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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re Z.C., a Person Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

J.C. et al.,

Defendants and Appellants.

E058664

(Super.Ct.No. INJ1200562)

OPINION

APPEAL from the Superior Court of Riverside County. Lawrence P. Best,  
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Julie E. Braden, under appointment by the Court of Appeal, for Defendant and  
Appellant J.C. (father).

Rosemary Bishop, under appointment by the Court of Appeal, for Defendant and  
Appellant C.M. (mother).

Pamela J. Walls, County Counsel and Anna M. Marchand, Deputy County Counsel, for Plaintiff and Respondent.

Prior to the birth of Z.C., the minor, both parents were arrested for operating a prostitution ring in Arizona and their two older children were removed. The matter was transferred to California where those two children were declared dependents in February 2013. In March 2013, mother gave birth to Z.C. who was detained because of the parents' earlier criminal activity in Arizona, as well as their participation in a dead baby funeral scam in California. Because the parents did not acknowledge their criminal histories and had just barely begun their reunification services with respect to the two older siblings, a petition was filed as to Z.C., who was subsequently declared a dependent. Both parents appealed.

The parents each argue that there is insufficient evidence to support the jurisdictional and dispositional findings and judgment. We affirm.

### **BACKGROUND<sup>1</sup>**

On July 6, 2012, the siblings were placed in protective custody in Pima County, Arizona, following the parents' arrest for criminal conduct committed while the siblings were present. The parents had been arrested at a motel in Tucson, Arizona, for operating an interstate prostitution ring and felony pandering. The minor's two siblings were with

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<sup>1</sup> On November 5, 2013, the Riverside Department of Public Social Services (DPSS) filed a request to augment the record to include an addendum report filed in the juvenile court on August 6, 2013, which we deemed a request for judicial notice, and which mother opposed. As post judgment evidence not before the trial court at the time of the rulings, we deny that request. (*In re Zeth S.* (2003) 31 Cal.4th 396, 405.)

the father in one room of the motel along with an adult female who was a participant in the prostitution ring, while the mother was in the next room with a woman who was engaging in prostitution.<sup>2</sup>

Tucson police reports indicate mother had participated in placing ads, screening calls, making appointments and collecting money relating to the prostitution activities conducted in both Phoenix and Tucson, Arizona. At the time of arrest, mother was found with money from undercover law enforcement agents. Statements made to the Tucson police confirmed the parents' knowledge of the criminal activities committed while the children were in their care. The Pima County, Arizona, prosecutor intended to pursue charges of pandering against both parents, and a charge of receiving earnings of a prostitute against mother.

Mother and father also had a history of participating in a "dead baby funeral scam" with Ms. Chasity Doll, and another woman. Both parents were identified as active participants, running the scam in Modesto and Fontana, California, and Tempe, Arizona.

<sup>3</sup> At the time of the parents' arrest in Fontana, the minor's siblings and one other child

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<sup>2</sup> A woman named "Chasity Doll" was at the motel with the parents, although it is unclear whether she was the adult female in the room with the father and the two siblings, or the prostitute in the next room with the mother. Ms. Doll was also involved in the dead baby funeral scam which was carried on in 2011. Because the parents insisted they were ignorant that a person named Jaylonnie Garcia, a friend of mother's, was engaging in prostitution, we assume mother was in the room with Garcia at the time of her arrest, and that Doll was with father in the room with the two siblings.

<sup>3</sup> The "Dead Baby Funeral Scam" operation was also carried out in two cities in North San Diego County. (See <http://www.modbee.com/2011/10/21/1915023/baby-funeral-scam-strikes-again.html> [as of December 31, 2013].)

were in the car, along with a large quantity of money (\$2299.00). When the parents were taken into custody, the children were temporarily placed with their paternal grandfather.

After the Arizona court communicated with the Riverside County Juvenile Court, it was determined that California was the most appropriate jurisdiction for dependency and the siblings were transferred to California on October 23, 2012. The siblings' dependency petition was filed on October 25, 2012, based on allegations relating to the prostitution ring, the fraudulent activities, and neglect in exposing the children to unsafe individuals. The petition was sustained on February 11, 2013. The siblings were removed from the parents' custody and placed with their paternal grandmother.

