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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re J.W., JR., a Person Coming Under
the Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.W. et al.,

Defendants and Respondents;

J.W., JR.,

Appellant.

E059321

(Super.Ct.No. J249357)

OPINION

APPEAL from the Superior Court of San Bernardino County. Christopher B. Marshall, Judge. Reversed in part; affirmed in part.

Nicole Williams, under appointment by the Court of Appeal, for Appellant.

William D. Caldwell, under appointment by the Court of Appeal, for Defendant and Respondent J.W.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant and Respondent W.J.

Jean-Rene Basle, County Counsel, Jeffrey L. Bryson, Deputy County Counsel, for Plaintiff and Respondent.

W.J. (Mother) has four children, D.J., Z.T.W., Z.E.W., and J.W. J.W.1 (Father) is the presumed father of Mother's three youngest children, Z.T.W., Z.E.W., and J.W. In November 2012, the three older children, D.J., Z.T.W., and Z.E.W., were removed from Mother's and Father's care. In the case involving the three older children, the juvenile court made findings of (1) serious physical harm (Welf. Inst. Code, § 300, subd. (a)),¹ (2) failure to protect (§ 300, subd. (b)), (3) serious emotional damage (§ 300, subd. (c)), (4) no provision for support (§ 300, subd. (g)), and (5) abuse of a sibling (§ 300, subd. (j)). The juvenile court denied reunification services for Mother and Father (Parents). (§ 361.5, subd. (b).) In May 2013, this court denied Mother's petition for an extraordinary writ (Cal. Rules of Court, rule 8.452) concerning the jurisdiction and disposition orders for the three older children. (*W.J. v. Superior Court* (May 9, 2013, E058012) [nonpub. opn.] at pp. 1-2, 19.)

Parents' youngest child, J.W., was born in March 2013. At the jurisdiction and disposition hearing in J.W.'s case, the juvenile court ordered Parents shall receive reunification services. J.W. appeals. J.W. contends the juvenile court erred by ordering reunification services because (1) the juvenile court made conflicting findings; and

¹ All subsequent statutory references will be to Welfare and Institutions Code unless otherwise indicated.

(2) substantial evidence does not support the finding that reunification is in J.W.'s best interests. We reverse the disposition order in part.

FACTUAL AND PROCEDURAL HISTORY

A. PRIOR CASE

The facts in this subsection concern the prior case, involving the three older children. D.J. is male and was born in 2005. Z.T.W. is female and was born in 2007. Z.E.W. is female and was born in 2011. In November 2012, while at school, D.J. complained of pain all over his body and was seen walking “very stiff and favoring” one leg. D.J. said that, the day before, he had been in trouble for stealing food from another student. As a result of the stealing, Father whipped D.J. with an electrical cord. The whipping resulted in “numerous lacerations, welts and bruises to [D.J.’s] hands, arms, legs, back, butt, stomach and chest. D.J. said Mother was ““in the other room,”” while Father whipped him. Mother did not check on D.J. during the whipping. D.J. was sent to bed without food and was not given food the following morning. D.J. said he often does not eat at home. School staff said D.J. often takes food and behaves as though he has not eaten at home.

D.J. said Mother had beaten him in the past. On one occasion Mother used a piece of a broken dresser drawer to strike D.J., which left ““blood lines”” on his buttocks. Mother also struck D.J. with a belt. One time the belt left a cut on D.J.’s head, and D.J. was ordered to clean up the blood “gushing” from his head. When D.J. was five years old, Father threw D.J. against a wall, causing a nosebleed. D.J. said Parents also hit five-year-old Z.T.W. with a belt and electrical cord.

Barstow police took the three older children to a hospital emergency room. In addition to the recent lacerations and welts, D.J. had “numerous other injuries that appeared to be older and were also consistent with being hit by a belt or extension cord.” The Children’s Assessment Center doctor found D.J. had suffered “severe contusions” that were “too numerous to document.” D.J. had defensive wounds and “was so badly injured on top of prior injuries that it covers up [the] evidence of prior injuries.” The doctor had no doubt the injuries resulted from child abuse. The two girls had no visible injuries.

A neighbor told police that Father was “always smoking crack and being drunk.” The neighbor had seen Mother hit the children with “a belt, tree twig or grab the children by the hair and slap them.” The neighbor said the hitting happened “too many times to count.”

