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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re TRUE G., et al., Persons Coming
Under the Juvenile Court Law.

B260452

(Los Angeles County
Super. Ct. No. DK07334)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent.

v.

YURITZI Q.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Daniel Z. Zeidler, Juvenile Court Referee. Affirmed.

Catherine C. Czar, under appointment by the Court of Appeal, for Defendant and Appellant.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel for Plaintiff and Respondent.

Appellant Yuritzi Q. (mother) appeals from the juvenile court's orders establishing dependency jurisdiction over her children, True G. (born Jan. 2010) and Anaiah G. (born Feb. 2014). Mother contends the evidence is insufficient to support the juvenile court's jurisdictional findings under Welfare and Institutions Code section 300, subdivisions (a) and (b),¹ that domestic violence between her and Hector G. (father),² placed the children at substantial risk of harm. Substantial evidence supports the juvenile court's findings, and we affirm the jurisdictional and dispositional orders.

BACKGROUND

Detention and section 300 petition

On July 9, 2014, the Los Angeles County Department of Children and Family Services (the Department) was notified that the police had responded to an incident of domestic violence between the parents. Mother told the responding officers that she and the children lived in the paternal grandmother's home. Although she and father had separated in February 2014 and father had moved out, he came and went freely from the home. Mother said that father had come to the home that day and attempted to take her laptop computer by concealing it in a backpack. A struggle ensued, and father pushed mother to the floor and stepped on the left side of her face four times.

A police officer questioned four-year-old True, whose communication skills were limited. True told the officer "Daddy fighting mommy." After stating that father did not hit mother, True said that father had placed mother on the bathroom floor.

A social worker visited the home on July 15, 2014, and was informed by paternal aunt Mayra G. that mother had moved. Mayra denied witnessing physical altercations between mother and father.

Father telephoned the social worker on July 24, 2014, and confirmed that mother and the children had moved out of the home. He said that he had not been in contact with

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

² Father is not a party to this appeal.

mother since she left. Father denied having a physical altercation with mother and denied any previous incidents of domestic violence.

On August 5, 2014, the social worker visited the maternal grandparents' home, where mother and the children were residing. Mother told the social worker she had been in a relationship with father for five years and that there had been three incidents of domestic violence between them. The first incident, in March 2013, occurred during an argument over finances. Father pushed mother, pulled her hair, slapped her, and spit in her face. Mother said the children were not present during the incident and that she did not contact law enforcement. The second incident occurred in May 2013 when father pushed and slapped mother during an argument over the rent. Mother did not call the police but sought a restraining order against father. She dropped the restraining order when father agreed to give her custody of the children. The third incident took place on July 9, 2014, when mother refused to allow father to leave the home with a backpack containing a laptop. Father body slammed mother onto the bathroom floor, and stepped on her head while they struggled over the backpack. During that altercation, True attempted to open the bathroom door.

The Department scheduled separate team decision meetings (TDMs) for mother and father, at 3:00 p.m. and 4:00 p.m., respectively, on August 28, 2014. When mother arrived for her meeting, she was accompanied by father and True. She explained that father had accompanied them to a doctor appointment for True and had agreed to go to the TDM with her. Mother said she had not seen father since the July 2014 domestic violence incident. She had spoken with him by telephone, and father had insisted on seeing her and the children.

During her TDM, mother disclosed that there had been domestic violence throughout her relationship with father. She described three incidents that occurred in March 2013, May 2013, and July 2014. In March 2013, father slapped her, pulled her hair, and spat in her face. She did not call the police because she did not want father to be arrested. In May 2013, father hit mother, and mother sought a restraining order against him. She subsequently dropped the charges when father agreed during mediation

to give mother full custody of the children. During the most recent incident in July 2014, father pushed mother onto the bathroom floor and stepped on her face. True attempted to open the bathroom door, and when he did so, mother got up and father left the home. Mother said that although she was no longer in a relationship with father, they “need to be good” because they have children together. Mother agreed to enroll in parenting classes and domestic violence counseling.

During his TDM, father admitted using methamphetamine within the past few days. He said that he was True’s biological father but was unsure of his paternity as to Anaiah. He denied any domestic violence with mother but admitted pulling her hair on one occasion and spitting at her once. He claimed his relationship with mother was good, but that they needed to work on communication. Father said he wanted to continue his relationship with mother and expressed a desire to enroll in couples counseling. He agreed to a safety plan prohibiting him from having contact with mother in the presence of the children, and requiring him to enroll in parenting classes, domestic violence and substance abuse counseling, and to drug test on demand.

Mother tested negative for drugs and alcohol on August 29, 2014. Father failed to appear for testing. The Department obtained father’s criminal record, which dated back to 2002 and included a 2011 conviction for possession of a controlled substance.