On March 18, 2013, DPSS learned that mother had given birth to the minor. When interviewed by the social worker, the parents indicated they were receiving services relating to the siblings' dependency, but they denied they were aware of any criminal activity in Arizona and denied that the children were at risk. In fact, mother informed the social worker that she was in the next room when the prostitution activities were going on and that she did not know about the criminal activity in the next room.

The parents minimized the gravity of their conduct and its impact on the children's safety, believing that the criminal charges would be dismissed and that a dismissal would obviate any concerns about the children's welfare. However, father had a record of multiple arrests and two outstanding warrants. He was also determined to be the person responsible for the group transferring their prostitution business from Phoenix to Tucson. The increased vulnerability of the minor, a newborn, required detention, so the minor was taken into protective custody.

On March 20, 2013, a dependency petition was filed as to the minor pursuant to Welfare and Institutions Code, section 300, subdivisions (b),<sup>4</sup> failure to supervise or protect, and (j), abuse or neglect of siblings. Allegation b-1 of the petition alleged that the minor was at risk because the parents have a Child Protective Services history and were receiving services on behalf of the two siblings. Allegations b-2 and b-3 referred to each parent's criminal history, including the charge of conspiracy to obtain money by false pretenses. The sibling abuse allegation specifically referred to the dependency declared pursuant to section 300, subdivision (b) as to the minor's siblings.

The jurisdiction hearing was conducted on May 1, 2013. The social worker testified at the hearing and DPSS submitted his reports into evidence without objection. The social worker acknowledged that both parents had completed parenting classes<sup>5</sup> and were attending counseling sessions. However, mother's therapist reported that after two months of counseling, mother steadfastly stated she did not believe she had done anything wrong, and discussed safe ways to parent her children only in hypothetical terms. Father's therapist also indicated that he denied doing anything wrong, and did not know what he would work on in counseling, so his counseling service would be terminated.

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<sup>4</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

<sup>5</sup> Counsel for father misspoke when cross-examining the social worker, and asked if the witness was aware that both parents had completed their *counseling* at the Wylie Center for Children on April 24. However, the parents did not receive counseling services at the Wylie Center; they attended parenting classes there.

After hearing the social worker's testimony and considering the information in the reports, the court made a true finding on allegations b-1 and j-1, and sustained the petition, declaring the minor to be a dependent, although it found allegations b-2 and b-3 untrue.

Regarding disposition, the court found by clear and convincing evidence that circumstances described in section 361, subdivision (c)(1) existed, necessitating out of home placement, and removed custody of the minor from the parents. The court ordered DPSS to provide Family Reunification Services to both parents and ordered it to obtain whatever documentation was needed to allow the placement of the minor with the paternal grandmother, so the siblings could be placed together. The court also ordered frequent and liberal visitation with the minor. Both parents appealed.

## **DISCUSSION**

Both parents challenge the sufficiency of the evidence to support the juvenile court's findings and judgment. We disagree.

### **a. Standard of Review**

We review the juvenile court's jurisdictional findings for sufficiency of the evidence. (*In re David M.* (2005) 134 Cal.App.4th 822, 828, citing *In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) We review the record to determine whether there is any substantial evidence to support the juvenile court's conclusions, and we resolve all conflicts and make all reasonable inferences from the evidence to uphold the court's orders, if possible. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.)

In making our determination, we resolve all conflicts in support of the determination and indulge all legitimate inferences to uphold the court's order. Additionally, we may not substitute our deductions for those of the trier of fact. (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.)

**b. Sufficiency of the Evidence to Support Jurisdictional Findings.**

*(i) The Section 300, subdivision (b) Allegations.*

The parents argue there is insufficient evidence to support the finding on allegations b-1, that the parents' prior criminal activity, which formed the basis for the siblings' petition, posed a substantial risk of harm to the minor, as well as allegation j-1, that the parents' neglect of the siblings placed the minor at risk. DPSS argues that the parents forfeited any challenge to the true finding pursuant to section 300, subdivision (b) by admitting its validity.

At the jurisdictional hearing, mother conceded that the fact alleged in b-1 (that the parents have a current dependency case) was true, but she argued there was not a substantial risk of harm to the minor. Because a substantial risk of harm is an essential element of finding under section 300, subdivision (b) (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820), and because mother argued that the element of substantial risk had not been met, she did not forfeit her challenge to the section 300, subdivision (b) finding.

