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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re A.S., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

S.S.,

Defendant and Appellant.

E054320

(Super.Ct.No. SWJ1100311)

OPINION

APPEAL from the Superior Court of Riverside County. Michael J. Rushton,
Judge. Affirmed.

Jesse McGowan, under appointment by the Court of Appeal, for Defendant and
Appellant.

Pamela J. Walls, County Counsel, and Julie Koons Jarvi, Deputy County Counsel,
for Plaintiff and Respondent.

I

INTRODUCTION

While father's three-year-old son, A.S., was living with mother and mother's boyfriend, mother was arrested for drug-related offenses. The Riverside County Department of Public Social Services (DPSS) took A.S. into protective custody and initiated juvenile dependency proceedings. Father appeals the juvenile court's order denying him reunification services under Welfare and Institutions Code section 361.5, subdivisions (b)(2) and (c).¹ Father contends there was insufficient evidence to support the order denying services because one of the two psychologists who evaluated father for a mental disability concluded father might benefit from receiving reunification services. Father also challenges jurisdictional findings sustained against him, involving substance abuse and domestic violence. Father requests this court to reverse the order denying him reunification services and remand the matter for a new disposition hearing, with an order to implement a reunification plan tailored to his particular mental disabilities.

We conclude there was substantial evidence supporting the jurisdictional finding of domestic violence. The record further reflects there was no finding of substance abuse against father because the allegations were stricken from the amended petition. We also conclude there was substantial evidence supporting the order denying reunification services to father. The disposition order is affirmed.

¹ Unless otherwise noted, all statutory references are to the Welfare and Institutions Code.

II

FACTS AND PROCEDURAL BACKGROUND

A.S. lived with his mother, father, and paternal grandparents during the first two and a half years of his life. Mother told the DPSS social worker assigned to investigate a referral in this case that, after A.S. was born, father started becoming verbally and physically abusive to mother. Father began hearing voices and often said he wanted to die. He threatened her by holding a knife to her head and cut her pet snake's head off. On other occasions, he dragged her by her hair and socked her in the rib area. Mother believed father had mental health issues. He would tell her, ""I don't know why I do it, there's just like a flame inside of me and I can't hold it in no more. I don't know why I'm angry all the time."" . . . Now 'he yells and curses like [the voices] are there and covers the walls saying "they can see everything" and when I ask him who, he say's "I wish I knew who they were. They know everything about our lives. . . .' . . . "He used to be a funny, fun person and now is a quiet, sad, and angry person."" Mother said father was crazy and would lose his mind. He would have fits of rage. In January 2011, he had to be sedated. After the last instance of domestic violence around April 2010, mother was granted a temporary restraining order, which she later requested dismissed. Mother said father was never violent with A.S. and was a good dad.

Mother further reported that she started using drugs when A.S. was two years old. Mother claimed that when she lived with father, she, father, and paternal grandfather smoked methamphetamines and marijuana together. Father continued using

methamphetamines during her pregnancy with A.S. In October 2010, mother left father and took A.S. with her. Mother and A.S. began living with mother's new boyfriend.

Paternal grandmother (grandmother) told the social worker that father was a happy child but his mental health deteriorated as he got older. Grandmother suggested this might have been because father had been in a serious "Seadoo" accident when he was 17 years old. She also thought it might have been because he had a blood problem, he had been exposed to black mold, and mother left him. Father had been very depressed, especially after mother left him. Around November 2010, father was taken to the hospital emergency room for depression because he had been saying he could not talk to people. He was then transported to a mental hospital where he was hospitalized for two or three days. Grandmother said she had also taken father to the department of mental health. Father needed a mental health evaluation but his family could not afford the cost of doing the testing. Grandmother was aware of the domestic violence incident in which father grabbed mother's hair. Grandmother believed he did this because father told mother not to leave with A.S.