At the detention hearing held on September 11, 2014, the juvenile court found father to be the presumed father of both children, as well as a prima facie case for removing the children from father’s custody. The court ordered the children released to mother and accorded father monitored visits.

On September 11, 2014, the Department filed a petition under section 300, subdivisions (a) and (b), alleging that mother and father have a history of engaging in violent altercations in the children’s presence; that on July 9, 2014, the parents engaged in a violent altercation in True’s presence during which father pushed mother onto the floor and stepped on mother’s head; that on prior occasions, father pulled mother’s hair, pushed mother, and struck her in the face with his hands; that mother failed to protect the children by allowing father to reside in the home and to have unlimited access to the

children; and that father's violent conduct and mother's failure to protect the children placed the children at risk of physical harm. The petition further alleged that father had a history of illicit drug use and was a current abuser of methamphetamine, rendering him incapable of providing regular care for the children, and that mother failed to protect the children by allowing father to reside in the home and to have unlimited access to the children, placing them at risk of harm.

Jurisdiction/disposition

The Department re-interviewed mother and True on October 8, 2014, and paternal aunt Mayra on October 9, 2014, for its jurisdiction/disposition report. Father was not in compliance with his case plan and did not make himself available for an interview.

Mother told the social worker that there had been several physical altercations with father in the past, but the July 2014 incident was the first time the police were involved. She said the July 2014 incident was the only time True witnessed domestic violence between the parents. During that incident, father hit her, saw that True was present, and told True to go into the bedroom. The parents' altercation then moved to the bathroom, and father closed the door. While mother was on the floor and father was on top of her, True tried to open the door and saw his parents fighting.

Mother said that she did not feel emotionally capable of leaving father permanently and that she would eventually reconcile with him. She also stated, however, that she was now starting to feel more capable and that she did not plan to reconcile with father.

Although True's communication skills were limited, he told the social worker that he did not want to live with father anymore because "my dad fights with my mom too much and he was choking her. I tried to open the door but it was heavy."

Mayra told the social worker that she lives in the home where mother and the children had been residing but was not at home during the July 2014 altercation between the parents. She heard mother and father arguing in the past and intervened in one altercation in the past year. During that altercation, mother was pushing father, and father was about to hit mother, but Mayra told them to stop. Mayra then took True into

the bedroom because she did not want him to see the parents fighting. Mayra further stated that she knew father was “smoking weed,” but that she did not know about any other drug use.

Jurisdiction/disposition hearing

At the contested adjudication hearing held on October 29, 2014, the juvenile court admitted into evidence the Department’s removal authorization request, detention report and jurisdiction/disposition report, and a letter from S.O.B.E.R. International Community Counseling Center confirming mother’s enrollment in a 52-week domestic violence/victims class. After hearing argument from the parties, the juvenile court then sustained the petition. The court declared the children dependents of the juvenile court and ordered them removed from father’s custody and placed with mother under the Department’s supervision. Mother was accorded family maintenance services and ordered to participate in a domestic violence support group for victims, parenting classes, and individual counseling to address case issues if recommended by her doctor.

This appeal followed.

DISCUSSION

I. Standard of review

We review the juvenile’s court’s jurisdictional findings under the substantial evidence standard. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) Under this standard, we review the record to determine whether there is any reasonable, credible, and solid evidence to support the juvenile court’s conclusions, and we resolve all conflicts in the evidence and make all reasonable inferences from the evidence in support of the court’s orders. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.) We review the juvenile court’s selection of a dispositional order for a child for abuse of discretion. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.)

II. Jurisdiction

Mother contends the jurisdictional findings must be reversed because there was insufficient evidence to support a finding under section 300, subdivision (a), that the children were never injured during a domestic violence incident or as the result of

father's drug use and no evidence under subdivision (b) that the children were at a continuing risk of harm at the time of the jurisdictional hearing because she had separated from father.

Section 300, subdivisions (a) and (b) do not require that a child suffer serious physical harm. The statute requires only "a substantial risk" that the child will suffer serious physical harm inflicted nonaccidentally by the parent or guardian (§ 300, subd. (a)), or as the result of the parent's failure or inability to adequately supervise or protect the child. (§ 300, subd. (b).)

An appellate court can affirm the juvenile court's finding of jurisdiction over a minor if any one of the statutory bases for jurisdiction enumerated in the section 300 petition is supported by substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We will address here the statutory basis in section 300, subdivision (b).

