

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re N.M., a Person Coming  
Under the Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

PEDRO M.

Defendant and Appellant.

B296978

(Los Angeles County  
Super. Ct. No. 9CCJP01296A)

APPEAL from an order of the Superior Court of Los Angeles County, Philip L. Soto, Judge. Dismissed.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

---

## INTRODUCTION

Father appeals from the juvenile court's jurisdictional findings and dispositional order pursuant to Welfare and Institutions Code section 300.<sup>1</sup> Father contends substantial evidence does not support the juvenile court's assumption of jurisdiction over his son N.M. He urges us to exercise our discretion and reach the merits of his challenge to the jurisdictional findings even though Mother does not appeal the jurisdictional findings or dispositional order and even though the juvenile court terminated jurisdiction while this appeal was pending. For reasons explained below, we dismiss the appeal.

## FACTUAL AND PROCEDURAL BACKGROUND

### A. *Events Leading to Dependency Jurisdiction*

On February 9, 2019, the Los Angeles County Department of Children and Family Services (DCFS) received a referral about two-year-old N.M., after Mother brought him to the hospital for "two brownish marks/horizontal bruises" she noticed while changing his diaper. According to the reporting party, the bruises were "two parallel lines on each thigh approximately three inches long" and "the attending medical doctor, Jiffry Arshad stated the bruises appear to be 'slapping with some sort of a wire' however, he (attending medical doctor) is unsure." A skeletal exam was conducted and revealed no evidence of fracture.

Mother reported N.M. did not have the bruises when she dropped him off with Father a few days before, on February 4,

---

<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

2019. Mother and Father, who live apart, share joint custody of N.M. Father, however, reported that N.M. already had the bruises when he arrived. Father explained that he took N.M. to the hospital on February 4, 2019 upon receiving him from Mother, because N.M. had a fever. Father, however, did not report any bruising during the hospital visit. N.M. was diagnosed with a viral infection and discharged later that same day. There was no note in the hospital file that documented any bruising found on N.M. while he was at the hospital.

DCFS discovered the family had one prior dependency case.<sup>2</sup> When N.M. was six months old, the juvenile court sustained a petition following a “physical altercation” between Mother and Father where he “pushed the mother, in the presence of the child.” N.M.’s home was found to be in “a filthy and unsanitary condition due to the mother’s untreated emotional problems including her history of depression, suicidal ideation[,] and self harming behaviors.” Father’s violent conduct and the unsanitary home environment created by Mother “endanger[ed] the child’s physical health and safety and place[d] [him] at risk of serious physical harm.” N.M. was declared a dependent of the juvenile court. On August 14, 2018, after nearly a year of family maintenance services, the juvenile court terminated jurisdiction over N.M., released the child to Father’s home, and awarded both parents joint legal and physical custody.

---

<sup>2</sup> The family’s prior dependency case number is DK23346. The juvenile court’s jurisdictional findings in the prior case were the subject of appeal case No. B286499.

In the current investigation, DCFS observed N.M. at Father's home; N.M. appeared "quiet and calm." Paternal grandmother (PGM), who resides with Father, denied knowing how N.M. was bruised. However, she reported she had not noticed bruising on N.M. when she bathed him on the Thursday evening before she handed him off to Mother the next morning. PGM said N.M. returned from Mother's custody the following Monday with bruises on his thighs. PGM also reported N.M. returned from Mother's custody a week later with scratches on his face, but that Mother told PGM the scratches were caused by the cat. PGM was concerned about physical abuse of N.M. by Mother, because N.M. would return from Mother's care with different bruises.

Father told the social worker he would rather N.M. be placed in a foster home instead of with Mother. He reported N.M. returns from Mother's custody with "smelly clothes." He was concerned about Mother's ability to care for the child and recalled an incident where Mother hit N.M. when he was three months old. Father said he is " 'doing the best [he] can' with documenting all the bruises he [has] seen on the child after returning from mother's care as he was advised to do during the [prior] DCFS case." He showed the social worker multiple hospital and ER visit notes regarding N.M. For example: on August 2, 2018, N.M. had a bruise near his eye that Mother told Father was caused by N.M. bumping his head; on November 13, 2018, N.M. had a cut on his finger, and Mother said it happened because N.M. fell; on January 7, 2019, N.M. had a bruise on his thigh and Mother said N.M. "hit himself on the corner of a toy." He also described some "odd behaviors" displayed by N.M., including "slapping himself when father tells him 'no.' "

Father explained he had not told the nurse about the bruising on N.M.'s thighs during emergency room visit on February 4 because he was concerned mainly about N.M.'s fever. Father "did not think much about" the bruising, as he thought it was caused by N.M. wearing the wrong-sized diaper.<sup>3</sup> Father then shared he felt "bull[ied] by authority" in that "when he constantly took [N.M.] to the ER for bruises, the social workers told him he is only trying to get mother in trouble."

