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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re JULIO L., JR., et al., Persons Coming
Under the Juvenile Court Law.

B248354

(Los Angeles County
Super. Ct. No. CK85652)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JULIO L., SR.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Philip L. Soto, Judge. Affirmed

Megan Turkat-Schirn, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Julio L., Sr. (father) appeals from the juvenile court's March 14, 2013 findings and order declaring his children dependents of the court and requiring father to participate in drug rehabilitation as a condition of reunification. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Detention

Father and Natalie G. (mother) are the parents of Julio L., Jr. (born Apr. 2008) and C.L. (born Aug. 2010). On January 9, 2013, the Los Angeles County Sheriff's Department searched the family home in connection with a narcotics investigation. In the bedroom where the parents and children slept, sheriffs discovered a bag of methamphetamine in father's pants pocket; in the bedroom of paternal uncle, Sandro L., they discovered a bag of methamphetamine on top of the dresser and a loaded handgun in the closet. Deputies arrested father and paternal uncle, charging both men with possession of controlled substances, and charging paternal uncle with possession of a loaded firearm.

The sheriff's department contacted the Department of Children and Family Services (DCFS), who interviewed the family. Mother denied any drug use and said there were no drugs or weapons in the home. Mother said she was willing to do whatever it took to keep her children in her care. She asked the children's social worker (CSW) what she could do to keep her children with her, and said she was willing to drug test and to move with the children to paternal grandparents' home in Victorville.

Father told the CSW that he used medical marijuana, but said he had no methamphetamines in the house. He agreed to voluntarily drug test. He denied any gang involvement and said mother was a good parent who had never been in trouble with law enforcement.

Julio, four years old, said father had a gun that he kept in his pocket or a backpack. He said father's friends visited the house, but he was unable to identify any drugs or drug

paraphernalia. He denied any domestic violence between father and mother. C.L. was pre-verbal, but appeared happy and developmentally on target.

A sheriff's department incident report attached to the detention report said that father "admitted to being 'Rocky' from [the] Pico Nuevo gang." The department said it therefore believed that the incident that gave rise to father's arrest was gang related.

The CSW told mother that the children would be removed from father but released to her care, and mother agreed to live with the paternal grandparents. The CSW assessed the paternal grandparents' home and found it to be clean and appropriate. Paternal grandmother said she would be grateful if the CSW would allow mother and the children to live in her home, agreed to protect the children, and said she understood that father could not visit the home without the CSW's approval or a court order.

II. Petition

On January 14, 2013, DCFS filed a petition alleging jurisdiction over Julio and C.L. pursuant to Welfare and Institutions Code section 300, subdivision (b).¹ The petition alleged: (1) on January 9, 2013, methamphetamine was found in the family home and within the children's reach, placing the children at risk of harm (b-1); (2) the paternal uncle, Sandro L., resides in the family home, and on January 9, 2013, methamphetamine and a loaded firearm were found in paternal uncle's bedroom within the children's access, placing the children at risk of harm (b-2); (3) father has a history of drug abuse and is a current user of marijuana, rendering him incapable of providing regular care of the children, and mother failed to protect the children in that she allowed father to live in the family home and have unlimited access to the children (b-3).

DCFS filed a detention report on January 14, 2013, in which it recommended that the court allow the children to remain in mother's care on the condition that mother continue to reside with paternal grandparents.

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

The court held a hearing on January 14, 2013. It found a prima facie case for detaining the minors and finding that the minors were persons described by section 300, subdivision (b), substantial danger existed to the children's physical and emotional health, no reasonable means existed to protect the children without removing them, and reasonable efforts had been made to prevent or eliminate the need to remove the children from their home. The children were ordered released to mother, DCFS was ordered to provide mother family maintenance services, and father was ordered to participate in weekly, on-demand drug and alcohol testing and was granted monitored visitation with the children.

III. Jurisdiction and Disposition

DCFS filed a jurisdiction/disposition report on February 8, 2013. It stated that father reported having been shot in the back in 2007. The bullet remained lodged in his spine and father's doctor had prescribed marijuana to alleviate the resulting pain. Father said his marijuana use was monitored by his doctor and he kept his marijuana in a box on a high shelf in the garage. He claimed he never smoked marijuana around the children and never smoked during the day while the children were in his care. He said he smoked only in the evening when the children were asleep and then went to bed. Father denied possessing methamphetamines, but he did not deny knowing that paternal uncle had a registered handgun in the home.

