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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

C.P.,

Petitioner,

v.

THE SUPERIOR COURT OF
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E065630

(Super.Ct.No. SWJ006345)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Timothy F. Freer,
Judge. Denied.

Brent L. Valdez for Petitioner.

No appearance for Respondent.

Gregory P. Priamos, County Counsel, Julie Koons Jarvi, Deputy County Counsel,
for Real Party in Interest.

Petitioner C.P. (Mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging an order of the juvenile court denying her reunification services and setting a hearing under Welfare and Institutions Code¹ section 366.26 as to her nine-month-old child, S.P.² She contends that there was insufficient evidence to support the jurisdictional findings and denial of reunification services under the bypass provisions. She further asserts the alleged fathers were provided with the required notice and therefore continued jurisdiction was not necessary. We find no error, and deny Mother's writ petition.

I

FACTUAL AND PROCEDURAL BACKGROUND

Mother had a long history with child protective services beginning in 2004 due to her substance abuse and had participated in numerous services. Indeed, she had three prior dependencies with the Riverside County Department of Public Social Services (DPSS) involving her seven older children.³ She was unable to reunify with any of her seven older children, and her parental rights were eventually terminated as to six older children.

¹ All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

² The alleged father of S.P. is not a party to this appeal.

³ In addition, 11 immediate response referrals were received by DPSS against Mother alleging general neglect, physical abuse, severe neglect, sexual abuse, domestic violence, caretaker incapacity.

Specifically, in the first dependency, Mother's two eldest children, then three-year-old Al. and then-two-year-old An., were taken into protective custody after it was determined Mother had left Al. and An. in the care of the maternal grandmother who was under the influence of a controlled substance. It was also determined that there was ongoing domestic violence, the children had severe lice, and Mother had ongoing issues with methamphetamine. Al. and An. were declared dependents of the court in October 2006 and Mother was offered services. Mother received services from August 2006 to December 2009, in which she was ordered to complete parenting education, individual counseling, inpatient drug treatment, a 12-step program, and randomly drug test. Despite assistance from DPSS and receiving services, Mother failed to make substantive progress and her services were terminated. Mother's parental rights as to Al. and An. were terminated in October 2008, and the dependency was terminated in December 2009 as the children were adopted.

The second dependency commenced in June 2010, after one of Mother's four-month-old twin babies, Da., was observed with a golf ball-sized oval-shaped lump on the side of his head. The entire top of Da.'s head was "mushy" and he screamed when it was touched. A medical examination revealed Da. had "multiple skull fractures, chronic subdural hematoma and a healing right femur fracture." Da.'s injuries were so severe that he required a blood transfusion. The injuries had been visible for one week, but Mother failed to secure medical treatment. The twins and their half sibling were taken into protective custody and declared dependents of the court in June and September 2010, respectively. Mother was denied reunification services and her parental rights were

terminated in January 2011. The twins were adopted and their half sibling was placed in his father's care with family law orders.

In April 2011, DPSS received a referral alleging general neglect after Mother gave birth to another set of twins. The second set of twins were taken into protective custody due to concerns about Mother's failure to benefit from prior services as well as their father's substance abuse issues. The twins were declared dependents of the court in June 2011, and Mother was denied reunification services. Mother's parental rights were terminated in October 2011, and the twins were adopted in November 2011.

On August 14, 2015, DPSS received a referral alleging general neglect as to S.P. following his birth. It was reported that Mother tested positive for benzodiazepines and opiates at S.P.'s birth. However, it was verified that Mother had been given medication during delivery that would have caused the positive drug test result. It was later reported that S.P. and Mother tested negative for all substances.

