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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Glenn)

In re T.W., a Person Coming Under the Juvenile Court Law.	C090761
GLENN COUNTY HEALTH AND HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. L.W., Defendant and Appellant.	(Super. Ct. No. 19JP00928)

L.W., father of the minor (father), appeals the juvenile court's orders asserting dependency jurisdiction and directing him to complete certain substance abuse-related reunification services. (Welf. & Inst. Code, §§ 300, 361, 395.)[1] We will affirm.

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[1] Undesignated statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND

The minor, T.W., then four years old, came to the attention of the Glenn County Health and Human Services Agency (Agency) in April 2019 after receiving reports that he had suffered physical abuse, emotional abuse, and general neglect at the hands of his parents. The Agency's attempts to locate the minor were initially thwarted by father, who prevented the Agency from making contact with him and refused to cooperate with the investigation. The detention report noted there were concerns of drug use by the parents, both of whom refused to drug test. The Agency requested a protective custody warrant.

The Agency reportedly received a previous referral regarding the minor in May 2018, alleging emotional abuse and general neglect and that both parents were using drugs, specifically, "molly, mushrooms, methamphetamines, cocaine and drinking." There were drugs on a laundry basket to which the minor had access, and the parents fought with each other in the presence of the minor. The Agency was unable to contact father at the time, but mother was interviewed and denied the allegations, refused services offered to her, and refused to drug test.

On May 7, 2019, the Agency filed a dependency petition pursuant to section 300, subdivision (a) alleging serious physical harm to the minor resulting from father slamming the minor's arm on a table because father was " 'mad.' " The petition further alleged failure to protect pursuant to section 300, subdivision (b) arising from the inability of the parents to provide regular care for the minor due to the parents' mental illness, developmental disability, or substance abuse. In that regard, the petition alleged as follows: "b-1 On or about April 1, 2019, the mother [] was made aware of the allegations and failed to protect the minor by not cooperating with the [Agency]"; "b-2 On or about April 2, 2019, [the reporting party, S.W.] stated that the mother had come to her house after a domestic violence incident with [father]. [S.W.] called Law Enforcement to report the incident. It was [S.W.'s] understanding that [father] thought

that [mother] was setting him up and the minor would be detained due to the domestic violence incident"; and "b-3 On or about April 1, 2019[,] the mother [] refused to drug test for the [Agency]. On or about May 3, 2019, during the Team Decision Making Meeting, concerns were stated regarding the mother's drug use. Both parents refused to drug test for the [Agency]."

On May 8, 2019, the juvenile court ordered the minor detained and placed in the approved home of a relative. The court also ordered services to both parents without objection, including alcohol and drug testing, substance abuse treatment, parenting education, domestic violence classes, and mental health counseling.

On July 9, 2019, the Agency requested, and the court granted, a temporary restraining order on behalf of the social worker after mother physically assaulted the social worker while attempting to remove the minor from a supervised visit.

The July 2019 jurisdiction report set forth the evidence supporting the subdivision (b-3) allegation in the petition, namely, the notes from the "Team Decision Making" meeting on May 3, 2019, and a statement by the social worker that both parents declined to drug test and "the family stated concerns about [mother's] substance use of methamphetamines, pills and cocaine." The report also noted the parents refused services or to consent to a hair follicle test on the minor to determine whether the child had been exposed to controlled substances.

At the contested jurisdiction hearing, the court heard testimony from several law enforcement officers and social workers. At the request of the Agency, and without objection from either parent, the court amended the petition by striking the subdivision (b-1) allegation and modifying the subdivision (b-2) allegation to state the minor had been exposed to domestic violence. At the conclusion of the two-day hearing, the court sustained the allegations as amended. Regarding the subdivision (b-3) allegation, the court noted concerns about mother's drug use and both parents' refusal to drug test.

The Agency reported the social worker met with father and attempted to complete the social study assessment, but father stated he did not want to complete the assessment with the social worker and would instead complete it at home and return it to the Agency. He failed to do so. The social worker reported both parents continued to refuse to drug test and demonstrated erratic and unpredictable behaviors. Further, the parents refused to work with the Agency, continued to resist engaging in reunification services, and continued to insist the minor was taken from them illegally. They also repeatedly refused to sign a "universal release of information" form for themselves and the minor to allow the Agency to refer them for services. The Agency noted the parents continued to attempt to locate the minor's confidential placement and, in doing so, exposed the minor to more trauma by making the caregivers feel unsafe every time the minor was placed in a new home.

