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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

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

B286569

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Los Angeles County  
Super. Ct. No. CK94024D

Plaintiff and Respondent,

v.

B.R.,

Objector and Appellant.

APPEAL from an order of the Superior Court of  
Los Angeles County, Robert S. Wada, Juvenile Court Referee.  
Dismissed.

Cristina Gabrielidis, under appointment by the Court of  
Appeal, for Objector and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, Stephen D. Watson, Deputy County  
Counsel, for Plaintiff and Respondent.

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Minor B.R. appeals from a November 27, 2017 order of the juvenile court removing B.R. from the care of her maternal grandmother. As B.R. has been returned to her mother's custody, we dismiss B.R.'s appeal as moot.

On July 31, 2015, when B.R. was seven months old, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition alleging under Welfare and Institutions Code section 300, subdivision (b)(1)<sup>1</sup> that B.R.'s mother's history of substance abuse, and her current use of methamphetamine, made mother incapable of providing regular care for B.R. B.R.'s father failed to protect B.R., and father and mother created a dangerous home environment in which drug paraphernalia was within B.R.'s access. At the July 31, 2015 detention hearing, the court ordered B.R. detained with her maternal grandmother (MGM). A first amended petition made the same allegations, and added that DCFS may seek an order that no reunification services be provided. On October 22, 2015, with MGM present, the court sustained the allegations, declared B.R. a dependent, ordered no reunification services for either parent, and scheduled a section 366.26 hearing. The court ordered adoption as the permanent plan. Although MGM had adopted B.R.'s siblings in 2014, an updated adoption evaluation was necessary.

After continuances to complete the adoption home study, on April 13, 2017, the juvenile court ordered adoption by MGM as the permanent placement plan. On June 8, 2017, DCFS filed a last minute information for the court, reporting that MGM did not disclose her criminal conviction for possession of a controlled substance in November 2013, and her conviction for making a

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

false worker's compensation claim in September 2015 (after B.R.'s placement with MGM on July 31, 2015).

Mother filed a section 388 petition on August 21, 2017, asking the court to change the order denying reunification services. DCFS filed a supplemental petition under section 387 on August 24, 2017, alleging placement with MGM was no longer appropriate given MGM's undisclosed criminal history. At a hearing on August 24, 2017, counsel for B.R., mother, and father all requested the court not remove B.R. from MGM's custody pending a full hearing. The court denied DCFS's request for removal until disposition of mother's section 388 petition and the section 387 supplemental petition.

On October 12, 2017, the juvenile court granted mother's section 388 petition and ordered reunification services for mother, including monitored and unmonitored visitation, and visitation for both parents together with MGM as monitor. On November 27, 2017, with MGM present, the court sustained the section 387 petition, found the placement with MGM had not been effective to protect B.R., terminated B.R.'s placement with MGM, and ordered B.R. suitably placed (with investigation of relatives). B.R. filed a notice of appeal from the termination of the placement with MGM. We denied B.R.'s petition for writ of supersedeas on December 28, 2017.

During the briefing of this appeal, we granted DCFS's request for judicial notice of a subsequent order dated April 12, 2018, in which the juvenile court terminated its suitable placement order, and ordered B.R.'s return to the custody of mother and father (while retaining jurisdiction).

DCFS filed a motion to dismiss, arguing B.R.'s appeal is now moot, and we agree. "An appeal becomes moot when,

through no fault of the respondent, the occurrence of an event renders it impossible for the appellate court to grant the appellant effective relief.” (*In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1054.) B.R. has been placed with her parents, so the requested relief—a new section 387 hearing to determine whether B.R. should be removed from placement with MGM—would not be effective. Nor would an appellate decision “affect the outcome of the case in a subsequent proceeding.” (*Id.* at p. 1055.) Under section 361.4, subdivision (b)(2), when the juvenile court removes a child from its parents, “the child may not be placed in the home of a relative or other person who is not a licensed or certified foster parent and who has a criminal record unless a criminal records exemption has been granted by the appropriate [county] official. . . .” (*In re Summer H.* (2006) 139 Cal.App.4th 1315, 1320-1321.) B.R. argues that removing B.R. from MGM’s custody was not mandatory, as the statute applies only to initial placement, not to removal from placement: “[S]ection 361.4 does not apply when the issue is whether a child is to be removed from an existing placement if a criminal records check reveals a conviction occurring after the placement.” (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2003) 112 Cal.App.4th 509, 519.) B.R. argues her appeal is not moot because “there is no guarantee that [B.R.] will remain with her parents and not require further placement with relatives,” and the court may again need to assess placement with MGM.

But in any future proceeding regarding placement of B.R., the statute will apply. First, MGM’s undisclosed 2013 conviction occurred before B.R.’s placement with MGM in 2015, and so is not a “conviction occurring after the placement.” Second, if B.R.

is again removed from her parents and requires placement with relatives, section 361.4, subdivision (b)(2) will apply to that initial relative placement. An appellate decision regarding B.R.'s *removal* from relative placement with MGM would have no effect on the outcome.

**DISPOSITION**

The appeal is dismissed.

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EGERTON, J.

We concur:

LAVIN, Acting P. J.

DHANIDINA, J.