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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re J.C. et al., Persons Coming Under the  
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

C.C.,

Defendant and Appellant.

E060917

(Super.Ct.No. RIJ108596)

**OPINION**

APPEAL from the Superior Court of Riverside County. Jacqueline C. Jackson,  
Judge. Affirmed.

Janette Freeman Cochran, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Gregory P. Priamos, County Counsel, and Julie Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

I

INTRODUCTION

The juvenile court took jurisdiction, under Welfare and Institutions Code<sup>1</sup> section 300, over father and appellant's (C.C.) three children based on mother's substance abuse and instability. On appeal, father contends that substantial evidence does not support the court's findings under section 300 as to father. For the reasons set forth below, we shall affirm.

II

STATEMENT OF FACTS AND PROCEDURAL BACKGROUND

In December 2013, the Department of Public Social Services (department) received a referral alleging general neglect of J. (nine years old), K1 (seven years old), and K2 (three years old). The children were dirty and wearing filthy clothing. Moreover, mother used methamphetamine, heroin, marijuana, and alcohol. After school, the children would wait in their maternal aunt's neighborhood for mother; neighbors would sometimes have to feed the children.

The parents had two previous dependency cases. In 2004, a family maintenance voluntary case was opened regarding the children C. (who is not a party to this appeal) and J., after mother tested positive for amphetamine and marijuana upon the birth of J.

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code unless otherwise specified.

The children were eventually removed because the parents failed to follow through with their plan. The children were ordered back into the parents' care on the condition that they not use corporal punishment, the mother test negative on all random drug tests, and the parents receive family maintenance services. The dependency was terminated in 2005 with both parents retaining custody.

In 2010, J., K1, and K2 were removed from father's care and placed in the care of mother. Father displayed aggressive, paranoid, and erratic behaviors and made statements which posed a risk to the children's safety. Father received reunification services. The dependency was terminated in 2011 – mother received sole physical and legal custody and father was awarded supervised visits. The custody order was filed in Family Law Court.

Mother met father when she was 16 years old; father was 22. They married in 2001. Mother began using both methamphetamine and marijuana at the age of 19. When J. was born, both mother and J. tested positive for marijuana and methamphetamine. Mother admitted using alcohol and marijuana while pregnant with K2, but mother tested negative at K2's birth.

On December 4, 2013, the social worker met with the children; they all appeared clean. Mother and the children had been living with various friends and relatives. They were living with mother's friend, Ray, when contacted by the social worker. Mother's only income was cash aid and food stamps. Ray was argumentative with the social worker and he refused the social worker access to the home.

Mother stated that she used marijuana on an almost daily basis. She admitted to a history of methamphetamine use, and claimed she last used methamphetamine in 2008. She refused to drug test. On December 24, 2013, the social worker made an unannounced visit to mother's home. Mother admitted to using methamphetamine recently. She submitted to a drug test which was positive for methamphetamine and amphetamine. She tested positive for the same substances on January 6, 2014.

According to mother, father had moved to Boston about six months earlier; he was looking for work. Mother reported that they were still married, but had been separated since the last child welfare case. She denied that he provided support for the children.

On January 14, 2014, the social worker received a call from father. He refused to provide his address. He stated that he spoke with mother every day. Mother did not inform him that she was using drugs. Father was aware that mother had a history of using marijuana and methamphetamine, but he did not believe that she was using when he moved to Boston. Father denied any criminal history, substance abuse history, or mental health issues. He denied that he had a mental health disorder even though the prior dependency was due to his suspected mental health issues.

The social worker spoke with mother on January 15, 2014. She told mother that mother needed to focus on getting sober so she could parent her children. Mother responded, "I know, that's what [father] tells me." That same day, the children were placed into protective custody. They were placed in the care of the paternal grandparents.

On January 17, 2014, a reactivated petition was filed under section 300, subdivision (b). On January 21, 2014, the juvenile court found that a prima facie

showing had been made that the children came within section 300, subdivision (b). A jurisdictional hearing was set.