The Agency reported mother and father arrived late for a supervised visit at a visitation room at the Agency on August 14, 2019. When mother arrived at a visit on August 28, 2019, she appeared to be "under the influence of a substance." Father arrived at a September 4, 2019 visit smelling of alcohol. When confronted, father claimed it was his cologne. Following a visit on September 11, 2019, the parents followed the vehicle transporting the minor over 85 miles to his confidential placement. When they arrived at the home, mother took pictures of the house and approached the minor, causing the transport worker to place the minor back in the vehicle and take him to the Children's First Foster Family Agency's office. The parents followed. Once the transport vehicle arrived at the office, the transport worker secured the minor in the building and locked the door. Mother attempted to enter the building and then approached an employee and claimed her child had been kidnapped. A sheriff's deputy was called to the scene. Thereafter, the minor was moved to another confidential placement over 200 miles away and visitation was suspended to ensure the safety of the minor.

Attached to the disposition report was the Agency's initial case plan. Father's service objectives required that he "[s]tay free from illegal drugs and show [his] ability to live free from drug dependency," "[c]omply with all required drug tests," complete a "comprehensive Substance Use Disorders and other Services [] Assessment" to help establish the extent of any substance abuse problems and determine any treatment needs, participate in regular drug testing, and attend community-based support meetings such as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA).

Father testified at the October 17, 2019 contested dispositional hearing. When asked whether he objected to the case plan, father answered, "I object to all of it." He explained, "[I]t was not carried out correctly and that's why I dispute all the way to this point and contest it." While father testified he was willing to do whatever was needed to have the minor returned to him, including staying free from illegal drugs and showing his ability to live free of drug addiction, he also testified the minor should be returned and the dependency proceedings "should stop." Father testified he understood that the case plan included a substance abuse disorder assessment to determine what, if any, substance abuse services he needed to complete, but he objected to that requirement because, he claimed, he had no substance abuse charges in his criminal history. He also objected to the requirement that he drug test and attend AA or NA and denied ever having a drug problem. Father stated he would only participate in services if the minor were immediately returned to him.

The court found father refused to participate in the development of his case plan and made no progress towards alleviating or mitigating the issues resulting in removal of the minor, noting father appeared at one visit smelling of alcohol. The court also found that, "based on the history of the family of using illegal substances previously" and father's "history of drug and alcohol abuse in his past," the case plan was appropriate. The court ordered continued out-of-home placement for the minor, a psychological

evaluation and reunification services for both parents, and no visitation without a showing of progress.

Father filed a timely notice of appeal of the court's October 17, 2019 order.

DISCUSSION

I

Father contends a portion of the juvenile court's jurisdictional order was not supported by substantial evidence; specifically, that the subdivision (b-3) allegation regarding substance abuse has no support in the record.

The Agency asserts that the issue is moot and we need not reach the merits because the court sustained the petition on other unchallenged grounds.

Here, the juvenile court found true allegations of serious physical harm pursuant to section 300, subdivision (a), and failure to protect pursuant to section 300, subdivision (b). The subdivision (b) allegations contained three subparts. Father challenges only one, the subdivision (b-3) allegation, claiming it was not supported by substantial evidence. However, " '[w]hen 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 I.J.* (2013) 56 Cal.4th 766, 773.)

Father argues his claim is nevertheless "justiciable" because the court's true findings will likely have continuing consequences and because he is challenging the dispositional order. An appellate court has discretion to reach the merits of a challenge to any jurisdictional finding "when that finding may be prejudicial to the appellant [citation], such as when that finding 'serves as the basis for dispositional orders that are also challenged on appeal' or when that finding 'could potentially impact the current or

future dependency proceedings' [citation]." (*In re D.M.* (2015) 242 Cal.App.4th 634, 639.) Here, father challenges the court's dispositional order finding his case plan, which included substance abuse elements, was appropriate. Because the court's order requiring father to participate in substance abuse-related programs was related to father's substance abuse issues, the order hinges on the validity of the court's subdivision (b-3) jurisdictional finding against him. We therefore exercise our discretion to reach the merits of father's claim and, as we explain, conclude it lacks merit.

We review the juvenile court's jurisdictional findings for substantial evidence. (*In re Basilio T.* (1992) 4 Cal.App.4th 155, 170.) " 'If there is any substantial evidence to support the [jurisdictional] findings of the juvenile court, a reviewing court must uphold the trial court's findings. All reasonable inferences must be in support of the findings and the record must be viewed in the light most favorable to the juvenile court's order. [Citation.]' [Citation.]" (*Id*. at p. 168.) "[I]ssues of fact and credibility are the province of the trial court." (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [Citations.]" (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) If supported by substantial evidence, the judgment or finding must be upheld, even though substantial evidence may also exist that would support a contrary judgment and the dependency court might have reached a different conclusion had it determined the facts and weighed credibility differently. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

The court sustained the allegation in subdivision (b-3) that "[b]oth parents refused to drug test for the [Agency]." The record is replete with instances in which father refused to drug test for the Agency, beginning when the minor was detained in April 2019, and continuing through the disposition hearing in October 2019, during which father objected to the entire case plan and denied having any history of substance abuse charges.

