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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

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

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

D.H.,

Defendant and Appellant.

E061989

(Super.Ct.No. INJ1400398)

OPINION

APPEAL from the Superior Court of Riverside County. Lawrence P. Best, Judge.

Affirmed.

Pamela Rae Tripp, under appointment by the Court of Appeal, for Defendant and Appellant.

Gregory P. Priamos, County Counsel, and Anna M. Marchand, Deputy County Counsel, for Plaintiff and Respondent.

D.H. (father) appeals from a judgment declaring his daughter to be a dependent of the court based on the jurisdictional findings that his abuse of prescription narcotic drugs and untreated anxiety placed her at substantial risk of serious physical harm or illness under Welfare and Institutions Code¹ section 300, subdivision (b), and from an order under section 361, subdivision (c)(1), removing her from his custody. Father contends that there was insufficient evidence to support the judgment and the order. For the reasons stated *post*, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The dependency petition and detention hearing*

C.H., the minor child (the child) at issue in this appeal, came to the attention of the Riverside County Department of Public Social Services (DPSS) by a referral in August 2014, the day she was born. A staff member at Desert Regional Medical Center (the hospital) reported to DPSS that the child's mother and father appeared to be under the influence of controlled substances and that mother discharged the child from the hospital against medical advice. The child was born at 2:30 a.m. and mother left the hospital with the child at 3:00 p.m. that same day. The hospital's procedure is to observe newborns for 48 hours before recommending discharge.

That same day, DPSS filed a section 300 petition on behalf of the child, alleging that she came within subdivision (b) (failure to protect). The petition alleged that:

¹ All further statutory references are to the Welfare and Institutions Code.

(1) T.L. (mother)² neglected the child's health and safety by leaving the hospital with the child "before medical staff could complete a thorough examination and observation of the newborn"; and (2) mother and father "demonstrated behaviors indicative of being under the influence of controlled substances" while at the hospital and during prenatal visits.

A social worker from DPSS visited mother's home the next day to speak with her and observe the child. Mother met the social worker at the gate outside her home. She explained that she left the hospital because she had been unable to sleep or rest in the room she had been given.³ She refused to let the social worker inside her home for an inspection, but she brought the child outside so the social worker could observe her. The child had "good coloring," appeared to be healthy, and was "appropriately dressed."

Mother denied that she or father had ever used drugs; however, she refused to let the social worker talk to father. Mother agreed to a drug test, but, according to the social worker, the saliva mother produced that day was too "thick" to produce a result on DPSS's drug test.

That same day, the staff member at the hospital called the social worker with an update on mother and father. She reported that mother's physician of 17 years had told

² Mother is not a party to this appeal. DPSS ultimately removed the allegations against her from the section 300 petition.

³ In a later interview, mother explained that the hospital was overcrowded on the day she gave birth and that she had to share a room with other patients and their newborn infants. The nurses were "overwhelmed and stressed due to the large number of recent births." She found it "impossible to sleep and get rest" and, because this was not her first time giving birth, she scheduled an appointment for her daughter with her pediatrician for the next business day and left the hospital.

her that he also suspected mother and father were under the influence of drugs while at the hospital the previous day. He had observed that both parents were exhibiting “rapid jaw movements [and] shakiness.”

Later that day, DPSS obtained a protective custody warrant (§ 340) for the child. The social worker returned to mother’s house with the warrant and explained that she was taking the child back to the hospital to receive a complete newborn evaluation. She allowed mother and father to accompany the child to the hospital.

While they waited in the emergency room for the evaluation results, the social worker interviewed the parents. Father refused to give his date of birth. He denied that he had ever used drugs, but he refused to do a drug test. He also denied any history of mental health issues.

After the child was medically cleared and discharged, father “became very aggressive and hostile” toward the social worker. Hospital security and mother interceded “to prevent [father] from becoming physically confrontational.” The emergency room physician observed that father “had a strong odor of alcohol and appeared under the influence.” The child was placed into a foster home later that evening.

Several days later, the social worker returned to mother’s home and observed that it was equipped with sufficient furnishings and food. Mother agreed to take a hair follicle drug test and the results were negative for any drug use. Mother told the social worker

that father had gone back to his home in Los Angeles and that she did not know when he would return.