According to grandmother, the highest grade father completed was the 11th grade. He did not take special education classes and did not receive supplemental security income. Grandmother nevertheless believed father needed mental health services. She acknowledged that paternal grandfather (grandfather) had a criminal history but denied he had used drugs during the past 15 years.

In March 2011, DPSS received a referral that mother was neglecting A.S., who was three years old. There was reportedly a lot of drug-related traffic at night at mother's

home. DPSS visited mother's home. There was no clothing for A.S. Several other people appeared to be living at mother's residence. Mother's boyfriend was on parole.

The social worker made several unannounced visits to mother's home, including one on May 9, 2011. Mother said A.S. was being supervised by a neighbor, since the water had been disconnected for the past three days. An officer searched mother's room and found methamphetamines, marijuana, and marijuana residue. Mother claimed she was unaware of any drugs in her home but admitted smoking methamphetamines three days before at a friend's house and smoking marijuana the day before. She said she had smoked methamphetamines and marijuana since she was 14 years old. The police arrested mother and her boyfriend. A.S., who was staying with a neighbor, was placed in protective custody.

When the social worker contacted father that same day, father said he did not have a place to live. Grandfather told the social worker father lived with grandmother and grandfather. Grandfather also told the social worker he and grandmother were father's authorized representatives and requested A.S. placed with them. Grandfather conceded that he had a criminal history, which included assault. Grandfather said that he had never seen father under the influence of drugs but grandmother had seen drug paraphernalia, a pipe, which belonged to father, in the washing machine. Grandfather also reported that father heard voices occasionally. When father was by himself, he would giggle or talk to himself.

The following day, on May 10, 2011, father told the social worker that he lived in his parents' mobile home and slept on the couch. His parents slept in one room and

someone else stayed in the other room. Father said he was unemployed and did not want to deal with DPSS. He claimed he did not know mother used drugs and thought A.S. was safe in her care. Father did not know where mother was living. Father initially denied ever using drugs and then admitted to having used methamphetamines and marijuana, but claimed he had stopped using drugs three or four years ago. On May 10, 2011, father tested negative for drugs. However, grandfather tested positive for marijuana. Father had a criminal history, which included a drug-possession charge.

On May 11, 2011, DPSS filed a dependency petition on behalf of A.S. under section 300, subdivision (b). The petition alleged mother and father abused drugs, mother neglected A.S., mother and father had unresolved mental health issues, and father had a history of committing domestic violence against mother. At the detention hearing the following day, the juvenile court ordered A.S. detained in foster care.

During a subsequent home visit in May 2011, grandmother provided the social worker with a copy of a signed appointment of representative form, which stated grandmother and grandfather were authorized to represent father, and had his consent to speak for him in connection with social services and medical matters, including matters concerning A.S. and father's medical and mental treatment. Grandmother conceded that father had used drugs when he was younger and believed father needed a psychological assessment and medication. The social worker reported that father seemed confused and provided inconsistent responses when asked what services would benefit him. He said he did not need to participate in a substance abuse program. With regard to receiving a medication evaluation, he said he did not need one but later agreed he did in fact need

one. Father did not think he would benefit from counseling or a parenting course, but said he would do anything to improve A.S.'s situation and would like to spend more time with him.

The juvenile court ordered father evaluated by two psychologists to determine whether he would benefit from reunification services. On June 16, 2011, before father received any referrals for psychological evaluations, father checked himself in at Riverside County Mental Health for an evaluation and stayed five days. Dr. Rosario diagnosed father with depression and prescribed antidepressant medication. On June 27, 2011, grandmother told the social worker that father was "all better now" but, when the social worker spoke to father, he struggled to respond and was coached by grandmother. The social worker provided father with referrals for psychological evaluations by Doctors Ryan and Suiter.

