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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

C.J.,

Defendant and Appellant.

E061727

(Super.Ct.No. RIJ1400602)

OPINION

APPEAL from the Superior Court of Riverside County. Harry A. Staley, Judge.
(Retired Judge of the Kern Super. Ct. assigned by the Chief Justice pursuant to art. VI,
§ 6 of the Cal. Const.) Affirmed.

Marissa Coffey, 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.

Defendant and appellant C.J. is the maternal aunt/legal guardian of 17-year-old A.Y, and appeals from the juvenile court's jurisdictional and dispositional orders. On appeal, C.J. argues that there is insufficient evidence to support the juvenile court's jurisdictional findings and dispositional order removing A.Y. from her care. We reject these contentions and affirm the judgment.

I

FACTUAL AND PROCEDURAL BACKGROUND

On May 7, 2014, the Riverside County Department of Public Social Services (DPSS) received a referral alleging general neglect of A.Y. A.Y. and her mother had gotten into an argument at a family gathering about her mother's failure to supervise A.Y.'s younger siblings. A.Y.'s mother became upset, attacked A.Y. and threw a glass at A.Y., hitting her in the face, splitting open the center of her upper lip, and causing it to bleed. A.Y. was at Operation Safehouse (Safehouse) at the time of the referral.

The referral was investigated by a social worker. A.Y. confirmed the allegations and noted that she desired to have a relationship with her mother; however, her legal guardian C.J. believes that her mother is a "trigger." A.Y. explained that she was residing at Safehouse after she got suspended from school for fighting and her aunt became upset at A.Y. for sitting in the house all day. C.J. and A.Y. began arguing, and C.J. told A.Y. that A.Y. could not stay in the house any longer and called law

enforcement. A.Y. reported that she needed a break and law enforcement took her to Safehouse where she was receiving parenting and counseling services.

DPSS received another referral on May 30, 2014, regarding allegations of caretaker absence/incapacitated, after law enforcement responded to C.J.'s home. Law enforcement had received a call from C.J. stating that A.Y. had not been returned to C.J.'s home by A.Y.'s mother following a visit. C.J. had allowed A.Y.'s mother to take A.Y. to Palmdale and stated that A.Y. needed to be home by 3:00 p.m. that day. After the time passed, C.J. called A.Y.'s mother who told C.J. that she needed to come and pick up A.Y. C.J. then drove to Palmdale to find that A.Y.'s mother had driven to Moreno Valley with A.Y. When C.J. arrived in Moreno Valley, A.Y. and her mother were not there but in Perris. C.J. called A.Y.'s mother and told her that she needed to bring A.Y. home and A.Y.'s mother refused. C.J. then called law enforcement who told A.Y.'s mother that she needed to bring A.Y. home. When A.Y. arrived, she told the deputy that she did not want to stay in C.J.'s home. The deputy told A.Y. to go to her room while he spoke with C.J. When the deputy and C.J. heard noise coming from A.Y.'s room, they went to investigate. C.J. found A.Y. destroying things in her bedroom and tearing clothing out from her closet. When C.J. entered the room, A.Y. tried to attack C.J. but the deputy detained A.Y. and placed her in his patrol car. A.Y. told the deputy that she would not stay at C.J.'s house ever again after a verbal altercation between her and C.J. and that as soon as he left she was going to run away. The deputy informed DPSS that

Safehouse would not take A.Y. as she was kicked out the last time she was there and requested that DPSS respond to the police station to take custody of A.Y.