However, father argued to the court that the allegation b-1 was true and that he did not dispute it. Instead, father directed his jurisdictional challenge to the b-3 allegation.

Father has forfeited any challenge to that factual allegation, but because we must resolve the issue as to mother, we will reach the merits despite the forfeiture.

To support a true finding under section 300, subdivision (b), three elements must be proven: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) serious physical harm or illness to the minor, or a substantial risk of serious physical harm in the future. (*In re Rocco M.*, *supra*, 1 Cal.App.4th at p. 820.) The third element requires a showing that at the time of the jurisdiction hearing the child is at substantial risk of serious physical harm in the future. (*In re David M.*, *supra*, 134 Cal.App.4th at p. 829.)

Section 300 does not require that a child actually be abused or neglected before the juvenile court can assume jurisdiction. (*In re I.J.* (2013) 56 Cal.4th 766, 773.) The legislative purpose of section 300, subdivision (b) (among other subdivisions) is to provide maximum safety and protection for children who are currently being abused, neglected or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. (§ 300.2; *In re I.J.*, *supra*, at p. 773, italics omitted.) Thus, while actual abuse can be a basis for exercising jurisdiction, it is by no means requisite when there is evidence of substantial risk. (*In re T.V.* (2013) 217 Cal.App.4th 126, 134, citing *In re I.J.*, *supra*, 56 Cal.4th at p. 773.) Instead there need only be a “substantial risk” of abuse or neglect. (*Ibid.*)

The b-1 allegation under section 300, subdivision (b) related to the fact that the circumstances of the siblings’ case, which gave rise to jurisdictional and dispositional findings against the parents, placed this minor at risk of suffering from similar harm.

Although the allegations specifically relating to the fraudulent activities were dismissed, the conduct was nevertheless before the court because of the true findings made in the siblings' case.

The circumstances giving rise to the siblings' case included the facts that the parents were involved in a pandering or prostitution ring in another state, and brought the siblings to the same motel where the acts of prostitution were being committed. Further, the parents had previously engaged in a fraudulent dead baby funeral scheme, and brought their children along for that activity. The parents denied they did anything wrong and did not appreciate the potential for harm to their children. In each instance, an emergency placement of the siblings was required.

While the social worker was concerned that the children were exposed to unsavory individuals, there is a bigger risk here because their arrests (and the possibility of incarceration as a consequence of those arrests) left the children without anyone to provide supervision or care for them. The parents' choice of businesses to generate income, denial of any wrongdoing and inability to comprehend how their poor judgment exposed the minor's siblings to a substantial risk of harm demonstrates that this minor is similarly at risk and their history raises the inference their criminal enterprises will recur.

*(ii) The Section 300, subdivision (j) Allegation.*

Subdivision (j) was intended to expand the grounds for the exercise of jurisdiction as to children whose sibling has been abused or neglected as defined in section 300, subdivisions (a), (b), (d), (e), or (i). (*In re I.J.*, *supra*, 56 Cal.4th at p. 774.) In evaluating risk to the child, the juvenile court may consider the propensities or predispositions of the

parent in order to determine if he or she is likely to act in conformity therewith in the future toward another child. (§ 300, subd. (j); *In re Savannah M.*, *supra*, 131 Cal.App.4th at pp. 1387, 1395; *In re Mark C.* (1992) 7 Cal.App.4th 433, 442.)

Subdivision (j) has two prongs: (1) the child's sibling has been abused or neglected, and (2) there is substantial risk that the child will be abused or neglected as defined in those subdivisions. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 566, citing *In re Rubisela E.* (2000) 85 Cal.App.4th 177, 197.)

Mother argues she has addressed all safety concerns raised by the siblings' dependency and there is currently no substantial risk of harm. Specifically, mother argues that the parents are no longer moving from state to state engaging in criminal activities with unsavory associates, and that she is currently established and gainfully employed in California and complying with reunification services. Father also argues there is no substantial evidence of a risk of harm.