Dr. Ryan diagnosed father with depressive disorder, borderline intellectual functioning, and residuals of traumatic brain injury (TBI). Dr. Ryan attributed father's mental health symptoms to father's Seadoo accident. According to Dr. Ryan, TBI impedes new learning while leaving preexisting learning intact, and father's preexisting learning was not very strong. Father had limited cognitive functioning. He had achieved only a fifth grade level of learning and had a mental age of 10. Father was functioning at a "borderline range of intelligence" and had a confused thought pattern.

Dr. Ryan concluded that, if this were a criminal matter, father would be marginal to noncompetent. There was no indication father experienced underlying anger or hostility, and Dr. Ryan believed he was not likely to act out aggressively or be physically

abusive to a child. However, father “frustrates easily, gives up easily and becomes confused easily.” Dr. Ryan concluded father would not benefit from reunification services because father had low cognitive functioning, low ability to organize his life and live independently, and needed assistance. Dr. Ryan further concluded father would never be able to parent a child without outside assistance.

Dr. Suiter also diagnosed father with depressive disorder and with “Mild Mental Retardation,” with a “[s]tatus post head injury.” Father’s “more significant limitation” was because of his limited intellectual functioning. Father provided contradictory answers to Dr. Suiter’s questions and did not understand what he had to do to regain custody of A.S. Dr. Suiter, however, concluded father’s thought process was “clear, logical and goal directed,” and his insight and judgment were good. Father did not show a propensity to abuse children. Yet Dr. Suiter also reported that psychological test results indicated father was likely to have poor judgment, be socially isolative, and unduly suspicious of others. Dr. Suiter found there was no indication father had paranoia or a substance abuse disorder, but “there were indications of a possible psychotic process.” Dr. Suiter concluded that father was experiencing ongoing mild to moderate depression and, “given [father’s] intellectual difficulties, [father] would have considerable limitations in being able to care for a child independently but may well be able to do so with the assistance of a third party such as his mother.” Dr. Suiter concluded father would have difficulty benefiting from reunification services given his limited intellectual capabilities but he was nevertheless capable of learning.

The social worker reported in an addendum report that father depended on grandmother for assistance in speaking and understanding basic questions. The social worker stated that, “[a]lthough there were times when he was able to clearly relay a comment or statement, he would most often appear agitated, anxious, confused and laugh at inappropriate times. Additionally, some of his statements were incongruent with the questions asked or he would provide contradicting answers to the same question.” The social worker concluded that, based on interactions with father, observations by social workers, and Dr. Ryan’s and Dr. Suiter’s evaluations, “father is likely not able to benefit from services.” The social worker therefore recommended denying father reunification services under section 361.5, subdivision (b)(2).

In August 2011, the juvenile court held a jurisdiction/disposition hearing. On the day of the hearing, DPSS filed an amended petition in which some of the original allegations were stricken. Father appeared at the hearing in custody. He told the court he did not know why he was arrested but then conceded he was in custody because he had been in a fight. During the jurisdiction/disposition hearing, DPSS submitted on the social worker’s reports. Counsel for DPSS and for A.S. requested the court to deny reunification services for father under section 361.5, subdivision (b)(2). Father’s attorney offered into evidence stipulated testimony from father stating that he never struck mother. Father’s attorney conceded father had mental health issues but argued the juvenile dependency petition should be dismissed because father did not place A.S. at risk of harm. Father’s attorney also asserted that there was no evidence of domestic violence or substance abuse against father, and the court had stricken the substance abuse allegation.

The juvenile court found the allegations in the amended petition true, including the domestic violence allegation. The court also found that section 361.5, subdivision (b)(2) applied to father and denied father reunification services. The court ordered reunification services for mother and scheduled a six-month review hearing.

III

REUNIFICATION SERVICES

Father contends there was insufficient evidence to support the trial court's order denying him reunification services under section 361.5, subdivision (b)(2). Father argues that only one of the two psychologists, Dr. Ruiz, said father could not care for A.S. unassisted and father would not benefit from services. Father asserts that denial of reunification services under section 361.5, subdivision (b)(2) required both doctors to conclude he would not benefit from services. Father claims Dr. Suiter did not conclude this. Furthermore, father acknowledges there is a split of authority on whether the mental disability exception to receiving services requires that at least two qualified mental health professionals agree that the requirements of the exception have been met.

