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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re CHRISTIANA V., a Person Coming
Under the Juvenile Court Law.

B253818
(Los Angeles County
Super. Ct. No. CK99793)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

CYNTHIA A.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County. Julie Fox Blackshaw, Judge. Affirmed.

Maryann M. Goode, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, Dawyn R. Harrison, Assistant County Counsel, Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

Mother Cynthia A. appeals from the judgment entered after the juvenile court declared her daughter, Christiana V., a dependent of the court under Welfare and Institutions Code section 300, subdivision (b)¹, and removed the child from mother's custody. Mother contends that substantial evidence does not support the jurisdictional findings against her. She also contends that, even if jurisdiction were proper, the Department of Children and Family Services (DCFS) failed to make reasonable efforts to prevent removal and substantial evidence does not support removal under section 361, subdivision (c)(1). We disagree with mother's contentions and thus affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Section 300 Petition and Detention

The child was born in May 29, 2013 to mother, who then was 17 years old and a juvenile court dependent. Mother, who did not reunify with her parents, first lived with her grandmother and then in a foster home and was infected with a life threatening viral disease at birth. During her pregnancy, mother left her placement without permission and failed to take medication, which was necessary for her own health, as well as to help prevent transmission of the disease to the child. Mother admitted to smoking cigarettes during her pregnancy. She had four prenatal visits but missed most of her scheduled appointments.

On the day of the birth, a referral was made to DCFS, and a social worker on the child's behalf visited mother in the hospital. Mother told the social worker that she had been living with her stepfather after leaving her placement and before the birth, but refused to let the social worker contact him. Mother did not attend school for a year prior to the birth and said she planned to move with the child to Las Vegas to live with her sister. Mother would not specifically identify the father or provide contact information for him. Another social worker, assigned to mother's case, suspected that the father was a man much older than mother. Although a man in his late forties visited mother in the hospital, he denied being the father. Reports from mother's social worker, the hospital

¹ Statutory references are to the Welfare and Institutions Code.

nurse and the social worker for the child indicated that mother had a bad attitude and was uncooperative. Mother's social worker believed mother would not provide the child with the necessary medical treatment to prevent disease transmission and would leave for Las Vegas.

DCFS placed a hospital hold on the child, who was in the neonatal intensive care unit. The child received extensive medication as a preventive measure to lessen the risk of disease transmission. The medication regimen implemented was more aggressive than it otherwise would have been because mother's failure to take her own medication during her pregnancy had impacted her viral load. The medication led to the child having difficulty eating in the first few days, but her eating improved by June 2.

On June 4, DCFS filed a petition under section 300, subdivision (b), regarding the child, who was then six days old, alleging, as amended by interlineation, that "mother endangered the child during the mother's pregnancy by failing to regularly take the mother's prescribed medication for a life threatening illness resulting in the mother's endangering high viral load at the child's birth. The child required an aggressive medication regimen to protect the child. The detrimental and endangering situation established for the child by the mother including by her AWOL behavior endangers the child's physical health and safety, and places the child at risk of physical harm, damage, danger and medical neglect." The petition also alleged that mother "placed the child in a detrimental and endangering situation in that the mother exhibited chronic runaway behavior. On 03/09/2013, the mother ran away from the mother's [j]uvenile [c]ourt [o]rdered placement and the mother's whereabouts were unknown to DCFS until the child's birth on[in May 2013]. Such a detrimental and endangering situation established for the child by the mother and the mother's chronic runaway behavior endangers the child's physical health and safety, and places the child at risk of physical harm, damage and danger."

At a hearing on June 4, the juvenile court detained the child, who remained in the hospital with mother. Mother's counsel submitted to detention and monitored visits. The child was moved from the neonatal intensive care unit to the nursery. As of June 12,

mother and the child remained hospitalized, and DCFS indicated that it was attempting to secure placement for them. According to hospital staff, ““mother comes to the nursery and holds the baby but she doesn’t talk to the baby or stimulate the baby in other ways. The baby is a very easy baby and needs to be stimulated. [Mother] just holds the baby for a while and gives her back to the medical staff when she is ready to return to her room.””