Father argues the subdivision (b-3) allegation was insufficient because it failed to allege father had a substance abuse problem that warranted the court's jurisdiction, it failed to allege neglectful conduct on father's part, and it failed to allege harm or substantial risk of harm to the minor as a result of father's neglectful conduct. We are not persuaded.

A review of the record reveals otherwise. First, concerns about drug use by both parents arose during a Team Decision Making meeting in May 2019, based on allegations of substance abuse, and both parents refused to drug test. In July 2019, father again refused to drug test or to give consent for a hair follicle test on the minor to determine if the minor had been exposed to drugs. The following month, father reportedly refused to complete a social study assessment, refused to drug test, and exhibited erratic and unpredictable behaviors which caused the Agency concern for the safety of the minor. In August 2019, father showed up to a supervised visit with the minor smelling of alcohol.

In addition to father's behaviors during the dependency proceedings, the Agency received a prior referral about the parents in May 2018 stating that both parents were "on drugs, using molly, mushrooms, methamphetamines, cocaine and drinking" and "[t]here were drugs on the laundry basket, which the [minor] had access to." Father's criminal history reflects various offenses for which he was convicted which involved drugs and/or alcohol, including driving under the influence and refusing to test in July 2002, driving under the influence in August 2007, selling alcohol to a minor in October 2007, and being under the influence of a substance in January 2014.

Based on these facts, and in light of the whole record, it was reasonable for the juvenile court to infer father had substance abuse issues, and to further infer that his recent erratic and unpredictable behaviors, his appearance at a supervised visit smelling of alcohol, and his refusal to provide information for or participate in the development of his case plan, to test, or to allow for follicle testing of the minor's hair, provided grounds

to believe he might be using alcohol or drugs or would use them in the future, placing the minor in substantial risk of harm.

There was substantial evidence to support the court's jurisdictional findings pursuant to the subdivision (b-3) allegations.

II

Father also contends the juvenile court erred in ordering him to complete substance abuse-related reunification services as part of his case plan. Having concluded the jurisdictional finding is supported by substantial evidence, we further conclude the court acted within its discretion by ordering substance abuse-related services.

"At the dispositional hearing, the juvenile court must order child welfare services for the minor and the minor's parents to facilitate reunification of the family. (§ 361.5, subd. (a); Cal. Rules of Court, [former] rule 1456(f)(1).)" (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.)

"The juvenile court may make 'all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child.' [Citations.] The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition. [Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order. [Citation.]" (*In re Briana V.* (2015) 236 Cal.App.4th 297, 311.)

" 'The juvenile court has broad discretion to determine what would best serve and protect the child's interests and to fashion a dispositional order accordingly. On appeal, this determination cannot be reversed absent a clear abuse of discretion. [Citation.]' [Citation.]" (*In re Briana V., supra*, 236 Cal.App.4th at p. 311.) "In reviewing an order for abuse of discretion, we ' "must consider all the evidence, draw all reasonable inferences, and resolve all evidentiary conflicts, in a light most favorable to the trial court's ruling. [Citation.] The precise test is whether any rational trier of fact could

conclude that the trial court order advanced the best interests of the child." ' [Citation.]" (*In re Natalie A.* (2015) 243 Cal.App.4th 178, 186-187.)

As we previously concluded, the evidence considered as a whole showed father had a history of substance abuse and was exhibiting behaviors that suggested possible continued abuse. Because father refused to provide information for, or participate in, the development of his case plan (including a drug assessment), refused to test, and refused to allow for a test of the minor's hair follicle, neither the Agency nor the court could determine the extent, if any, to which substance abuse played a part in father's failure to provide a safe, suitable home for the minor. Substance abuse services, particularly those aimed at assessing whether father indeed had a substance abuse problem and, if so, what was necessary to reunify, were well suited to advance the minor's best interests.

Under these circumstances, we cannot say the court's order requiring father to participate in substance abuse-related services was beyond the bounds of reason.

DISPOSITION

The juvenile court's jurisdictional and dispositional orders are affirmed.

KRAUSE, J.

We concur:

HULL, Acting P. J.

DUARTE, J.