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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re T.W., a Person Coming Under the
Juvenile Court Law.

B249834
(Los Angeles County
Super. Ct. No. CK94496)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

D.W.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Valerie Skeba, Juvenile Court Referee. Affirmed.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

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

* * * * *

The juvenile court assumed jurisdiction over 15-year-old T.W., who was not allowed to leave his apartment and did not attend school. The court ordered T.W. placed in foster care and limited his mother's educational rights. D.W., T.W.'s mother (mother), challenges the juvenile court's jurisdictional and dispositional orders. We affirm.

FACTS AND PROCEDURE

1. The Los Angeles County Department of Children and Family Services (DCFS) Files a Welfare and Institutions Code Section 300 Petition¹

The petition as later sustained alleged: "On 1/9/13, the child [T.W.] was exposed to a violent altercation between the child's mother . . . and a Law Enforcement Officer, in which the mother struck the Law Enforcement Officer. On 1/19/13, the mother was arrested for Battery on a Peace Officer[r] and Obstruct [sic] Peace Officer. Such a violent altercation on the part of the mother against the Law Enforcement Officer endangers the child's physical health and safety and places the child at risk of physical harm and damage."

"The child [T.W.]'s mother . . . has failed to provide the child with the basic necessities of life including school, immunizations, and medical treatment. The child [T.W.] is also allergic to fish and has had three allergic reactions which cause swelling of his lip while in the home of his mother. Mother failed to take the child to the doctor and to have [the] child tested for allergies. Such failure to provide for the child on the part of the child's mother . . . endangers the child's physical and emotional health, safety and well being and places the child at risk of physical and emotional harm and damage."

"On numerous occasions, the child [T.W.]'s mother . . . demonstrated numerous mental and emotional problems. Such problems include Depression, Paranoid behavior, Incoherent behavior and isolating the child [T.W.] in the home. On 09/11/2011, mother visited a hospital three times for a bruise and subsequently left after being seen without treatment. Further . . . mother . . . has a history of a mental health hospitalization and failed to seek treatment and take psychotropic medications as prescribed. Such mental

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

and emotional condition on the part of the child's mother endangers the child's physical and emotional health and safety and places the child at risk of physical and emotional harm and damage."

2. Mother Refused to Allow Any Investigation

Mother refused to allow DCFS to investigate the child abuse referral concerning T.W. DCFS learned from mother's neighbors that T.W. did not leave the apartment and did not attend school. When deputy sheriffs attempted to investigate, mother hit or attempted to hit a deputy. Mother was arrested for battery.

Mother refused to provide any information regarding her family or regarding T.W.'s father.

Mother refused DCFS's second attempt to observe her home.

3. T.W. Does Not Attend School

Mother and T.W. both acknowledged that T.W. *never* attended school. T.W. did not know that children are supposed to go to school. T.W. explained that his mother "did not want him to go to school and do bad things and have bad friends like she did when she went to school."

Mother claimed to have home-schooled T.W. She provided letters dated August 23, 2012, and August 20, 2011, purportedly sent to the superintendent of the Antelope Valley Union High School District stating her intent to home-school T.W. DCFS questioned whether these letters were mailed. Mother completed a private school affidavit paper form distributed by the California Department of Education. Mother also explained that T.W. did not attend school for religious reasons, but identified no religious belief that would warrant keeping T.W. out of school. Mother claimed that she and T.W. study at least one to three hours per day, five days per week.

Mother had no educational records. The school district where she lived had no record of T.W. Mother followed no curriculum or program. Mother did not use any text books, but wrote questions on a piece of paper, which T.W. would answer on that paper. T.W. would write a couple of sentences and do a few math problems every day or every other day. Mother taught history by watching travel shows. T.W. learned to add and

subtract but did not know the meaning of a fraction or a noun or a verb. T.W. was not able to tell the date or day of the week and could not tell time without a digital clock. He functioned at an elementary school level.

When T.W. was in foster care, mother called the foster parent and asked that T.W. be removed from school. Mother told T.W. not to take any tests because “it would mess up their family.”

DCFS recommended limiting mother’s education rights in order to allow an educational assessment to determine if T.W. had developmental delays or simply a lack of education.

4. T.W. Does Not Receive Medical Care

Mother did not take T.W. to the doctor. Mother reasoned that T.W. was healthy and did not need to see a physician. T.W. reported that he had not seen a doctor or dentist in several years. T.W. reported that he was allergic to fish and suffered from allergic reactions three times after eating it.