A. Standard of Review

We review the juvenile court's order denying father reunification services under the substantial evidence test, "which requires us to determine whether there is reasonable, credible evidence of solid value such that a reasonable trier of fact could make the findings challenged [citation], . . ." (*In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401.)

B. Substantial Evidence Supports the Juvenile Court's Order

Section 361.5, subdivision (a) provides that whenever a child is removed from a parent's custody, the juvenile court shall order reunification services for the parents "[e]xcept as provided in subdivision (b)" Subdivision (b) of section 361.5 provides that services need not be provided when the court finds, by clear and convincing evidence, that any of 15 enumerated circumstances is true. Section 361.5, subdivision (b)(2) states that services need not be provided where "the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services." This is commonly referred to as the mental disability exception.

"Family Code section 7827 is part of the chapter of the Family Code referred to in Welfare and Institutions Code section 361.5(b)(2). Section 7827 provides that a proceeding may be brought, outside of the dependency context, to free a child from parental custody and control where the parent or parents 'are mentally disabled and are likely to remain so in the foreseeable future.' (§ 7827, subd. (b).) Section 7827 defines 'mentally disabled' to mean 'that a parent or parents suffer a mental incapacity or disorder that renders the parent or parents unable to care for and control the child adequately.' (*Id.*, subd. (a).)" (*In re C.C.* (2003) 111 Cal.App.4th 76, 83 [Fourth Dist., Div. 2].)

Under Family Code section 7827, subdivision (c), a finding of mental disability must be supported by "the evidence of any two experts," each of whom must be a psychiatrist or psychologist meeting educational and experience requirements. Section

361.5, subdivision (b)(2) does not expressly state that it incorporates the requirement of two expert opinions. “However, courts have found that it does. [Citations.]” (*In re C.C.*, *supra*, 111 Cal.App.4th at pp. 83-84.)

Here, there was substantial evidence, including competent evidence from two mental health professionals, establishing that father suffered from a mental incapacity or disorder that rendered him unable independently to care for and control A.S., and was incapable of utilizing reunification services. (§ 361.5, subd. (b)(2).) Dr. Suiter stated that, given father’s intellectual difficulties, father would have considerable limitations in being able to care for A.S. independently but might be able to do so with the assistance of a third party. Dr. Suiter also concluded that father would have difficulty benefiting from reunification services given his limited intellectual capabilities. Dr. Ryan concluded father would not benefit from reunification services because father had low cognitive functioning, low ability to organize his life and live independently, and needed assistance. Dr. Ryan further concluded father would never be able to parent a child without outside assistance.

Father argues that under *In re Rebecca H.* (1991) 227 Cal.App.3d 825 (*Rebecca H.*), the mental disability exception must be supported by at least two mental health professionals, and in the instant case, only one of the two psychologists, Dr. Ryan, provided a professional opinion supporting the exception. The court in *Rebecca H.* held that there was insufficient evidence to support the juvenile court’s order denying the father reunification services because one of the two court-appointed psychologists found that father did not have a mental disability or disorder which would prevent the father

from caring for his children or from utilizing reunification services. (*Id.* at pp. 835, 845.) The expert concluded the father's drinking and work ethic, not any mental disability, impeded his ability to reunite with his children. (*Ibid.*) The psychologist also testified that the father was capable of benefiting from reunification services. (*Id.* at p. 835.)

The instant case is distinguishable from *Rebecca H.*, *supra*, 227 Cal.App.3d 825 in that both court-appointed experts concluded that father suffered from a mental disability under section 361.5, subdivision (b)(2). Both found that father had depressive disorder and limited cognitive functioning. Both experts also concluded that father was unable to care for A.S. without third party assistance. In addition, Dr. Ryan stated father would not benefit from reunification services because of his low cognitive functioning, and Dr. Suiter, although less direct, stated that father would have difficulty benefiting from reunification services, given his limited intellectual capabilities.