The social worker met with A.Y. at the police station and drove A.Y. to DPSS. A.Y. was carrying all of her possessions in a few bags, and informed the social worker that C.J. had allowed A.Y. to pack those items she came with and nothing C.J. had bought her since she came to live with her in 2012, and therefore she had limited clothing. A.Y. informed the social worker that she had been living with C.J. and C.J.'s two children since August 2012 and that she had her own room and enough food to eat. A.Y. reported that initially she had enjoyed living with C.J., but in the past few months problems had developed when she began visiting her mother more often; that she no longer felt safe; and that she wanted to leave and live elsewhere. Regarding the incident, A.Y. reported that her mother took her to Palmdale where she lived and to get her hair done; that it took longer than anticipated; and that after her mother returned her to C.J.'s house, C.J. and A.Y. began arguing. C.J. said mean things about her mother, which made A.Y. feel bad, and called her derogatory names such as “ ‘bitch’ ” and told her that no one wanted her. C.J. also told A.Y. that she would not allow A.Y. to see her mother because her mother was a bad influence on A.Y. and did not abide by the visitation rules. They continued to argue until C.J. told A.Y. that if A.Y. wanted to leave, she could because C.J. did not want her living there anymore and C.J. called law enforcement. While packing, C.J. came in and continued to argue and told A.Y. she could only take the clothing she came with and threatened to “ ‘beat her in the face’ ” over a jacket. A.Y.

further reported that C.J. had been yelling and screaming at her over visiting her mother and that she had to watch C.J.'s two children while C.J. was at work.

A.Y. refused to return to C.J.'s care. She believed that C.J. did not care for her and would continue to badmouth her mother and father and make her feel worse about herself with the negative talk she directed at A.Y. A.Y. stated that she would rather live in a foster home than return to C.J.'s care. Due to A.Y. refusing to return to C.J.'s house, A.Y. was taken into protective custody.

C.J. acknowledged that she and A.Y. had recently encountered problems whereby they called each other names such as " 'bitch' " and that A.Y.'s negative behavior is a result of A.Y. visiting her mother. She stated that having A.Y. in her home had been very stressful because of A.Y.'s behavior and that C.J. had been having problems with hives and a stroke due to the stress. C.J. also stated that A.Y. required consistency and rules to follow wherever she ended up, as A.Y.'s life had been full of abuse and neglect by her parents and she had been in and out of several relatives' homes. C.J. believed that A.Y. had mental problems, such as "Bipolar," as she had mood swings often. C.J. stated that she did not know how to help A.Y. any longer. She also worried about the effect of A.Y.'s behavior on her two children and did not want to place them at risk. C.J. noted that she could no longer care for A.Y. but wanted to continue to have a relationship with her and to let her know that she would always be loved by C.J. C.J. wanted to see A.Y.

in a positive foster care home or relative placement, and stated that the maternal grandfather may want to care for A.Y.¹

On June 2, 2014, DPSS filed a petition on behalf of A.Y. pursuant to Welfare and Institutions Code² section 300, subdivision (b) (failure to protect). The petition specifically alleged that C.J. was “unwilling” to continue to provide A.Y. with adequate food, clothing, medical treatment, and protection, and that A.Y. was refusing to return home (b-1); that C.J. and A.Y. had engaged in verbal altercations in the home, including C.J. yelling at A.Y. and calling her derogatory names (b-2); and that C.J. had a criminal history for disturbing the peace/fighting on school grounds and battery (b-3).

At the June 3, 2014 detention hearing, A.Y. was formally detained. C.J. was provided with services and visitation pending further proceedings. The court also authorized DPSS to return A.Y. to C.J.’s care with a safety plan in place and ordered individual and conjoint counseling between C.J. and A.Y.

At the time of the detention hearing, A.Y. indicated that she was willing to return to C.J.’s home. However, when the social worker interviewed A.Y. on June 24, 2014, A.Y. stated that she did not want to return to C.J.’s care, noting that she was upset at C.J. for talking negatively about her behind her back and speaking poorly about her mother.

¹ The social worker reported that DPSS had concerns about placing A.Y. in the maternal grandfather’s care. This was due to allegations of sexual abuse of A.Y. by the maternal uncle in 2003 while A.Y. was in the maternal grandfather’s care and he had failed to adequately supervise and protect her.

