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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B283399
(Los Angeles County
Super. Ct. No. DK16441)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

C.B.,

Defendant and Appellant;

A.I.,

Defendant and Respondent.

APPEALS from orders of the Superior Court of Los Angeles County, Robert S. Draper, Judge. Affirmed.

Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and Appellant, C.B.

Roni Keller, under appointment by the Court of Appeal, for Defendant and Respondent, A.I.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephen D. Watson, Deputy County Counsel, for Plaintiff and Respondent Department of Children and Family Services.

C.B. (Father), appeals from the dependency court's jurisdictional and dispositional orders relating to Father's 12-year-old son, G.B. He also challenges the permanent restraining order that enjoined him from certain conduct with respect to G.B., G.B.'s mother (Mother), and Mother's husband, and challenges the exit order that granted Mother sole custody of G.B. Specifically, Father contends that insufficient evidence supported the jurisdictional findings against him; that the court denied him due process in conducting the adjudication proceedings and issuing a restraining order; that the court erred in dismissing the allegation that Mother emotionally abused G.B., and in failing to require the Department of Children and Family Services (DCFS) to facilitate his visitation with G.B. DCFS filed a cross-appeal complaining that the court referred to the wrong statute when it terminated jurisdiction. As we explain, the parties' contentions lack merit or are moot. Accordingly, we affirm.

FACTUAL AND PROCEDURAL HISTORY

The parents have been involved in an on-going custody dispute over G.B. for several years. In April 2016, DCFS filed a Welfare and Institution Code section 300, subdivision (b)¹ petition alleging that Father endangered G.B. by not placing him in an automobile safety restraint, resulting in G.B.'s suffering

¹ All statutory references are to the Welfare and Institutions Code unless otherwise indicated.

a concussion in an accident, and that Father failed to obtain timely medical treatment for the concussion. The petition further alleged, under section 300, subdivision (c), that Father and Mother emotionally abused G.B. by “enmeshing” the child in their conflicts; that Father engaged in emotional abuse by attempting to have G.B. accuse Mother and her husband of child abuse, and by Father calling the minor derogatory and demeaning names.

When interviewed about the car accident, Father stated that while backing up his car another car pulled out in front of him and he applied the brakes, causing G.B. to hit his head on the dashboard. Father admitted that G.B. was not wearing a seat belt at the time and that he did not take G.B. to a doctor because G.B. did not appear to be injured.

Mother told the social workers that after the accident G.B. suffered from blurred vision and vomiting. She took him to a doctor who diagnosed that G.B. had sustained a concussion. G.B. reported to the social workers that he hit his head on the windshield when Father applied the brakes to avoid an accident. G.B. also stated that Father did not take him to a doctor even though he told Father that he felt dizzy. G.B. told the social worker that neither he nor Father ever wore seat belts. G.B. added, “I am afraid of my father,”² and he told the social worker that Father attempted

² G.B. elaborated: “ ‘My dad has a bunch of names for me.’ . . . ‘You whining mother fucker, you’re a liar, you’re a piece of shit liar. You’re a pussy. He has pulled me in the corner and called me a bunch of shit names.’ . . . ‘I feel bad. I feel guilty of doing something when I didn’t do anything. My dad called me a liar, but I’m not. I’m telling the truth.’ [¶] . . . [¶] . . . ‘My dad makes me say things about my mom. I have to lie to have fun and keep him from interrogating me.’ . . . ‘I stress. I throw up and have a bunch of episodes.’ [¶] . . . ‘I want to be with my mom.’ . . . ‘I only want to spend time with my dad if he doesn’t interrogate me.’ ”

to coach him before he spoke to DCFS and his therapist. G.B. reported that he had been nervous and afraid during the past few visits with Father.

At the detention hearing, the court ordered the minor detained from Father and released him to Mother. The court granted Father three monitored visits per week and monitored telephone calls with G.B. The court also issued a mutual “stay away” order requiring the parents to stay 100 yards away from each other except while in court. (Capitalization omitted.)

During a subsequent interview with DCFS, Father denied coaching G.B. but conceded that the child was “enmeshed” in the custody dispute. After a visit between Father and G.B., the child told a social worker that Father and he had gotten into an argument, and he requested that visits be reduced to once a week. By mid July, G.B. refused to visit Father at all.

On July 11, 2016, Mother filed a request for a temporary restraining order (TRO) for additional relief against Father. Mother alleged Father drove by her house multiple times and distributed cards and fliers throughout her neighborhood that implied Mother and her husband were child molesters and directed readers to a website containing similar information. The court granted the TRO that prohibited Father from direct or indirect contact with Mother and the minor. Thereafter, at the adjudication hearing on August 16, 2016, the court issued a three-year restraining order against Father and directed Father to take down any disparaging website that he had created.³

³ Father filed a timely notice of appeal of the August 16, 2016 restraining order, and on August 4, 2017 this court reversed (case No. B279792), concluding that Father was not provided with adequate notice of the conduct to be restrained.