Father reported having been arrested for marijuana possession, but said he had not been convicted because he was licensed to use medical marijuana. Further, he said he had been arrested for child endangerment in 2010 for having marijuana near the children, and said he now kept his marijuana out of his home and away from his family.² Father said he wished to relocate his family away from Pico Rivera because "he was tired of being labeled by law enforcement as a gang member and tired of being pulled over randomly while driving." He said he realized that unless he relocated, his life and that of

² This resulted in DCFS filing a petition on behalf of the children in December 2010. The court dismissed the petition on March 1, 2011.

his children would not improve. He wanted to move with mother and the children to Victorville to be near his family.

Mother said father began smoking marijuana after he was shot. She said he did not smoke near the house or the children, and she did not let him keep marijuana in the house. Further, "I don't know when he smokes; I can never tell when he has been smoking. I know that he smokes alone. I would never let him smoke around me or the kids and I would never leave my kids with him if I knew that he had been smoking." Mother said she wanted a better future for herself and her children. She did not deny knowing that paternal uncle had a registered handgun in the home, but denied that methamphetamines were in the home.

The report said that Julio and C.L. appeared to be loving and happy children. They did not appear to need mental health services and they appeared bonded and well cared for by their parents and extended family.

Father had monitored visits with the family on Saturdays and Sundays at the paternal grandparents' home in Victorville. The parents reported that the family attended church together, went shopping, and went out to eat. Father had enrolled in parenting classes, mother had enrolled in therapy and parenting classes, and both parents were cooperative and willing to accept services. Father was willing to relocate from Pico Rivera to live with mother and the children in paternal grandparents' home in Victorville.

Father tested positive for marijuana on January 18 and 25, 2013, and tested negative for all substances on February 7, 14, 22, 25, and March 7, 2013.

DCFS recommended that mother receive six months of family maintenance services, and father receive six months of family reunification services, to include individual counseling, parenting education, and substance abuse treatment for father. It recommended that father have monitored visits with the children each weekend, with visits monitored by the paternal grandparents.

The court held a hearing on March 14, 2013. After hearing argument, the court said: "[A]s far as I can tell from my reading, there's still a current risk. Simply because they moved [paternal uncle] out doesn't mean he's not going to come back, not without

court jurisdiction and orders to be put in place. He's really, if not the main thrust, . . . the significant thrust [of] the risk to these children." The court sustained the allegations of paragraphs (b)(1), (b)(2), and (b)(3) of the petition and declared the children dependents of the court. It found that removal from father was justified under section 361, subdivision (c), and ordered the children released to mother. Over the county's objection, the court permitted father to reside in the family home in Victorville and ordered family maintenance and reunification services for mother and father. Father was ordered not to be left alone with the children, and paternal uncle was ordered not to have any contact with the children. The court ordered father to participate in a drug and alcohol program with random testing, parenting classes, and individual counseling to address case issues. It further ordered father to consult with his doctor to determine whether medication other than marijuana could be used to alleviate his pain. Finally, the court overruled father's counsel's request that father be required to participate in a drug program only if he tested positive for drug use, saying, "I'm giving him quite a good amount of leeway over what the county was recommending by letting him live with the family. I want to make sure that he's doing that."

Father timely appealed.

DISCUSSION

I. Substantial Evidence Supports the Juvenile Court's Exercise of Jurisdiction Over the Children

Father challenges the juvenile court's exercise of jurisdiction over the children, contending there was insufficient evidence to sustain any of the allegations of the petition. We review the juvenile court's jurisdictional findings and orders for substantial evidence. (*In re R.C.* (2012) 210 Cal.App.4th 930, 940-941; *In re E.B.* (2010) 184 Cal.App.4th 568, 574-575.) 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.* [(2009)] 174 Cal.App.4th

[1426,] 1433.) We draw all reasonable inferences from the evidence to support the findings and orders of the juvenile court. We adhere to the principle that 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.)” (*In re R.C.*, *supra*, 210 Cal.App.4th at p. 941.)

A. *Paragraphs b-1 and b-2*

Father contends there was no substantial evidence to support the court’s exercise of jurisdiction pursuant to paragraphs b-1 (methamphetamine was found in the family home and within the children’s reach, placing the children at risk of harm) or b-2 (methamphetamines and a loaded firearm were found in paternal uncle’s bedroom within the children’s access, placing the children at risk of harm). Father notes that by March 14, 2013, the date of the jurisdictional hearing, mother and the children were living with paternal grandparents in Victorville, father was planning to leave Pico Rivera to live with his family, and paternal uncle was no longer living with the family. Further, he says, there was no evidence that father had ever used methamphetamines, the children were healthy and well cared for, and mother was not complicit in father’s illegal activities. Thus, father urges, by the time of the jurisdiction hearing, there was no evidence that the children were at current risk of abuse or neglect.

