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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

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

B260998

(Los Angeles County  
Super. Ct. No. CK72824)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

RONALD R.,

Defendant and Appellant.

APPEAL from a judgment and an order of the Superior Court of Los Angeles County, Marguerite Downing, Judge. Affirmed.

Liana Serobian, under appointment by the Court of Appeal, for Defendant and Appellant Ronald R.

Office of the County Counsel, Mark J. Saladino, Dawyn R. Harrison, and William D. Thetford for Petitioner and Respondent Department of Children and Family Services.

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## **INTRODUCTION**

Father appeals the juvenile court's judgment pursuant to Welfare and Institutions Code<sup>1</sup> section 300, subdivision (b) finding jurisdiction over his daughter V.R., and dispositional order requiring him to attend substance abuse treatment and testing, a 12-step program, parenting classes, and individual counseling. Father asserts that the court's judgment sustaining allegations that Father and Mother endangered V. by committing robberies while caring for and supervising V., and by Father abusing marijuana was not supported by substantial evidence. We affirm because substantial evidence supports the court's finding that the parents committed a robbery in V.'s presence, that the parents endangered V.'s physical health and safety by doing so, and that V. was at risk of future physical harm and danger due to the parent's conduct. We conclude that the court did not abuse its discretion in making the dispositional order as evidence indicated that Father's substance abuse problems posed a potential risk of interfering with his ability to care for V.

## **FACTS AND PROCEDURAL BACKGROUND**

The juvenile court previously exercised jurisdiction over V. from May 8, 2012 to September 11, 2013, at which time the court returned V. to Father's sole legal and physical custody, with Mother<sup>2</sup> granted visitation to be monitored by someone other than Father. As to that petition, the court found jurisdiction based on the parents' history of domestic violence and Father's unresolved history of substance abuse. Specifically, the juvenile court found that Father had a history of substance abuse and was a current abuser of marijuana, which rendered him incapable of providing regular care for V.

At the time the Department of Children and Family Services (DCFS) brought the present petition in 2014, then two-year-old V. resided with Father and Mother in the

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<sup>1</sup> All subsequent statutory references are to the Welfare and Institutions Code.

<sup>2</sup> We note that the juvenile court has terminated Mother's custody to three older children, who now live with the maternal grandmother, their legal guardian. Father was not involved in those proceedings and is not the father of those children.

paternal grandparents' home. On August 25, 2014, Mother and Father drove V. and several teenagers to the beach in the maternal grandfather's blue minivan. Although the parents' stated purpose for the trip was to go fishing, the teenagers and the parents engaged in two robberies. First, Father and the teenagers threatened with an airsoft gun, beat, and robbed a man while Mother stood nearby holding V. and encouraging their behavior. Second, two of the teenagers and Mother robbed three women of their purses at gunpoint. Following both robberies, the teenagers, Mother, and Father fled the scene in the maternal grandfather's blue minivan. Subsequently, Father was arrested and charged with assault and robbery, and Mother was also charged with these crimes in addition to receiving stolen property.

The parents denied the criminal charges and were awaiting jury trials in custody at the time of the jurisdiction and dispositional hearing. DCFS's investigation revealed that Father had previous theft-related arrests and one prior theft-related conviction. Mother similarly had previous theft-related arrests, two of which resulted in convictions. In addition, Father had a history of marijuana use and admitted that he was currently using marijuana twice a day. Father acknowledged that although he had once had a medical marijuana card for stress and insomnia, the card had expired.

In September 2014, DCFS filed a dependency petition, alleging that the juvenile court had jurisdiction over V. pursuant to section 300, subdivision (b) on two grounds. First, DCFS alleged that Mother and Father committed robberies while V. was in their care and supervision. Second, DCFS alleged that Father had a history of illicit drug use and was a current user of marijuana, which rendered him incapable of providing regular care to V., and that Mother failed to protect V. from Father's substance abuse issues. The court sustained the petition on both grounds, declared V. a dependent of the court, and ordered her removed from parental custody. The court ordered reunification services to be provided to the parents. The dispositional order required Father to engage in substance abuse treatment and testing, a 12-Step Program, parenting class, and individual counseling to address case issues.