When the social worker interviewed Mother, Mother explained that she had made provisions for S.P.; that she was unemployed; and that she was not in a current relationship.⁴ She stated that she was unemployed due to her disability as she was diagnosed with lupus and fibromyalgia, but that she was not receiving any benefits due to not having any regular medical appointments. She was not compliant with her

⁴ Mother disclosed two men who could be the child's father. One alleged father, J.S.V., was incarcerated on a domestic violence offense and was later removed from the case after paternity testing revealed he was not the child's father. The other alleged father, F.G.L., was notified of the proceedings and DPSS made numerous attempts to contact him; however, he failed to avail himself to DPSS and failed to appear for paternity testing on numerous occasions.

medication even though her medical condition caused her great discomfort. Mother further reported that she began using marijuana at the age of 12, and methamphetamine at the age of 13; that she relapsed in 2012 and admitted to daily use of methamphetamine; and that she last used on April 10, 2014. She stated that she quit “ ‘cold turkey’ ” and did not complete a substance abuse program. Mother was currently living with a friend but disclosed that she would stay with the maternal grandparents during the day. The maternal aunt lived with the maternal grandmother and had an open dependency case. Mother expressed concern about relapsing if S.P. was placed into protective custody.

In regard to her past dependencies, Mother claimed she completed her court-ordered case plans, and appeared to blame others for the termination of her parental rights. She indicated that she was provided with anger management classes, three parenting education programs, a substance abuse program, individual counseling, and play therapy.

On August 17, 2015, DPSS filed a section 300 petition on behalf of S.P. and placed him into protective custody due to concerns over Mother’s prior history with the child’s half sibling, Da., who was four months old when he suffered severe physical abuse. Additionally, Mother had failed to alleviate the issues that brought her before the court in her three prior dependency cases in that she continued to use controlled

substances, failed to secure a stable environment, and failed to benefit from the services provided in her prior cases.⁵

At the August 20, 2015 detention hearing, S.P. was formally removed from parental custody and placed in a suitable foster home. Mother was provided with services pending further proceedings.

Mother had been referred to individual counseling, domestic violence counseling, and parenting classes. Mother entered an outpatient substance abuse program on October 7, 2015, and completed the program on February 29, 2016. She tested negative for all substances on September 14, October 7, and November 11, 2015,⁶ and January 18, 2016, and was to begin an aftercare program on March 7, 2016.⁷ Mother began parenting classes on March 1, 2016, had attended three classes, and was an active participant in classes and counseling. Mother also had been attending supervised visits with S.P., and the visits had been going well.

Mother was employed at a senior care facility as a caregiver. She moved into a new residence with her boyfriend, whom she had known for about one year, on

⁵ The petition was later amended numerous times relating to allegations against the alleged fathers, as well as adding an allegation against Mother relating to Da.'s serious physical harm.

⁶ The letter from the substance abuse program incorrectly indicates the year as 2016.

⁷ The letter from the substance abuse program incorrectly indicates the year as 2015.

February 15, 2016.⁸ When the social worker visited Mother at her new residence, Mother's boyfriend found the social worker's presence in the home "intrusive," refused to disclose any information about himself, and "barely" responded to the social worker's inquiry as to his identity. DPSS was unaware of the boyfriend's background, which was a concern given Mother's prior history of domestic violence and poor choices with previous partners. DPSS was also concerned about Mother's ability to maintain a stable environment for her child; Mother's ability to care for her own needs as evidenced by her failure to be compliant with her medication; and Mother's reliance on other partners to meet her basic needs as this appeared to be a common pattern for Mother. DPSS therefore continued to recommend that the allegations in the amended petition be found true and that services be denied to Mother.

A contested jurisdictional/dispositional hearing was held on March 22, 2016. The juvenile court found true the allegations in the third amended petition and declared S.P. a dependent of the court. The court denied services to Mother pursuant to section 361.5, subdivisions (b)(6), (b)(10), and (b)(11), and set a section 366.26 hearing. Mother filed a notice of intent to file a writ petition on March 23, 2016.

⁸ The boyfriend was not S.P.'s father.

II

DISCUSSION

A. *Jurisdictional Findings*

Mother argues that there was insufficient evidence to support the juvenile court's jurisdictional findings that her extensive drug abuse history (allegation b-1) and child protective services history (allegation b-2) caused S.P. to suffer, or to be at a substantial risk of suffering serious physical harm or illness under section 300, subdivision (b). We disagree.

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, Mother 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.)

The focus of dependency proceedings is to protect minor children. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1491.) To acquire jurisdiction over a child, a juvenile court need only find that the conduct of either parent has triggered any of the 10

subdivisions of section 300, subdivisions (a) through (j). (*Ibid.*) Because of this, “an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence.” (*In re I.A.*, *supra*, at p. 1492.)