When the social worker spoke with mother the next day, mother told her that father had returned to her house the night before. She said that father was “not coping well” and that she was afraid that he would hurt himself. She had noticed that father had cigarette burns on his legs and she believed they were self-inflicted; however, she later told the social worker that she had been wrong and the burns were from “coals that spilled on his leg from barbequing.” She said that father would not be staying in her home.

DPSS filed a second original section 300 petition. This petition included the child’s name and added allegations under section 300, subdivisions (b) and (g), that father was not a member of the child’s household, his whereabouts were unknown, and he failed to provide support for his child. DPSS also filed a detention report recommending that the child be removed from mother and father.

At the contested detention hearing, DPSS changed the recommendation in its detention report and requested the child be returned to mother’s custody and detained from father only. Following the recommendation, the juvenile court detained the child from father’s custody and ordered two supervised visits a week. Father did not attend the hearing.

2. The jurisdiction/disposition report

The social worker interviewed father and mother a few weeks after the detention hearing. During his interview, father stated that he takes prescribed narcotic pain medication as a result of a back injury he suffered in 2001 and that he is in severe pain on a daily basis.⁴ He reported taking a total of 240 pills per month. He said that, on a daily basis, he takes six to eight 10-milligram pills of Norco, eight 10-milligram pills of Methadone, five 1-milligram pills of Xanax, and Oxycodone in an unspecified amount. He explained that his doctor prescribes him “large quantities of medication due to the severity of his injuries.” However, the last time he saw his doctor was “a couple of years ago.”

Father also told the social worker that he suffers from anxiety, which he believes is not a mental illness, but rather a result of his back pain. His physician prescribed him Xanax for his anxiety symptoms, and he takes about five pills a day. He told the social worker that he believes he can “manage his medical needs” on his own. He said he uses his prescriptions “very sparingly”; however, he refused to take a drug test or sign a release so that DPSS could obtain his medical records. He believes that his back pain and anxiety symptoms are “under control.”

He also told the social worker, “[E]ven when I am taking my meds I am able to care for my child.” He explained that he had received two years of specialized training as

⁴ He stated he has a “5 1/2 ml bulge on L4-L5 and a 3 ml bulge on C2-C3 and degenerative disc disease.”

a medic at the College of the Desert and that he “could perform any medical procedure his daughter needed.” He felt that he even could have delivered the child. On the day of the child’s birth, the hospital staff was “overwhelmed and incompetent” and he was the “nervous medic making sure everything was done properly.” He stated that his daughter was born “perfectly healthy” and “didn’t require medical attention.”

The social worker also learned during the interview that father is unemployed and has made no attempt to apply for disability or social security benefits since his injury in 2001. He reported that his mother (the child’s paternal grandmother) is financially assisting him. When asked about his living situation, he said that he had been living with the child’s mother for the past year and that they had plans to marry soon. He told the social worker, “I am a member of the child’s household We have provided her with everything she needs.” He said that the DPSS had “essentially made [him] homeless” and that he was currently residing in a local hotel with the child’s paternal grandmother.

When asked if he had a criminal record, he replied that he had one conviction for petty theft; however, DPSS’s search revealed a more extensive criminal history. Among other crimes, father had been convicted of grand theft in 2010, second degree robbery in 2010, battery in 2011, battery and possession of narcotics, cannabis, and controlled substances in 2012, and assault with a deadly weapon and felony burglary in 2013.⁵

⁵ This information is contained in DPSS’s addendum report, filed September 25, 2014.

In a later interview father told the social worker that she had misunderstood his explanation for having prescription drugs despite not having seen his physician for two years. He said that his doctor had not prescribed him with enough medication to last him two years, but rather that his last prescription was obtained two years ago and he had been using his drugs sparingly enough to make them last over that period. He stated that he had not used Oxycodone for the past six years.

During her interview, mother said that she knew father had injured his back in 2011 and that he was “occasionally in pain.” While she did not know how many pills he was taking on a daily basis, she had heard father remark that his physician “way over prescribed” his medication. She felt that father needed to get off the prescription medications, but she had “serious doubts” that he would be able to do so as long as he was living with the child’s paternal grandmother. She said that the child’s paternal grandmother also took prescription narcotics and that she did not feel comfortable letting the paternal grandmother care for the child “even for five minutes.”

Contrary to father’s claims, mother said that he has never lived in her home and that his financial support has always been “nonexistent.” She did not know where father had been living. He had told her that he has a residence in Los Angeles, but she suspects that he had been living with the child’s paternal grandmother.