Father argues that Dr. Suiter did not find that father was incapable of utilizing reunification services or that he was incapable of adequately caring for A.S. Dr. Suiter stated that father would have some difficulty benefiting from services but was capable of learning, and had a willing attitude. In addition Dr. Suiter found that father could read, was able to complete the administered tests, and his thought process was clear, logical, and goal directed. Nevertheless, the juvenile court could reasonably find that Dr. Suiter's evaluation report indicated that father's low cognitive capabilities would prevent father from benefiting from reunification services and caring for A.S. unassisted. Even if father could utilize some of the services, Dr. Suiter's report supported the finding that it was

unlikely father “could learn or be able, in the next 12 months, to adequately provide and care for” A.S. (*Rebecca H.*, *supra*, 227 Cal.App.3d at p. 835.)

Father argues that the language, “adequately caring,” under section 361.5, subdivision (c), may be reasonably construed as including care for a child with assistance from a third party, such as a family member. Father asserts that adequate care does not necessarily have to be independent care, particularly where father did not present an affirmative risk to A.S. Dr. Suiter found that father did not have a propensity to abuse children and was not likely to act out aggressively or be physically abusive toward a child. Father fails to cite any persuasive authority for this proposition.

The instant case is analogous to *Curtis F. v. Superior Court* (2000) 80 Cal.App.4th 470 (*Curtis F.*), in which it was undisputed the father suffered from a mental disability. The issue, as in this case, was whether the father was capable of utilizing reunification services or was likely to be capable of adequately caring for the child within the 12-month statutory period. In *Curtis F.* the experts disagreed. One psychologist concluded the father was not capable in either respect. The second expert concluded the father might have difficulty benefiting from services but there nevertheless was the potential for reconciliation. (*Id.* at p. 472.) The *Curtis F.* court affirmed the juvenile court order denying the father reunification services based on the opinion of the first psychologist and because both experts’ reports suggested that it was unlikely father would be capable of adequately caring for his child even if provided services. (*Id.* at p. 474.)

Father in the instant case urges this court to disregard the majority decision in *Curtis F.* and rely on the dissent, in which Justice Sims states that the lower court ruling

denying reunification services should have been reversed because both experts did not find reunification unlikely. (*Curtis F.*, *supra*, 80 Cal.App.4th at p. 475, dissent.) We agree with the majority rationale and decision in *Curtis F.*, and thus conclude the juvenile court was not required to order reunification services for father where both experts indicated that, because of father’s mental disability, it was questionable, if not unlikely, that father would benefit from reunification services or become capable of adequately caring for A.S. within the 12-month statutory period. Although Dr. Ruiz’s and Dr. Suiter’s findings and conclusions were not identical, “there is no requirement that both experts must agree a parent is unlikely to benefit from services before the court may deny the parent services.” (*Curtis F.*, *supra*, 80 Cal.App.4th at p. 474.) Instead, there need only be a showing “of evidence proffered by both experts regarding a parent’s mental disability, evidence from which the court then can make inferences and base its findings.” (*Ibid.*) As the court concluded in *Curtis F.*, here, “both reports considered by the juvenile court contain ample evidence to suggest that petitioner is unlikely to be capable of caring for his child, even if provided with reunification services, due to a mental disability.” (*Ibid.*)

Based on Dr. Ryan’s and Dr. Suiter’s reports, the juvenile court determined it was unlikely father would benefit from reunification services. “Each report, considered on its own, contains facts consistent with the conclusions reached by the court.” (*Curtis F.*, *supra*, 80 Cal.App.4th at p. 474.) Accordingly, substantial evidence supports the court’s findings and denial of reunification services pursuant to section 361.5, subdivision (b)(2).