2. *Jurisdiction and Disposition*

In the jurisdiction and disposition report, filed on July 8, DCFS indicated that in an June 13 interview mother had reported, ““I don’t care if [my daughter] got [the life threatening illness]. I had it all my life, shit! It’s been a headache, two pills at first and then it was more. I mean, I don’t want her to have to deal with it and go through what I did, but if she has [the life threatening illness] I love her anyway. I was taking my medicine before [I had the baby] but I ran out. They deliver [the refills] over there at my mom’s house and I didn’t want to see that crack house so I didn’t go get it.”” When asked if she knew her illness could affect her baby, mother stated, ““Yeah, but I got pregnant anyway. I found out I was pregnant when I was 3 months. I had asked my sister to get me a pregnancy test because I missed my period. I was happy when I found out. I went to the . . . medical clinic for prenatal care. I saw [a doctor there]. I want a chance to raise my child. I don’t know why court is involved. I can go stay with my sister in Vegas. She can help me. I don’t want my baby in foster care and I don’t want my baby with any of my family. My mom and dad is crack heads. They all got problems.”” Mother said the father is ““not going to be in [the child’s] life so it’s no point talking about him.”” Mother also stated that, although she had not stayed in her foster care placement while pregnant, she ““wasn’t homeless. I was staying with friends and family. I stayed at my cousin[’s] . . . house in Paramount, my sister[’s] . . . house in Compton, and my stepdad[’s] . . . house [in Los Angeles]. But I don’t want you bothering them.”” Mother left her foster home in March before the child’s birth because, ““I wasn’t getting along with the other girls in the house and I’ve had a lot of people in my life for a long time. I just want to be left alone. Just like here in this hospital. Shit,

they follow me everywhere because they think I'm going to run away. I've been here since May 29th and I'm ready to go.'”

DCFS concluded that the child “is not safe in the care of her mother The mother is a minor currently under the jurisdiction of [the] . . . [c]ourt. The mother has been AWOL from DCFS placement since March of the current year and failed to obtain prenatal care and[/]or take her medication for her life threatening illness during that time. This behavior increased the risk of infection for the infant . . . and the child is presently under a rigorous medication regimen in an attempt to prevent transmission of the illness from mother to child. The . . . mother is indifferent with regard to her child contracting the life threatening illness. Further, the . . . mother is resistant to DCFS involvement in her life and her participation in court ordered services such as counseling. The . . . mother does not demonstrate an ability to care for her medically fragile infant given her inability to remain compliant with her own medication regimen, her prenatal care visits, and her placement through DCFS.”

Mother appeared at a hearing on July 8 and reported that she was living with her stepfather after leaving the hospital, although that was not an approved DCFS placement. Mother's counsel requested that DCFS make efforts to find a foster home that would accommodate mother and the child. On July 17, the child was released from the hospital to a foster home. The child appeared not to have been infected with mother's illness, although hospital staff said it could take up to 18 months to be certain. The child was no longer on medication, only vitamins and iron supplements. Mother was placed at St. Anne's New Village School on July 30, when she “signed a behavioral contract that [she] will have to adhere to in order to remain in this placement. Mother stated that she is willing to comply with the terms of this agreement, which includes no drug use, in an effort to reunify with her daughter. The staff of St. Anne's stated that they anticipate having an opening soon so that . . . mother can have her daughter . . . placed with her. However, at this time DCFS respectfully recommends that placement of [the] child . . . with . . . mother . . . be postponed so that DCFS has an opportunity to assess whether or not . . . mother . . . will comply with the terms of this placement. There is concern that

mother will flee with the child given her history of AWOL-ing and current romantic involvement with the older mystery man who[] the social worker suspects fathered the child . . . and is now trying to coerce . . . mother into moving with him to Las Vegas.”

On August 7, at adjudication, mother’s counsel argued that the petition should be dismissed because there was no substantial risk of harm to the child. Counsel stated, “It’s . . . speculated that [mother] may want to go to Las Vegas. It’s all speculation. We are not sending her to her own house with the baby. We are sending her to St. Anne[’s]. St. Anne[’s] is a place that the mother will be supervised as a mother and will be provided with the services that she need[s].” DCFS and the child’s counsel asked that the petition be sustained.

After hearing arguments and reviewing the DCFS reports, the juvenile court sustained the petition, with amendments by interlineation as requested by the child’s counsel, declaring the child a dependent of the court. The court stated, “I am glad that mom is at St. Anne’s. And I want her to be able to get her baby placed back with her. I am concerned because . . . mom . . . ran away from placement for a couple months. And there was a time when she needed to be taking medication. She was kind of uncooperative with [DCFS] in the past. I’m hoping that is in the past. But it wasn’t that long ago, we’re talking it’s been the last five or six months. . . . It’s not that the baby was born and had to be on this huge medication regime for a while to get it healthy, and now it’s not on drugs, on prescription medication, but a lot of vitamins. But, you know, if mom runs again, that kid could be very, very ill. Mom hasn’t shown the kind of stability. And the instability that mother has shown, in view of her own health and the health that the baby was initially exposed to, I don’t have confidence that she can continue to take good care of [the child]. I’m also concerned about some things in the report that I read from the mother’s social worker . . . I don’t know if it’s sophistication or emotional comprehension, but I’m just concerned about her appreciating the responsibility, because it’s not just a mom who like smoked dope and had a drug exposed baby, it’s something that mom’s going to be living with, that mom needs to take care of for all of her life. And that her baby can—I don’t think it can relapse, but I don’t even

know. I mean I'm just very concerned, and I think that I would be silly to pretend like there's no danger there, that there wasn't a danger, that it wasn't serious, and that it's all very recent. I would hope that mom would stay at St. Anne's and do what she's supposed to do so we can eventually place the baby with her there. But first, she has to be there and medication compliant and take parenting and seem to be able to comprehend those things. . . . So I am concerned about her stability. And I think if she is not going to be stable, that that is very dangerous for the child. And I'm hoping the worker is wrong and she's not planning to run off with the baby somewhere, because I don't think that's in the child's best interest."