Mother also reported that father suffered from anxiety, which sometimes manifested in a racing heart and other times in “full blown” panic attacks. She believed

that he needed therapy for his anxiety and that he would benefit from becoming independent of the child's paternal grandmother.

DPSS filed an amended section 300 petition that removed the allegations regarding mother, removed the section 300, subdivision (g) allegation regarding father, and added three new subdivision (b) allegations against father. In support of its allegations against father, DPSS filed a jurisdiction/disposition report on September 10 and an addendum report on September 25. These reports recommend that the child be declared a dependent of the court and that she be removed from father and remain in mother's care.

3. The jurisdiction and disposition hearing

At the contested jurisdiction hearing the social worker testified that, in her opinion, father's relationship with prescription narcotic drugs and his anxiety posed a risk of substantial harm to the child. She explained that the narcotics he reported taking are habit-forming, addictive, and require stringent oversight and management by a licensed health care provider. Her opinion that father was abusing prescription narcotics was not based on her belief that he was taking the drugs to excess (she characterized his current use as involving "high quantities and dosages" but she did not have enough information to determine if his level of use was "excessive"), but rather on the fact that he has been taking the drugs for two years without the oversight of his physician and believes that he can manage his own pain medications. The fact that father refused to participate in drug

testing and to give DPSS permission to obtain his medical records and current prescriptions also supported her opinion that he was abusing his medication.

The social worker also testified that despite the fact that father's anxiety was severe enough to cause him panic attacks, he refused to seek professional help. Instead, he admitted to self-medicating with Xanax, which was prescribed by the same physician whom he had not seen in two years.

The juvenile court found the child to be a dependant of the court under section 300, subdivision (b), and sustained the following allegations: (b-4) father abuses controlled substances such as Oxycodone, Methodone, Norco and Xanax to address pain relief, but has not had a professional medication assessment or related doctor visits in two years; and (b-5) father admits to a history of suffering from anxiety and to self-medicating with xanax, and he has not sought out professional psychiatric or counseling services to address his anxiety.⁶ The court ordered that the child be placed into mother's custody and removed from father under section 361, subdivision (c)(1).⁷ The court further ordered that father participate in family reunification services. These services

⁶ The court dismissed the rest of the allegations in the petition. None of the sustained allegations pertained to mother, and the court did not require her to participate in any services.

⁷ Section 361, subdivision (c)(1), allows a court to remove a dependent minor from the physical custody of a parent if it finds "[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 . . . physical custody."

include counseling, psychological evaluation, medication management, and vocational services. The court ordered that father could attend supervised visits, twice a week.

ANALYSIS

1. *The section 300, subdivision (b), jurisdictional finding*

Father argues that there was insufficient evidence to support the juvenile court's jurisdictional findings that his drug abuse and anxiety caused the child to suffer, or to be at a substantial risk of suffering, serious physical harm or illness under section 300, subdivision (b). We disagree.

a. *Standard of review*

When reviewing a challenge to the sufficiency of the evidence supporting a juvenile court's jurisdictional findings, "we determine if substantial evidence, contradicted or uncontradicted, supports them." (*In re I.J.* (2013) 56 Cal.4th 766, 773.) We consider the record as a whole, resolving all conflicts and drawing all reasonable inferences in support of the jurisdictional findings. (*In re Lana S.* (2012) 207 Cal.App.4th 94, 103.) " 'We do not reweigh the evidence, evaluate the credibility of witnesses or resolve evidentiary conflicts.' " (*Ibid.*) The testimony of a single witness can support jurisdiction. (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 200.) Thus, in order to succeed on appeal, father must demonstrate that there is no evidence of a sufficiently substantial nature to support the juvenile court's jurisdictional findings. (*In re Lana S.*, at p. 103.)

b. *Substantial evidence supports the jurisdictional finding against father*

The purpose of section 300 “is to provide maximum safety and protection for children who are currently being physically . . . or emotionally abused, [or] being neglected . . . and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm.” (§ 300.2; see *In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1215.) In order to make a dependency finding, the juvenile court must find by a preponderance of evidence that the following three elements are met: “(1) neglectful conduct or substance abuse by a parent in one of the specified forms, (2) causation, and (3) serious physical harm to the child, or a substantial risk of such harm.” (*In re Rebecca C.* (2014) 228 Cal.App.4th 720, 724–725.)

i. *Substance abuse*

While “substance abuse” is a ground for establishing the first element (i.e., the conduct element), neither the Legislature nor the California Supreme Court has defined the term. (*Christopher R., supra*, 225 Cal.App.4th at p. 1218 [stating that there is no one “comprehensive, exclusive definition [of substance abuse] mandated by either the Legislature or the Supreme Court”].) “As a result, “[d]ependency cases have varied widely in the kinds of parental actions labeled “substance abuse.” ’ ” (*Id.* at p. 1217, citing *In re Drake M.* (2012) 211 Cal.App.4th 754, 765.)

