

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B285517

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK76647C)

Petitioner and Respondent,

v.

C.B.,

Defendant and Appellant.

C.A.,

Respondent.

APPEAL from orders of the Superior Court of Los Angeles County. Philip Soto, Judge. Dismissed.

Brian Bitker, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Petitioner and Respondent.

Daniel G. Rooney, under appointment by the Court of Appeal, for Respondent C.A.

Father C.B., Sr. has separately appealed temporary and permanent restraining orders in favor of mother C.A. and son C.B., Jr., pursuant to Welfare and Institutions Code section 213.5.¹ Because the restraining orders are no longer in effect, we dismiss the appeals as moot.

BACKGROUND

C.B., Jr. was the subject of a juvenile dependency petition filed on June 13, 2017, which followed father's arrest for a probation violation for possessing a knife and pepper spray in the residence where he, mother, and C.B., Jr. lived. Two days later on June 15, 2017, mother filed a request for a restraining order against father, believing father would return to the home and use or possess drugs in violation of his probation. At a hearing on the same day, the juvenile court granted a temporary restraining order over father's objection. It would remain in effect until the order to show cause (OSC) hearing set for July 11, 2017.

On June 28, 2017, father filed a notice of appeal from the temporary restraining order.

The court held the OSC hearing on July 11, 2017. Father opposed the issuance of a permanent restraining order, citing the lack of any physical violence. He was willing to live somewhere other than the family home. Mother claimed she was fearful

¹ All undesignated statutory citations are to the Welfare and Institutions Code.

father would return to the home. The court granted the restraining order for three years, finding that without it, mother would not have any legal recourse if father did return to the home. The court wanted to “give her every way to ensure protection of the child.”

On July 13, 2017, father filed a second notice of appeal from the permanent restraining order.

After father filed his notices of appeal, the Department of Children and Family Services (DCFS) filed a jurisdiction/disposition report on July 17, 2017, alleging mother’s history of drug use and father’s history of drug use and drug convictions endangered C.B., Jr.’s physical health and safety. A jurisdiction/disposition hearing was set for July 24, 2017. On the day of the hearing, DCFS updated the court with the following last minute information related to the restraining order: “Father stated he and the mother have resided together for approximately two years. He denied any history of domestic violence, as did the mother. Both parents appeared confused as to why a restraining order was granted.” Perceiving no need to further intervene with the family, DCFS recommended the dependency petition be dismissed without prejudice.

At the July 24, 2017 jurisdiction/disposition hearing, the court dismissed the petition without prejudice. Mother’s counsel requested that the restraining order “be lifted and absolved at this point in time.” Counsel explained: “In view of the last minute [information] by the Department and their interview with the father, the father, my understanding will not get out [of jail] until August. The mother has made it clear to me that while the long-term plan would be to get back together with the father, the short-term plan is for him to complete the programs that he

started and to show that he understands the dangers that that activity presents to the children, and father seems to understand that. So we're asking for the restraining order to be lifted."

When specifically asked, father had no objection.

The court granted mother's request to lift the restraining order, deeming it "absolved." The minute order for the hearing similarly reflects that mother's request to lift the restraining order was granted and the order was "ABSOLVED."

DISCUSSION

Generally we will dismiss an appeal that has been rendered moot by subsequent events that prevent us from granting effective relief to the appellant. (*In re Anna S.* (2010) 180 Cal.App.4th 1489, 1498.) " 'However, a reviewing court may exercise its inherent discretion to resolve an issue rendered moot by subsequent events if the question to be decided is of continuing public importance and is a question capable of repetition, yet evading review. [Citations.] We decide on a case-by-case basis whether subsequent events in a juvenile dependency matter make a case moot and whether our decision would affect the outcome in a subsequent proceeding. [Citations.]' " (*Ibid.*)

Father's first appeal of the temporary restraining order was rendered moot when the court granted the permanent restraining order. (*O'Kane v. Irvine* (1996) 47 Cal.App.4th 207, 210, fn. 4.) Father does not contend otherwise, so we dismiss his appeal of that order.

Father's second appeal of the permanent restraining order was also rendered moot when the trial court lifted and "absolved" it at mother's request less than two weeks after it was issued. Because the restraining order is no longer in place, we could

grant father no effective relief even if we agreed with his argument that the juvenile court abused its discretion in issuing it.

Father contends his appeal is not moot because, upon application of a new restraining order, a court would be required search for and consider any prior restraining order between the parties. He cites *In re Cassandra B.* (2004) 125 Cal.App.4th 199 (*Cassandra B.*), but we find it distinguishable. In *Cassandra B.*, the juvenile court sustained the dependency petition and issued a restraining order against the mother. The mother appealed, and while her appeal was pending, the restraining order expired by its own terms. (*Id.* at p. 207.) The court held that the mother’s appeal was not rendered moot by the expiration of the restraining order because a juvenile court must search for and consider any prior restraining order when evaluating a request for a restraining order pursuant to section 213.5. (§ 213.5, subd. (j)(1)—(2); see *Cassandra B.*, *supra*, at p. 209.) In the view of the court, the consequence of these provisions “leaves unresolved a material question affecting the parties, and mother’s challenge to the issuance of the restraining order is therefore not moot.” (*Cassandra B.*, *supra*, at p. 210, fn. omitted.)

Unlike in *Cassandra B.*, the restraining order in this case did not expire by its own terms while the appeal was pending, which arguably would have left it untouched for a later court to consider in a future request for a restraining order. Instead, the juvenile court lifted and “absolved” the restraining order less than two weeks after it was issued. It did so at *mother’s* request following dismissal of the dependency petition. DCFS even noted that “[b]oth parents appeared confused as to why a restraining order was granted.” On this record, the order in this case—in

existence less than two weeks and “absolved” at the urging of mother, a protected party—should have little (if any) impact on a court considering a hypothetical future request for a restraining order pursuant to section 213.5. Father cites no other potential future effects. Such limited, undefined consequences do not convince us to exercise our discretion to review father’s appeal. Father’s appeal of the restraining order is thus moot.

DISPOSITION

Father’s appeals are dismissed.

BIGELOW, P.J.

We concur:

RUBIN, J.

GOODMAN, J.*

* Retired Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.