Mother stated that for religious reasons she did not take T.W. to the doctor or the dentist. Mother stated that she used to be Methodist but now she is Muslim. Mother identified no religious belief preventing her from taking T.W. to a physician.

Both mother and T.W. had Medi-Cal cards.

5. T.W. Leaves the Apartment Rarely If at All

Mother’s apartment has two bedrooms. There was no furniture. The living room contained two mats with sheets, blankets, and pillows. The closets were empty. The bedrooms contained four small bags of clothing belonging to mother and T.W. Mother refused an offer of free furniture.

T.W. mentioned that he rarely leaves the apartment, but had been to a park, a library, and a grocery store. None of mother’s neighbors saw T.W. leave the apartment. T.W. had no friends. T.W. slept with mother in their living room.

No guests ever visited the apartment.

T.W. had no socialization.

6. T.W.'s Condition

While T.W. denied physical or emotional abuse, when he spoke to a social worker, he was withdrawn, did not make eye contact, and presented a “flat affect.” T.W. was observed to have developmental, social, and educational delays.

After T.W. was removed from mother’s custody, mother told him to stop eating, and T.W. followed her instruction. Mother also told T.W. to refrain from wearing any new clothing.

7. Mother’s Condition

Mother was diagnosed with depression when she was 15 and she was placed in a hospital for a week. In September 2009, mother called a hospital eight times. One time, mother reported having “air in [her] head.” Another time she reported having a stiff neck and requested a scan of her carotid artery. Each time mother left after being seen by medical personnel but without receiving any consultation from the professionals. Mother was described by hospital personnel as needing psychiatric care.

Once T.W. was removed from mother’s custody, mother did not attend any visits with him, but spoke to him on the phone every night.

An evaluation of mother showed that she was “extremely defensive” and resistant to treatment.

8. Jurisdictional and Dispositional Hearing

All parties submitted on the reports at the jurisdictional hearing. Mother testified at the dispositional hearing. Mother testified that she would allow T.W. to go to school if the court found it necessary. She would not allow T.W. to go outside the apartment outside of her presence. Mother agreed to attend individual counseling if the court required it. Mother did not believe there was any reason to remove T.W. from her care. Mother testified T.W. could tell time if he looked at a digital clock. She planned on teaching him to tell time before he turned 18. Mother testified that she had a television, mattress pads, and a sheet and a comforter and pillows in the apartment.

9. Juvenile Court Orders

On February 13, 2013, the juvenile court limited mother's right to make educational decisions for T.W.

On February 17, 2013, the juvenile court assumed jurisdiction over T.W. The court discredited mother's claim that she did not seek medical care for religious reasons because there was no indication that mother held religious tenants that would cause her to refrain from seeking medical care. The court found that mother refrained from seeking medical attention because mother wanted to keep T.W. away from anyone required to report child abuse. The court concluded that mother was not home-schooling T.W. There were no books, no tests, no homework. The court concluded the extreme isolation of T.W. may indicate that mother's mental health issues had not been addressed.

The court found that T.W.'s extreme isolation placed him at risk. On May 13, 2013, the court rendered its disposition, removing T.W. from mother's custody. At the dispositional hearing, the court reaffirmed its earlier order removing mother's right to make educational decisions for T.W.

On May 16 mother filed a notice of appeal.²

DISCUSSION

1. Substantial Evidence Supported Jurisdiction

We review the jurisdictional findings for substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) “In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional findings and disposition, we determine if substantial evidence, contradicted or uncontradicted, supports them. “In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial

² We liberally construe the notice of appeal filed three days after the dispositional order to include the juvenile court's jurisdictional and dispositional orders. The jurisdictional findings were interlocutory and thus not appealable until after disposition. (*In re Javier G.* (2005) 130 Cal.App.4th 1195, 1199-1200.)

court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.] “[T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could find [that the order is appropriate].” [Citation.]” [Citation.]” (*Ibid.*)

“The statutory definition consists of three elements: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) “serious physical harm or illness” to the minor, or a “substantial risk” of such harm or illness.’ [Citation.] The third element ‘effectively requires a showing that at the time of the jurisdiction hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur). [Citations.]’ [Citation.] Section 300, “[s]ubdivision (b) means what it says. Before courts and agencies can exert jurisdiction under section 300, subdivision (b), there must be evidence indicating that the child is exposed to a *substantial risk of serious physical harm or illness.*” [Citation.]’ [Citation.]” (*In re David M.* (2005) 134 Cal.App.4th 822, 829.)