² All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

A.Y. wanted to remain in foster care or be placed with her maternal grandmother.³ A.Y. was also refusing to have any type of contact with C.J., despite C.J. wanting visits with A.Y. C.J. reported that she wanted A.Y. back in her care. The social worker concluded that A.Y. could not safely return home because A.Y. was refusing to return to C.J.’s care and if returned, she had threatened to run away, and A.Y. and C.J. had engaged in verbal altercations that consisted of calling each other derogatory names.

The jurisdictional/dispositional hearing was held on July 3, 2014. At that time, DPSS filed a first amended petition, removing the criminal history allegation (b-3) and substituting the word “unable” for the word “unwilling” in the b-1 allegation. Following argument from counsel, the juvenile court found the b-1 and b-2 allegations in the first amended petition true and declared A.Y. a dependent of the court. A.Y. was removed from C.J.’s care and C.J. was provided with reunification services. This appeal followed.

II

DISCUSSION

C.J. challenges the jurisdictional findings and dispositional orders, arguing that there is insufficient evidence to support the juvenile court’s jurisdiction under subdivision (b) of section 300 as well as the order removing A.Y. from her care. A parent or legal guardian may seek review of both the jurisdictional and dispositional

³ On June 26, 2014, a referral to the Relative Assessment Unit was submitted on behalf of the maternal grandmother. The social worker also noted that criminal exemptions would be needed for the maternal grandmother and her husband.

findings on an appeal from the disposition order. (*Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 249.)

“When the sufficiency of the evidence to support a juvenile court’s finding or order is challenged on appeal, the reviewing court must determine if there is substantial evidence, contradicted or uncontradicted, that supports it. [Citations.]” (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216; see *In re David M.* (2005) 134 Cal.App.4th 822, 828 [jurisdictional findings are reviewed for substantial evidence]; *In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654 [disposition order is reviewed for substantial evidence].)

Under the substantial evidence test, “[i]t is the trial court’s role to assess the credibility of the various witnesses, to weigh the evidence to resolve the conflicts in the evidence. We have no power to judge the effect or value of the evidence, to weigh the evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence.” (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.) Rather, the appellate court must presume in favor of the order and consider the evidence in the light most favorable to DPSS as the prevailing party. (*In re Luke M.* (2003) 107 Cal.App.4th 1412, 1427; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

A. *Jurisdictional Findings*

C.J. contends that there is no substantial evidence to support the juvenile court’s jurisdictional findings under section 300, subdivision (b). Section 300 provides, in relevant part, that a child is within the jurisdiction of the juvenile court and may be

declared to be a dependent child of the court if “[t]he 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. . . .” (§ 300, subd. (b).)

The purpose of section 300 is “to limit court intervention to situations in which children are threatened with serious physical or emotional harm” as a result of their parent’s or guardian’s conduct. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 303.) However, the court need not wait until a child is seriously abused or injured to assume jurisdiction and take the steps necessary to protect the child. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 194-196; *In re Michael S.* (1981) 127 Cal.App.3d 348, 357-358.) The focus of section 300 is to avert harm to the child. (*In re Jamie M.* (1982) 134 Cal.App.3d 530, 535-536.)

To establish jurisdiction under section 300, subdivision (b), the following elements must be shown: “ ‘(1) neglectful conduct by the parent [or guardian] in one of the specified forms; (2) causation; and (3) “serious physical harm or illness” to the [child], or a “substantial risk” of such harm or illness.’ [Citation.]” (*In re Savannah M.* (2005) 131

Cal.App.4th 1387, 1396.) The department has the burden of proof on these elements, and must show specifically how the child has been or will be harmed by a parent's or guardian's conduct. (*In re Matthew S.* (1996) 41 Cal.App.4th 1311, 1318.) Moreover, the evidence must show "that at the time of the jurisdictional 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)." (*In re Savannah M., supra*, 131 Cal.App.4th at p. 1396; see *In re Rocco M.* (1991) 1 Cal.App.4th 814, 820, 824.)