In *Christopher R.*, the court upheld the jurisdictional finding that the father’s daily marijuana use posed a substantial risk of harm to his three-month-old daughter. (*Christopher R., supra*, 225 Cal.App.4th at pp. 1219-1220.) The court stated that while

the definition of “substance abuse” found in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (4th rev. ed. 2000) (DSM–IV–TR) was a “generally useful and workable definition of substance abuse for purposes of section 300, subdivision (b),” it rejected the argument that “only someone who has been diagnosed by a medical professional or who falls within one of the specific DSM–IV–TR categories can be found to be a current substance abuser.” (*Id.* at p. 1218.) The court held that the father—who was unemployed, had a criminal history, and had “been a daily user of marijuana for a number of years” as a means to cope with a gunshot injury in his back—was a substance abuser. (*Id.* at pp. 1219-1220.)

Here, DPSS presented evidence that father takes large quantities of prescription narcotics without the supervision of a physician and under the belief that he could manage his own back pain and anxiety. Father admitted to taking multiple doses of multiple prescription narcotic drugs a day as a means of coping with his anxiety and a back injury he suffered in 2001. Specifically, he admitted that he took about eight 10-milligram pills of Norco, eight 10-milligram pills of Methadone, and five 1-milligram pills of Xanax a day, plus Oxycodone (in an unspecified amount). He estimated that he took about 240 pills a month. Significantly, father believed he could manage his own medical needs and admitted to the social worker that he had not seen his physician in two years.

In addition to these admissions, the court heard circumstantial evidence reasonably supporting a finding that father abuses prescription narcotics. For example, he has a

criminal history involving possession of various illegal drugs and multiple violent crimes, and he recently exhibited behaviors indicative of being under the influence of controlled substances. Mother's long-time physician, the emergency room physician, and hospital staff reported that father appeared to be under the influence of substances on the day the child was born and on the following day, when the child received her newborn evaluation. Also, mother expressed concern that father needed to "get off the prescription medications." And, she had "serious doubts" that he would be able to do so as long as he was living with the child's paternal grandmother (his mother), who used prescription medication to such an extent that mother did not feel comfortable leaving her alone with the child for even a short period of time.

Furthermore, father was not transparent about his medical conditions, treatments, or prescriptions. He refused to drug test or release his medical records to DPSS. He is also unemployed and providing no financial support to mother or the child. Additionally, his living situation appears to be unclear at best and unstable at worst. He falsely claims that he had been living with mother before the child was born, and the evidence in the record indicates that he is currently living in a hotel room with the child's paternal grandmother, who also takes narcotic pain medication. This living situation is likely enabling father's unhealthy relationship with prescription narcotics.

Based on our review of the record, we conclude that father's admitted prescription drug use, combined with the fact that he: (1) admitted to self-medicating and to not visiting his prescribing physician in two years; (2) was physically aggressive and hostile

toward the social worker, and appeared to be under the influence of alcohol, during his child's wellness evaluation; (3) appeared to mother's physician and staff to be under the influence of controlled substances at the hospital during the child's birth; (4) is unemployed and has no plans to obtain employment or provide for the child; and (5) has a criminal history that involves violent crimes and illegal drugs, constitutes substantial evidence that he suffers from substance abuse.

ii. *Substantial risk of serious physical harm*

With regard to the second and third elements of jurisdiction (i.e., causation and harm or substantial risk of harm), the petitioning department need only "produce sufficient evidence that the [parent] was a substance abuser" if the child is of " 'tender years.' " (*Christopher R., supra*, 225 Cal.App.4th at p. 1220.) This is because, when children are very young, " 'the absence of adequate supervision and care poses an inherent risk to their physical health and safety.' " (*Ibid.*) In other words, "the finding of substance abuse is prima facie evidence of the inability of a parent or guardian to provide regular care resulting in a substantial risk of physical harm." (*In re Drake M., supra*, 211 Cal.App.4th at p. 767; see *Christopher R.*, at p. 1220 [where the father used marijuana on a daily basis, the court held that the "juvenile court properly found [that his] persistent and illegal use of marijuana demonstrated an inability to provide regular care for [his] infant"].)