Barstow police arrested Parents for child endangerment. While searching the home, police officers found an extension cord that appeared to have blood on it. A pillow on D.J.’s bed and a towel in the bathroom appeared to be stained with blood. There was also a wall that appeared to have blood on it. There were adequate amounts of food in the house.

Mother denied any knowledge of D.J.’s injuries. Mother said she was not at home when D.J. was injured and was unaware he had been hit. Mother denied hitting any of the children. Father admitted whipping D.J. with an extension cord. Father did not know how many times he struck the child, but said he struck D.J. “until he cried.”

Father appeared “surprised” that he was arrested. Mother later said she saw D.J.’s injuries and agreed the injuries were “excessive.”

In a separate criminal case, Parents were charged with willfully harming a child under circumstances likely to produce great bodily harm. (Pen. Code, § 273a, subd. (a).) The prosecutor further alleged Father’s crime was a serious felony because it resulted in great bodily injury. (Pen. Code, § 1192.7, subd. (c)(8).)

At a jurisdiction and disposition hearing on January 30, 2013, the juvenile court found true the allegations that Father whipped D.J. and Mother consented to D.J. being whipped.² The court found the physical abuse suffered by D.J. was serious (§ 300, subd. (a)) and D.J. also suffered serious emotional damage (§ 300, subd. (c)). Additionally, the court found Z.T.W. suffered serious physical abuse (§ 300, subd. (a)) and serious emotional damage (§ 300, subd. (c)). As to all three children, the court found true allegations concerning (1) failure to protect (§ 300, subd. (b)), (2) no provision for support (§ 300, subd. (g)), and (3) abuse of a sibling (§ 300, subd. (j)).

The court found severe physical harm was inflicted per section 361.5, subdivision (b)(6), which concerns bypassing reunification services. The court explained, “The abuse is so substantial and ongoing for such a long period of time, it’s clear to the Court that [M]other was a participant in the abuse. There was a culture of abuse in this home. Both parents participated in it.” The court continued, “The mother was a co-participant in the abuse. And so it’s the finding of the Court that the whipping

² We take judicial notice of the record in Court of Appeal case No. E058012. (Evid. Code, § 452, subd. (d).)

with the electrical cord was perpetrated by the mother as if she did it herself. She certainly consented to it, authorized it, [and] facilitated it.”

The juvenile court then considered whether the three older children would benefit from Parents receiving reunification services. The court noted that the two older children expressed a desire to return to Parents’ home. However, the court found the children had “no idea of the risk of harm that they had in the home. They have no idea of how wrong it was to be abused by the parents the way they have been abused. They have no sense of normalcy. They have no idea what it is like to be in a proper home.”

The court found there was not a substantial probability of the children being returned to Mother’s and/or Father’s care within the statutory timeframes. The court explained that in 12 or 18 months the court “would have no confidence that the children could be safely returned to either one or both parents,” even if the various classes and services were successfully completed. The court said, “The parents clearly have no sense—just like the children, they have no sense of what is normal. They have no sense of what is right. They have no sense of how wrong it was to do what they did and to perpetrate the culture of abuse and violence in the family home.” The juvenile court denied reunification services for Parents. The juvenile court’s order was made on January 30, 2013.

Mother filed a petition for extraordinary writ in this court challenging, in part, the juvenile court’s denial of reunification services. (Cal. Rules of Court, rule 8.452(a); *W.J. v. Superior Court, supra*, at p. 1.) This court found substantial evidence supported the juvenile court’s findings that (1) Mother participated in causing the children or their

siblings to suffer severe physical abuse, and (2) it would not benefit the children to pursue reunification services with Mother. (*Id.* at pp. 16-19.) This court denied Mother's writ petition on May 9, 2013. (*Id.* at p. 19.)

B. CURRENT CASE

We now switch to the facts of the current case. J.W. is male and was born in March 2013. San Bernardino County Children and Family Services (the Department) became aware of J.W. on April 15 when Mother brought J.W. to a visitation appointment with the three older children. The next day, the Department went to Parents' last known address to detain J.W., due to the severe physical abuse suffered by J.W.'s older siblings. Parents had been evicted from the residence.

