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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re J.K., a Person Coming Under
the Juvenile Court Law.

B277970

(Los Angeles County
Super. Ct. No. CK35123)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Ju.K.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Stephen C. Marpet, Judge. Appeal dismissed

Jack A. Love, under appointment by the Court of Appeal, for
Defendant and Appellant.

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

Ju.K. (Mother) appeals from the juvenile court's jurisdiction and disposition orders made after the juvenile court adjudged her daughter J.K. (born in 1999) a dependent under Welfare and Institutions Code¹ section 300. Mother contends that the evidence did not support the jurisdictional findings. As we explain, we conclude the appeal has been rendered moot by the juvenile court's termination of jurisdiction, and therefore dismiss the appeal.

FACTUAL AND PROCEDURAL HISTORY

A. Prior Dependency Proceedings

Mother first came to the attention of the Department of Children and Family Services (DCFS) in the late 1990's before J.K.'s birth. DCFS had received referrals that the minor's older sibling G.K. (born in 1997) had unmet medical needs and that Mother's abuse of alcohol and history of substance abuse put G.K. and sibling K.K. (born in 1993) at risk of harm. Because Mother failed to resolve her alcohol abuse issues through the voluntary maintenance plan, the juvenile court took jurisdiction over K.K. and G.K. Mother was ultimately able to reunify with the children and in June 2000, the court terminated jurisdiction over them. DCFS received four additional referrals between 2001 and 2008 alleging general neglect by the parents² of J.K. and her siblings, all of which were determined to be unfounded.

B. Current Proceedings

In the spring of 2016, Mother, J.K., and 18-year-old G.K. shared a small apartment. On April 28, 2016, DCFS received a referral that J.K. witnessed Mother and G.K. engaged in an

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

² The minor's father passed away in June 2014.

incident of domestic violence while Mother was intoxicated. When the social worker visited the apartment about 10 days later, Mother reported that G.K. had moved out after the incident and did not plan to return to live with them. Mother admitted that she was drunk on the day of the incident and had blacked out. Mother also reported that she had maintained sobriety from alcohol for 14 years, but had relapsed in October 2015. She said that she had consumed alcohol since her relapse a number of times but also claimed that she had stopped drinking and promised to attend an Alcoholics Anonymous (AA) meeting.

The social worker also interviewed G.K. who confirmed Mother's description of the incident of domestic violence but also added that the argument began because Mother was drunk and wanted to drive to pick up J.K. from school and G.K. told Mother she could not drive in her condition.

As of May 27, 2016, the social worker had decided to close the referral as inconclusive because the situation appeared to have stabilized—Mother had been provided with treatment referrals and she had indicated that she would attend AA meetings. The same day, however, DCFS received a call from J.K.'s high school indicating that Mother had come to the school disheveled, dirty and drunk, looking for J.K. When Mother was unable to find J.K.,³ Mother became angry, and her behavior escalated. The school personnel called the police to escort Mother off the school premises.

Mother told the social worker that she had only one drink on the day she went to pick up J.K. from school, and Mother denied that she was intoxicated. She claimed she went to a 12-step meeting that week and had stopped drinking. Mother also told the

³ Earlier in the day, J.K. had received a text message from her brother informing her that Mother was intoxicated and was coming to school to pick her up. J.K. decided to leave school with a friend to avoid Mother.

social worker she had a medical marijuana prescription.⁴ The social worker suggested to Mother that she participate in an outpatient substance treatment program and counseling, but Mother refused. She said she would not cooperate with DCFS and felt that a program was unnecessary; she said she would handle the matter on her own.

DCFS filed a petition under section 300, subdivisions (a) and (b), alleging that J.K. was at risk of harm as a result of Mother's alcohol and drug abuse and Mother's incident of domestic violence with G.K. On June 24, 2016, the court ordered J.K. released to Mother's custody on the condition that Mother submit to weekly random drug and alcohol tests. The court had a "heart to heart conversation" with Mother about the importance of her sobriety and weekly testing. (Capitalization omitted.) The court also reminded J.K. not to get into a car with Mother if she believed she was under the influence. The court scheduled the adjudication hearing for August 24, 2016.

Mother tested positive for marijuana on June 29, 2016. J.K. and Mother went on vacation in July, and Mother did not maintain contact with DCFS or provide proof that she was testing during that time.