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 (*Christopher R.*)). Further, the Legislature has declared in section 300.2 that “[t]he provision of a home environment free from the negative effects of substance abuse is a necessary condition for the safety, protection and physical and emotional well-being of the child. Successful participation in a treatment program for substance abuse may be considered in evaluating the home environment.” In order to make a dependency finding, the juvenile court must find by a preponderance of evidence the following three elements of section 300, subdivision (b) jurisdiction: (1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) serious physical harm or a “substantial risk” of such harm.⁹ (*In re Cole Y.* (2015) 233

⁹ Specifically, section 300, subdivision (b)(1), provides that a child may be adjudged a dependent of the juvenile court when “[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 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.”

Cal.App.4th 1444, 1452.) “ ‘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.’ [Citation.]” (*In re I.J.*, *supra*, 56 Cal.4th at p. 773.) However, the “ ‘serious physical harm’ ” element requires a showing that at the time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future. (*Cole Y.*, at p. 1452.) In making a determination as to whether the child is currently at risk, the court can consider prior conduct of the offending parent. (*Christopher R.*, at p. 1216.)

Christopher R., *supra*, 225 Cal.App.4th 1210 is instructive. In *Christopher R.*, the father acknowledged that he had smoked marijuana on and off since he was 14 or 15 years old and his use had increased to one or two times per day. However, he claimed that he had completely stopped two weeks before his daughter was born. (*Id.* at pp. 1213-1214.) The father was a former gang member who was on probation for a vandalism charge. He argued that the evidence of his past marijuana use and criminal history was insufficient to support a finding that he could not care for his daughter or to justify removal from his custody. (*Id.* at pp. 1214-1215.) The Court of Appeal affirmed the juvenile court’s decision, holding “on this record the juvenile court properly found [the father’s] persistent and illegal use of marijuana demonstrated an inability to provide regular care for [the] infant.” (*Id.* at p. 1220.)

Similarly, here, substantial evidence supports the court’s true finding that Mother had an extensive history of abusing controlled substances; that Mother admitted to using methamphetamine prior to her pregnancy with S.P.; and that such conditions placed S.P. at risk of abuse and neglect. Mother has a long history of drug use, having used

methamphetamine for over 20 years. She began using drugs at the age of 12. She relapsed in 2012 and admitted to daily use. She stopped using methamphetamine “cold turkey” in April 2014, but did not complete a substance abuse program. She then relapsed and had used prior to becoming pregnant with S.P. And, in spite of participating in drug treatment programs in the past, she continued to use methamphetamine. There was evidence that her methamphetamine use affected her family life, having seven other children taken from her custody and an unstable home environment. In addition, S.P. is approximately nine months old. Because S.P. is of “ ‘tender years,’ ” “ ‘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 harm.’ [Citations.]” (*Christopher R., supra*, 225 Cal.App.4th at p. 1219, quoting *In re Drake M.* (2012) 211 Cal.App.4th 754, 767.) Although Mother consistently tested negative, completed an outpatient substance abuse program, and was participating in services during the five months preceding the jurisdictional hearing, the juvenile court could reasonably conclude that a five-month period of abstinence was insufficient to demonstrate that Mother’s substance abuse problems were truly resolved and not just in abeyance, considering her lifelong history of abusing methamphetamine.

Substantial evidence also supports the court’s finding that Mother had an extensive history with DPSS; that she failed to reunify with six of her children; and that such conditions placed S.P. at risk of abuse and neglect. Mother had three prior dependencies involving seven of her children. She lost custody of all seven children, and parental rights were terminated as to six of the children. By the time S.P. was removed,

Mother still had failed to alleviate the issues that brought her before the court in her three prior dependency cases in that she continued to use controlled substances and failed to secure a stable home environment.