At the request of mother's counsel, the court continued the matter for a contested disposition to evaluate mother's progress in determining placement of the child. The court ordered monitored visits of three times a week for mother and the child be made available for parenting and "mommy and me" classes at St. Anne's.

Before the continued hearing, DCFS filed a report indicating that, on September 14, mother's advisor at St. Anne's had said "that it has been extremely difficult to get [mother] to participate in any activity or to follow any of the classroom rules. [Mother] consistently arrives late to class and interrupts classroom activity. At this time, mother is not on target to graduate high school this year. Mother has verbalized that she hates this school and has requested a transfer to another school on site. However, the other school is less restrictive and transfer poses a flight risk for the mother. St. Anne's is in the process of scheduling a Treatment Team Meeting to address [mother's] behavioral concerns at school. According to [the advisor], in order for mother to graduate high school and ultimately reunify with her daughter, she must first take care of herself by working during school hours, improving attendance and punctuality, and not causing or participating in distractions to classroom instruction." The report also stated (1) "Mother's placement in St. Anne's is contingent upon mother's compliance with the terms of her behavioral contract. Mother is currently not in compliance with that contract making placement tenuous"; (2) "Mother demonstrates poor follow through, defiant, and irresponsible behavior at school. Mother is currently defiant toward authority figures

who would have to assist her with the care of her child should the child be placed with the mother at this facility”; and (3) “Mother has verbalized a desire to transfer from her current site and thereby poses a flight risk given her history of AWOLing from placement.” At the hearing, on September 19, the juvenile court continued the matter to October 31 based on mother’s counsel’s representation that positive information from St. Anne’s had not been included in the report. The court ordered a supplemental report and gave DCFS discretion to place the child with mother at St. Anne’s. The October 31 hearing was continued to December 11.

Before the December 11 hearing, a report from St. Anne’s indicated that mother was having an issue with consistency. Mother ““has received multiple positive behavior reports while participating in our program. At St. Anne’s, positive behavior reports are used as positive reinforcement for individuals [who] are struggling in the program. If the staff notices a positive behavior, they give a positive behavior report for that day in hopes that the desired behavior persists. [Mother] may demonstrate a positive behavior one day, but then regress and fall back into the undesired behaviors the next day. I know she wants her baby, but at this point I can’t say that she has made a huge improvement with regard to her behaviors.”” On November 2, mother ran away from her placement at St. Anne’s. She was apprehended by law enforcement for theft on November 10. St. Anne’s discharged mother from placement on November 13 due to “disrespectful behavior toward the staff, her aggressive behavior toward other residents, her repeated AWOL behavior . . . and suspicion of drug use. Additionally, [mother] was arrested and detained . . . on 11/10/13 on theft charges. It was documented that [mother’s] behavior posed a safety risk for both residents and the staff team at St. Anne’s and immediate discharge from placement was requested.”

At the December 11 hearing, mother testified that she was staying with her stepfather but did not intend to remain there, as she wanted her own apartment. Mother said she could support the child by obtaining a high school diploma and then a job but did not know how many additional units she needed to graduate. She has never been employed but had “help[ed] [her] family clean up.” Mother believed she was not

receiving services or help finding placement since her discharge from St. Anne's and had not seen the child since her release from jail on November 12. Mother's counsel asked for the child to be returned to mother's custody on the condition that she remain with her stepfather. The child's counsel and DCFS argued against placement of the child with mother.

Based on mother's testimony, the exhibits and the arguments of counsel, the juvenile court maintained the child's foster care placement. The court stated, "I am not going to release to the home of parent mother today The problems that brought us here and the issues in the sustained petition are still the issues that [mother] is dealing with and are still the issues that put your baby at risk. The failure to take your medications, particularly when it would impact your child, shows a neglectful attitude towards your child's health. And even though you're taking your medications now, that's a very good thing, but the additional fact that you actually did have an opportunity to have your child with you in an environment that would have supported a young mother like you, and the last time we were here in court, we all talked about that being the opportunity for you to have your child in an environment that the court could have released the baby to, and yet whether you call it AWOL, whether you call it running away, you violated the rules of St. Anne's, and so now you can't live there anymore. And so I do not feel that you have shown the court that you have a stable life and that you are thinking like a parent and doing what is best for your child. You are making some progress, but I do not think that you are there now. And I do think that it would put your child at a substantial risk if the baby were released to you now. And this isn't really parenting skills. And I think it's terrific that you were in the hospital and learned all those parenting skills with the one-on-one and you've taken the parenting classes, that's great. This is much more than parenting skills. This is stability and caring for your child. The idea that you want to finish high school and get a job and have your own apartment is terrific. . . . The court doesn't see that as being a realistic goal for you now because you aren't even in school at this point. And so once you start taking the steps that show that you are ready to provide your child with a stable home, the court will reconsider this.