Here, the child was just over one month old when the juvenile court made the finding that father abused prescription narcotic drugs. We thus conclude that there was

substantial evidence to support the finding that father’s persistent narcotic drug use posed a risk to the infant child’s health and safety.

iii. *Father’s various contentions*

Father contends that his drug use did not rise to the level of abuse. He makes two arguments to support this contention.

First, pointing out that he had told the social worker he uses his medications “sparingly,” father argues that the evidence was “at best, conflicting” with regard to the amount of medication he currently takes. This argument fails because, under a substantial evidence review, conflicting evidence of father’s level of drug use does not warrant a reversal of the juvenile court’s findings. (See, e.g., *In re I.J.*, *supra*, 56 Cal.4th at p. 773 [an appellate court does not reweigh the evidence, it determines if substantial evidence, “contradicted or uncontradicted” supports the judgment].) Here, the amount of medication father admitted to taking on a daily basis supports a finding of substance abuse and the court was not required to believe his characterization of his drug use as sparing. (See *In re Christopher R.*, *supra*, 225 Cal.App.4th at p. 1217 [where the mother tested positive for methamphetamine and admitted to using the drug in the past, trial court “reasonably disbelieved [the mother’s] portrayal of limited, sporadic drug use”].)

Second, citing to *Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, father argues that DPSS was required to provide the court with an “empirical or verifiable diagnosis” of drug abuse—that the opinion of the social worker was not enough. This

argument fails because *Blanca P.* is inapplicable⁸ and, as explained *ante*, there is no requirement that a finding of substance abuse be supported by a professional diagnosis. (See *Christopher R.*, *supra*, 225 Cal.App.4th at p. 1218 [rejecting the argument that a professional diagnosis is required under section 300, subdivision (b), and stating that there is no one “comprehensive, exclusive definition [of substance abuse] mandated by either the Legislature or the Supreme Court”].)

Father next contends that even if he were abusing prescription narcotics, DPSS presented no evidence of any specific harm to the child that his substance abuse was causing or threatened to cause. This argument ignores the rule applicable to cases involving infants. As stated *ante*, where a child is very young, as the child in this case is, “ ‘the finding of substance abuse is prima facie evidence of the inability of a parent or guardian to provide regular care resulting in a substantial risk of physical harm.’ ” (*Christopher R.*, *supra*, 225 Cal.App.4th at p. 1219, citing *In re Drake M.*, *supra*, 211 Cal.App.4th at p. 767.) Thus, because the child is very young (just over a month old at the time of the hearing), the court’s finding of substance abuse was sufficient to support jurisdiction under section 300, subdivision (b).

⁸ The case of *Blanca P.* has nothing to do with a determination of whether a parent is abusing drugs for purposes of a jurisdictional finding under section 300, subdivision (b). (*Blanca P.*, *supra*, 45 Cal.App.4th at pp. 1748-1751 [holding that “just the opinion of the mother’s social worker and a therapist that she has not ‘internalized’ what she has learned in parenting classes” is not enough to support a finding at an 18-month review that it would be detrimental to return the child to the mother’s custody].)

Moreover, evidence in the record demonstrates that father was unable to provide regular, adequate care for the child at the time of the hearing. Specifically, father is unemployed and provides no financial assistance to mother or the child. He is currently on probation and has a criminal history involving possession of narcotics and controlled substances as well as robbery, assault with a deadly weapon, and battery. At the time of the hearing, he had made no efforts to provide for his child financially (by finding employment or applying for disability benefits) and no efforts to comply with DPSS regarding drug testing and his medical history.

Furthermore, his citation to cases where the court found the parent's conduct did not pose a substantial risk of harm does not affect our conclusion because the cases are inapplicable. (See *In re Rebecca C.* (2014) 228 Cal.App.4th 720, 721 [the child who was the subject of the petition was 13 years old]; *In re David M.* (2005) 134 Cal.App.4th 822, 825 [the court's holding that the jurisdictional finding was not supported by substantial evidence was based on the "great distance between what was alleged in the petition and the evidence adduced at the jurisdiction hearing"]; *In re J.N.* (2010) 181 Cal.App.4th 1010, 1022 [court held that there was insufficient evidence of substance abuse]; *In re James R.* (2009) 176 Cal.App.4th 129, 137 [same].)