IV

DOMESTIC VIOLENCE AND SUBSTANCE ABUSE FINDINGS

Father contends there was insufficient evidence supporting the jurisdictional findings in the amended petition that father had a history of domestic violence and substance abuse.

The allegation in the original petition that father had a history of substance abuse was stricken from the amended petition. Father's attorney noted during the jurisdiction hearing that the substance abuse allegation against father had been stricken from the petition. The only remaining allegations against father were that he had a history of perpetrating acts of domestic violence toward mother, which placed A.S. at risk of harm, and father had unresolved mental health issues, thereby limiting his ability to provide A.S. with adequate care, endangering A.S.'s safety and well being, and creating a detrimental home environment. DPSS's attorney requested the court to find the allegations in the amended petition true. Although the reporter's transcript reflects that the substance abuse allegation against father was stricken and the amended petition in the clerk's transcript indicates the allegation was stricken, the minute order states that the juvenile court found true the substance abuse allegation in count b-6.

Where there is a conflict between the reporter's and clerk's transcripts, the conflict is generally resolved in favor of the reporter's transcript unless the particular circumstances dictate otherwise. (*In re Merrick V.* (2004) 122 Cal.App.4th 235, 249.) Here, the conflict between the minute order and reporter's transcript of the jurisdiction/disposition hearing should be reconciled in favor of the reporter's transcript,

in conjunction with the amended petition, which indicate that the substance abuse allegation against father was stricken. Father's objection to the juvenile court finding that he had a history of substance abuse is therefore moot since the allegation was stricken from the amended petition.

Father's objection to the jurisdictional finding of domestic violence is also moot because the juvenile dependency petition need only contain allegations against one parent to support the exercise of the court's jurisdiction, and the jurisdiction allegations against mother are undisputed. (*In re John S.* (2001) 88 Cal.App.4th 1140, 1143, citing *In re Jeffrey P.* (1990) 218 Cal.App.3d 1548, 1553-1554.) DPSS "is not required to prove two petitions, one against the mother and one against the father, in order for the court to properly sustain a petition [pursuant to § 300] or adjudicate a dependency." (*In re La Shonda B.* (1979) 95 Cal.App.3d 593, 599.) "A petition is brought on behalf of the child, not to punish the parents. [Citation.] The interests of both parent and child are protected by the two-step process of a dependency proceeding, with its separate adjudication and disposition hearings. Thus, when [the department] makes a prima facie case under section 300 by proving the jurisdictional facts at the adjudication hearing, it is not improper for the court to sustain the petition; not until the disposition hearing does the court determine whether the minor should be adjudged a dependent." (*Ibid.*; see also *In re X.S.* (2010) 190 Cal.App.4th 1154, 1161.) As DPSS established jurisdiction based on mother's substance abuse, mental health, and neglect of A.S., the juvenile court properly found that A.S. came within the jurisdiction of section 300, subdivision (b). (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491-1492.)

Father argues that, nevertheless, his objection to the jurisdictional findings against father is not moot because the jurisdictional findings may adversely affect his interests if this court reverses the order denying reunification services and the matter is remanded for another disposition hearing. (*In re John S.*, *supra*, 88 Cal.App.4th at p. 1143; *In re Joel H.* (1993) 19 Cal.App.4th 1185, 1193.) We reject this contention since we conclude, as discussed above, that father's objection to denial of reunification services lacks merit. Father also argues that the jurisdictional finding of domestic violence could have an impact on his ability to prevail on a section 388 petition since he would be required to show he addressed the domestic violence finding by attending a domestic violence program. But this is not only highly speculative but also unlikely since the juvenile court found father would not benefit from reunification services and denied services because of his low cognitive functioning. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1494.) While arguably we could vacate the juvenile court's finding regarding father's conduct, vacating that finding would have neither legal nor practical consequence. (*Id.* at p. 1493.) We therefore find no threatened prejudice to father from this jurisdictional finding. (*Id.* at p. 1495.)