The b-1 allegation as found true states, "The Legal Guardian, [C.J.], is unable to continue to provide the child [A.Y.] with adequate food, clothing, medical treatment and protection. Further, the child is refusing to return to the home." The b-2 allegation as found true states, "The Legal Guardian [C.J.] and child engage in verbal altercations in the home, including, but not limited to the aunt [C.J.] yelling at her [A.Y.] and calling her derogatory names." Substantial evidence supports the juvenile court's true findings as to these allegations.

On May 30, 2014, C.J. told a deputy to take A.Y. out of her home because she could no longer care for her. C.J. confirmed to the social worker that she could no longer care for A.Y. due to her ongoing behaviors. A.Y. told the deputy that she did not want to live with C.J. any longer and that she would run away if she was returned to C.J.'s home. On June 24, 2014, A.Y. continued to refuse to return to C.J.'s care or have any type of contact with her, and again indicated that she would run away from C.J.'s home if returned to her care. Moreover, less than one month prior to the May 30, 2014 incident,

on May 2, 2014, A.Y. had been living at Safehouse and not with C.J. because A.Y. had been suspended from school. C.J. was upset at A.Y. and told A.Y. that she could not stay in her home any longer and called law enforcement. A.Y. was subsequently taken to Safehouse by law enforcement. Substantial evidence shows that two times in approximately one month, C.J. was unable to care for A.Y. and that A.Y. was refusing to return to C.J.'s care.

We agree with C.J. that when A.Y. was in her home she provided A.Y. with adequate food and clothing and protected her from parental abuse; however, it is undisputed that A.Y. was refusing to return to C.J.'s home and that during a one-month period, C.J. was unable to care for A.Y., and twice C.J. had informed law enforcement to remove A.Y. from her home. Furthermore, A.Y. informed the deputy following the second incident on May 30 that she did not feel safe in C.J.'s home and wanted to live somewhere else. C.J. also stated that she did not know how to help A.Y. any longer; that A.Y. required consistency and rules to follow wherever she ended up; and that she was worried about the effect of A.Y.'s behavior on her children. C.J. further maintained that she could no longer continue to tolerate A.Y.'s negative behavior in her home and risk her children's safety and that she would like to see A.Y. in foster care or possibly with the maternal grandfather.

C.J. relies on *In re Noe F.* (2013) 213 Cal.App.4th 358 (*Noe F.*) to support her assertion that there was no need for a petition because C.J. had identified a possible placement plan for A.Y. In *Noe F.*, *supra*, 213 Cal.App.4th 358, the minor was taken

into protective care after her mother was arrested, and the juvenile court found that the minor was a child described by section 300, subdivision (b). (*Noe F.* at pp. 361-363.) The appellate court reversed. It agreed with the mother that “incarceration, without more, cannot provide a basis for jurisdiction.” (*Id.* at p. 366.) It concluded that there was no basis to assert jurisdiction because the mother had identified two suitable placements for her daughter, one of whom agreed to care for the child. (*Id.* at pp. 362, 364, 366.) C.J.’s reliance on *Noe F.* is misplaced. Here, the juvenile court’s finding was not based on C.J.’s incarceration or whether or not C.J. had provided a suitable alternative placement for A.Y. while C.J. was incarcerated. Instead, substantial evidence shows that C.J. was unable to continue to provide care to A.Y. and that A.Y. had refused to return to C.J.’s home. In addition, there is no evidence in the record that C.J. had arranged for A.Y.’s care at an alternative *suitable* placement. C.J. had merely indicated that the maternal grandfather could possibly care for A.Y. but did not identify a plan or that he was able and willing to care for A.Y. In fact, the social worker reported that DPSS had concerns about placing A.Y. in the maternal grandfather’s care because there were allegations of sexual abuse of A.Y. in 2003 while A.Y. was in his care and he had failed to adequately supervise and protect her.

In sum, substantial evidence supports the true finding on the b-1 allegation.