The Department located J.W. on May 6, when Parents brought him to another supervised visit with the three older children. Parents said they gave temporary custody of J.W. to his paternal grandmother (Grandmother). Mother showed the Department social worker a notarized document, but no court records. The Department told Mother she would need to provide proof of the custody arrangement to the court. The Department detained J.W. and placed him in the same foster home as Z.T.W. and Z.E.W. On May 7, a Department social worker went to Grandmother's house. Grandmother did not have a crib, basinet, or any infant-related items at the house indicating J.W. had been living in her home.

On May 8, the Department filed a petition alleging (1) Parents inflicted severe physical abuse on J.W.'s sibling, D.J., thus causing J.W. to be at substantial risk of severe physical abuse (§ 300, subs. (a) & (j)); (2) Parents were not receiving

reunification services in the case involving the three older children and Parents did not make “a reasonable effort to treat the problems that led to the removal of the siblings/half siblings.” On May 23, the social worker spoke to her supervisor about reunification services for Parents. During that conversation, the two decided services should be offered to Parents because “[P]arents have participated in services on their own and that [J.W.’s] sibling[, D.J.,] appears to be the main target of [Parents’] physical abuse.”

The juvenile court held a jurisdiction and disposition hearing on July 11, 2013. The Department recommended the court find true the allegations in the petition and grant family reunification services. Minor’s counsel, Ms. Wollard (Wollard), requested the court deny reunification services. Wollard asserted Parents’ abuse was not limited to D.J., because they also severely abused Z.T.W. Wollard noted the Department’s report reflected Parents attended a parenting class, batterers’ class, and anger management class, but the Department concluded Parents had not benefitted from the programs after a six-month period (since the three older children were removed). Wollard asserted the Department wanted Parents to participate in “[t]he exact same services” as part of J.W.’s case. Wollard argued Parents would not benefit from the services if they had just completed them and failed to benefit.

Father’s attorney asserted Father had not yet finished the services, so he was at “the beginning” of the process of benefitting from the services. Father’s attorney argued Father was engaged in his services and willing to accept further assistance.

Mother's attorney asserted Mother had participated in individual counseling, as well as the domestic violence, parenting, and anger management classes, and Mother separated from Father. Mother's attorney explained that Mother could not take responsibility for "this act and this act and this act" because Mother still had a criminal case pending against her; Mother's attorney asserted the juvenile court should not take Mother's silence "as a lack of acknowledgment of what she sees as her responsibility in this situation."

The juvenile court said, "[T]his is a close case and a very difficult case for the Court. [¶] The Court does see from the past deeds a lot of issues for which it can simply close the book on both parents and say, 'We're done. There's no reason to go any further with you.' [¶] And I hope that you understand that those facts in that case could cause any reasonable person to conclude that. [¶] The Court notes that there have been efforts that the parents have made on their own with this. [¶] The Court is inferring that there is responsibility and an understanding that there is to be a new beginning to put things from the past behind the parents. [¶] And that given the age of [J.W.], given the Court's consideration, though close, that it would be in the best interest of [J.W.] to give the parents six months of services. [¶] The court has weighed under section 361.5(c), the parents' current efforts, and what it will hope to be, the parents' fitness."

The court ordered the Department to provide Parents with six months of services. The court then said, "And again, I hope the parents are taking to heart what this all means and the Court's hesitancy with respect to this matter that this is something that

the Court in reviewing the prior case regards as beyond the pale. ¶ There's no way to justify it; there's no way to color it; there's no way to do anything with it, other than it's beyond the pale. ¶ And so I don't know if there can be changes. I can't predict that kind of a future, but I certainly under [section] 361.5[, subdivision] (c) in weighing these factors, though[] close, will go along with having services for six months with [J.W.]”

The court found true all the allegations in the petition. The court found Parents made “slight progress in alleviating the problems that led to the detention.”

DISCUSSION

A. BACKGROUND LAW

Under certain circumstances, reunification services may be bypassed. Two particular situations are relevant in this case. First, reunification services may be bypassed if (1) a child's sibling or half sibling suffered severe physical harm inflicted by a parent, and (2) “it would not benefit the child to pursue reunification services with the offending parent or guardian.” (§ 361.5, subd. (b)(6).) Second, reunification services may be bypassed if the parent is not receiving reunification services for a sibling or half sibling due to the infliction of severe physical abuse. (§ 361.5, subd. (b)(7).)

