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

In re KAYLI N., et al., Persons Coming
Under the Juvenile Court Law.

B267368

(Los Angeles County
Super. Ct. No. DK11673)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent.

v.

MANDI B., et al.,

Defendants and Appellants.

APPEAL from orders of the Superior Court of Los Angeles County. Julie F. Blackshaw, Judge. Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Appellant Mandi B.

Frank H. Free, under appointment by the Court of Appeal, for Defendant and Appellant Aaron N.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Tyson B. Nelson, Deputy County Counsel for Plaintiff and Respondent.

Appellants Mandi B. (mother) and Aaron N. (father) appeal from the juvenile court's orders establishing dependency jurisdiction over their children Kayli (born April 2009), Aaron (born March 2013), and Riley (born May 2014), and removing the children from their custody. Substantial evidence supports the juvenile court's finding that the children were at substantial risk of harm because of the presence of large quantities of marijuana accessible to the children in the family home, the parents' possession of marijuana for sale, and the parents' use of marijuana while the children were in their care. We therefore affirm the juvenile court's orders.

BACKGROUND

Detention and section 300 petition

On June 4, 2015, West Covina Police Department officers detected a strong odor of marijuana when they were admitted into the family home in connection with the service of an arrest warrant. The odor emanated from a bedroom where the officers found three large trash bags full of marijuana trimmings adjacent to a crib. One-year-old Riley was asleep on the bedroom floor. The officers also observed a digital scale, plastic baggies, and two plastic containers filled with a green leafy substance resembling marijuana on a bedroom dresser. Father told the officers that the scale and the plastic containers belonged to him. Both parents were arrested for possession of marijuana for sale and for child endangerment.

A social worker who responded to the family home observed that the children appeared to be healthy, well fed, and cared for. Riley and Aaron were taken into protective custody. Kayli, who was visiting with paternal grandparents at the time of the parents' arrest, remained in the grandparents' home.

Neither parent had any criminal or dependency history. Father told the social worker that he found the three trash bags in a dumpster early on the morning of his arrest. He did not know what the bags contained but thought it might be something of value. He took the bags to mother's apartment, and mother helped him carry the bags into the home. Father said that he has smoked marijuana since he was 18, that he possesses a medical marijuana card, and that he smokes marijuana daily.

Mother told the social worker that father brought the marijuana-filled trash bags to her door early on the morning of their arrest and asked her to help him bring them inside. She could smell the odor of marijuana but did not look inside the bags. Mother stated that she was hospitalized and diagnosed with depression after an attempt to commit suicide at the age of 19. She never obtained the medication prescribed to her upon her release from the hospital because she could not afford the copayment. She said she has a medical marijuana card for her depression, that she smokes marijuana daily, and that she is capable of caring for the children when she is under the influence of marijuana.

The Department of Children and Family Services (the Department) filed a petition under Welfare and Institutions Code section 300, subdivision (b),¹ alleging that mother and father placed the children in a hazardous home environment and at risk of serious physical harm by possessing for sale a large quantity of marijuana, a digital scale, plastic baggies, and small containers of marijuana in the home and within access of the children; that both parents had a history of illicit drug use, were current users of marijuana, and were under the influence of drugs while the children were under their care and supervision. A first amended petition was subsequently filed, adding the allegation that mother had a history of depression, including suicidal ideation but never obtained mental health treatment and instead self-medicated with marijuana.

At the June 9, 2015 detention hearing, the juvenile court ordered the children detained from both parents. The court accorded mother and father monitored visits, subject to a protective order issued by the criminal court on June 8, 2015, prohibiting contact between the parents and Riley and Aaron.

Jurisdiction and disposition

In a July 2015 interview with the Department's social worker, mother said the marijuana-filled trash bags were in her closet at the time of her arrest. She denied selling marijuana and said that the digital scale found in the bedroom belonged to a cousin who no longer lived in the home. Mother said that when she smoked marijuana, she did so

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

outside the home while the children were being cared for by father or by the maternal grandmother.

Father told the social worker that the police found the bags of marijuana in a bedroom closet and not near the children. He denied selling marijuana or using marijuana in the children's presence. He claimed he was on his way to dispose of the bags of marijuana when the police arrived at the home.

In an addendum report dated August 7, 2015, and a last minute information for the court filed on August 18, 2015, the Department informed the juvenile court that father had tested positive for marijuana on June 25 and July 2, 2015, but subsequently tested negative on July 24, July 27, and August 11, 2015. Mother failed to drug test on June 11, 2015, but tested negative on June 22, June 25, July 13, and July 28, 2015. The Department also reported that the criminal court restraining order prohibiting contact between the parents and Aaron and Riley had been modified on July 30, 2015, to allow the parents monitored visitation.

At the jurisdictional and dispositional hearing held on August 18, 2015, the juvenile court received into evidence the Department's documentary evidence and heard argument from the parties. After striking the allegations regarding mother's depression and mental health, the court sustained the amended petition. The juvenile court found, based on the circumstantial evidence, that the parents were engaged in selling marijuana, and that their explanations for the large quantities of marijuana present in the home were not credible. The court further found that the parents' drug trafficking activities, the presence of large quantities of marijuana in places accessible to the children, and their marijuana use while caring for the children placed the children at substantial risk of harm.

The court declared the children to be dependents of the juvenile court and ordered them removed from the parents' custody. The juvenile court accorded both parents family reunification services and monitored visits at least three times a week and gave the Department discretion to liberalize the visits.

This appeal followed.

DISCUSSION

Mother and father contend the juvenile court's jurisdictional findings are unsupported by the evidence. They further contend the juvenile court erred in removing the children from their custody because there was insufficient evidence that the children were at substantial risk of current harm.

I. Applicable law and 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 minor under the substantial evidence standard. (*In re Hailey T.* (2012) 212 Cal.App.4th 139, 145-146.)

Section 300, subdivision (b), provides that a child is within the dependency court's jurisdiction if "[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 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."

Section 361, subdivision (c)(1), provides that a court may not remove a child from the parent or guardian with whom the child resides at the time the section 300 petition is filed unless the court finds one of several possible grounds, including that there "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 or guardian's physical custody."

II. Substantial evidence supports the juvenile court’s findings and orders

Viewing the evidence in the light most favorable to the juvenile court’s findings, substantial evidence supports the jurisdictional findings. The presence in the home of large quantities of marijuana, a digital scale, and plastic baggies filled with marijuana is substantial evidence that the parents were engaged in drug trafficking, placing the children at risk of harm. There was also evidence that the marijuana was kept in a location accessible to the children, placing them at risk of ingesting marijuana. Finally, there was evidence that both parents used marijuana on a daily basis and that they cared for the children while under the influence of marijuana.

Substantial evidence also supports the juvenile court’s removal order. The parents’ exposure of the children to drug trafficking activities, the large quantities of marijuana in the home in a location accessible to the children, the parents’ marijuana use while the children were in their care, and their continued denial that these circumstances placed the children at substantial risk of harm is substantial evidence that removal of the children from the parents’ custody was necessary to protect them from harm.

DISPOSITION

The orders establishing dependency jurisdiction over the children and removing them from the parents’ custody are affirmed.

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_____, J.
CHAVEZ

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.
HOFFSTADT