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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

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

B268643
(Los Angeles County
Super. Ct. No. CK82356)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

K. B.,

Defendant and Appellant.

APPEAL from findings and an order of the Superior Court of Los Angeles County. Teresa T. Sullivan, Judge. Affirmed.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant.

Tarkian & Associates and Arezoo Pichvai for Plaintiff and Respondent.

K. B. (mother) challenges the juvenile court's order sustaining a supplemental petition against her and ordering her to complete eight random drug tests. (Welf. & Inst. Code, § 387.)¹ She argues that the allegations in the section 387 supplemental petition were not true and that they did not establish that placement of the children, Adrienne G. (Adrienne, born Sept. 2004), Annie G. (Annie, born July 2006), Lilly G. (Lilly, born Aug. 2007), and Jose G. IV (Jose, born Apr. 2010), was ineffective in protecting them.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This family initially came to the attention of the Department of Children and Family Services (DCFS) in 2010. On July 1, 2010, the juvenile court sustained a petition that alleged that mother and Jose Gonzalez III (father) had a history of domestic violence. On May 24, 2011, the children returned to the parents' care, and on January 11, 2012, the juvenile court terminated its jurisdiction over the case.

At some point, mother and father were no longer living together but shared custody of the children.

Detention Report (Aug. 21, 2014)

In May 2014, DCFS received two referrals alleging that mother had physically harmed the children.² The investigating social worker interviewed Adrienne, who stated that she did not remember mother hitting her or her sisters; if Annie and Lilly had bruises, it was because they were always fighting with each other. Adrienne stated that when they were at father's house, they could do what they wanted and when the children fought with each other, father would send them to their room. When the children were at mother's house, mother would separate the children when they fought. Adrienne informed the social worker that neither mother nor father hit the children.

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

² The two referrals arose after father took the children to the police station because they had bruises.

Adrienne further reported that “she knows her parents are going to court to see who keeps the kids longer.” She did not want to choose any parent because she loves them both the same. Father told Adrienne that he was upset because “he used to get a lot more money,” but because of mother, “he doesn’t get much anymore.” He further stated that mother takes him to court and “now he has to pay money to the government.”

The social worker next spoke with Annie and Lilly. They stated that they lived with father on some days and with mother on other days. Neither mother nor father hit the children.

While the social worker was interviewing Lilly, father called and said that while he was giving Jose a bath, he discovered red marks on the child’s body. The social worker told him to take Jose to the doctor to be examined. Father contacted the social worker again and stated that the doctor told him that the red marks were not consistent with child abuse. Father said that he was upset and unhappy with the results of the examination.

Later, the social worker visited father’s home. Father took Jose into the living room and disrobed him for the social worker to see the red marks. The social worker observed light red marks under his armpits and on the middle of his chest. The marks appeared like little red blood vessels. Father told the social worker that he was unhappy that she had interviewed the children out of his presence. He then brought the children out of their room and told them to tell her what they had told him earlier. The children changed their stories and stated that mother had thrown Annie on the floor and grabbed Lilly’s arm, leaving a bruise.

A couple of days later, the social worker interviewed mother. She stated that the child abuse allegations were untrue. Jose visited her on Sundays for a couple of hours. When Annie and Lilly fought, mother would separate them. Father was always making allegations against her so that DCFS would remove the children from her.

On May 23, 2014, the social worker observed that Jose had some scratches on his face and a red bruise on his left shoulder and arm. He also had a red mark on his right

shoulder and a scratch on his right arm. When the social worker asked father about the marks and bruises, he stated that Jose was a little boy who liked to play in the back yard.

On July 16, 2014, the social worker received a report from Dr. Edward Bloch, who stated that Jose required a kidney transplant, but father's pattern of behavior endangered the child's health by making it impossible to proceed with the transplant. Dr. Bloch stated: "Whether this pattern of obstructive, manipulative, aggressive, threatening, and generally counterproductive behavior is based on father's sociopathic features, or on a mental illness in the father, or merely based on father's possible nonspecific personality disorder, the net result is that the child is in medical danger."