Mother's neighbor described Mother as "sleeping all day" at the apartment she shares with maternal grandmother (MGM) and "a lot of cats." The neighbor described Mother's home as unsanitary, with "roaches and a strong dirty odor from their apartment." The neighbor denied having child safety concerns.

Mother told the social worker she is afraid of Father, who she described as "very controlling." She recounted the domestic violence she suffered from Father and reported he also sexually abused her "by touching her on her breast even if she told him no." She described co-parenting difficulties she experienced with Father, who treats N.M. "like property." Mother was "unsure" who left bruises on N.M. but she said "something appears to be going on." She said N.M. "gets upset" when it is time to return to Father. She reported observing N.M. "hit himself" whenever she is not giving him her full attention.

Mother reported Father contacts her "on a weekly basis for any little scratch" he finds on N.M. According to Mother, Father documents any bruise he finds on the child; he "sends me pictures of the marks and accuses and questions me." Mother explained that "it was out of the ordinary for [Father] not to contact" her

---

<sup>3</sup> According to Father, N.M. had returned from Mother's custody/care wearing a size 2 diaper even though he was a size 6.

about the bruises on N.M.'s thighs, and her concern when she noticed the bruises herself prompted her to take N.M. to the hospital. Mother said she questioned Father about N.M.'s bruises via text message, and Father replied he had been meaning to talk to her about it and that it was caused by the size 2 diaper he was wearing. Mother, however, denied having put N.M. in a size 2 diaper.

MGM described Mother's and Father's relationship as abusive. She described Father as controlling and "very confrontational." MGM stated N.M. had no bruises when he left Mother's care on February 4 and had bruises on February 8, 2019. She thought "someone must have hit him with a stick" and felt the bruises were obtained while N.M. was with Father. MGM stated she did not know if Father caused the bruising or if he was covering for his family member. She recalled Father having previously described PGM as "heartless."

On February 27, 2019, DCFS filed a petition alleging N.M. came within the jurisdiction of the juvenile court under section 300, subdivisions (a) and (b)(1). It was alleged that N.M. was "found to be suffering from a detrimental condition consisting of traumatic bruising including linear marks on the child's posterior thighs bilaterally"—consistent with non-accidental trauma, incidental trauma. It was also alleged that neither parent could explain how N.M. sustained the injuries and that "[s]uch injuries would not ordinarily occur except as the result of deliberate, unreasonable, and neglectful acts" by the parents, which endangered N.M.'s physical health and safety and placed him at risk of danger and physical harm.

At the detention hearing on February 28, 2019, the court ordered N.M. removed from the home and care of both parents, and detained with a relative under DCFS supervision, pending disposition or further court order. The court further ordered monitored visitation for Mother and Father, a minimum of two times per week, two hours per visit; Mother and Father were not to visit together.

B. *Jurisdiction and Disposition*

On March 28, 2018, the jurisdictional and dispositional hearing took place. The court took judicial notice of the family's prior dependency case and its documents.

DCFS reported there were no concerns with respect to the monitored visits. DCFS provided the court with letters and documentation evidencing Father's participation in the Family Preservation Program and the Parent/Child Enrichment Group, the parents' and N.M.'s participation in child-parent psychotherapy sessions, as well as a letter from N.M.'s pediatrician stating no concerns with N.M.'s health. Mother failed to provide DCFS with any progress or enrollment letters.

Father argued DCFS did not have "a competent professional finding [N.M.'s bruise] to be an injury that would not ordinarily be sustained except for abuse or neglect." The hospital records provided three potential "differential diagnoses" regarding N.M.'s bruises—"traumatic bruising, nonaccidental trauma, incidental trauma." Father argued the doctor thought "it could be any one of these three things" and there was never an actual diagnosis of nonaccidental injury by the attending doctor.

The social worker assigned to the case assessed N.M.'s bruising to be a "substantial injury" based on N.M.'s medical records and the previous doctor's statement that the child was possibly "whipped by a wire."