Given that the b-1 allegation is supported by substantial evidence, we need not address C.J.’s contention with respect to allegation b-2. When a dependency petition alleges multiple grounds for asserting jurisdiction, a reviewing court can affirm the

finding of jurisdiction if any one of the statutory bases for jurisdiction enumerated in the petition is supported by substantial evidence. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492; *D.M. v. Superior Court* (2009) 173 Cal.App.4th 1117, 1127; *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330, superseded by statute on other grounds as stated in *In re Christopher C.* (2010) 182 Cal.App.4th 73, 82 [declining to address remaining allegations after one allegation found supported]; *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72; *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875.)

However, substantial evidence also supports the juvenile court's true finding on the b-2 allegation. The record indicates that A.Y. and C.J. had several incidents of verbal altercations and that C.J. had yelled at A.Y. and called her derogatory names. C.J. had admitted to calling A.Y. a " 'bitch' " on several occasions when the child was acting out, noting that A.Y. had called her names too. A.Y. stated that C.J. yelled and screamed at her a lot over not wanting her to visit her mother; that C.J. badmouthed her mother and father; and that C.J. spoke negatively about A.Y. which made her feel bad. A.Y. also asserted that C.J. told her that no one wanted her and that A.Y. had threatened to " 'beat her in the face' " over a jacket. Substantial evidence shows that there was a substantial risk that A.Y. would suffer serious physical harm as a result of the failure or inability of C.J. to adequately supervise or protect A.Y.

C.J. relies on *In re Daisy H.* (2011) 192 Cal.App.4th 713 (*Daisy H.*) for the proposition that using "name-calling" as support to find a child is at risk of emotional

harm under section 300 is improper. In *Daisy H.*, *supra*, 192 Cal.App.4th 713, 717, the reviewing court reversed a jurisdictional finding where there was no evidence of an ongoing threat of physical harm to the children from domestic violence. The appellate court also noted that neither subdivisions (a) or (b) of section 300 provide “for jurisdiction based on ‘emotional harm.’” (*Daisy H.*, at p. 718.) The court explained: “Subdivisions (a) and (b) [of section 300] state that the court may adjudge a child a dependent of the court if ‘[t]he child has suffered, or there is a substantial risk that the child will suffer, serious *physical* harm.’ (Italics added.) Nor does any other provision of the dependency law support jurisdiction on the ground of ‘emotional harm.’ The court had no authority to assert jurisdiction on grounds not contained in the code.” (*Daisy H.*, at p. 718.)

This case is distinguishable from *Daisy H.* *Daisy H.* involved allegations of domestic violence that had occurred at least two years, and probably seven years, prior to the jurisdictional hearing. There was no evidence that any of the children were exposed to the past violence between their parents and there was no evidence of ongoing violence between the parents. In addition, the parents were separated and obtaining a dissolution of their marriage at the time of the jurisdictional hearing. Thus, under those circumstances, there was not a continuing risk of physical harm or violence to the children. (*Daisy H.*, *supra*, 192 Cal.App.4th at pp. 715, 717.) Here, the verbal altercations between C.J. and A.Y were recent and there was a continuing risk of physical harm to A.Y. Moreover, the b-2 allegation in this case did not state C.J.’s conduct placed

A.Y. at the risk of emotional harm, and the juvenile court here, unlike in *Daisy H.*, did not assert jurisdiction on grounds not contained in the code.

In sum, substantial evidence supports the juvenile court's true findings as to the b-1 and b-2 allegations.

B. *Removal Order*

C.J. also contends that there was insufficient evidence to support the juvenile court's dispositional order removing A.Y. from her care. She argues that there were reasonable means to protect A.Y. without removing A.Y. from her care and that DPSS did not "make enough efforts" to explore C.J.'s plan for A.Y. to live with the maternal grandfather "until the dust settled and [A.Y.] and [C.J.] were communicating more openly."

