z.* (1987) 195 Cal.App.3d 107, 112 [jurisdiction findings reviewable on appeal from the judgment following disposition].)² During the pendency of the appeal, at a section 364 hearing on July 25, the juvenile court terminated its jurisdiction, subject to a family law order awarding mother sole legal and physical custody of Kevin.

DISCUSSION

“The purpose of section 300 is ‘to identify those children over whom the juvenile court may exercise its jurisdiction and adjudge dependents.’ [Citation.]” (*In re A.O.* (2010) 185 Cal.App.4th 103, 110.) To declare a child a dependent under section 300, the juvenile court must find by a preponderance of the evidence that the allegations are true. (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318; see § 355, subd. (a).) “[T]he

² Father did not appeal and is not a party to this appeal.

question under section 300 is whether circumstances *at the time of the hearing* subject the minor to the defined risk of harm.” (*In re A.J.* (2011) 197 Cal.App.4th 1095, 1104.) We review the court’s findings under section 300 for substantial evidence and will affirm the judgment based on those findings if they are supported by reasonable, credible evidence of solid value. (*Matthew S.*, at p. 1319.)

Section 300, subdivision (b), allows a dependency when, as relevant, “[t]he 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 . . . to adequately supervise or protect the child” “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 child, or a ‘substantial risk’ of such harm or illness.” [Citation.]’ [Citations.]” (*In re James R.* (2009) 176 Cal.App.4th 129, 135.)

Mother contends that the evidence is insufficient to support the jurisdiction finding against her under section 300, subdivision (b), because “the sole source of risk vanished when [f]ather was arrested.” Mother argues, “With father being in custody, the parents living separately, Kevin being healthy and well-adjusted, and there being no evidence that [mother] was involved in [f]ather’s activities, it is urged Kevin should not have been removed from [mother], at all.” We disagree.

According to the evidence, in October 2008, the juvenile court sustained a dependency petition against mother and father as to Kevin and his older sibling based on domestic violence by father against mother in the presence of the older sibling and father’s abuse of cocaine and alcohol. When the case was closed, and the court terminated jurisdiction in August 2009, “mother stated [that] she was disappointed that father did not comply with the case plan and that she would protect the children from father; however, mother continued to have daily contact with father (per mother’s statements in the detention report) and allowed him to be in her home having unlimited access to the child Kevin.” Although mother and father did not live together, mother maintained an intimate relationship with father.

On June 6, 2012, father was arrested on charges of possession or transportation of narcotic proceeds of more than \$100,000. Law enforcement obtained father's keys, which included a key to mother's home. Law enforcement referred to mother's home as the "stash pad." Before the arrest, surveillance observed mother's adult son carrying boxes, which were believed to contain kilograms of cocaine, into her residence. Surveillance also observed mother's adult son and two other men, later identified as father and mother's brother, leave mother's residence with a black bag, which was confiscated and found to contain \$139,284 "bundled in rubber bands and placed in vacuum seal type plastic bags." Mother reported that she was at work during this incident. Mother's brother and adult son were arrested, along with father.

Several months later, father, and mother's relatives, apparently had been released from custody. On October 11, after an investigation by a collaboration of various law enforcement agencies, multiple search and arrest warrants were executed in Los Angeles and other counties. "The primary targets for this large-scale operation are associated with the Morales/Torres Mexican Criminal Enterprise (i.e. the Mexican Drug Trafficking Organization)." Search and arrest warrants were executed at mother's and father's primary homes, with father being the main target of the warrant. Mother drove father to his home. Father told law enforcement that he had spent the night at mother's home. Mother denied the overnight with father at her house but acknowledged that they "have daily interaction." Father "was arrested on a [f]ederal [i]ndictment for conspiracy to distribute illegal controlled substances, drug[-]related sales and on money laundering charges. During the course of this criminal investigation, law enforcement found in the father's home a cocaine [k]ilo wrapper, [a] scale, and a money counter." A law enforcement detective reported to a social worker that "[w]e strongly believe that the father is heavily involved in drug sales in his home and mother's home.' . . . 'Sometime this year, we confiscated a large amount of drugs from the mother's home.' [The detective] reported that the mother [had] denied any knowledge of father's involvement in drug sales, after drugs were confiscated from her home."

Later that day, a social worker found mother at father's house, where Kevin's paternal grandparents also lived. Mother "reported that she was visiting her in-laws as the father [had been] arrested." Mother denied any knowledge of the reason for the arrest or the father's involvement with narcotic sales or drug use. She said that her adult son had been arrested as well. Mother denied prior domestic violence between father and her and father's use of drugs, but said that father continued to abuse alcohol after the closure of the prior dependency proceedings in 2009. In a subsequent interview, mother reported that, on the day of the arrest of father and her adult son, she had been informed that the police were at her adult son's house. She drove with Kevin in the car to pick up father and was on her way to her adult son's house when law enforcement asked her to pull over. Father then was arrested. Kevin reported in an interview with the social worker that he saw father often in father's home. Kevin knew that law enforcement had been to mother's home and that father had been arrested, but he was not aware of the reason for the arrest.

DCFS concluded: "Due to the father's involvement with drug use, sales and the father's arrest under a federal indictment for conspiracy to distribute illegal controlled substances while exposing his child to a . . . criminal enterprise of major narcotic trafficking and it[]s propensity for violence, the child was assessed to be at high risk to his safety while in the care o[r] custody of the father. Additionally, law enforcement reported that they previously recovered narcotics from the mother's home during a separate law enforcement action on the father and the mother took no protective measures to ensure the minor's safety in the past or present by allowing the father to have unfettered access to his child despite his high crimes in and out of his presence. Further, the mother appears to be more protective of the father than to procure the safety of her own child. The mother was assessed to be non-credible as she continues to deny having knowledge of the father's and family/relatives['] involvement in major narcotic trafficking despite past arrests and now the more recent arrest of the father and relatives around her." DCFS also assessed, based on father's involvement with a criminal enterprise, that "the family is considered to be at very high risk for possible retribution by

[father's] Mexican Drug Cartel criminal associates should he be perceived to be cooperative with [l]aw [e]nforcement and/or the [p]rosecution for fear that he can divulge the organization structure and/or identify other criminal drug associates who have yet to be arrested/identified.”

This evidence is sufficient to support dependency jurisdiction over Kevin based on the allegation under section 300, subdivision (b). Although Kevin resided with mother, was unaware of father's drug activity and had suffered no harm, dependency intervention was warranted based on a substantial risk of future serious harm. Kevin was with mother and father when father was arrested in October 2012, and mother made a decision to take Kevin to her adult son's house when she learned that the police were there. Despite father's arrest on drug-related charges in June 2012, mother permitted Kevin to spend time at father's house, where law enforcement later found a wrapper for a kilogram of cocaine and other drug-related paraphernalia. Father's drug operations were linked to Mexican drug trafficking and involved large quantities of money. Relatives of mother also were involved in the operations. Law enforcement termed mother's house the “stash pad.” The fact that father was in custody at the time of jurisdiction and disposition did not ameliorate the risk posed to Kevin by father's drug-related activity given Kevin's exposure to the places where certain of the activity occurred, the involvement of mother's relatives and the extent of the operations. As a result, mother's substantial evidence challenge to the jurisdiction determination fails.

DISPOSITION

The order is affirmed.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

JOHNSON, J.