According to J., father moved to Boston after K1's birthday in July, 2013. Father gave J. five dollars when J. went to the airport with father. Father has not given J. anything since that day. Father did not give any Christmas gifts to J. K1 last received a gift from father on his birthday, clothes.

Mother stated that father always knew she was using marijuana. She stated that father knew she had a history of using methamphetamine, but that he was not aware of her current use of methamphetamine. The mother recalled that father told her he would file for divorce and take the children if she used methamphetamine again. The social worker asked if father was talking about doing these things now that he was aware that she was using methamphetamine. Mother denied that he mentioned doing these things now.

Father refused to cooperate with the social worker when she attempted to interview him for the jurisdiction/disposition report.

According to the grandmother, the parents were residing on the property of the great-grandmother when she died. About six months after the great-grandmother died, the parents and children moved in with the paternal aunt and uncle. Mother began to behave differently; it was alleged that she was using drugs again. The grandmother stated that mother was out on the streets, had a terrible attitude, and was not paying rent. The aunt and uncle asked mother to leave; she complied. She left the children and father behind with the aunt and uncle. For about six months, the aunt and uncle cared for the

children. When father decided to move to Boston, mother picked up the children and moved in with the maternal aunt before eventually moving into Ray's home.

The grandmother further reported that father should have cared for the children, but he was not in a position to do so. Father had taken the death of his great-grandmother very hard and was unable to get "on his feet yet." The grandmother also stated that father had given up everything to care for his great-grandmother, and he did not know how to cope once she died. The grandmother reported that father had not provided her with any support for almost two months while she had been caring for the children.

On March 27, 2014, an amended petition was filed. Father was present in court via telephone. The juvenile court found true the allegations in the amended petition, declared the children as dependents of the court, and removed the children from the parents' care. Father and mother were provided with reunification services.

On April 2, 2014, father filed a notice of appeal. For the reasons set forth below, we shall affirm the trial court.

### III

#### ANALYSIS

Father contends that there is insufficient evidence to support the jurisdictional allegations found true as to him under section 300. A juvenile court's exercise of jurisdiction over the children can be sustained based solely on its findings regarding one parent's conduct. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492; *In re Alexis H.* (2005) 132 Cal.App.4th 11, 16.) Here, father contests the court's jurisdictional finding solely based on his conduct; he does not contest the jurisdictional findings based on

mother's conduct. Father acknowledges that "[a] jurisdictional finding good against one parent is good against both. A minor is a dependent if the actions of either parent bring the child within one of the statutory definitions of a dependent." Father's challenge to the finding based on his conduct is therefore moot (i.e., a reversal of the finding cannot lead to a reversal of jurisdiction).

This issue was addressed in *In re I.A.*, *supra*, 201 Cal.App.4th 1484. In that case, the jurisdictional allegations included mother's drug abuse, domestic violence between the parents, and the parents' criminal histories. (*Id.* at p. 1488.) The father there also challenged the jurisdictional findings based on his conduct, but not the findings based on the mother's conduct. The court dismissed the appeal as moot because the father's "contentions, even if accepted, would not justify a reversal of the court's jurisdiction." (*Id.* at pp. 1487-1488.) "[I]t is necessary only for the court to find that one parent's conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300 — e.g., a risk of serious physical harm (subds. (a) & (b)), serious emotional damage (subd. (c)), sexual or other abuse (subds. (d) & (e)), or abandonment (subd. (g)), among others — the child comes within the court's jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances." (*Id.* at pp. 1491-1492.)

Father, however, argues that we should nonetheless reach the issue because “the outcome of this appeal is the difference between father being an ‘offending’ parent versus a ‘non-offending’ parent. Such a distinction may have far reaching implications with respect to future dependency proceedings and father’s parental rights.” In support of his argument, father cites to *In re Drake M.* (2012) 211 Cal.App.4th 754.