DPSS asserts that C.J. has waived her right to challenge the dispositional order on appeal because she had submitted on the recommendation for family reunification services. C.J. responds that she did not submit on DPSS's recommendation to remove A.Y. from her care and that she believed A.Y. would have already been returned to her care had she not been negatively influenced by relatives.

The standard for removal of a child from parental custody is found in section 361, subdivision (c), which provides, in relevant part, "A dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence . . . [¶] . . . [t]here 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 from the minor's parent's or guardian's physical custody." (§ 361, subd. (c).)

"The parent [or guardian] need not be dangerous and the child need not have been actually harmed for removal to be appropriate. The focus of the statute is on averting harm to the child. [Citations.] In this regard, the court may consider the parent's [or guardian's] past conduct as well as present circumstances. [Citation.]" (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917.) "The juvenile court has broad discretion to determine what would best serve and protect the child's interest and to fashion a dispositional order in accordance with this discretion." (*In re Jose M.* (1988) 206 Cal.App.3d 1098, 1103-1104.) As previously noted, we review a dispositional order under "the substantial evidence test, . . . bearing in mind the heightened [clear and convincing] burden of proof" that is required to remove a child from a parent's or guardian's care. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654; see *In re J.K.* (2009) 174 Cal.App.4th 1426, 1433.)

Initially, we agree with DPSS that C.J. has waived any challenge to the dispositional order removing A.Y. from her care by submitting on the recommendation for family reunification services. In *In re Richard K.* (1994) 25 Cal.App.4th 580 (*Richard K.*), the social worker recommended in her dispositional report that the juvenile court remove the children from their mother's physical custody based upon a finding of substantial danger to their physical health. (*Id.* at p. 587.) At the dispositional hearing,

counsel for the mother submitted the matter on the recommendation of the social worker. The court followed the social worker's recommendation and ordered the children's removal from their mother's custody. (*Id.* at p. 588.)

On appeal, the mother challenged the sufficiency of the evidence to support the juvenile court's removal order. The court concluded that when a parent at a dispositional hearing submits on the recommendation of the social worker, the parent's "submittal amount[s] to acquiescence" and precludes the parent from challenging the sufficiency of the evidence to support the dispositional order. (*Richard K.*, *supra*, 25 Cal.App.4th at p. 589.)

As the court in *Richard K.* explained, "In our view, the mother's 'submitting on the recommendation' . . . recommended findings and orders, as distinguished from mere submission on the report itself. This is considerably more than permitting the court to decide an issue on a limited and uncontested record, as was the case in [*In re*] *Tommy E.* [(1992) 7 Cal.App.4th 1234.⁴] The mother's submittal on the recommendation dispels

⁴ In *In re Tommy E.*, *supra*, 7 Cal.App.4th 1234, the court held that a parent who agrees to allow the juvenile court to determine whether the allegations of the petition are true based solely upon a social worker's report does not waive his or her right to challenge the sufficiency of the evidence to support the trial court's jurisdictional finding. (*Id.* at pp. 1236-1239.) The court in *Richard K.* acknowledged that in the case of a parent's submission of the jurisdictional finding on the social worker's report, "the court must nevertheless weigh evidence, make appropriate evidentiary findings and apply relevant law to determine whether the case has been proved. [Citation.] In other words, the parent acquiesces as to the state of the evidence yet preserves the right to challenge it as insufficient to support a particular legal conclusion. [Citation.] Thus, the parent does not waive for appellate purposes his or her right to challenge the propriety of the court's orders." (*Richard K.*, *supra*, 25 Cal.App.4th at p. 589.)

any challenge to and, in essence, endorses the court's issuance of the recommended findings and orders. [¶] In other words, the mother was not disputing that the court should adjudge her children dependents, order them removed from her custody and provide a reunification plan. If, as occurred in this case, the court in turn makes the recommended orders, the party who submits on the recommendation should not be heard to complain. As a general rule, a party is precluded from urging on appeal any point not raised in the trial court. Any other rule would permit a party to play fast and loose with the administration of justice by deliberately standing by without making an objection of which he is aware. [Citation.] Similarly, in this case, by submitting on the recommendation without introducing any evidence or offering any argument, the parent waived her right to contest the juvenile court's disposition since it coincided with the social worker's recommendation. He who consents to an act is not wronged by it. [Citation.]" (*Richard K.*, *supra*, 25 Cal.App.4th at pp. 589-590, fn. omitted.)