## DISCUSSION

### *1. Jurisdiction Was Supported by Substantial Evidence*

Father argues that the court erred in finding jurisdiction over V. pursuant to section 300, subdivision (b), premised on Mother and Father committing robberies while V. was in their care and supervision. A jurisdictional finding under section 300, subdivision (b) requires “three elements: (1) neglectful conduct by the parent in one of the specified forms [in subdivision (b), such as a parent’s failure to adequately supervise or protect a minor]; (2) causation; and (3) ‘serious physical harm or illness’ to the minor, or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) We review the juvenile court’s jurisdictional findings for substantial evidence. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966.) “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 R.C.* (2012) 210 Cal.App.4th 930, 941.) Although substantial evidence may consist of inferences, the inferences “ ‘must be “a product of logic and reason” and “must rest on the evidence” [citation]; inferences that are the result of mere speculation or conjecture cannot support a finding [citations].’ ” (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393-1394, italics omitted.) Conflicts in the evidence and reasonable inferences are resolved in favor of the prevailing party. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.) “[I]ssues of fact and credibility are questions for the trier of fact.” (*Ibid.*)

Here, the victim of the robbery stated to police that a man and several teenagers held him at gun point, beat, and robbed him in a beach parking lot, while a woman watched nearby and encouraged them. The victim told police that during the incident, the women held a baby in her arms. The victim further stated that his attackers fled in a blue Nissan Quest (a minivan). Later that day, three women were robbed at gunpoint by a female and two male teenagers, who similarly ran to and fled the scene in a blue minivan. Police determined that Father and Mother were involved in the robberies, and subsequently arrested and charged them.

Evidence also indicated that the child held by Mother during the first robbery was V., as other witnesses told DCFS that Mother and Father took V. to the beach with them that day. Paternal grandmother told DCFS that on the day of the robbery, Mother drove maternal grandfather's van to pick up Father and V., as well as a few teenagers that lived in the apartment complex to go fishing at the beach. The maternal grandmother stated to DCFS that Mother and Father used maternal grandfather's blue van to commit the robbery. Mother also admitted to police that she was at the beach that day with Father and the teenagers, and that Father had gotten into a confrontation with a man at the beach.

We conclude that the statements summarized above constitute substantial evidence supporting the juvenile court's finding that Mother and Father exposed V. to a substantial risk of physical harm and danger by committing robberies while caring for and supervising V. Not only could V. have been seriously hurt had the victim fought back or had the gun been discharged in the first robbery, but witnessing the confrontation itself was abusive, and mentally and emotionally harmful to V. (*In re Sylvia R.* (1997) 55 Cal.App.4th 559, 562 [children suffer secondary abuse from witnessing violent confrontations].) Furthermore, there is an ongoing substantial risk of harm to V. evidenced by this particular incident and the parent's history of criminal behavior. Between 2006 and 2009, Father has been arrested once for grand theft, and three times for burglary, with one of those arrests resulting in a burglary conviction. Between 2010 and 2013, Mother was arrested for petty theft three times; two of those arrests resulted in convictions. Their criminal history and the evidence of the parents' involvement in the robberies described above indicate that there is a risk the parents will continue to commit crimes like this. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133 ["A parent's past conduct is a good predictor of future behavior."].) This evidence, coupled with Mother's and Father's recklessness and poor judgment in exposing V. to the danger associated with these crimes, shows that there was a present risk of harm to V. at the time of the jurisdictional hearing.