The general rule notwithstanding, there are some circumstances in which a reviewing court may exercise its discretion to address additional jurisdictional findings as to one parent. These include: (1) when the finding serves as the basis for dispositional orders that are also challenged on appeal (see, e.g., *In re Alexis E.* (2009) 171 Cal.App.4th 438, 454); (2) when the finding could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings (*In re I.A., supra*, 201 Cal.App.4th at p. 1494); and (3) when the finding could have other consequences for the appellant, beyond dependency jurisdiction (*id.* at p. 1493). (*In re Drake M., supra*, 211 Cal.App.4th at pp. 762-763.) In *In re Drake M.*, the court exercised its discretion to consider the custodial father’s challenge to jurisdiction because he was seeking custody of the child and the outcome of the appeal would mean the difference between the father being an “offending” versus a “non-offending” parent, a distinction that could affect the father’s custody rights under section 361, subdivision (c)(1) [When there is clear and convincing evidence that a child would be in substantial danger if returned home, the “court shall also consider, as a reasonable means to protect the [child], allowing a nonoffending parent or guardian to retain physical custody . . . .”]. (*In re Drake M., supra*, 211 Cal.App.4th at p. 763.)

Here, unlike in *In re Drake M.*, neither father nor the record suggest any “far reaching implications” of the section 300 allegations justifying our discretionary review of that issue. (*In re Drake M.*, *supra*, 211 Cal.App.4th at p. 763.) In fact, father does not suggest “a single specific legal or practical consequence” of the section 300 finding. (See *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1493.) General allegations that the findings could impact future court orders are insufficient; the parent must identify specific legal or practical consequences arising from the dependency findings. (*Ibid.*) The record does not suggest any such consequence. Because father has not established any actual or threatened prejudice from the jurisdictional finding he seeks to challenge, we decline to exercise our jurisdiction to review it. (*Id.* at pp. 1493-1495.)

In any event, were we to consider the merits of father's contentions, we would hold that substantial evidence supported the juvenile court’s jurisdictional finding as to father.

A child that comes within the following description is within the jurisdiction of the juvenile court, and may be adjudged a dependent of the court:

“(b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent’s or guardian’s mental illness, developmental disability, or

substance abuse . . . The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.” (§ 300, subd. (b).)

The primary purpose of a dependency proceeding is to protect the child. (*In re Jason L.* (1990) 222 Cal.App.3d 1206, 1214; § 300, subd. (b).) “Dependency proceedings are civil in nature and are designed to protect the child, not to punish the parent.” (*In re Joshua G.* (2005) 129 Cal.App.4th 189, 202.) Where a child has suffered, or there is substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, the child is subject to the juvenile court’s jurisdiction. (§ 300, subd. (b).)

Here, the juvenile court found true the b-5 allegation as follows: “The father knew, or reasonably should have known that the mother was abusing controlled substances while caring for the children, and failed to intervene to protect his children.”

The evidence presented showed that the parents have a long history together. The parents met when mother was 16 years old and father was 22 years old. The parents met in 2001. Mother began using methamphetamine and marijuana at the age of 19, and J. and mother tested positive for marijuana and methamphetamine at J.’s birth.

When the family was brought to the department’s attention, mother stated that father knew she was using marijuana. Even though father did not like mother using drugs, he did nothing to intervene or protect the children. Instead of helping mother with housing for the children or intervening for the safety of the children, he moved to the

other side of the country, Boston. Prior to moving, father lived with mother and the children when mother started to behave differently, and it was alleged that she was using drugs again. The mother was out on the streets and had a terrible attitude. Even after the children were detained from mother, father did not step up to care for the children or follow through on his previous threat to divorce mother.

Given the parents long history together, mother's history of using both marijuana and methamphetamine, and mother's behavior prior to father moving to Boston, it is reasonable to conclude that father knew or should have known that mother was abusing controlled substances while caring for the children. Therefore, substantial evidence supports the court's true finding as to the b-5 allegation.

