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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re T.N. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.N.,

Defendant and Appellant.

B286619

(Los Angeles County
Super. Ct. No. DK08252)

APPEAL from orders of the Superior Court of Los Angeles
County, Daniel Zeke Zeidler, Judge. Dismissed.

Melissa A. Chaitin, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant
County Counsel, and Brian Mahler, Deputy County Counsel, for
Plaintiff and Respondent.

* * * * *

J.N. (mother) appeals from the jurisdictional findings and orders entered on September 6, 2017. Mother makes no arguments contesting the dispositional orders. Mother contends the juvenile court erred in declaring her five children to be dependents based on a finding that she was an offending parent. Mother does not challenge dependency jurisdiction based on the court's finding that C.M., the father of her second child, committed domestic violence against his then-girlfriend in the presence of mother's two oldest children, including firing a gun at the tires of her car while the children were in the car. She also does not challenge that jurisdiction as to her third and fifth children was properly based on their fathers' submission to jurisdiction.

During the pendency of this appeal, the juvenile court terminated dependency jurisdiction over all five children. Accordingly, we dismiss this appeal as moot.

BACKGROUND

Mother has five children who, at the time of the jurisdiction and disposition hearing, ranged in age from one year to nine years old. The children have four different fathers. The oldest child's paternity is unknown. The seven-year-old child's father is C.M. Two fathers of the younger children were involved in this dependency case but found by the juvenile court to be nonoffending.

Before the present dependency case, mother had several prior referrals, all of which were deemed unfounded or inconclusive.

1. Dangerous Conduct by Father C.M.

Pursuant to a family court order, mother had full custody of the seven-year-old, and C.M. had weekly monitored visitation with his daughter. Either the paternal or maternal grandmother, or C.M.'s girlfriend supervised visitation. C.M.'s visits were monitored because he had kidnapped his daughter before. C.M. had failed to return his daughter to mother after a scheduled visit. Mother did

not know the child's whereabouts for several months. Nevertheless, after C.M. finally returned the child to mother, she continued to permit C.M. to have visitation with the child.

On April 13, 2017, C.M.'s girlfriend picked up the seven-year-old for her visit with C.M. Her nearly nine-year-old sister accompanied her. Mother later told the Los Angeles County Department of Children and Family Services (Department) social worker that her oldest daughter, who is unrelated to C.M., goes with her younger sister on visits with C.M. "to ensure [C.M.] brings [his daughter] back." Despite sending her two oldest daughters to visit C.M., who had previously kidnapped the younger girl, mother denied knowing the address where this visit was to occur.

While the children remained in her car, C.M.'s girlfriend entered C.M.'s house where she discovered C.M. asleep on the couch with another woman. C.M. and the girlfriend argued; the quarrel began inside and spilled onto the front yard of the house. The children watched as C.M. pulled the girlfriend's wig off her head, threw a cell phone at her, and pushed her. C.M. then fired a gun at the sidewalk once and at the tires of the girlfriend's car twice, while the children were in the car. The children ducked inside the car, crying and frightened.

2. Child Abuse Investigation

Shortly after the shooting, the Department received a referral about the incident and a separate referral alleging that mother beat the oldest child, had insufficient food in the house, and smoked drugs in front of the children.

The Department social worker went unannounced to mother's home to investigate on two occasions. Both times, the children were free of any marks, bruises, and visible injuries. The children denied physical abuse by mother and denied seeing mother use drugs. All of the verbal children reported they were unafraid of mother and

felt safe in their home. The children denied seeing mother act in a way that was strange or troubling.

Although mother denied *smoking* marijuana, she told the Department she has a medical marijuana card for insomnia, migraines, and anxiety, and consumed medical marijuana edibles. The edibles were kept in the refrigerator of the maternal grandmother's home with the grandmother's insulin medication. Mother said the edibles were out of the children's reach.¹ Mother said she stopped using marijuana when the Department began its investigation "as she doesn't want any additional issues with the Department." However, the Department reported that on April 14, 2017 -- the day after the shooting incident -- mother tested positive for marijuana "at 2017 NG/ML and the confirm cut off is 15 NG/ML."²

Prior to the Department's involvement, mother was receiving counseling for postpartum depression. Her two oldest children were also enrolled in mental health services.

3. Detention Petition and Detention Hearing

On April 19, 2017, the Department filed a petition on behalf of all five children. The petition alleged that C.M. had a history of engaging in violent physical alterations with his girlfriend in the

¹ The maternal grandmother had a history of allowing C.M. to visit his daughter without mother's knowledge. In a last-minute information report to the court, dated September 6, 2017, the Department surmised that the maternal grandmother could have been facilitating the visitation out of fear or because she was benefiting from the cordial relationship with C.M. The Department noted that C.M. is a gang member who sells marijuana.

² (NG/ML means nanograms per milliliter.
<http://www.endmemo.com/sconvert/ng_mlmg_dl.php> [as of Aug. 1, 2018].)

presence of the two eldest children, that C.M. shot at the girlfriend's vehicle when the children were inside it, and that this conduct placed all five children at risk of serious physical harm. The petition also alleged that mother had a history of substance abuse and her current marijuana use endangered the children.