Father asserts that because the parents were not arrested and charged with child endangerment in association with the robberies, “their alleged criminal activity, without more, was insufficient to bring V. under the jurisdiction of the court.” We disagree. The criminal prosecutor’s tactical decisions regarding what crimes to charge and prosecute are irrelevant to whether there was substantial evidence in support of jurisdiction. First, the standards of proof for criminal and dependency law suits differ considerably, and thus the charges for each suit would differ according to the district attorney’s or DCFS’s ability to prove their respective cases. (Compare Evid. Code, § 355 [“Proof by a preponderance of evidence must be adduced to support a finding that the minor is a person described by Section 300.”]; with Pen. Code, § 1096 [The State has the burden of proving a criminal defendant “guilty beyond a reasonable doubt.”].) That the district attorney chose not to prosecute the parents for child endangerment does not alter the evidence before the juvenile court that V. was exposed to the robberies. Father’s central argument on this issue is that the victim of the crime who stated that V. was in Mother’s arms during the first robbery was not credible. Yet, issues of fact and credibility are the sole province of the trier of fact. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) We may not substitute our or Father’s assessment of the credibility of a witness in place of the trial court’s assessment.

Based on the foregoing, we affirm the trial court’s judgment finding jurisdiction over V. pursuant to section 300, subdivision (b) premised on Mother and Father committing robberies while V. was in their care and supervision. We note that Father challenges both counts upon which the juvenile court sustained jurisdiction as to V. “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 re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) We thus solely review and affirm the court’s jurisdiction over V. based on the count associated with the robberies.

## 2. *The Dispositional Order Was Supported by Substantial Evidence*

Father's arguments as to the court's dispositional order are premised on the court's lack of jurisdiction rendering such dispositional orders moot. As we explained above, we affirm the court's jurisdiction. To the extent that Father contends that the court's order requiring him to engage in substance abuse treatment and testing, and a 12-step program was improper because there was no evidence that his use of marijuana affected his parenting, we disagree.

“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. [Citation.] [¶] The reunification plan ‘ “must be appropriate for each family and be based on the unique facts relating to that family.” ’ [Citation.]” ( *In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.) Pursuant to section 362, “The juvenile court may direct any and all reasonable orders to the parents or guardians of the child who is the subject of any [dependency] proceedings . . . as the court deems necessary and proper to carry out provisions of this section. . . . The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court's finding that the child is a person described by Section 300.”

The record here shows that Father has a substance abuse problem. Father admits to using marijuana twice per day, without any current medical prescription for the drug. Moreover, in the previous dependency proceeding involving V., the juvenile court sustained jurisdiction over V. premised on Father's inability to care for V. due to his marijuana abuse. Based on this substantial evidence, we conclude that the juvenile court did not err in ordering Father to engage in substance abuse-related services. Father's substance abuse problems posed a potential risk of interfering with his ability to care for

V., and the juvenile court had broad discretion to issue dispositional orders that addressed issues like this.

The Court of Appeal addressed a similar issue in *In re Christopher H.*, *supra*, 50 Cal.App.4th at p. 1008. There, the Court concluded that the juvenile court did not abuse its discretion in ordering the father to submit to random drug testing, notwithstanding that the juvenile court found that the social services agency had not proven the allegation that the father's alcohol-related problems negatively affected his ability to care for his child. (*Ibid.*) The record demonstrated that the father had a substance abuse problem and the Court concluded that his substance abuse posed a potential risk of interfering with his ability to parent and provide a safe home for his infant. (*Id.* at p. 1007.) In affirming the juvenile court's order requiring drug testing, the Court of Appeal stated that "when the court is aware of other deficiencies that impede the parent's ability to reunify with his child, the court may address them in the reunification plan. . . . The court reasonably concluded [the father]'s substance abuse was an obstacle to reunification that had to be addressed in the reunification plan." (*Id.* at p. 1008.)

Similarly, substantial evidence supported the court's determination that Father's marijuana abuse was an obstacle to reunification that had to be addressed in the reunification plan. Even if the substance abuse was not currently impacting his parenting, it was a basis for the court's finding of abuse and neglect two years earlier and Father admittedly continued to use the drug, twice per day, without a prescription or marijuana card. Thus, the court did not abuse its discretion in ordering Father to submit to drug testing and substance abuse treatment. We affirm the juvenile court's dispositional orders as well.

**DISPOSITION**

The juvenile court's judgment finding jurisdiction and dispositional order are affirmed.

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KITCHING, Acting P. J.

We concur:

ALDRICH, J.

JONES, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.