When the adjudication proceedings resumed in December 2016, both Mother and Father presented evidence concerning the car accident. During his testimony, Father acknowledged the accident, that G.B. was not wearing a seat belt at the time, and that he hit his head. Father denied calling G.B. derogatory names or asking the child to lie. At the conclusion of Father's testimony, his counsel asked the court to order DCFS to transport G.B. for visits with Father. Counsel for DCFS stated, "[G.B.] does not want to visit, your Honor," and counsel for G.B. stated, "[G.B.] objects to any visits with his father."

DCFS also presented evidence regarding Father's public dissemination of information about G.B., Mother, and her husband. Some of the materials disclosed that G.B. was a "special needs" child who had been diagnosed with autism. Mother reported that "[b]ecause of the cards in the neighborhood [G.B.] doesn't want to go back to school, because he doesn't want his friends to know that he has special needs or think that his step-father is a pedophile." G.B. reported that Father told him that he was going to send emails to the families whose children attended his school to inform them that G.B. had special needs. G.B.'s therapist stated that Father's conduct caused G.B. extreme distress and anxiety resulting in stomach ailments, including vomiting. Mother also reported that a person named Mr. Fields assisted Father in the dissemination of derogatory information.

G.B.'s therapist testified that G.B. reported that he witnessed Father and another person distributing the disparaging cards around his neighborhood. She again testified that Father's conduct, including his dissemination of the flyers and information about G.B.'s special needs, caused the minor serious anxiety and distress, such that he was afraid to leave the house.

After G.B.'s therapist testified, the court amended the petition to allege that Father's conduct in disseminating the

disparaging cards and fliers caused G.B. to suffer emotional harm. In response to the amendment, Father testified again. Father denied responsibility for the public disclosures and claimed that he did not control the website or Mr. Fields's conduct. Father testified that he had even tried to stop Mr. Fields's conduct.⁴ Nonetheless, Father conceded that he had provided Mr. Fields with personal and private information about the family. In addition, DCFS presented evidence that Father was listed as a principal for the company that had created the website.

In April 2017, Father filed a request that DCFS be ordered to ensure that he receive visits with G.B. DCFS opposed the request, pointing out that G.B. refused to visit Father because of Father's conduct toward him: "[G.B.] has been refusing visits with his father because he does not feel comfortable visiting with his father due to actions that the father has been taking and that have been negatively affecting [G.B.]. He does not want to visit with him." The court denied Father's request, observing: "I think at this stage of the proceeding there is a substantial question as to whether visitation with any order requiring visitation with [G.B.] would be in the best interest of the child I think the record indicates it's clear that it's not Mother or [DCFS] that is thwarting visitation. It's [G.B.] based upon his reaction to what Father has done."

On May 24, 2017, the adjudication proceedings resumed, and after all parties had rested, counsel for Father asked to present

⁴ Father provided the court with a declaration from Mr. Fields, who accepted responsibility for the website and the dissemination of disparaging information. Mr. Fields admitted that he stood on street corners in various areas near the family's home and near Mother's husband's workplace and held signs that disparaged Mother and her husband. Mr. Fields denied that Father instigated his actions, claiming that he created the website because he was a concerned citizen.

testimony from a social worker, Mother, Mother's husband and G.B.⁵ about an interaction they had with Father and Mr. Fields. The juvenile court denied the request, finding that it was not in G.B.'s best interest to prolong the proceedings and that Father had already had a sufficient opportunity to present evidence before he rested.

DCFS asked the court to sustain the section 300 petition, including the court's additional count under subdivision (c). Counsel for G.B. joined with DCFS but also asked the court to dismiss the count alleging Mother emotionally abused G.B. Father asked the court to dismiss the entire petition. The court dismissed the emotional abuse count against Mother, sustained the remainder of the petition, and issued a three-year restraining order against Father.

On June 30, 2017, before the disposition hearing, DCFS filed a report, stating that throughout its involvement with Father, he had not been amenable to services and had been involved in retaliatory actions directed toward Mother and her husband. DCFS and G.B.'s counsel recommended that G.B. be declared a dependent of the court, the court terminate jurisdiction and enter an exit order granting Mother sole legal and physical custody of G.B. with Father having no contact with the child. Father requested that the court dismiss the case. In the alternative, Father requested unmonitored daytime visits with G.B. and eventual transition to the joint custody arrangement in existence before the dependency petition was filed.⁶

⁵ The social worker, Mother and her husband had previously testified in the proceedings.