Mother's reliance on *In re David M.* (2005) 134 Cal.App.4th 822 for a different result is misplaced. *David M.* is distinguishable that, in *David M.*, the only evidence of past conduct was the mother's neglect of one child, which the Court of Appeal found insufficient to show a present risk of harm to two younger children. In this case, the past conduct evidence is Mother's neglect of *seven* older children. This evidence demonstrates a pattern of conduct not present in *David M.* From this pattern of past conduct, it is reasonable to infer future risk of serious physical harm to S.P.¹⁰

Based on the foregoing, we find substantial evidence to support the jurisdictional findings against Mother.¹¹

B. *Denial of Reunification Services*

Mother also contends that the evidence is insufficient to support the juvenile court's order denying her reunification services under section 361.5, subdivisions (b)(6), (b)(10), and (b)(11). We disagree.

¹⁰ We note that Mother does not challenge the jurisdictional finding that the court had previously sustained an allegation against Mother regarding S.P.'s half sibling, Da., who suffered serious physical harm and had unexplained skull fractures, subdural hematomas, a right femur fracture, and that Mother failed to seek medical assistance for several days resulting in Mother's parental rights being terminated (allegation b-4).

¹¹ Because we find evidentiary support for the challenged jurisdictional findings, we need not address the evidentiary support for any remaining jurisdictional findings. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

“We affirm an order denying reunification services if the order is supported by substantial evidence. [Citation.]” (*In re Harmony B.* (2005) 125 Cal.App.4th 831, 839.)

“On review of the sufficiency of the evidence, we presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order. [Citations.]” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.)

Section 361.5, subdivision (a), generally mandates that reunification services are to be provided whenever a child is removed from the parent’s custody. However, subdivision (b) of section 361.5 sets forth a number of circumstances in which reunification services may be bypassed. “Once it is determined one of the situations outlined in subdivision (b) applies, the general rule favoring reunification is replaced by a legislative assumption that offering services would be an unwise use of governmental resources.” (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 478.) The court relied on subdivisions (b)(6), (b)(10), and (b)(11) of section 361.5 to bypass services here.

Section 361.5, subdivision (b)(6), provides that services need not be provided to a parent when the court finds that “the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.” Once a juvenile court finds section 361.5, subdivision (b)(6), applies, it may not offer family reunification services unless it finds, by clear and convincing evidence, that reunification

is in the best interests of the minor. (§ 361.5, subd. (c).) It is the parent’s burden to “affirmatively show that reunification would be in the best interest” of the child. (*In re Ethan N.* (2004) 122 Cal.App.4th 55, 66.)

Section 361.5, subdivision (i), lists factors the juvenile court may consider in “determining whether reunification services will benefit the child pursuant to paragraph (6) . . . of subdivision (b). . . .” These include: “(1) The specific act or omission comprising the . . . severe physical harm inflicted on the child or . . . half sibling. [¶] (2) The circumstances under which the abuse or harm was inflicted on the child or . . . half sibling. [¶] (3) The severity of the emotional trauma suffered by the child or . . . half sibling. [¶] (4) Any history of abuse of other children by the offending parent. . . . [¶] (5) The likelihood that the child may be safely returned to the care of the offending parent . . . within 12 months with no continuing supervision. [¶] (6) Whether or not the child desires to be reunified with the offending parent. . . .” (§ 361.5, subd. (i).)

In other words, section 361.5, subdivision (b)(6), provides that “parents who . . . inflict severe physical harm on a child also do not necessarily deserve a second chance. In this situation, the right to reunification services, outlined in section 361.5, subdivision (a), does not accrue to such an offending parent unless the court finds it would benefit the dependent child to pursue reunification services with that parent. Inherent in this subdivision appears to be a very real concern for the risk of recidivism by the parent despite reunification efforts.” (*Deborah S. v. Superior Court* (1996) 43 Cal.App.4th 741, 751 (*Deborah S.*)) We note that “an abusive parent’s risk of

recidivism is not necessarily limited to a child who was the parent's previous victim. The parent may very well pose a serious threat to his or her other children. The Legislature appears to have recognized this sad circumstance in its drafting of section 361.5, subdivision (b)(6).” (*Ibid.*)

Here, the court in part adjudicated S.P. a dependent pursuant to section 300, subdivision (b), as a result of the infliction of severe physical harm to S.P.'s half sibling, Da. As set out in detail above, Da. was observed with a golf ball-sized oval-shaped lump on the side of his head; the entire top of his head was “mushy”; and he screamed when it was touched. A medical examination revealed Da. suffered from “multiple skull fractures, chronic subdural hematoma and a healing right femur fracture” when he was four months old. Da.'s injuries were so severe that he required a blood transfusion. In light of Da.'s severe injuries, Mother's failure to provide medical attention constituted the infliction of serious injury by omission. In fact, Mother admitted she was aware of Da.'s swollen head for approximately one week prior to seeking medical attention for his severe injuries. None of the excuses offered by Mother explains her failure to act. Further, the fact Mother eventually sought medical care for Da. reveals she knew he needed treatment. Mother's neglect caused Da. to suffer unreasonably and unnecessarily.