We do not agree. 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, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the

child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.”

A trial court is entitled to infer that a child is at substantial risk of serious physical harm when he or she is placed in an environment in which he or she has access to drugs or firearms. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 825.) In the present case, methamphetamines were found in father's pants pocket in the bedroom the parents shared with the children. As DCFS correctly notes, the children could have taken the substance from father's pocket or the substance could have fallen out of father's pocket and come within the children's reach. Had either of the children ingested the methamphetamines, the results could have been devastating.

The children were also placed at risk by the illegal items—methamphetamines and a loaded firearm—found in the paternal uncle's bedroom. While the parents said the children were not allowed in the uncle's bedroom, neither said the bedroom was secured in any way that would have prevented a child from entering it and accessing the drugs or the loaded gun. The danger posed by both items to these young children is self-evident.

Father contends that, notwithstanding the harm the drugs and firearm posed to the children, the presence of these items in the home at the time of his arrest did not support the juvenile court's exercise of jurisdiction because by the time of the jurisdictional hearing, mother and the children had moved out of Pico Rivera, thus removing the children “from the dangers of living in an area full of gangs and old affiliations,” and paternal uncle was not living with the family. We do not agree. Although father is correct that past abuse or neglect, *standing alone*, does not establish current risk (*In re Rocco M., supra*, 1 Cal.App.4th at p. 824), in the present case there was ample evidence to support the juvenile court's conclusion that the children remained at significant risk. Notwithstanding the family's past involvement with DCFS and past move to paternal grandparents' home in Victorville, the family had chosen to return to Pico Rivera, where father apparently had continued to involve himself with the use or sale of methamphetamines and to associate with members of the Pico Nuevo gang. Although the current move to Victorville appears to have been a positive one, the court was not

required to conclude that it would fully and immediately ameliorate father's drug use and/or gang ties. Indeed, the court's order that father participate in drug rehabilitation suggests that it believed that father's drug use posed an ongoing threat to the health and safety of the children. The fact that the family was no longer living in Pico Rivera did not establish that father would no longer possess methamphetamines or store them within access of the children. The juvenile court did not err in so concluding.

B. Paragraph b-3

Father contends that substantial evidence did not support paragraph b-3 of the petition, which alleged that father "has a history of illicit drug abuse and is a current abuser of marijuana, which render[] the father incapable of providing regular care of the children. On prior occasions, the father was under the influence of marijuana while the children were in the father's care and supervision. . . . The father's marijuana abuse and the mother's failure to protect the children endanger[] the children's physical health and safety and create[] a detrimental home environment for the children, placing the children at risk of physical harm, damage and failure to protect."

When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, this court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction enumerated in the petition is supported by substantial evidence. In such a case, we need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451, citing *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72, and *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875-876.) Because we have concluded that paragraphs b-1 and b-2 supported the court's exercise of jurisdiction, we need not reach father's contentions concerning paragraph b-3.

II. The Juvenile Court Did Not Abuse Its Discretion by Requiring Father to Participate in a Substance Abuse Program

“At the dispositional hearing, the [dependency] court must order child welfare services for the minor and the minor’s parents to facilitate reunification of the family. [Citations.] The court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order in accord with this discretion. [Citations.] We cannot reverse the court’s determination in this regard absent a clear abuse of discretion. . . .’ (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006-1007.)” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 770.)

Father contends that the court’s order for him to complete a substance abuse program was not appropriate because there was no evidence he was abusing illicit drugs. We do not agree. It is undisputed that father was arrested for possessing a baggie containing methamphetamine, which was found by the arresting officer in the pocket of father’s pants. From this evidence, the juvenile court reasonably could infer that father possessed the methamphetamine for his own use—an inference that we must accept on appeal. (E.g., *In re D.B.* (2013) 217 Cal.App.4th 1080, 1094 [“where two or more inferences can reasonably be deduced from the facts, we have no authority to substitute our decision for that of the juvenile court”].) In view of this implied finding, the order to participate in drug rehabilitation was manifestly appropriate. (See *In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 454 [having found that father’s drug use presented risks to his children, the court properly ordered drug counseling and testing: “We will not disturb that decision because we do not find that the court ‘exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination.’”].)

DISPOSITION

The jurisdiction and disposition orders are affirmed.

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SUZUKAWA, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.