And as to staying in the house with the stepfather, . . . you've already said that you don't want to stay there. So given your history of leaving places, the court has no confidence that you will actually stay there until you can support yourself in your own apartment."

The juvenile court found the services provided to the child were reasonable. "[Mother] and the baby stayed in the hospital, which couldn't have been a more safe place. And in fact, you got to see your baby every day, and you had one-on-one assistance in learning the parenting skills. So I believe [DCFS] was very conscientious in keeping you there until actually they got a placement at St. Anne's. It took longer than you had wished, but . . . you were in a very safe place with the baby until then. Then you went to St. Anne's. And the reason why St. Anne's is no longer an option is your choice, not the [choice of DCFS]. So I do hope you keep working on things. I do think you have the potential to be a wonderful, loving, caring, supporting mother. I think you have some things to work on, but that's what the next six months will be about." The court ordered monitored visits of three times per week and family reunification services for mother.

Mother filed a timely notice of appeal. (§ 395, subd. (a)(1); see *In re Tracy Z.* (1987) 195 Cal.App.3d 107, 112 [jurisdictional findings reviewable on appeal from the judgment following disposition].)

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).) 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.)

Under section 300, subdivision (b), the juvenile court may adjudge a child a dependent of the court when "[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.) When the jurisdictional finding is “based on the parent’s ‘inability . . . to adequately supervise or protect the child[.]’” DCFS must show “parental unfitness or neglectful conduct.” (*In re Precious D.* (2010) 189 Cal.App.4th 1251, 1254.)

Mother contends that the juvenile court’s jurisdictional findings are not supported by substantial evidence. We disagree. Mother exhibited neglectful conduct by failing to take her medications during pregnancy, which resulted in the child needing a more aggressive medication regimen at birth and for several weeks thereafter. Mother also failed to maintain regular prenatal care and ran away from her placement for the last two month of her pregnancy. Mother engaged in these behaviors despite knowing her medical condition placed her unborn child at risk. Although initial tests did not reveal disease transmission from mother to the child, hospital staff indicated it could take up to 18 months to be certain. Mother expressed indifference as to whether the child contracted the disease. After the child was discharged from the hospital, mother was placed at St. Anne’s to ultimately receive her child there, but failed to follow the rules, behave appropriately toward staff and other residents and maintain her schooling. She left St. Anne’s, was arrested for theft and then discharged by the facility for conduct deemed unsafe to residents and staff. At disposition, mother was staying with her stepfather but planned to leave to get her own apartment. She, however, had never held a job and was not enrolled in school to complete her high school education. This evidence supports the determination of a substantial risk of serious physical harm or illness to the child.

Mother also argues that, even if jurisdiction were proper, the juvenile court erred in removing the child from her custody because DCFS did not make reasonable efforts to

prevent removal and the standard for removal under section 361, subdivision (c)(1), was not met. Again, we disagree.

DCFS made reasonable efforts to prevent removal. Mother and the child remained in the hospital together for an extended time period. DCFS then placed mother at St. Anne's with the hopes of the child joining her. At the request of mother's counsel, the juvenile court continued disposition to afford mother additional time to show she could care for her child. But mother did not follow the rules at St. Anne's, or the contract to which she had agreed, ultimately leaving the facility and getting arrested for theft. At disposition, mother was staying with her stepfather, but did not intend to continue to reside there and simply wanted her own apartment. Yet, mother had no job or plans to finish high school. DCFS worked from detention through the extended period to disposition to place the child with mother, but that did not result because of mother's conduct, not as a result of lack of reasonable efforts to prevent removal.

Moreover, the juvenile court's finding under section 361, subdivision (c)(1), of clear and convincing evidence that "[t]here is or would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's . . . physical custody" is supported by the evidence. (*In re Henry V.* (2004) 119 Cal.App.4th 522, 529 [review standard for removal decision under § 361, subd. (c)(1), is substantial evidence].) Mother did not demonstrate the ability or the stability to care for her child, who was an infant, despite the extended time afforded between jurisdiction and disposition. As noted, shortly before disposition, mother left her placement, was discharged by the facility for behavior determined unsafe to the residents and staff and arrested for theft. Under these circumstances, the court did not err in removing the child from mother's custody.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

JOHNSON, J.