On August 7, 2014, DCFS scheduled a team decision making meeting (TDM) with mother and father to create a safety plan for Jose. During the TDM, "father became difficult and blamed everyone else for everything that goes wrong in his life and he did not take any responsibility for anything that he does." At the TDM, it was agreed that the best plan would be to initiate a court case and provide family maintenance services to the family.

Section 300 Petition

On September 2, 2014, DCFS filed a petition pursuant to section 300, subdivisions (b), (c), and (j), on behalf of the children.

Last Minute Information for the Court (Sept. 2, 2014)

DCFS recommended that the children be released to mother with the condition that she enroll in and complete any medical training she would need to ensure that Jose's medical needs were met. In so recommending, the social worker noted that mother has a strong support system and that DCFS would provide mother with family preservation services.

Hearing (Sept. 2, 2014)

At the hearing, the juvenile court ordered Jose detained from father and placed in mother's care. It released Adrienne, Annie, and Lilly back to father. It ordered DCFS to provide family maintenance services, the children to continue attending individual

counseling, and mother and father to participate in individual counseling. Finally, it granted father unmonitored visits with Jose.

Jurisdiction/Disposition Report (Oct. 3, 2014)

On September 17, 2014, the social worker interviewed the family. Lilly stated that neither mother nor father ever told her or her siblings to say things about the other parent to other people, including the social worker and the police. Lilly liked that mother took them to fun places and that father took care of them and made them dinner.

Annie reported that father did not say bad things to them about mother. Further, neither mother nor father told her or her siblings to say bad things about the other parent to other people. Mother did not get angry easily. According to Annie, mother ““gives us a lot of chances.””

Adrienne stated that mother and father had a tendency to argue a lot about custody issues. Father never asked Adrienne to say something that was not true. Mother and father had “a perfect temper around [Adrienne and Jose],” but were “[m]aybe . . . a little mean” with Annie and Lilly. Adrienne loved her parents equally and could never pick sides. She stated, ““I think they take care of us both equally good.””

Mother reported that she and father had been married for 10 years. Father was unhappy with the marriage and did not think that she was a good mother. Soon after their relationship ended, father began to allege that mother was physically abusing the children. When the social worker asked mother whether there was domestic violence in their relationship, mother replied, ““Not like beating each other up. We might have had pushing.””

Mother indicated that she wanted all four children to remain in her care, and she was willing to cooperate with DCFS and the juvenile court. She presented as calm and rational. Mother wanted to create a stable environment for the children, without any drama.

Father reported that during their marriage, mother would ““pretty much come home in a rage and take it out on everything in the house.”” He claimed that he had valid concerns about her being physically abusive to the children. He denied making false

reports or allegations against mother. When father confronted mother about the abuse of the children, she denied it, saying “I was just scolding them” or that they “needed to be spanked.” Father denied telling the children to say something that was not true. He taught them to always say tell the truth.

Addendum Report (Nov. 14, 2014)

Mother and father continued to share custody of Adrienne, Annie, and Lilly. Father continued to have unmonitored visits with Jose for two hours two days a week. They were able to work out the exchange and the visits with the children. Father continued to report minor complaints about mother. He blamed her for “everything” and had a difficult time listening to reason or considering that he had some part in the family’s issues. Meanwhile, the children appeared to be doing well and were happy.

Hearing (Nov. 14, 2014)

The juvenile court sustained the section 300 petition and declared the children dependents of the court. It ordered Adrienne, Annie, and Lilly placed in father’s home and Jose placed in mother’s home. It further ordered DCFS to provide family maintenance services. And, it continued the order for unmonitored visits for father and Jose.

Supplemental Report (Jan. 20, 2015)

On January 6, 2015, DCFS received a referral alleging that mother became violent with the children and slapped one of the daughters in the face, shoved her to the ground, and pulled her hair. DCFS investigated the referral and determined that the allegations were unfounded.

