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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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

B265897

(Los Angeles County  
Super. Ct. No. DK10646)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

J.V.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Julie Fox Blackshaw, Judge. Dismissed.

Elizabeth Klippi, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, and Sarah Vesecky, Senior Deputy County Counsel, for Plaintiff and Respondent.

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The Los Angeles County Department of Children and Family Services (Department) became involved with this family after father, J.V., hit his 12-year-old son, M.V., with a belt. The court took jurisdiction over M.V. and his 16-year-old sister, Je.V. Father appeals from the juvenile court's order taking jurisdiction over Je.V. under Welfare and Institutions Code section 300, subdivision (j),<sup>1</sup> and the dispositional orders as to both children. He does *not* challenge the jurisdictional findings under section 300, subdivisions (a) and (b), which included both M.V. and Je.V.

During the pendency of father's appeal, the juvenile court terminated jurisdiction over the children, and entered a custody order giving father and mother (who is not a party to this appeal) joint legal and physical custody of the children. Respondent has moved to dismiss the appeal as moot. We agree the appeal is moot.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In March 2015, the Department received an abuse referral from M.V.'s school, after M.V. reported that father had hit him with a belt. On March 30, 2015, the Department obtained an order removing M.V. and his sister, Je.V., from father. On April 2, 2015, the Department filed a section 300 petition on behalf of M.V. and Je.V. alleging they came under the jurisdiction of the juvenile court due to father's physical abuse of M.V., and based on mother's failure to protect M.V. At the April 2, 2015 detention hearing, father expressed remorse for his "inappropriate" conduct. The children were detained from father and released to mother. Father's visits were to be monitored, and any visitation with M.V. was subject to M.V.'s consent.

The Department's investigation revealed that mother and father shared 50/50 custody of the children. Je.V. lived primarily with mother, and very rarely visited father. M.V., however, would split his time between mother's and father's homes. Father had hit Je.V. with a belt "years ago" but she was not afraid of him. According to M.V., father had spanked him once before with a belt, and sometimes hit him on his head with an open hand. All of the incidents were related to M.V.'s performance at school.

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

In May 2015, father enrolled in Project Fatherhood at the Children's Institute, Inc., and also enrolled in individual counseling.

The jurisdictional hearing was held on June 9, 2015. Father testified that he had hit M.V. with a belt on two occasions. Both times were because of problems M.V. was having at school. Father thought he was doing the right thing at the time, but had since learned from his Project Fatherhood program to discipline M.V. in different ways. Father was also attending counseling and anger management.

The juvenile court sustained allegations that father "inappropriately disciplined" M.V., under section 300, subdivisions (a) and (b), and that this conduct placed both M.V. and Je.V. at risk of harm. The court also sustained an allegation that father's conduct placed Je.V. at risk of harm under section 300, subdivision (j). The court ordered father to participate in his Project Fatherhood program, or a program for physical abuse offenders. He was also ordered to participate in individual counseling. The court removed the children from father under section 361, subdivision (c), and ordered the children placed with mother with family maintenance services. Father's visits were to remain monitored.

On June 23, 2015, father appealed the court's jurisdictional and dispositional orders.

On February 2, 2016, the Department filed a motion for judicial notice, asking this court to take judicial notice of the juvenile court's December 14, 2015 orders terminating jurisdiction over the family and granting mother and father joint legal and physical custody. The custody order did not place any restrictions on father's visitation with the children. The Department also filed a motion to dismiss father's appeal as moot.

### **DISCUSSION**

On appeal, father challenges the orders taking jurisdiction over Je.V. under section 300, subdivision (j) and removing the children from him. He contends that Je.V. was not living with him, and therefore she was not at risk of harm. Father also contends that removal was not warranted, as he had expressed remorse and understood that he should no longer use physical discipline.

In its motion to dismiss, the Department contends this appeal is moot and should be dismissed because jurisdiction has been terminated and the children have been returned to

father's care. Father argues that his appeal is not moot because the juvenile court's orders "could affect him negatively in future family and dependency law proceedings," without specifically identifying any potential future consequences. He also contends the court's exercise of jurisdiction and removal of a child who does not live with the offending parent is an issue of "continuing public importance." We find the appeal is moot.

" '[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.' [Citation.]" (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404.) The termination of dependency jurisdiction by the juvenile court, during the pendency of an appeal of an interim ruling by the juvenile court, moots the appeal. (*In re Michelle M.* (1992) 8 Cal.App.4th 326, 329-330.)

The appellate court may find that the appeal is not mooted " 'if the purported error is of such magnitude as to infect the outcome of [subsequent proceedings] or where the alleged defect undermines the juvenile court's initial jurisdictional finding. Consequently the question of mootness must be decided on a case-by-case basis.' [Citation.]" (*In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547; accord, *In re Dani R.*, *supra*, 89 Cal.App.4th at p. 404.) An appellate court may also "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." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404.)

Here, father's appeal from only *one* of the jurisdictional findings was nonjusticiable from the outset because father did not appeal the jurisdictional findings under section 300, subdivisions (a) and (b), which also included Je.V. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492.) And, in any event, jurisdiction has been terminated, and therefore, a reversal of the section 300, subdivision (j) findings would be of no practical consequence. (*In re I.A.*, at p. 1490; see also *In re Michelle M.*, *supra*, 8 Cal.App.4th at pp. 329-330.) To the extent father challenges the court's dispositional orders removing the children, both children have been returned to him. Father has not identified any possible consequences of

the court's orders, speculative or otherwise, that could conceivably affect him in future proceedings.

**DISPOSITION**

The appeal is dismissed as moot.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.