⁶ Before the dependency proceedings, the parents had joint custody of G.B. G.B. lived with Mother and Mother's husband and Father had weekly visits.

On July 6, 2017, the court signed an exit order granting Mother sole legal and physical custody of G.B. with no visitation for Father until he completed an Evidence Code section 730 evaluation, and terminated jurisdiction.

Father filed a timely appeal and DCFS filed a timely cross-appeal.

DISCUSSION

I. FATHER’S APPEAL

Father contends that (1) substantial evidence did not support the jurisdictional findings that Father failed to protect G.B. or that he emotionally abused G.B.; (2) the court erroneously issued a restraining order against him; (3) the court erred in dismissing the allegation that Mother emotionally abused G.B.; and (4) the court erred in failing to require DCFS to facilitate the interim visitation order. We disagree.

A. *The Court Properly Exercised Jurisdiction*

When 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 M.W.* (2015) 238 Cal.App.4th 1444, 1452.) An appellate court will not consider an issue raised by an appellant if the appellate court “cannot render any relief to [an appellant] that would have a practical, tangible impact on his position in the dependency proceeding.” (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492.)

Father does not challenge that substantial evidence supports the court's findings that he caused G.B. to suffer serious emotional damage because he "enmeshed" G.B. in his marital conflicts with Mother and attempted to cause G.B. to falsely accuse Mother and her husband of child abuse. Thus, even if we were to conclude that there was insufficient evidence to support the jurisdictional allegations that Father challenges, we would still affirm the court's jurisdictional order. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)⁷

In any event, as we shall explain, sufficient evidence supported all of the court's jurisdictional findings.

Although the trial court applies the preponderance of the evidence standard, our review is for substantial evidence. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1654.) In reviewing for substantial evidence, "we presume in favor of the order, considering the evidence in the light most favorable to the prevailing party . . . and resolving all conflicts in support of the order." (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576.) Further, "[w]e do not evaluate the credibility of witnesses, reweigh the evidence, or resolve evidentiary conflicts. . . . [We] affirm the order if supported by substantial evidence even if other evidence supports a contrary conclusion." (*In re L. Y. L.* (2002) 101 Cal.App.4th 942, 947; *In re D.P.* (2015) 237 Cal.App.4th 911, 917.)

⁷ Likewise, as a general rule, an order terminating dependency court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. (*In re Michelle M.* (1992) 8 Cal.App.4th 326, 330.) Where, as here, however, the exercise of that jurisdiction has resulted in orders which continue to adversely affect appellant. The fact that the dependency action has been dismissed should not preclude review of a significant basis for the assertion of jurisdiction. (*In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1548.)

1. Section 300, subdivision (b)

A jurisdictional finding under section 300, subdivision (b) requires a showing of: (1) the failure or inability of the parent to adequately supervise or protect the child; (2) that the parent caused the injury; and (3) that the child has suffered serious physical harm or illness or there exists a substantial risk of such harm or illness in the future. (*In re R.T.* (2017) 3 Cal.5th 622, 632-633.)

Father concedes he was neglectful in driving his car without requiring G.B. to wear a seat belt, and that as a result, G.B. suffered an injury. He argues, however, that this was a single incident and there was insufficient evidence that G.B. was at substantial risk in the future. To the contrary, the evidence showed that Father and G.B. regularly failed to wear seat belts even after the accident and there was ample reason to believe this conduct would continue. When DCFS questioned G.B. shortly after the incident and asked how often he and Father did not wear their seat belts, G.B. replied, “All the time.” Two weeks later, G.B. said he and Father still were not wearing their seat belts. More than a month later, when asked about wearing seat belts, G.B. replied, “We weren’t wearing seat belts. We never do. I think it’s cool not to wear a seat belt with my dad.”

Here, Father demonstrated a history of failing to ensure that G.B. was wearing a seat belt, and this conduct continued even after DCFS became involved with the family. Consequently, the court had sufficient evidence to infer an ongoing risk to G.B. and did not err when it sustained the findings in subdivision (b).

2. Section 300, subdivision (c)

Under section 300, subdivision (c), a juvenile court may adjudge a child to be a dependent of the court if “[t]he child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian.” (§ 300, subd. (c).)

Father argues that the court erred in sustaining the allegation under section 300, subdivision (c), not because there was a failure of proof that G.B. suffered from severe anxiety as a result of observing the banners, fliers, and website disparaging his Mother, and her husband and publicizing G.B.’s status as a “special needs” child, but instead because there was insufficient evidence that Father *caused* the injury. Father argues that Mr. Fields accepted responsibility for the conduct that injured G.B. emotionally, and further that Mother and her husband failed to shield G.B. from it. Father’s contention, however, ignores the evidence that he was the *source* of the information that Mr. Fields disseminated and further that G.B. testified he saw Father distributing the fliers in the neighborhood. In addition, Father was listed as the “principal” in the business records of the entity that was responsible for the website. Consequently, substantial evidence supported the court’s finding that Father was ultimately responsible for the emotional injury to G.B.