When interviewed for the jurisdiction/disposition report in August 2016, J.K. elaborated on her experiences with Mother's drinking. Initially, J.K. noticed Mother was "buzzed" and was drinking socially with friends. The first time she noticed Mother had been drinking was when she "picked me up one time and [she was] buzzed." J.K. also reported that she "saw the empty [vodka] bottles stacked up" in the corner of the apartment. J.K. also

⁴ Mother submitted to a drug test on June 9, 2016, and tested positive for marijuana. The record does not contain evidence that Mother provided DCFS with a copy of her prescription for medical marijuana.

admitted Mother had driven her while intoxicated, but J.K. could not remember how many times this occurred.

On August 24, 2016, the juvenile court held a combined jurisdiction/disposition hearing. Counsel for DCFS and the minor asked the court to sustain the section 300 petition. Counsel for Mother asked the court to dismiss the petition arguing that there was no current risk of harm to J.K. The court sustained the petition, declared J.K. a dependent of the court, finding a substantial danger to her in Mother's care. The juvenile court placed J.K. in Mother's custody on the condition that Mother complete a six-month drug and alcohol program with weekly random testing, a 12-step program with a sponsor, an aftercare program, and individual counseling.

Mother filed a timely notice of appeal.

On April 3, 2017, the dependency court terminated its jurisdiction over the minor, J.K., and noted that J.K. remained released to appellant.⁵

⁵ We advised the parties that we intended to take judicial notice of the order terminating dependency jurisdiction over J.K., which we now do (Evid. Code, §§ 459, 452, subd. (d)), and gave them an opportunity to respond. (Evid. Code, § 455, subd. (a).) We also requested that they submit letter briefs addressing whether the appeal should be dismissed as moot. In the supplemental briefs, DCFS urges this court to dismiss the appeal as moot, while Mother asked the court to exercise its discretion to reach the merits.

DISCUSSION

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.] However, dismissal for mootness in such circumstances is not automatic, but ‘must be decided on a case-by-case basis.’ [Citations.]” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) The appellate court may find, in a given case, 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.’” (*In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547 (italics omitted), quoting *In re Kristin B.* (1986) 187 Cal.App.3d 596, 605; accord, *In re Daisy H.* (2011) 192 Cal.App.4th 713, 716 [an appellate court ordinarily will not dismiss as moot a parent’s challenge to a jurisdictional finding if the purported error “could have severe and unfair consequences to [the parent] in future family law or dependency proceedings”].) 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; *In re Marquis H.* (2013) 212 Cal.App.4th 718, 724.)

In this case, Mother contends the juvenile court erred in assuming jurisdiction over her daughter because the evidence was insufficient to support the jurisdictional finding under section 300. The issue, however, of whether substantial evidence existed to support the juvenile court’s initial exercise of jurisdiction has been rendered moot by its subsequent order terminating its dependency jurisdiction over J.K., who remained in the custody of Mother at all relevant times. In the supplemental brief, Mother acknowledged

that the juvenile court's exercise of jurisdiction did not result in any change in placement or custody status for her daughter. She nevertheless asserts that her appeal is not moot because the alleged defect undermines the juvenile court's initial jurisdictional finding. Mother also argues that the challenged finding continues to affect her detrimentally—the finding would require DCFS to report Mother to the Department of Justice for placement of her name on the Child Abuse Central Index⁶ (CACI) which in turn could adversely affect Mother's ability to engage in any activity or future employment opportunities that require a license or background check.

We are not persuaded that any defect existed that undermined the juvenile court's initial jurisdictional finding or error, much less an error of such magnitude to warrant resolution of the merits of this appeal. Although we will not recite here all the facts supporting the jurisdiction findings, we note there was substantial evidence in DCFS reports that Mother's relapse and long-term alcohol abuse, including driving under the influence with the minor in the car, placed J.K. at substantial risk of harm in this case. Furthermore, Mother's concerns that she may be listed in a child abuse registry or encounter problems during a background check for some future unspecified license or activity are purely speculative. Indeed, deciding Mother's claim that J.K. was not at substantial risk of harm at the adjudication hearing will not help clear her name. The dependency petition sustained in 1998, that alleged Mother's substance abuse placed J.K.'s older siblings at risk

⁶ The CACI is maintained by the California Department of Justice, which is required to disclose substantiated reports of child abuse and severe neglect to any law enforcement or other agency conducting a child abuse investigation as well as certain agencies conducting background checks of applicants seeking employment involving contact with children. (See Pen. Code, § 11170.)

pursuant to section 300, subdivision (b) remains in the record regardless, and has thus already subjected her to reporting to the Department of Justice for listing in the CACI. Because Mother has failed to identify any extraordinary circumstances that require us to decide the issue, we decline to exercise our discretion to review the merits of her appeal.

DISPOSITION

The appeal is dismissed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

JOHNSON, J.

LUI, J.