“Although ‘the question under section 300 is whether circumstances at the time of the hearing subject the minor to the defined risk of harm’ [citation], the court may nevertheless consider past events when determining whether a child presently needs the juvenile court’s protection. [Citations.] A parent’s past conduct is a good predictor of future behavior. [Citation.] ‘Facts supporting allegations that a child is one described by section 300 are cumulative.’ [Citation.] Thus, the court ‘must consider all the circumstances affecting the child, wherever they occur.’ [Citation.]” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.)

Overwhelming evidence supported the finding that mother failed to provide T.W. with the basic necessities of life, including school, immunization and medical care. Although mother filed an affidavit of intent to home-school T.W., there was no evidence mother actually followed through with her stated intent. At 15, T.W. did not know basic math, grammar, or how to tell time. He had no homework, no tests, and no set

curriculum. Mother's efforts to home-school T.W. were so minimal that the court's conclusion they were tantamount to no education was strongly supported.

The evidence also supported the finding that mother failed to provide medical treatment and immunization. In fact it was undisputed mother failed to provide immunizations. Although mother claimed she avoided immunizations for religious reasons she identified no belief that would support her claim. It was also undisputed that mother did not seek medical care for T.W., including for his allergic reactions. While mother seeks to minimize the seriousness of his allergies, the juvenile court expressly found that mother refused to seek care in order to avoid mandated reporters. The record supports that inference as mother refused to allow social workers from DCFS into her home and refused to allow deputy sheriffs to investigate a child abuse referral. Interpreting the evidence in the light most favorable to the juvenile court's order as is required (*In re I.J.*, *supra*, 56 Cal.4th at p. 773) the order assuming jurisdiction over T.W. is amply supported.

Because jurisdiction was proper based on mother's failure to provide T.W. the necessities of life, we need not consider the remaining findings. "When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court 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.)

2. The Juvenile Court's Dispositional Orders Were Supported by Substantial Evidence

"Before the court may order a child physically removed from his or her parent's custody, it must find, by clear and convincing evidence, the child would be at substantial risk of harm if returned home and there are no reasonable means by which the child can be protected without removal. [Citations.] The jurisdictional findings are prima facie evidence the minor cannot safely remain in the home. [Citations.] The parent need not

be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child. [Citation.] We review the court's dispositional findings for substantial evidence. [Citations.]" (*In re T.V.*, *supra*, 217 Cal.App.4th at pp. 135-136.)

Mother's first argument is that because jurisdiction was not supported the disposition must be reversed. However, because the juvenile court's finding of jurisdiction was overwhelmingly supported, this argument lacks merit.

Mother's second argument that her atypical relationship with T.W. did not pose any harm to him ignores the weight of the evidence in the record. Mother isolated T.W. to such a degree that he had no communication with anyone other than mother. He was unable to leave the apartment. He suffered educationally and had no socialization skills. Mother instructed T.W. not to eat. Mother lacked any awareness of how her conduct affected T.W. and no evidence supported the conclusion that she would be able to alter her parenting to assure T.W.'s safety.

The juvenile court's decision to require a monitor for mother's visits was amply supported. As the juvenile court found, there was a substantial risk mother and T.W. would flee if T.W. were returned to her care. Mother and T.W. had no furniture and very few belongings. They had no social ties to their neighborhood. Mother was not employed and T.W. was not in school. Additionally, monitored visits were necessary to protect T.W.'s wellbeing as mother instructed him not to eat and not to participate in any tests at school.

As a result of mother's behavior, the juvenile court properly limited mother's educational rights over T.W. Section 361, subdivision (a)(1) provides: "In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be

specifically addressed in the court order. The limitations may not exceed those necessary to protect the child.”

Limiting mother’s educational rights was necessary to protect T.W. When she was in control of his education, mother failed to ensure that T.W. received an adequate education. Mother’s claim that she home-schooled him is not supported as the record shows mother taught T.W. very little and spent very little time on schooling. As the juvenile court found, mother’s schooling was tantamount to no schooling at all. Moreover, even after T.W. was enrolled in school mother tried to interfere with his learning by instructing him not to participate in assessments and asking his foster parents to remove him from school. Under the circumstances of this case, the decision to remove mother’s educational rights was the only reasonable one.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

FLIER, J.

WE CONCUR:

RUBIN, Acting P. J.

GRIMES, J.