Subdivision (i) of section 361.5 sets forth factors for the juvenile court to consider when “determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b).” The wording of subdivision (i) is notable because, unlike subdivision (b)(6), subdivision (b)(7) does not explicitly require

a benefit finding;³ however, one could infer from the wording of subdivision (i) that a benefit finding is required as part of subdivision (b)(7). In other words, a benefit finding does not appear to be required as part of subdivision (b)(7) when the subdivision is read in isolation, but one might infer a benefit finding is required as part of a subdivision (b)(7) finding per the language of subdivision (i).

Section 361.5, subdivision (c) requires that if a child comes within subdivision (b)(6) or (b)(7), then before the juvenile court makes reunification orders the court must find by clear and convincing evidence that reunifying with the parent is in the child's best interests.

B. PRELIMINARY ISSUE

As a preliminary issue, J.W. contends the juvenile court implicitly applied one of the section 361.5, subdivision (b), reunification service bypass provisions because the court conducted a best-interests analysis regarding reunification (§ 361.5, subd. (c)). In other words, the juvenile court would not have had a reason to conduct the best-interests analysis (§ 361.5, subd. (c)), unless it had concluded a subdivision (b) bypass provision applied in the case.

Either section 361.5, subdivision (b)(6) or (b)(7) would have applied in this case. The juvenile court did not explicitly state if it was applying either subdivision.

³ The precise language of section 361.5, subdivision (b)(7), is as follows: “Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following: [¶] . . . [¶] (7) That the parent is not receiving reunification services for a sibling or a half sibling of the child pursuant to paragraph, (3), (5), or (6).”

However, the juvenile court did explicitly discuss J.W.’s best interests and section “361.5(c).” The best-interests analysis in section 361.5, subdivision (c) is only relevant if the court has found a bypass provision is applicable, in this case subdivision (b)(6) or (b)(7). Thus, we agree with J.W. Since the juvenile court conducted a best-interests analysis (§ 361.5, subd. (c)) we must infer from logic and the statutory scheme that the juvenile court implicitly found one of the bypass provisions applied in this case (§ 361.5, subd. (b)(6) & (7)). While we can clearly infer an implicit bypass finding was made, we cannot infer exactly which bypass provision the juvenile court selected—it could have been subdivision (b)(6) or (b)(7).

Father contends J.W. is incorrect in inferring the juvenile court applied one of the section 361.5, subdivision (b), service bypass provisions. Father asserts the juvenile court did not make any findings pursuant to section 361.5.

As set forth *ante*, section 361.5, subdivision (c) directs the juvenile court to consider the “best interest of the child” before making reunification orders if one of the enumerated subdivision (b) exceptions is applicable.

In J.W.’s case, the juvenile court said twice that it weighed factors under section “361.5(c)” and used the term “best interests.” The court discussed Parents’ current efforts, fitness, and history; the seriousness of the problem that led to the dependency; the strength of the parent-child and caretaker-child bonds; and the child’s need for stability and continuity. These are the best interest factors for a section 361.5, subdivision (c) finding. (*In re Allison J.* (2010) 190 Cal.App.4th 1106, 1116 (*Allison J.*))

Given that the court explicitly discussed section 361.5, subdivision (c), and the subdivision applies when a section 361.5, subdivision (b) finding has been made, it appears from the record that the court believed a section 361.5, subdivision (b) finding was applicable in this case. The court did not explicitly identify the specific subdivision (b) finding it was making, i.e., severe physical harm upon a sibling (§ 361.5, subd. (b)(6)) or denial of reunification services in a sibling's prior case (§ 361.5, subd. (b)(7)); however, since the court proceeded with a subdivision (c) analysis, it logically found subdivision (b) was applicable.

Father contends the court mentioned section 361.5, subdivision (c) only as part of a discussion, not as part of its findings, therefore, the court did not make a section 361.5, subdivision (c) best interests finding so it cannot be inferred the court found section 361.5, subdivision (b) applied in this case. The juvenile court said, "And that given the age of [J.W.], given the Court's consideration, though close, that it would be in the best interest of [J.W.] to give the parents six months of services. [¶] The court has weighed under 361.5(c), the parents' current efforts, and what it will hope to be, the parents' fitness." The court was explaining the reasons for its orders. The court was not having a discussion. Accordingly, we find Father's argument to be unpersuasive, and again conclude logic and the statutory scheme create a clear inference that the juvenile court made an implicit section 361.5, subdivision (b) finding.