However, the record does not support their assertions. Mother's statement that she is gainfully employed was never established, except by her own statements, which the social worker questioned. Up to the point at which the minor's siblings were detained, mother's income was derived from the pandering business, where she placed the ads, set up the appointments, and collected money for prostitution in both Phoenix and Tucson, Arizona. Prior to that, she was engaged in the lucrative "dead baby funeral scam." Mother's involvement in such criminal activities spanned a considerable amount of time and did not give her much time to build up a housecleaning business. The social worker was correctly concerned.

Additionally, mother's statement that she was no longer associating with unsavory people is not sufficient to eliminate the risk of harm. She also expressed the view that the mere passage of time from the initial detention of the siblings and the hearing in the current dependency eliminated any risk. Without her acknowledgment that she knew she was engaging in criminal conduct, there is a substantial risk she will engage in additional criminal schemes.

Father argues that no reasonable inference can be drawn that the incident that led to the detention of the siblings was likely to recur, which would expose the minor to a substantial risk of harm. The record shows otherwise. Father's long history of arrests, and the circumstances of the two recent criminal enterprises involving his wife are more than adequate to support such an inference.

The circumstances of the siblings' dependency and the parents' propensities for finding unlawful means to earn a living support a finding that the minor is at risk. There is substantial evidence to support the true findings.

**c. Sufficiency of the Evidence to Support Dispositional Findings.**

Both parents claim that the court abused its discretion in removing the minor from their custody. We disagree.

When a minor has been adjudged a dependent child of the court on the ground that he or she is a person described by section 300, the court may limit the control to be exercised over the dependent child by the parent or guardian. (§ 361, subd. (a).) A dependent child may not be taken from the physical custody of his or her parents or guardians unless the juvenile court finds, by clear and convincing evidence, certain

circumstances. (§ 361, subd. (c).) A finding 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, is one of the circumstances that justifies removal. (§ 361, subd. (c)(1).)

The jurisdictional findings are prima facie evidence that the child cannot remain safely in the home. (§ 361, subd. (c)(1); *In re T.V.*, *supra*, 217 Cal.App.4th at pp. 126, 135.) The parent need not be dangerous and the child need not have been actually harmed for removal to be appropriate. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917, 918.) To support a removal order, the court may consider the parents' past conduct as well as present circumstances. (*Id.* at p. 917.) A removal order is proper if based on proof of parental inability to provide proper care for the child and proof of a potential detriment to the child if he or she remains with the parent. (*In re N.M.* (2011) 197 Cal.App.4th 159, 169.)

We review the court's dispositional findings for substantial evidence. (*In re Lana S.* (2012) 207 Cal.App.4th 94, 105.) In applying this standard, we are mindful that it is the trial court's role to assess the credibility of the witnesses, and to weigh the evidence to resolve the conflicts in the evidence. (*In re A.S.* (2011) 202 Cal.App.4th 237, 244.) We do not evaluate the credibility of witnesses, attempt to resolve conflicts in the evidence or determine the weight of the evidence. (*In re R.V.* (2012) 208 Cal.App.4th 837, 843.) Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if there is other

evidence supporting a contrary finding. (*Ibid.*) In other words, we must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact. (*In re A.S., supra*, citing *In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.)

Here, the trial court considered the information contained in the reports, as well as the social worker's testimony, and found by clear and convincing evidence that the circumstances stated in section 361(c)(1) were present. The information before the court revealed that the parents engaged in two separate and fairly sophisticated criminal enterprises in multiple cities in two different states, the siblings were present when the parents engaged in these criminal activities, and in each case, emergency placement for the children was required. Further, the parents did not feel they had done anything wrong, and suggested to the social worker that the passage of time, during which they had refrained from criminal activity since their arrest in Tucson, demonstrated there was no risk of harm to the minor.

The parents' lack of insight and refusal to acknowledge the wrongfulness of their actions increases the risk they will engage in yet another illegal enterprise, and their failure to appreciate the risk that their conduct posed for the minor's siblings increases the risk to this minor. We acknowledge that the parents have completed a parenting class as of the date of the hearing, but this fact, by itself, does not mitigate the risk to the minor in light of their continued denial of wrongdoing in the first place.

**DISPOSITION**

The judgment is affirmed.

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RAMIREZ  
P. J.

We concur:

RICHLI  
J.

KING  
J.