Supplemental Report (Mar. 2, 2015)

On February 5, 2015, DCFS received another referral alleging that the children were victims of emotional abuse. Mother had taken the children to father’s house to pick up some clothes when she and father began to argue. Mother remained in the car; when father brought his head inside the car, mother threw a ceramic coffee mug at him. She then drove off at a high speed. The children were scared of mother. DCFS investigated the referral and determined that it was inconclusive against mother.

On February 17, 2015, mother acknowledged that she went to father's home to pick up some clothes for her daughters. While waiting in the car outside father's home, mother and father got into a verbal argument and mother threw a coffee mug out of the passenger window of the car in frustration with father. Her daughter sat in the front seat of the car, but was not injured.

Status Review Report (May 15, 2015)

On April 15, 2015, DCFS received a referral alleging that Annie had three circular bruises on her left hip. Annie reported that mother had spanked her.

When interviewed, mother expressed frustration in dealing with Annie and her defiant behavior. Mother admitted to spanking Annie and reported that the child would not stop jumping on the couch in their living room despite being told not to do so several times. Annie confirmed that she and Jose had been jumping on the couch and disobeyed mother. Mother spanked Annie on the buttocks with an open hand. The social worker concluded that the allegation was unfounded because mother used appropriate discipline, but informed mother that she had violated the juvenile court's order prohibiting corporal punishment. The child received a physical examination that found that the bruise on her hip was not consistent with hand or finger marks; it appeared that the bruise was from accidental trauma.

Mother participated in individual counseling from September 2014 until February 2015, when she had to discontinue her participation due to having limited funds and having to attend Jose's medical appointments. Mother reported that the individual counseling sessions had been helpful and she planned to reenroll once Jose's medical condition had stabilized.

On April 22, 2015, the social worker liberalized father's visits; mother agreed to the visitation plan. On May 4, 2015, mother reported that the new visitation plan was working well and Jose was happy to be spending more time with father and his siblings.

Detention Report (July 17, 2015)

On May 4, 2015, Jose received his kidney transplant, and on May 22, 2015, he was discharged from the hospital. Mother received instructions on how to provide the

daily regimen of antirejection medication and water intake with specific timeframes for administering the medication.

On May 26, 2015, the children's paternal grandfather contacted the social worker and expressed concern for the children. He reported that mother had allowed her boyfriend, John R. (John), into her home and around the children. According to the paternal grandfather, John had a criminal record and should not be around the children.

The social worker contacted mother and informed her that any person having contact with the children needed to be live scanned. Mother admitted that she had allowed John to visit the home, but said that she would not let him "come around anymore because [she did not] want him to live scan." (Italics omitted.)

On June 11, 2015, the family preservation in-home outreach counselor reported to the social worker that mother was not implementing the parenting skills that she had acquired during the last six months of services with the agency. "[I]n fact," the counselor stated, "the children's behavior has escalated and [mother] is not being consistent." The counselor indicated that she was unsure "what else [she] [could] do to help [mother]."

On June 12, 2015, Adrienne told the social worker that mother had allowed John to spend the night at the home a few days earlier. He had not been to the home since then.

On June 18, 2015, father forwarded an e-mail of a photo taken by Adrienne of John in the parking lot of the family's residence. Father further reported that mother had contacted him and asked that he pick up Jose from a local fire station because she had been involved in a physical altercation with John and had to call the police.

On July 1, 2015, father contacted the social worker and stated that the children had told him that mother drove John to an appointment with the children in the car. After mother dropped off John at his appointment, the children heard mother yelling at John on the cellular telephone because he got arrested.

Mother admitted to the social worker that she drove John to his probation appointment and he was arrested while at the appointment for carrying a knife. When the

social worker inquired as to why mother would drive John anywhere with the children in the car, mother answered, ““It was last week . . . he asked me and I thought I would take the kids out for lunch.”” (Italics omitted.) The social worker expressed concern that mother had allowed the children to be around John while he had a knife; mother responded, ““I don’t know why you’re making a big deal out of it; it was just a pocket knife.”” (Italics omitted.)