Even if father's challenge to the jurisdictional finding of domestic violence is not moot, there was substantial evidence supporting the section 300, subdivision (b) finding. In the trial court, "[s]ection 300 jurisdiction hearings require a preponderance of the evidence as the standard of proof." (*In re A.M.* (2010) 187 Cal.App.4th 1380, 1387.) When reviewing the sufficiency of the evidence, we examine the entire record for substantial evidence to support the juvenile court's finding. (*Ibid.*) "We do not pass on

the credibility of witnesses, attempt to resolve conflicts in the evidence, or determine where the weight of the evidence lies. Instead, we draw all reasonable inferences in support of the findings, view the record in the light most favorable to the juvenile court's order and affirm the order even if there is other evidence supporting a contrary finding." (*Id.* at pp. 1387-1388.)

There are three prerequisites for a jurisdictional finding under subdivision (b) of section 300: (1) neglect by the parent in one or more of the enumerated forms, (2) causation, and (3) serious physical harm or substantial risk of serious physical harm to the child. (*In re J.O.* (2009) 178 Cal.App.4th 139, 152; *In re James R.* (2009) 176 Cal.App.4th 129, 135.) The third prerequisite ""requires a showing that at the time of the jurisdiction hearing the child is at substantial risk of serious physical harm in the future (e.g., evidence showing a substantial risk that past physical harm will reoccur). [Citations.]"" (*In re J.O.*, at p. 152; see also *In re David M.* (2005) 134 Cal.App.4th 822, 829.) While evidence of past conduct may be probative of current conditions, a section 300 finding requires evidence of circumstances at the time of the hearing that subject the child to a defined risk of harm. ""[P]revious acts of neglect, standing alone, do not establish a substantial risk of harm; there must be some reason beyond mere speculation to believe they will reoccur. [Citations.]' [Citation.]"" (*In re David M.*, at pp. 831-832.)

Here, there was ample evidence that father would commit future acts of domestic violence, even if not between mother and father. Mother reported father had been verbally and physically abusive towards her during their relationship. Father threatened

her by holding a knife to her head and cut her pet snake's head off. He had socked and bruised her in the rib area and, on one occasion, father dragged mother by her hair. Mother said the most recent incident of domestic violence occurred in April 2010. In May 2010, the court granted a temporary restraining order against father. Mother described father as "crazy" and said he would "lose his mind" and have fits of rage. He would grab her hair or punch her in the stomach. Grandmother reported that father had grabbed mother's hair when he told mother she could not leave with A.S. Even if A.S. did not witness the various incidents of domestic violence, such violence placed A.S. at risk of harm.

Father argues that there was no longer any risk of harm because he no longer had a relationship with mother. Mother and father had separated and no longer contacted each other. Father cites *In re Daisy H.* (2011) 192 Cal.App.4th 713, for the proposition that his past domestic violence acts do not support a jurisdictional finding based on domestic violence. *Daisy H.* is not on point because in *Daisy H.*, there was evidence of only one incident of domestic violence, which occurred two to seven years before the juvenile dependency proceedings were filed. (*Id.* at p. 717.) Here, there was evidence that father had an ongoing propensity for physical violence in relationships, including existing and future domestic relationships. (*Ibid.*; see also *In re E.B.* (2010) 184 Cal.App.4th 568, 576.) Mother reported that father had told her that he did not know why he had been physically abusive to her. He had said to her, ""[T]here's just like a flame inside of me and I can't hold it in no more. I don't know why I'm angry all the time."" At the time of the jurisdiction/disposition hearing, father was in custody for getting in a fight with a

neighbor. The totality of the evidence is sufficient to support the juvenile court's jurisdictional finding of domestic violence.

V

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

HOLLENHORST
Acting P.J.

RICHLI
J.