C. SUBSTANTIAL EVIDENCE

1. *CONTENTION*

J.W. asserts substantial evidence does not support the finding that “reunification services would be in [J.W.’s] best interests.” (§ 361.5, subd. (c).)

2. *LAW*

The relevant language of subdivision (c) is as follows: “The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.” It appears courts understand the phrase “order reunification” to refer to the larger context of all the orders related to reunification. For example, if a parent suffers a substance abuse problem then there could be “a reunification order requiring submission to random drug and alcohol testing.” (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1229.) Thus, the order for reunification services is an order for reunification.

“To determine whether reunification is in the child’s best interest, the court considers the parent’s current efforts, fitness, and history; the seriousness of the problem that led to the dependency; the strength of the parent-child and caretaker-child bonds; and the child’s need for stability and continuity. [Citation.] A best interest finding requires a likelihood reunification services will succeed; in other words, ‘some “reasonable basis to conclude” that reunification is possible. . . .’ [Citation.]” (*Allison J., supra*, 190 Cal.App.4th at p. 1116.)

The substantial evidence standard is applied when an appellate court reviews a juvenile court order bypassing reunification services (§ 361.5). (*In re Gabriel K.* (2012) 203 Cal.App.4th 188, 196.) Thus, we will use the substantial evidence standard to review the juvenile court’s decision to *not* apply a bypass provision. The substantial evidence standard requires that we view the evidence in the light most favorable to the juvenile court’s findings. (*In re I.J.* (2013) 56 Cal.4th 766, 773.)

3. *EFFORTS*

First, we examine the effort factor. At this point we are faced with an inconsistent finding. As part of the jurisdictional/petition findings, the juvenile court found (1) Parents inflicted severe physical abuse on D.J., thus placing J.W. at substantial risk of being severely physically abused, and (2) Parents did *not* subsequently make “a reasonable effort to treat the problems that led to the removal of the siblings/half siblings.” (§ 300, subd. (j).)

However, in regard to services, the juvenile court said, “[T]here *have been efforts* that the parents have made on their own with this. [¶] The Court is inferring that there is responsibility and an understanding that there is to be a new beginning to put things from the past behind the parents.” (Italics added.) The court then found reunification would be in J.W.’s best interests. (§ 361.5, subd. (c).)

Now, on appeal, we are asked to consider whether there is substantial evidence supporting the juvenile court’s finding concerning Parents’ current efforts. We confine ourselves to the dispositional finding, since that is the issue raised by J.W. Thus, we

address the issue of whether substantial evidence supports the dispositional finding that Parents *did* make efforts to resolve their issues.

The evidence reflects that in March 2013 Parents completed a 12-week anger management course and a 12-week “positive discipline parenting course.” Parents also attended 10 sessions of a batterer’s treatment program. The Department’s Jurisdiction/Disposition report is dated May 2013. The report reflects Parents were participating in counseling.

Mother told a Department social worker that the parenting class taught her “about discipline and being a better parent,” but Mother did not specify exactly what she learned about discipline. Parents did not tell the social worker what issues were being addressed in the counseling sessions. The batterer’s treatment program gave the Department evaluations of Mother and Father. The evaluations reflect Parents “often” participated in the group discussions, “often” displayed empathy and insight concerning abusive behavior, and “often” accepted responsibility for their violent behavior.⁴

Mother told the social worker that “the information about [Mother] in court reports regarding the child’s older siblings was not true.” The social worker asked Father if he was attending 12-step meetings for substance abuse. Father denied having an alcohol problem, which conflicted with statements made by relatives and neighbors.

⁴ The evaluation form allows the evaluator to mark six options regarding the different topics: “unknown,” “rarely,” “not often,” “sometimes,” “often,” and “very often.”

In the May 2013 report, the social worker concluded Parents did not benefit “from the programs they have already completed in that they are continuing to minimize the issues. Parents did not take responsibility for their actions and minimized the full extent of the situation. Mother also did not appear to have any insight into the fact that she failed to protect the children or that she was also responsible for using corporal punishment on the children as well.”