The social worker consulted with the supervising social worker and Jose’s medical placement social worker and agreed that the children were to be removed from mother’s care and placed with father. The social worker was concerned that mother’s attention to ensuring that Jose took his medication on time and his water intake was in jeopardy “as [mother’s] attention is being diverted to a male person that has a volatile temper.”

The children’s therapist contacted the social worker and reported that the children had called father. They were crying because mother had told them that they were being taken away from her for reporting about John and she did not know where they would be taken. Mother admitted to making the statement to the children.

On July 6, 2015, the children’s therapist interviewed the children. They reported seeing John’s knife while riding the car. Annie stated that it looked like a pocket knife. They stated that seeing the knife was ““scary.”” They further reported that John was ““scary”” because he was ““not nice”” to mother and yelled at her.

Section 387 Petition

On July 17, 2015, DCFS filed a section 387 supplemental petition on behalf of the children. It alleged that mother allowed John, who had a criminal history and possessed a knife in the children’s presence, to frequent her home and have unlimited access to the children. In addition, the children were afraid of him.

Detention Hearing (July 17, 2015)

At the hearing, the juvenile court expressed its concern about the issues in the case and the risk to the children’s safety, noting ““mother’s decision to associate herself and direct her attention, while she’s with the children, to the new boyfriend whose criminal past was not at all unknown to mother as she was taking him to probation.”” The juvenile

court also pointed out that the children were frightened by the volatility between mother and John as well as the weapons. “And most concerning to the court is that mother had blamed the children and told them that any change would—was their fault and that led to some emotional—further emotional damage to the children calling the father very upset and crying, wondering what was going on.” The juvenile court was “very concerned about mother’s judgment, her inappropriateness with the children, her continuing to choose a priority other than her children to their detriment.”

Thus, the juvenile court found a prima facie case for detaining the children. It released them to father. Mother was granted monitored visits three times a week for up to three hours each visit.

Status Review Report (Aug. 12, 2015)

On July 21, 2015, mother informed the social worker that she wanted the maternal grandmother as the monitor for her visits. Two days later, the social worker met with the maternal grandmother to discuss the monitor’s instructions. Although a visit was scheduled for July 26 and 27, 2015, on July 24, 2015, the maternal grandmother contacted the social worker and cancelled the visit.

On July 29, 2015, the social worker provided mother and father with a letter outlining the visitation schedule for mother. The maternal grandmother was to transport the children to and from the visits. The visits were to begin August 1, 2015, and would occur every Saturday and Sunday from 1:30 p.m. to 4:30 p.m.

Jurisdiction/Disposition Report (Aug. 12, 2015)

On August 5, 2015, the social worker interviewed the family regarding the allegations of the section 387 petition.

Adrienne

Adrienne reported that John would go to the family home and sometimes would spend the night. Mother and John's relationship was "both good and bad," as they would fight and get along; they would also say mean words to each other with raised voices. Adrienne was not afraid of John, and when asked whether she liked him, she stated, "[a] little bit but not that much."

Adrienne further disclosed that on the day that mother drove John to his appointment with his probation officer, she had seen the pocket knife. John carried it with him all the time. Adrienne told the social worker that John had been arrested in the past for stealing a motorcycle. When asked if she had ever seen a gun, Adrienne answered that there was a gun in the glove box of mother's car. Mother told Adrienne that the gun was a lighter. Adrienne opined that the gun belonged to John.

The social worker asked Adrienne if mother smoked. Adrienne said that she smoked cigarettes and at times she would go into the bathroom and smoke using a colorful pipe. According to Adrienne, mother had small bottles with "[l]ittle green stuff" in them. Mother would put the "green stuff" on one end of the colorful pipe and put the other end to her mouth. Mother would smoke the colorful pipe with the door closed, but Adrienne could smell the smoke. When asked whether she knew what it was called, Adrienne believed it was marijuana that her doctor had given her. Adrienne indicated that mother's behavior would change after she smoked—mother would "act nice" and "they would more likely get things they asked for after she smoked in the bathroom."