On April 19 and 20, the court held a detention hearing. The court released all five children to mother. The court also issued a temporary emergency restraining order against C.M., protecting mother and all five children from contact with C.M. The court later issued a permanent restraining order, protecting mother and the children from C.M., through August 2020.

4. Jurisdiction and Disposition

On June 26, 2017, the Department filed an amended petition which added allegations against the fathers of the third and fifth children. On September 6, 2017, the court conducted the combined jurisdiction and disposition hearing. The court admitted the Department's reports as evidence. The parties stipulated that mother would testify to all of the statements attributed to her in those reports, except a statement that the maternal grandmother prepared the cannabis-infused edibles.

At the request of the fathers' respective counsel, the court dismissed the counts against the two fathers of the younger children, concluding the Department had "not shown by a preponderance of the evidence a nexus between those counts and risk to the respective children." These fathers later submitted to the jurisdiction of the court to obtain the benefits of family maintenance services.

Mother's counsel argued for dismissal of the count alleging her marijuana use for insufficient evidence. The children's counsel submitted the matter to the court and did not take a position on mother's motion to dismiss. The Department stated it had concerns

about mother's referral history with the Department, even though the referrals had been deemed unfounded. The Department noted mother admitted using marijuana edibles, which lent credibility to the previous referrals from 2010 and 2012 reporting mother was high or under the influence in the presence of the children. The Department argued mother's marijuana use may be impairing her ability to properly supervise the children.

The court sustained the allegations of the amended petition as to C.M. and mother. The sustained allegations as to mother found she "has a history of substance abuse and is a current user of marijuana which renders the mother incapable of providing the children with regular care and supervision. On 4/14/17 the mother had a positive toxicology screen for marijuana. The mother's substance abuse endangers the children's physical health and safety, placing the children at risk of suffering serious physical harm, damage and danger."

The court ordered the children placed with mother. Two of the younger children were jointly placed with their nonoffending fathers. The court ordered family maintenance services for mother and the two nonoffending fathers. The court ordered mother to drug test and to participate in individual counseling to address child safety and protection, domestic violence, coparenting, anxiety, coping skills, decisionmaking, and case issues. Mother was ordered to enforce the terms of the restraining order against C.M. C.M. received no reunification services. The court also ordered mother's contact with the maternal grandmother to be monitored.

DISCUSSION

Mother's sole argument on appeal is that no substantial evidence supports the finding that her habitual use of marijuana placed her five children at substantial risk of serious physical harm. Mother acknowledges that we may affirm the finding of dependency

jurisdiction based on C.M.'s conduct without reaching the issue of whether mother is an offending parent. As a general rule, "a single jurisdictional finding supported by substantial evidence is sufficient to support jurisdiction and render moot a challenge to the other findings." (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452.)

Moreover, a "jurisdictional finding involving one parent is 'good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent.'" [Citation.]" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492; see also *In re Briana V.* (2015) 236 Cal.App.4th 297, 308.)

Mother makes no challenge to the jurisdictional findings against C.M. In addition, mother makes no challenge to the dispositional orders, or to the assertion of jurisdiction based on the other fathers' submission to the court's jurisdiction. It is well established that we would be warranted in declining to review mother's claims on this basis. "Even if we found no adequate evidentiary support for the juvenile court's findings with respect to [the appealing parent's] conduct, we would not reverse the court's jurisdictional and dispositional orders nor vacate the court's assertion of personal jurisdiction over his [or her] parental rights." (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1492.)

In this case, the children remained placed with mother throughout the entire dependency proceedings, and the Department never proposed to remove any of the children from mother's care and custody. Even though we do not have to address whether the jurisdictional findings against mother were legally sufficient, we recognize that the case against mother was weak.

On our own motion, we took judicial notice of the court's minute orders issued in proceedings following the jurisdiction and disposition hearing. (Evid. Code, §§ 452, 459.) By orders issued on July 13 and 17, 2018, the court found mother had complied with the

case plan, the conditions which justified the initial assumption of dependency jurisdiction no longer existed and were not likely to exist if supervision was withdrawn, and terminated jurisdiction as to all five children.

We sent a letter to the parties under Government Code section 68081 asking whether the appeal is moot. The Department agrees that this appeal is moot. Mother urges us to reach the merits of her appeal, arguing that she could be prejudiced by the jurisdictional findings in the future. Mother's concerns that the jurisdictional findings in this case may cause her harm in the future are purely speculative.

Because jurisdiction has been terminated, mother's appellate challenge is necessarily moot. (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404 [“ ‘[A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.’ ”]; see also *In re Michelle M.* (1992) 8 Cal.App.4th 326, 329-330 [termination of dependency jurisdiction by the juvenile court moots an appeal from an interim ruling by the juvenile court].)

DISPOSITION

The appeal is dismissed as moot.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.