

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re ANDREW V., JR., et al., Persons
Coming Under the Juvenile Court Law.

B240137

(Los Angeles County
Super. Ct. No. CK91350)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ANDREW V.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Timothy R. Saito, Judge. Dismissed.

Frank H. Free, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Kimberly A. Roura, Associate County Counsel, for Plaintiff and Respondent.

In this juvenile dependency action (Welf. & Inst. Code, § 300), appellant Andrew V., father of dependent children Andrew V., Jr., and S.V., appeals from a March 2, 2012 jurisdiction and disposition order. For the reasons that follow, we conclude that the appeal must be dismissed for lack of jurisdiction because the notice of appeal fails to encompass the temporary restraining order (TRO) that is the subject of the appeal.

On March 6, 2012, appellant filed a notice of appeal from the March 2, 2012 jurisdiction and disposition order. However, appellant's opening brief on appeal does not challenge the March 2, 2012 order. The opening brief challenges the January 9 and 24, 2012 orders granting and reissuing the TRO, which expired on March 2, 2012.

It is undisputed that the January 9 and 24, 2012 orders granting and reissuing the TRO were directly and separately appealable. (Code Civ. Proc., § 904.1, subd. (a)(6) [direct appeal may be taken from an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction].) However, the notice of appeal mentioned only the March 2, 2012 order in which the juvenile court granted appellant monitored visitation and issued a "stay away" order, but issued no further restraining order.

Respondent Los Angeles County Department of Children and Family Services contends that the purported appeal from the January 9 and 24, 2012 orders granting and reissuing the TRO must be dismissed for lack of jurisdiction because the notice of appeal failed to mention the TRO, the January 9 and 24, 2012 orders, or any orders other than the March 2, 2012 order. We agree.

We find that the circumstances of this case are similar to those in *Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212 (*Sole Energy*), in which the plaintiffs sought appellate review of a new trial order that they had failed to mention in their notice of appeal. In dismissing the plaintiffs' purported appeal from the new trial order, the appellate court stated: "In the notice of appeal filed February 19, 2003, Plaintiffs stated they were appealing 'from the Judgment entered on January 30, 2003 in Department C-13 of the above-entitled court.' The notice of appeal does not mention the order granting Petrominerals a new trial, entered on January 17, 2003, or the notice of entry of the new

trial order, served on the same day. The notice of appeal neither specifies the new trial order nor makes it “reasonably clear” Plaintiffs were trying to appeal from it. (*D’Avola v. Anderson* (1996) 47 Cal.App.4th 358, 361.) Although notices of appeal must be liberally construed (Cal. Rules of Court, rule 1(a)(2)), we cannot liberally construe the February 19, 2003 notice of appeal to include the new trial order, which was directly and independently appealable.” (*Sole Energy, supra*, at p. 239.) The court explained that a “notice of appeal is sufficient ‘if it identifies the particular judgment or order being appealed,’” but where ““several judgments and/or orders occurring close in time are separately appealable (e.g., judgment and order awarding attorney fees), each appealable judgment and order must be expressly specified—in either a single notice of appeal or multiple notices of appeal—in order to be reviewable on appeal.”” (*DeZerega v. Meggs* (2000) 83 Cal.App.4th 28, 43, quoting Eisenberg et al., Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 1998) ¶ 3:119.1, p. 3-34 (rev. # 1, 1997), italics omitted.)” (*Sole Energy, supra*, at p. 239.)

According to rule 8.405 of the California Rules of Court,¹ which applies to appeals in juvenile dependency cases (rule 8.416(a)(2)), “[t]he notice of appeal must be liberally construed, and is sufficient if it identifies the particular judgment or order being appealed.” (Rule 8.405(a)(3).) In this case, appellant seeks appellate review of orders granting and reissuing a TRO, but those orders were not mentioned in the notice of appeal. The notice of appeal referred only to the March 2, 2012 order, made no reference to a TRO, and said nothing to reasonably suggest that appellant was trying to appeal from the January 9 and 24, 2012 orders granting and reissuing the TRO. Although notices of appeal must be liberally construed (rule 8.405), liberal construction does not allow us to read into the notice of appeal the orders granting and reissuing the TRO, which were directly and separately appealable.

¹ All further rule references are to the California Rules of Court.

DISPOSITION

The appeal is dismissed.

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SUZUKAWA, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.