Regarding discipline, Adrienne reported that mother would have them sit in a room. Sometimes, she would pull their hair or slap them with an open hand on their face, legs, and arms.

Annie

Annie reported that John would spend the night at their home. She was not afraid of him. Once, she saw a gun in the glove box of mother's car and mother told her that it was a lighter. She had seen mother smoke cigarettes but nothing else. Regarding

discipline, mother would spank them with an open hand on the buttocks or leg or send them to a time out. After the family preservation worker told mother not to spank the children, mother stopped and only used time outs.

Lilly

Lilly did not see John's pocket knife. She did see a gun in the glove box, but mother told her that it was a lighter. She opined that the gun belonged to John. She was not afraid of him.

She reported that mother smoked out of a metal object. She used it in the parking lot and once in the bathroom. Mother's behavior did not change after she used the metal object.

Regarding discipline, mother would spank them with an open hand on their legs or she would send them to their rooms.

Jose

Jose reiterated that John would spend the night at their home. He had seen the pocket knife but not the gun. He was not afraid of John.

He had seen mother smoke cigarettes but nothing else. For discipline, mother would spank them with an open hand on their buttocks or put them in a time out.

Mother

Mother declined to be interviewed and indicated that her statements from the detention report could be used.

Last Minute Information for the Court (Aug. 12, 2015)

Mother visited the children between August 1 and 9, 2015. The children described the visits as "ok" because mother was questioning the children about what they did at home with father.

First Amended Section 387 Petition

On August 12, 2015, DCFS filed a first amended section 387 supplemental petition, adding the allegation that mother had a history of marijuana use and was a current user of marijuana, which rendered her incapable of providing the children with ongoing care and supervision.

Last Minute Information for the Court (Oct. 6, 2015)

On September 1, 2015, father reported that the children had had unmonitored contact with mother during a monitored visit. They had driven through a car wash in separate cars. Adrienne rode in a car alone with mother.

The social worker contacted mother, who stated, “I did do it. And when I realized what I did I realized what I did was wrong.” The social worker then terminated the maternal grandmother as the monitor for the visits.

On September 3, 2015, father reported that mother had called him over the prior weekend to ask for a bicycle she had stored in his garage. Father agreed to meet her to give her the bicycle. When mother arrived, father saw that John was driving her car.

The social worker monitored a visit on September 19, 2015. While waiting for the children to arrive, the social worker discussed the incident regarding picking up the bicycle. Mother stated, “I really couldn’t tell [John] not to come; he just forced himself in the car like he did in my apartment.” Mother then reported that John had moved into her apartment one month earlier. She had not invited him to move in with her, “he just did.” Although she did not want to be in a relationship with John, mother indicated that he would not let her break up with him. The social worker advised mother to get help for her safety and the safety of the children. She had attempted to have John removed from her apartment by the police, but they said that since he had lived there for over 30 days, he was considered a tenant. The social worker then advised mother to move in with family or friends and file for a restraining order against John. Mother agreed to do so. The social worker then told mother that future visits had to be held at a neutral location.

On September 24, 2015, mother contacted the social worker and scheduled a visit for September 26, 2015, at her apartment “because [John] got picked up last week and was taken to jail on a warrant.”

On September 25, 2015, the social worker told mother to file a request for a restraining order against John. Mother indicated that she had done so, but could not provide the social worker with a copy of it because she did not have it with her. The social worker then discovered that John had been released from jail that day. The social

worker attempted to contact mother by phone, text, and e-mail to assess whether it was safe for the children to visit mother at her home. Mother did not respond to the social worker's attempts to reach her, and the social worker cancelled the visit.

The social worker's attempts to interview mother were unsuccessful.

Attached to the report was a physician recommendation and statement for mother dated December 13, 2014. Dr. Patrick James Baggot approved mother's use of marijuana as medicine and had prescribed it. He stated that if mother chose to use marijuana, he would monitor her and provide advice to her "at least annually." He also indicated that he had informed mother "not to drive, operate heavy machinery or engage in any activity that requires alertness while using medical marijuana."