Section 361.5, subdivision (b)(6) “is not limited to the parent or parents whose act directly caused the child's injury.” (*Tyrone W. v. Superior Court* (2007) 151 Cal.App.4th 839, 851.) A finding of the infliction of severe physical harm for purposes of section 361.5, subdivision (b)(6) “may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half sibling of

the child by an act or *omission* of the parent” (§ 361.5, subd. (b)(6), italics added.) For example, where parents were aware of their child’s pain and disfigurement resulting from an accidentally broken leg, their failure to seek medical attention for two months was deemed infliction of severe physical injury by omission. (*Pablo S. v. Superior Court* (2002) 98 Cal.App.4th 292, 301.) Thus, for Mother to suggest this bypass provision did not apply to her because she was not the offending parent, but her ex-husband, is simply not persuasive.

Furthermore, the court properly determined that reunification services were not in the best interest of S.P. Despite Mother’s efforts, there was still a “very real concern for the risk of recidivism.” (*Deborah S., supra*, 43 Cal.App.4th at p. 751.) There was no evidence to show Mother could protect S.P. or that her lifelong drug addiction and the problems that led to the removal and termination of parental rights of S.P.’s seven half siblings had been resolved. There were still concerns as to Mother’s ability to maintain a stable environment for herself and S.P.; Mother’s ability to care for her own needs; and Mother’s reliance on other partners to meet her basic needs. None of the factors the juvenile court should consider listed in section 361.5, subdivision (i), quoted above, favors Mother. Based on the facts of this case, each of the factors must be resolved in favor of denying reunification services.

The court appropriately denied Mother reunification services under section 361.5, subdivision (b)(6). Additionally, because we find that the court properly ordered a bypass of services pursuant to that subdivision, we further find no need to review the

juvenile court's order to bypass services pursuant to section 361.5, subdivisions (b)(10) and (b)(11).

C. *Alleged Fathers*

Finally, Mother asserts that the alleged fathers were provided with the required notice and opportunity so that continued jurisdiction was not necessary. Specifically, she claims the alleged fathers were not entitled to a section 366.26 hearing because J.S.V. was found not to be the biological father and F.G.L. did nothing to elevate his status to presumed or biological father. DPSS responds that Mother does not have standing to assert issues on behalf of the alleged fathers. We agree.

“To have standing, a person must have rights that may suffer actual or threatened injury.” (*In re D.R.* (2010) 185 Cal.App.4th 852, 859; see *In re Jayden M.* (2014) 228 Cal.App.4th 1452, 1459 [“ ‘only a person aggrieved by a decision may appeal’ ”]; *Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1034 [“ ‘[w]hether one has standing in a particular case generally revolves around the question whether that person has rights that may suffer some injury, actual or threatened’ ”].) In dependency proceedings, a parent has no standing to raise issues where the parent's personal interests are not affected. (*In re J.T.* (2011) 195 Cal.App.4th 707, 719; see *In re Jayden M.*, *supra*, at p. 1459 [a parent has no standing to raise issues affecting the child's or a relative's rights, and can only raise issues affecting his or her rights].)

Mother has no legally cognizable interest in whether or not the alleged fathers were entitled to a section 366.26 hearing. Moreover, Mother does not explain what part of the juvenile court's decision injuriously affected the alleged fathers. As to J.S.V., he

was removed from the proceedings once he was found not to be the biological father of S.P. F.G.L. never appeared before the juvenile court. Accordingly, we reject Mother's contentions concerning the alleged fathers.

III

DISPOSITION

The petition for extraordinary writ is denied.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

SLOUGH
J.