The relevant inquiry under section 300, subdivision (b) is whether the circumstances at the time of the jurisdictional hearing subject the minor to the defined risk of harm. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.) When making this determination, the juvenile court may consider past events (*In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1135, disapproved on another ground in *Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 748, fn. 6), as a parent's past conduct is a good predictor of future behavior. (*In re Petra B.* (1989) 216 Cal.App.3d 1163, 1169-1170.)

"Exposing children to recurring domestic violence may be sufficient to establish jurisdiction under section 300, subdivision (b). [Citations.]" (*In re T.V.* (2013) 217 Cal.App.4th 126, 134.) "[D]omestic violence in the same household where children are living . . . is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it." Children can be "put in a position of physical danger from [spousal] violence" because, "for example, they could wander into the room where it was occurring and be accidentally hit by a thrown object, by a fist, arm, foot, or leg . . ." [Citation.]' [Citation.]" (*In re R.C.* (2012) 210 Cal.App.4th 930, 941, quoting *In re Heather A., supra*, 52 Cal.App.4th at p. 194.) Even though a child suffers no physical harm as the result of domestic violence, a cycle of

violence between the parents constitutes a failure to protect the child “‘from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.’ [Citations.]” (*In re T.V., supra*, 217 Cal.App.4th at p. 135.)

There is substantial evidence in the record that the children were at continuing risk of harm because of domestic violence between the parents. Mother admitted that there had been domestic violence throughout her five-year relationship with father, including incidents in which father pushed her, pulled her hair, slapped her, and spit in her face. Until the July 2014 incident, mother never reported father’s abuse to the police. True was present during the July 2014 incident in which father hit mother, forced her to the bathroom floor, and repeatedly stepped on her head. While the parents struggled, True attempted to intervene by opening the bathroom door.

Although mother claimed that the July 2014 domestic violence incident was the only one True witnessed, there was evidence of another physical altercation that occurred while the child was present. Paternal aunt Mayra said she intervened in an altercation between the parents in which mother was pushing father and father was about to hit mother. Mayra took True into the bedroom so that the child would not see his parents fighting.

Mother argues that the children were not at risk of harm at the time of the jurisdictional hearing because she was no longer in a relationship with father and had no contact with him. There was evidence, however, that mother had separated from father in the past but remained in contact with him. Mother was separated from father and was purportedly no longer in a relationship with him at the time of the July 2014 domestic violence incident. Even after the July 2014 incident that prompted mother to move out of the home, she maintained telephone contact with father and acquiesced when he insisted on seeing her and the children. Father denied any domestic violence with mother and wanted to continue the relationship, which he believed was good. Mother told the social worker just three weeks before the jurisdictional hearing that she felt emotionally incapable of permanently leaving father and expressed ambivalence about reconciling with him.

Mother claims she was not ambivalent about reconciling with father, and that her statements to the social worker were intended to contrast mother's state of emotional weakness during previous domestic violence incidents with her growing emotional strength and resolve to end her relationship with father. Under the applicable standard of review, however, we must resolve all conflicts in the evidence and make all reasonable inferences from the evidence in support of the juvenile court's findings and orders. (*In re Savannah M.*, *supra*, 131 Cal.App.4th at p. 1393.)

In re J.N. (2010) 181 Cal.App.4th 1010, on which mother relies as support for her position, is distinguishable. The court in that case held that a single incident in which a child was injured during a car accident that occurred while the parents were intoxicated was insufficient for juvenile court jurisdiction. (*Id.* at p. 1027.) While noting that the "nature and circumstances of a single incident of harmful or potentially harmful conduct may be sufficient, in a particular case, to establish current risk depending upon present circumstances," the court in *J.N.* concluded there was no evidence of substantial risk that the parents' behavior would recur. (*Id.* at p. 1026.) Here, in contrast, there was ample evidence of recurring domestic violence between the parents and current substantial risk to the children. Mother said there was domestic violence throughout her relationship with father. Two domestic violence incidents occurred in True's presence, and one took place after the parents had separated and were purportedly no longer in a relationship. After the July 2014 domestic violence incident that prompted the Department's intervention, mother acquiesced to father's demand to see her and the children and allowed him to accompany them to a doctor appointment. There is ample evidence in the record that jurisdiction was necessary to protect the children from a substantial risk of harm.

Substantial evidence supports the juvenile court's jurisdictional findings.

III. Dispositional orders

Mother's sole basis for challenging the dispositional orders removing the children from father's custody, ordering both parents to enroll in domestic violence counseling and a parenting program, and requiring father to drug test and participate in drug and

alcohol counseling, is the alleged insufficiency of the evidence to support juvenile court jurisdiction. Because substantial evidence supports the jurisdictional findings, the juvenile court's dispositional orders need not be disturbed.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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_____, J.
CHAVEZ

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
HOFFSTADT