Adjudication (Oct. 6, 2015)

At the hearing, DCFS recommended that the juvenile court sustain the allegations in the first amended supplemental petition. The children's attorney joined in that request. Mother argued that "there's no risk of substantial harm to the children and there's no nexus between mother's relationship with this admittedly questionable person and her ability to be a good parent."

After entertaining oral argument, the juvenile court sustained the section 387 petition. The juvenile court noted that mother "not only exposed the children to an individual with—who, according to all parties, is a concern. People have been telling the worker that mother's exposure to the children to this gentleman has caused concern for everyone involved. But mother told the children that they were being taken away because the children reported on [John]." The juvenile court was troubled by the fact "that with all these proceedings going on, with the jurisdiction taken, with children being placed with . . . father, with [DCFS] investigating [John], mother chooses to blame the children and then let the man move back in in the middle of all this. So it's really difficult to imagine what's going on when there's not the type of scrutiny that's been occurring recently if mother felt so emboldened."

Regarding mother's marijuana use, the juvenile court stated: "[M]other's judgment and continued decision to ingest substances, again, while all of this is going on,

when her judgment is being examined and questioned, when there are serious issues that are facing her and her family, is striking to the court. [¶] The inappropriate discipline that occurred early on in this case, the open referrals that remain regarding mother's judgment and ability to care for her children, all support the nexus of the behavior pled in [the second count of the first amended section 387 petition] and the neglect to the children."

The juvenile court sustained the first amended section 387 supplemental petition and ordered the children released to father. Mother was ordered to participate in individual counseling to address domestic violence, empowerment, coparenting, substance abuse, and anger management. Mother was further ordered to complete eight random drug tests and, if she had a dirty or missed test, she was to complete a full drug rehabilitation program. "[T]he only exception to clean tests, and that means clean of everything, is a prescribing physician that can tell this court and [DCFS] the exact nano level of cannabinoid that should be in the individual's system to address the specific medical need." The juvenile court continued: "I don't care what people do, if they're smoking marijuana or not. What I care about is people being impaired while they're watching children that are under my jurisdiction. And the way that the marijuana is going these days, it's very difficult to determine how much marijuana is causing a lack of judgment, is causing impairment. [¶] So I'm not a scientist. I'm not a chemist. When I see a positive test, I don't have the ability to interpret that test. That's not my job. [¶] If you have a doctor who can tell me exactly the level of marijuana that would treat a specific and particular medical condition, then the court would consider that. [¶] But the best thing to do is to only take medication as prescribed in a manner in which it can be tested, because a missed test or a dirty test is just that, it's a dirty test, and that's a lack of compliance." The juvenile court concluded that mother would have to provide a "legitimate and scientific support for any levels of substances in her system."

Finally, mother was awarded monitored visitation.

Appeal

Mother's timely appeal ensued.

DISCUSSION

I. *The juvenile court properly sustained the section 387 supplemental petition and removed the children from mother's care*

Mother argues that the juvenile court erred when it sustained the supplemental petition and removed the children from mother's custody.

A. Standard of review and relevant law

Section 387 provides, in relevant part, that “[a]n order changing or modifying a previous order by removing a child from the physical custody of a parent . . . shall be made only after noticed hearing upon a supplemental petition.” (§ 387, subd. (a).) “The supplemental petition . . . shall contain a concise statement of facts sufficient to support the conclusion that the previous disposition has not been effective in the rehabilitation or protection of the child.” (§ 387, subd. (b).) Thus, a section 387 petition is the proper vehicle for DCFS to seek and obtain an order removing a dependent child from a court-ordered placement in the custody of the parent where that placement has not been effective to protect the child. (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1161.)