Next, father argues that jurisdiction should not stand because the court stated it "[did not] care" about the requirement of substantial risk to the child. This argument mischaracterizes the transcript of the jurisdiction and disposition hearing. The court's remark was in response to father's counsel's explanation of why father had been hostile

toward the social worker after the newborn evaluation—it was not in response to counsel’s legal argument regarding substantial harm. And indeed, as the juvenile court stated, the reason for father’s aggression toward the social worker is irrelevant to the issue of whether he abuses prescription narcotic drugs and whether that abuse puts the child at risk of substantial harm.

We next address father’s contention that the evidence presented about his anxiety was insufficient to support a jurisdictional finding under section 300, subdivision (b). “When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) In other words, “ ‘the juvenile court’s jurisdiction may rest on a single ground.’ ” (*In re Christopher C.* (2010) 182 Cal.App.4th 73, 83.) Because we have concluded that father’s substance abuse supports a finding of jurisdiction, we need not determine whether his anxiety constitutes an additional ground for support.

Finally, father argues that because jurisdiction is “taken over the child” in dependency cases, jurisdiction is not justified “where one parent is able to adequately protect and supervise the child.” Father is incorrect. It is well established that “jurisdiction [over a child] may exist based on the conduct of one parent only.” (*In re*

J.C. (2014) 233 Cal.App.4th 1, 3.) Indeed, father’s argument produces illogical results. For example, if a court could never establish jurisdiction over a child who had one parent who could provide adequate care, section 361, subdivision (c)(1), would be superfluous. (See § 361, subd. (c)(1) [allowing a court to remove a child from the custody of the offending parent and place the child with a nonoffending parent or guardian].)

Moreover, the case father cites in support of his argument, *In re James R.*, *supra*, 176 Cal.App.4th 129, is inapplicable. In *James R.*, the court held that there was insufficient evidence that mother’s mental illness or “possible substance abuse” put her children at risk of substantial harm because the children lived in a “stable” home with both the mother and the father, and the father was capable of caring for the children in the event the mother “drank or attempted to harm herself.” (*Id.* at pp. 136-137.) Because this is not a case where the parents live together and have developed a safe co-parenting method, the holding in *James R.* is irrelevant. Thus, we reject the argument that jurisdiction was improper simply because the court found that the mother was capable of caring for the child.

We conclude that there was substantial evidence to support the juvenile court’s finding of jurisdiction.

2. *The section 361, subdivision (c)(1), disposition order*

Father contends that the court’s order removing the child from his custody under section 362 was not supported by sufficient evidence. We disagree.

“Before the court may order a child physically removed from his or her parent’s custody, it must find, by clear and convincing evidence, the child would be at substantial risk of harm if returned home and there are no reasonable means by which the child can be protected without removal. [Citations.] The jurisdictional findings are prima facie evidence the minor cannot safely remain in the home. [Citations.] The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.” (*In re T.V.* (2013) 217 Cal.App.4th 126, 135-136.) Where, as here, there has been a finding of substance abuse at the jurisdiction stage, this finding is prima facie evidence of the harm required under section 362. (*Christopher R., supra*, 225 Cal.App.4th at p. 1220 [upholding court’s disposition orders under section 362 on the ground that “ ‘the finding of substance abuse [by the father] is prima facie evidence of the inability of a parent or guardian to provide regular care resulting in a substantial risk of harm’ ”].)

We review a court’s dispositional order for substantial evidence. (*In re T.V., supra*, 217 Cal.App.4th at p. 136.)

Here, the same evidence that supported jurisdiction also supported removal of custody from father. In addition to the evidence that father suffered from substance abuse, DPSS presented evidence that father: has a criminal record involving violent crimes and illegal drugs; is unemployed; is currently residing in a hotel with his mother, who also uses prescription narcotics; and has refused to drug test or provide DPSS with his medical records. Given father’s substance abuse problem, unstable employment and

living situation, and refusal to cooperate with DPSS, we conclude there was substantial evidence to order that the child be removed from his custody.

DISPOSITION

The jurisdiction judgment and disposition order appealed from are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

CODRINGTON
J.