In the present matter, as to disposition, C.J.'s counsel informed the court, "we would be submitting on family reunification services to the guardian and asking for the authorization to remain in place for the minor to be returned to her on family maintenance services." Counsel also informed the court that "there's just been a lot of statements being said to the minor, and I don't know how that's being done, and the guardian is very concerned if it's coming from family members or from other individuals who are speaking with the minor." Counsel also noted that C.J. had never said anything negative about A.Y.'s mother, but believed "that things are being said to the minor which

has been a negative spillover into this case.” Counsel further stated, “But for those things being said to the minor, I believe that the legal guardian’s position is that the minor would have already have returned back to the legal guardian. The legal guardian wants nothing more but to provide a safe, loving, and nurturing home to this minor. She’s a professional . . . she’s been there for this client, wants nothing more but to offer stability and to offer a loving home.” Counsel concluded by asserting, “So I’m asking the Court to grant family reunification services, continue the authorization for family maintenance services, and to have the Department make sure that no negative statements are being said to the minor in regards to the legal guardian, because the legal guardian’s not in agreement with any negative comments in regards to anyone in this case.”

The social worker’s report recommended that C.J. receive reunification services and that A.Y. remain placed in foster care or in a relative’s home. C.J. did not ask the court to place the child in her custody. C.J.’s acquiescence in that recommendation constitutes a waiver of the right to challenge the sufficiency of the evidence to support the removal order under the rule that a parent or guardian who submits on the department’s recommendation waives the right to contest the juvenile court’s decision if it coincides with the social worker’s recommendation. (*Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798, 813, citing *Richard K., supra*, 25 Cal.App.4th at p. 590; see *In re Kevin S.* (1996) 41 Cal.App.4th 882, 886.)

Furthermore, C.J. waived the right to challenge the court’s placement order under the doctrine of invited error. When a party’s own conduct induces the commission of an

alleged error, the party is estopped under the doctrine of invited error from asserting the alleged error as a ground for reversal. Similarly, a party waives the right to attack error by expressly or impliedly agreeing or acquiescing at trial to the ruling or procedure challenged on appeal. (*In re Marriage of Broderick* (1989) 209 Cal.App.3d 489, 501.) By expressly agreeing to disposition in this case and impliedly agreeing the child remain in a foster home, C.J. waived the right to challenge the dispositional order.

In any event, the record contains sufficient evidence to support the removal order. A.Y. repeatedly stated that she did not want to live with C.J. and that if she was returned to C.J.'s home she would run away. A.Y. is 17 years old and nearly an adult and law enforcement twice within a one-month period had to come to C.J.'s home and take A.Y. elsewhere. A.Y. and C.J. had become embroiled in verbal altercations and C.J. sought assistance from law enforcement to manage A.Y.

C.J. acknowledges that A.Y. did not want to return to her care, but complains DPSS did not make efforts to allow A.Y. to live with the maternal grandfather. The record belies this contention. At the time the detention report was prepared, it appears there were no relatives available to care for A.Y. And, after C.J. informed the social worker that the maternal grandfather may be interested in caring for A.Y., the social worker reported that DPSS had concerns about placing A.Y. in the maternal grandfather's care because in 2003 there were allegations of sexual abuse of A.Y. being molested by her maternal uncle while A.Y. was in his care and his failure to adequately supervise and protect her. The juvenile court's removal order is supported by the record here.

III

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ

P. J.

We concur:

HOLLENHORST

J.

CODRINGTON

J.