At the hearing, Mother’s attorney explained that Mother could not take responsibility for anything due to the pending criminal case. Mother’s attorney asserted that Mother’s silence should not be viewed “as a lack of acknowledgment of what she sees as her responsibility in this situation.”

Thus, the record reflects Parents took classes, participated in counseling, and performed reasonably well in the batterers’ treatment program. However, we do not know exactly what, if any skills, they retained from the classes due to Mother not specifying any skills she learned. We also do not know what problems, if any, were being resolved in counseling. In regard to taking responsibility, Mother did not remain silent, as argued by her attorney, she actively denied the abuse allegations when speaking to the Department social worker. Father denied having any substance abuse issues.

Accordingly, the record reflects only that Parents attended classes and counseling and did well while in the batterers’ sessions. There is nothing indicating that the information from the classes has been retained and implemented in Parents’ lives, as evinced by Mother continuing to deny responsibility for D.J.’s injuries, Father denying

any substance abuse issues, and Mother not identifying any specific discipline skills she obtained. As a result, while the evidence might support a finding that some effort was made, it appears the effort was minimal, since very little appears to have been retained outside of the classes.

4. *FITNESS*

In regard to fitness, the juvenile court said, “The Court has weighed under 361.5[, subdivision] (c), the parents’ current efforts, and what it will hope to be, the parents’ fitness.” We interpret the juvenile court’s remark as finding Parents were not yet fit. As set forth *ante*, there is nothing in the record indicating Parents had learned from their classes and counseling sessions. As a result, we agree with the juvenile court’s finding that there is no evidence supporting a finding of parental fitness. If Parents have not benefitted from the services, then they are in essentially the same place they were in prior to the classes and counseling.

5. *SERIOUSNESS OF THE PROBLEM*

In regard to the seriousness of the problem that led to the dependency, the juvenile court found the abuse was “beyond the pale” and “there’s no way to do anything with it.” The evidence reflects D.J. suffered “severe contusions” that were “too numerous to document.” D.J. had defensive wounds and “was so badly injured on top of prior injuries that it covers up [the] evidence of prior injuries.” The doctor examining D.J. had no doubt the injuries resulted from child abuse. The evidence of D.J. suffering repeated severe abuse supports the juvenile court’s finding that the problems leading to the dependency were serious.

6. *HISTORY*

In regard to history, the juvenile court said, “The Court is inferring that there is responsibility and an understanding that there is to be a new beginning to put things from the past behind the parents.” We infer from the juvenile court’s remarks that it found Parents’ history to be a negative factor because it was something to put “behind” them.

It appears from the evidence that the abuse was going on for years, since D.J. recalled being thrown against a wall at age five; he was seven years old at the time of his removal. Thus, the abuse was not an isolated incident. Parents have a years-long history of repeated child abuse. Accordingly, substantial evidence supports the juvenile court’s finding that Parents’ history was a negative factor as far as ordering reunification services was concerned.

7. *BONDS*

In regard to parent-child and caretaker-child bonds, the juvenile court said, “The child was born [in late March] 2013. Those bonds are not yet really significant with anyone at this point, given the age of the child and where the child has been.” Parents told the Department they gave temporary custody of J.W. to Grandmother, but a social worker’s visit revealed Grandmother did not have infant supplies in her home. J.W. was removed from Parents’ care on May 6, 2013. The disposition hearing took place on July 11, 2013. J.W. was in foster care following his removal. The Department’s May 29 report reflects no negative incidents occurred during Parents’ visits with J.W.

Thus, there is little information in the record concerning J.W.’s bond with Parents because he may not have been living with them prior to removal; he may have been living with Grandmother. Thus, we conclude the record supports the juvenile court’s finding that J.W. did not have significant bonds with Parents due to (1) his young age, and (2) the confusion regarding with whom he lived prior to removal. Additionally, since J.W. was so young and had been in foster care for only two months, we conclude the evidence also supports the juvenile court’s finding that J.W. did not share a significant bond with his foster parent(s).

8. *STABILITY AND CONTINUITY*

The last factor we address is J.W.’s need for stability and continuity. As to this factor, the juvenile court said, “And the Court is weighing the child’s need for stability and continuity.” The juvenile court did not state a particular finding in regards to this last factor. As set forth *ante*, it is unclear if J.W. lived with Parents or Grandmother prior to his removal, or a combination of the two. The evidence reflects that J.W.’s only stable home was with his foster parent(s), since his prior living situation was unclear. Thus, it cannot be determined from the evidence if Parents could offer J.W. a stable environment with continuity of care.