The court also found true the b-6 allegation. It stated as follows:

“The father has a history with Riverside County Children's Services Division for allegations of general neglect and unresolved mental health issues. The father was provided with Voluntary Family Maintenance services in 2004, Family Maintenance Adjudicated services from May 2004 to October 2005 and Family Reunification services from October 2010 to August 2011, and failed to benefit, as he failed to reunify with the children.”

Father claims that the events of the second dependency are too remote, and do not show that he is a current risk to the children. We disagree. Substantial evidence supports the juvenile court's true finding as to the b-6 allegation.

This case is father's third dependency case. Although father completed services in the first dependency case, he was not compliant with services in the second dependency.

He, therefore, failed to reunify with the children. The dependency was terminated in 2011; mother received sole physical and legal custody and father received supervised visits.

Notwithstanding, father claims that he had custody of the children after termination of the dependency. He points out that, according to the record, he lived with the children for a period of time prior to moving to Boston. The evidence does not support father's contention. Although father may have lived with the children, the most recent custody order gave mother sole legal and physical custody. There is no evidence in the record that the court modified this order. Therefore nothing in the record shows that father legally reunified with the children after the second dependency.

Father's reliance on *In re Isabella F.* (2014) 226 Cal.App.4th 128, is misplaced. In that case, the juvenile court found jurisdiction under section 300, subdivision (b), based solely on allegations regarding the child's absentee father. (*Id.* at p. 140.) The petition alleged that the father had mental health issues. In 2010, the father was assessed as being a danger to himself and placed on an involuntary psychiatric hold. (*Ibid.*) The appellate court found that these allegations were insufficient to provide a basis for jurisdiction under section 300, subdivision (b). The events described occurred more than two years before the filing of the dependency proceedings, and there was no evidence that the child was in the father's care at the time of the events. (*Ibid.*) There was no evidence that the events affected the child or that the child even knew about them. The record contained no indication that the father was or will be involved in the child's life, given that the social services agency was unable to locate him. (*Ibid.*) The appellate

court determined that, if the father returned to the child's life and there was evidence that he posed a risk to her wellbeing, the agency then may file a dependency proceeding in order to protect the child. (*Ibid.*) However, because there was no allegation that the father caused the child any harm and there was no evidence that he was likely to do so in the future, sustaining the petition's allegation under section 300, subdivision (b), was determined to be reversible error. (*Id.* at pp. 140-141.)

The facts in this case are different. Here, the children had been in the father's custody and *removed* from his custody during the second dependency. The evidence showed that the children in this case were affected by the circumstances which gave rise to the second dependency. The b-6 allegation referred to the history father had with the department which is unlike the allegation in *Isabella F.*, *supra*, 226 Cal.App.4th 128, which did not refer to any prior dependency history. *Isabella F.* does not support the father's argument.

Furthermore, the juvenile court found the b-7 allegation to be true. The court stated as follows:

"The father is not a member of the household and has failed to provide the children with adequate protection." Mother acknowledged that father did not send any money or supplies for the children since he left for Boston.

Father claims that he did not fail in providing the children with adequate protection because the children felt safe with the grandmother. In this argument, father seems to suggest that he somehow was involved in placing the children with the grandmother. He did not. It was the department that ultimately placed the children with

the grandmother. Moreover, father failed to protect the children from danger – he had claimed he would divorce mother and take the children if she used methamphetamine again. He did not. In fact, even after the family came to the department’s attention, father did not act on behalf of the children. Moreover, the evidence showed that when father was living with mother and the children, the grandmother noticed that mother began to behave differently and it was alleged that she was using drugs again. Instead of staying in town to ensure the children’s safety, father chose to relocate to Boston and leave the children behind with mother.

Therefore, the trial court’s true finding as to the b-7 allegation is supported by substantial evidence.

IV

DISPOSITION

The judgment is affirmed.

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RICHLI  
J.

We concur:

HOLLENHORST  
Acting P. J.

CODRINGTON  
J.