DCFS is required to prove the facts by a preponderance of the evidence. (*In re Jonique W.* (1994) 26 Cal.App.4th 685, 691.) On appeal, we review the juvenile court's jurisdictional findings for substantial evidence. (*In re A.O.* (2010) 185 Cal.App.4th 103, 109.)

B. Analysis

Mother argues that both of the two counts in the first amended supplemental petition are not supported by substantial evidence. We address each in turn.

1. *Count s-1*

Count s-1 alleges that mother “placed the children in a detrimental and endangering situation in that [she] allowed [John], who has a criminal history, and who possessed a knife in the children's presence[,] to frequent the children's home and have unlimited access to the children. The children are afraid of [John]. The detrimental and endangering situation established for the children by . . . mother endanger the children's

physical health and safety and place the children at risk of physical harm, damage and danger.”

Mother contends that there is no evidence that John³ had “unlimited access to the children.” She also claims that it is untrue that the children were afraid of John. The record shows otherwise. Despite being told by the social worker that John could not have contact with the children without being live scanned, she continued to allow him to be around the children and frequent her home. She took all four children with her in the car with him when she drove him to his appointment with his probation officer, where he was arrested for carrying a pocket knife. And, he had moved in with mother and she was unable to get him to leave.

Moreover, the children had informed the social worker that they had seen John with a pocket knife and that seeing the knife was “scary.” When the social worker raised this issue with mother, she minimized the event, stating that she did not understand why DCFS was making a “big deal out of it.”

Taken together, this evidence supports the juvenile court’s determination that mother’s conduct of allowing John to be around the children placed them at risk of harm. He was never live scanned. He was arrested at least twice during the pendency of this case. The children were afraid of John and could have been harmed by him carrying a weapon.

Mother claimed to have obtained a restraining order against John, which begs the following question: Why did mother need a restraining order against John if he was not a danger to her or her children? While mother claims that she got a restraining order and that there was no chance the children would be exposed to him in the future, there is no evidence to support this contention.

³ Although mother asserts in her opening brief that John is her “former” boyfriend, we see no evidence to support this contention in the appellate record. And, despite a request from the social worker, there is no evidence that mother obtained a restraining order against him.

2. Count s-2

Count s-2 alleges that mother “has a history of marijuana use and is a current user of marijuana, which renders [her] incapable of providing the child[ren] with ongoing care and supervision. Such conduct on the part of . . . mother endangers the [children’s] physical and emotional health, safety and well-being, creates a detrimental home environment and places the child[ren] at risk of physical and emotional harm and damage.”

Whether legal or illegal, mother’s marijuana use put her children at risk. As Dr. Baggot advised, mother could not “engage in any activity that requires alertness while using medical marijuana.” But mother needs to be alert to tend to Jose’s medical needs; he received a kidney transplant and his medical condition requires the utmost attention. This fact alone supports the juvenile court’s finding.

II. *Dispositional order requiring mother to participate in a full substance abuse program if she tests positive for marijuana*

Mother argues that the juvenile court’s dispositional order requiring her to participate in a full substance abuse program if she tests positive for marijuana must be stricken.

A. Relevant law and standard of review

“At a disposition hearing, the court may order reunification services to facilitate reunification between parent and child. ‘The court has broad discretion to determine what would serve and protect the child’s interest and to fashion a disposition order in accord with this discretion. [Citations.] We cannot reverse the court’s determination in this regard absent a clear abuse of discretion.’” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 454.)

B. Analysis

As set forth above, Jose’s medical care requires a stable and alert caregiver. Any level of impairment could compromise his health. Thus, the juvenile court acted within its discretion when ordering mother to participate in a full substance abuse program if she

tests positive for marijuana, a drug which could interfere with her ability to monitor and care for her son.

Notably, the juvenile court left open the possibility of receiving information from a physician regarding the level of marijuana permissible to treat a specific condition without causing any impairment. It follows that the juvenile court acted within its discretion in making this order.

DISPOSITION

The juvenile court's findings and order are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, Acting P. J.
ASHMANN-GERST

We concur:

_____, J.
CHAVEZ

_____, J.
HOFFSTADT