B. Father Was Not Denied Due Process

Father contends that he was denied due process during the adjudication proceeding on May 24, 2017, because the court denied his request to recall witnesses and present “additional evidence.”⁸ In addition, he claims that the court’s denial of his request to present additional evidence prevented him from rebutting the contentions underlying the restraining order.⁹ We disagree.

Father was aware since May 2016 of the allegations relating to the car accident and, since August 2016, of the allegation that he was responsible for disseminating the disparaging and embarrassing information in the community. The contested adjudication proceedings lasted over multiple days from December 2016 to May 2017. Throughout the adjudication proceedings, the court afforded Father the opportunity to present exculpatory

⁸ The new “evidence” Father wanted to present related to a federal law suit between the parties in which Mother’s husband sought a restraining order against Father; evidence related to whether Mother sought medical treatment for G.B. after the car accident; evidence of Father’s efforts to obtain a restraining order against Mr. Fields; evidence that the police had determined that Mr. Fields was not Father’s agent and that Mr. Fields had a right to disseminate information about Mother and her husband; and evidence of a 911 tape which purported to demonstrate Mother’s husband’s plan to strike Father with a baseball bat.

⁹ Two days after the adjudication hearing concluded, the court issued a three-year restraining order prohibiting Father from contacting Mother, her husband and G.B. and requiring Father to cease and desist from distributing or otherwise causing the distribution of any literature, bills, banners or signs related to the protected parties and to take down, or cause to be taken down, any websites created in whole or in part by Father containing information whose purpose was to disparage the protected parties or any other member of the protected party’s family.

evidence, to call and question witnesses and to refute the allegations in the petition and supporting the restraining order.¹⁰ Only after all parties had rested did he request to present further evidence. The request was too late.

C. Father Lacks Standing to Appeal the Dismissal of the Allegations Against Mother

Father contends that the court erred in striking the allegations against Mother because there was evidence that Mother remained “embattled” with Father over custody of G.B. throughout the dependency proceedings which caused G.B. emotional harm. Father, however, lacks standing to raise the dismissal of the allegation against Mother.

Standing to appeal extends only to a “party aggrieved” by the order appealed from. (*In re Aaron R.* (2005) 130 Cal.App.4th 697, 703.) Whether a person has standing to raise a particular issue on appeal depends on whether the person’s rights were injuriously affected by the judgment or order appealed from. (*Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1034.) “A nominal interest or remote consequence of the ruling does not satisfy this requirement.” (*In re Carissa G.* (1999) 76 Cal.App.4th 731, 734; *In re J.T.* (2011) 195 Cal.App.4th 707, 717.) Thus, “a parent is precluded from raising issues on appeal which did not affect his or her own rights.” (*In re Jasmine J.* (1996) 46 Cal.App.4th 1802, 1806, italics added.)

¹⁰ Father also raises a First Amendment challenge to the restraining order with which we disagree. He appears to argue that the restraining order restricts *Mr. Fields’s* right to free speech. Father has not shown, however, that he has standing to assert a violation of Mr. Fields’s First Amendment rights. In any event, substantial evidence supports a finding that Mr. Fields was Father’s agent.

Here, Father has not identified a legally cognizable interest that would allow him to challenge the court's action in dismissing the charges against Mother. Nor are we aware of any.

D. Father's Claim of Error Regarding his Interim Visitation Rights is Moot

Finally, Father argues that the court erred in denying his requests that the court order DCFS to facilitate his visitation with G.B. between the detention hearing and the end of the adjudication. The claim, however, is moot because the interim visitation orders are no longer in effect as they were superseded by the subsequent exit order. (E.g., *Lester v. Lennane* (2000) 84 Cal.App.4th 536, 566 [“‘An appellate court will not review questions which are moot . . .’ [Mother's] challenges to the temporary custody orders attempt to dispute conditions of parenting time and visitation which are no longer in effect, having been superseded by the final judgment.”].)

II. DCFS'S CROSS-APPEAL

In its cross-appeal, DCFS points out that the dependency court erroneously cited to section 390 in terminating jurisdiction, and it requests that “[i]f the matter is remanded for any reason,” that we direct the dependency court “to vacate its order terminating jurisdiction under section 390 and enter an order terminating jurisdiction under one of the appropriate statutes.” Because DCFS's request was conditional on our remanding the case, and we are not remanding the matter, the request is moot.

DISPOSITION

The orders of the dependency court are affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur.

CHANEY, J.

BENDIX, J.*

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