Filed 11/1/16 In re Aiden H. CA2/7

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re AIDEN H., a Person Coming Under the Juvenile Court Law.	B271535 (Los Angeles County Super. Ct. No. CK56510)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. MONIQUE H., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Robert S. Draper, Judge. Dismissed.

Linda J. Vogel, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and William D. Thetford, Principal Deputy County Counsel, for Plaintiff and Respondent.

The juvenile court sustained an amended dependency petition pursuant to Welfare and Institutions Code section 300, subdivision (b),[1] alleging Monique H. was unable to supervise, adequately protect or provide regular care for her newborn son, Aiden H., due to her 11-year history of illicit drug use, and the child's father, Albert V., was similarly unable to supervise, protect or provide regular care for Aiden because of his history of substance abuse and current abuse of alcohol. The court ordered Aiden removed from Monique's custody and detained from Albert, monitored visitation for both parents and family reunification services for Monique. On appeal Monique argues only that grounding dependency jurisdiction in part on her history of substance abuse was error. She concedes dependency jurisdiction over Aiden is proper based on the findings regarding Albert, which have not been appealed, and does not challenge any aspect of the court's disposition orders. Because we cannot grant Monique any effective relief, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Petition*

On January 4, 2016, after Monique tested positive for methamphetamine at the time of Aiden's birth, the Los Angeles County Department of Children and Family Services

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[1] Statutory references are to this code.

(Department) filed a dependency petition under section 300 alleging Monique had an 11-year history of illicit drug use and was a current user of methamphetamine. The petition explained five of Monique's other children had received permanent placement services due to Monique's drug use.[2] In a separate count the Department alleged Albert, who was the father of Aiden and three of his siblings, had a history of substance abuse, was a current user of alcohol, was a registered substance offender and had a criminal history of convictions related to use and possession of drugs and alcohol. Following a hearing, the court ordered Aiden detained and placed in the temporary custody of the Department.

2. *The Jurisdiction and Disposition Hearing*

After a contested jurisdiction/disposition hearing the court amended the petition by interlineation to remove the allegations that Monique was a current user of methamphetamine and had a positive toxicology screen for methamphetamine at Aiden's birth,[3] but retained the allegations concerning her history of drug use and the permanent placement of her five older children. The

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[2] A sixth child died in his infancy due to complications from a heart defect.

[3] The initial test results were determined to be a false positive. Testifying at the jurisdiction hearing on March 15, 2016, Monique acknowledged she had last used crack cocaine "more than a year ago" and methamphetamine "like two years ago, maybe." There was no evidence Monique had used any illegal substances within the past year. All her random drug test results since the initiation of these dependency proceedings (that is, testing in January, February and March 2016) were negative.

court did not amend the allegations as to Albert. The court sustained all allegations in the amended petition under section 300, subdivision (b), declared Aiden a dependent of the court, removed him from Monique's custody and detained him from Albert. The court ordered reunification services for Monique, including drug and alcohol programs, random drug testing, parenting classes, individual counseling and monitored visitation. Despite being provided notice of the proceedings, Albert did not appear or participate in the proceedings, and the court ordered no reunification services for him. Albert is not a party to this appeal.

DISCUSSION

Monique does not challenge the juvenile court's jurisdiction finding that Albert's history of substance abuse and current abuse of alcohol placed Aiden at substantial risk of physical harm within the meaning of section 300, subdivision (b). That finding provides an independent basis for affirming dependency jurisdiction over Aiden regardless of any alleged error in the finding as to Monique. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [jurisdiction finding involving one parent is good against both; ""'the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent'""]; see *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452; *In re Briana V.* (2015) 236 Cal.App.4th 297, 310-311.) As a result, even if we struck the section 300, subdivision (b), finding as to Monique, the juvenile court would still be authorized to exercise jurisdiction over Aiden and to enter all reasonable orders necessary to protect him, including orders binding on Monique that address conduct not alleged in the petition. (*In re Briana V.*, at p. 311 ["The problem that the juvenile court seeks to address

need not be described in the sustained section 300 petition. [Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order"]; *In re I.A.*, at p. 1492 ["[a] jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established"]; see generally § 362, subd. (a) [the juvenile court "may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child"].) Thus, any order entered on Monique's appeal "will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief." (*In re I.A.*, at p. 1491.)

Recognizing the abstract nature of her appeal, Monique nonetheless urges us to consider its merits, arguing the finding she has a history of drug abuse and had her parental rights terminated for her older children could have an adverse impact in the current or future dependency proceedings. In limited circumstances, reviewing courts have exercised their discretion to consider an appeal challenging a jurisdiction finding despite the existence of an independent and unchallenged ground for jurisdiction when the jurisdiction findings "could be prejudicial to the appellant or could impact the current or any future dependency proceedings" or "the finding could have consequences for the appellant beyond jurisdiction." (*In re J.C.* (2014) 233 Cal.App.4th 1, 4; see *In re Drake M.* (2012) 211 Cal.App.4th 754, 763 [when the outcome of the appeal could be "the difference between [mother]'s being an 'offending' parent versus a 'non-offending' parent," a finding that could result in far-reaching consequences with respect to these and future dependency

proceedings, it is appropriate for reviewing court to exercise its discretion to consider appeal on its merits]; *In re D.P.* (2015) 237 Cal.App.4th 911, 917 [same].)

Monique has failed to identify any specific prejudice or adverse consequence that could possibly flow from the jurisdiction finding in this case. Even if we agreed with Monique and reversed the finding of jurisdiction based on the count addressed to her, our decision would not erase her 11-year history of drug abuse or the fact that all her surviving older children have been permanently placed. As noted, the disposition order in this case, and potentially in any future case, could reasonably be based in part on this established history whether or not the allegations are repeated in the petition. (*In re Briana V.*, *supra*, 236 Cal.App.4th at p. 311; § 362, subd. (a).) Accordingly, we dismiss the appeal on the ground there is no justiciable controversy for which we can grant any effective relief. (See *In re Briana V.*, at p. 310 [declining to reach merits of appeal when overturning jurisdiction findings "cannot change the fact that father will be prejudiced by his status as a registered sex offender in future proceedings. . . . Nothing we do in this appeal will make him a nonoffending parent"]; *In re J.C.*, *supra*, 233 Cal.App.4th at p. 4 [declining to reach merits of appeal when overturning jurisdiction findings would have no effect on father's "established history with DCFS based on incidents involving previous children"].)

DISPOSITION

The appeal is dismissed.

PERLUSS, P.J.

We concur:

ZELON, J.

SEGAL, J.