9. *CONCLUSION*

The purpose of the foregoing factors is to help determine if there is “some “reasonable basis to conclude” that reunification is possible. . . .’ [Citation.]” (*Allison J., supra*, 190 Cal.App.4th at p. 1116.) As set forth *ante*, the only finding that the juvenile court appears to have made in favor of Parents is the “efforts” finding, which is

contradicted by the efforts finding made at the jurisdiction portion of the case. All the other findings (seriousness of the problem, history, fitness, bonds, and stability) were either unclear or unfavorable to Parents. As explained *ante*, the record would support a finding only of minimal effort, in that Parents attended classes and counseling but did not appear to learn, grow, change, or benefit. As a result, since the most basic efforts are the only factor in Parents' favor, we must conclude substantial evidence does not support a finding that reunification is possible.

The seriousness of the problem, the history of abuse, the lack of meaningful efforts, the lack of parental fitness, and the lack of stability reflect reunification is not in J.W.'s best interests. Again, we note that the only factor upon which we differ from the juvenile court is the "effort" finding, in which the juvenile court contradicted its own jurisdiction finding. In sum, we conclude substantial evidence does not support the juvenile court's best interest finding (§ 361.5, subd. (c)).

10. *DEPARTMENT'S ARGUMENT*

The Department asserts there is substantial evidence supporting the juvenile court's best interests finding (§ 361.5, subd. (c)) because Parents attended classes and counseling. The Department highlights the evidence that (1) Parents had no negative incidents during their supervised visits with the children; (2) the batterer's treatment program evaluation reflected they "often" participated in the classes; (3) Parents ended their romantic relationship with one another; and (4) the Department was recommending services.

The Department’s argument is unpersuasive because it focuses only on one factor of a multi-factor test—the effort factor. While there is some evidence of in-class progress by Parents and no negative incidents during the supervised visits, there is little evidence that Parents have retained the beneficial information from the classes, given Mother’s continuing denial of responsibility for D.J.’s injuries, Father’s denial of any substance abuse issues, and Mother not identifying any specific discipline skills she obtained. Thus, the “effort” factor is problematic—it is not so strong that it overwhelms the other factors. The Department’s lack of argument concerning the evidence for the remaining factors causes us to again conclude the juvenile court’s finding lacks substantial evidence.

11. *MOTHER’S ARGUMENT*

Mother contends the appeal is moot and should be dismissed because six months of services will have been given to Parents before this court renders its opinion. We do not dismiss the appeal as moot for two reasons: (1) J.W. requested this court consider the matter as a writ, but we ordered it to be treated as an appeal, thus causing the matter to proceed via a longer timeline; and (2) we have concluded the juvenile court erred, which could impact future orders for services. (*Woodward Park Homeowners Association v. Garreks, Inc.* (2000) 77 Cal.App.4th 880, 888 [a case is moot when the ruling can have no practical impact]).

Mother also raises a substantial evidence argument, which is similar to the Department’s argument. Since we have addressed the substantial evidence issue *ante*, we do not address it again.

D. CONFLICTING FINDINGS

J.W. contends the juvenile court made “fatally inconsistent” findings because the court found (1) it would not benefit J.W. to pursue reunification services with Parents (§ 361.5, subd. (i)), but also found (2) reunifying with Parents would be in J.W.’s best interests (§ 361.5, subd. (c)). We have concluded *ante*, that the services portion of the disposition order must be reversed due to a lack of substantial evidence. Accordingly, we can offer J.W. no further relief on this issue. Therefore, the issue is moot. (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315-1316 [when no effective relief can be granted, an issue is moot].)

DISPOSITION

The portion of the disposition order granting Mother and Father reunification services is reversed.⁵ In all other respects, the judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MILLER

J.

We concur:

HOLLENHORST

Acting P. J.

McKINSTER

J.

⁵ We do not direct the juvenile court to enter any specific orders, since the case has likely proceeded forward in the juvenile court while this appeal was pending and it is unclear what effect a directed order may have on the current status of the case.