The court asked minor's counsel her recommendation. Counsel stated two-year-old children "jump around, they bruise. But this child has not suffered such serious physical harm, nor is there a substantial risk that he'll suffer such serious physical harm in the care of these parents." The court asked, "how do we know that," to which minor's counsel replied, because "[t]hese parents take the child to the emergency room, and they document every little bruise and jot and tittle." The court stated that it "would tend to agree with" minor's counsel "if it wasn't for [the prior case]." The court further reasoned, "I don't know whether or not this child was whipped. There is some doctor that says it was. There is no expert that says it was. But sometimes, it's better to be safe than sorry."

Following further witness testimony and argument, the court once more repeated "if that was the only bruise and there wasn't this [prior] case, I wouldn't give much thought to the allegations." The court found the allegations of the petition true, but also found DCFS had not demonstrated by clear and convincing evidence that N.M. should not be released to the custody of his parents.

The court declared N.M. a dependent child of the court under section 300, subdivisions (a) and (b) and released N.M. to his parents' custody. DCFS was ordered to provide the family with maintenance services, to make frequent unannounced home visits to both parents, and to physically examine N.M. for any kind of injuries or bruises. Both parents were ordered to



participate in parenting classes. In closing, the court stated, “It’s not the worst bruise I’ve ever seen in the world. . . . [¶] But I’ve got a doctor who says . . . it’s something that could have been caused by somebody striking the child with a wire in a whipping fashion.” The court did not feel it prudent to send N.M. home “without some provision to make sure that the child is safe, okay. So we’ll continue with the services,” and if N.M. “is safe in six months . . . , I’m probably going to close this case out with a family law order [for] joint custody.”

C. *Post-Disposition Events*

On March 28, 2019, Father filed a notice of appeal.

On September 26, 2019, while this appeal was pending, the juvenile court terminated jurisdiction and found that the conditions justifying its initial assumption of jurisdiction under section 300 no longer existed and were not likely to exist if supervision was withdrawn. N.M. was released to the care of his parents.<sup>4</sup>

On November 18, 2019, we advised Father and DCFS pursuant to Government Code section 68081 that we were considering dismissal of the appeal as moot, given the September 26, 2019 order. Both parties submitted letter briefs on the issue, which we have reviewed.

---

<sup>4</sup> On November 18, 2019, on our own motion, we took judicial notice of the juvenile court’s September 26, 2019 minute order.

## DISCUSSION

As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) However, the appellate court may find that the appeal “ ‘is not moot *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, quoting *In re Kristin B.* (1986) 187 Cal.App.3d 596, 605). We may also decline dismissal of the appeal where the jurisdictional findings could affect the parent in the future (*In re J.K.* (2009) 174 Cal.App.4th 1426, 1432; 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”]), or where review is necessary because the issue rendered moot by subsequent events is of continuing public importance and is a question capable of repetition, yet evading review. (*In re Anna S.* (2010) 180 Cal.App.4th 1489, 1498.)

“We decide on a case-by-case basis whether subsequent events in a juvenile dependency matter make a case moot and whether our decision would affect the outcome in a subsequent proceeding.” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404; *In re Kristin B.*, *supra*, 187 Cal.App.3d at p. 605.)

In this case, Father concedes the juvenile court has jurisdiction over N.M. regardless of the jurisdictional findings against him since the jurisdictional findings against Mother were not challenged on appeal. It is true that we generally need not

address one parent's challenge to the findings and orders of the juvenile court because the juvenile court maintains jurisdiction over the minor child based on the unchallenged findings and orders relating to the other parent. A "jurisdictional finding good against one parent is good against both." (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397.) Mother did not challenge the jurisdictional findings and dispositional order on appeal; thus, any decision we render on the allegations about Father will not result in a reversal of the juvenile court's initial assertion of jurisdiction over N.M.

In his opening brief, Father argues only that the jurisdictional finding "would impact the nature of the services [Father] would have to complete as part of family maintenance/family reunification plan." Father's supplemental December 2, 2019 letter brief provided us with no relevant information that helps our query. Father briefly stated: "[A]ppellant continues to suffer under the cloud of erroneous jurisdiction findings against him. Specifically, appellant is aggrieved because the jurisdictional allegations against him may have other adverse consequences for him in future proceedings." This is not enough.

Our request for supplemental briefing was not a perfunctory request; this was an opportunity for Father to provide us with information as to whether his recent interactions with Mother raised the possibility of future (or even current) actions against Mother regarding N.M.—either in the dependency or family law context—as well as how the jurisdictional findings could prejudice Father in the future.

It is neither necessary nor appropriate for us to speculate or come up with plausible reasons how the jurisdictional findings may affect Father’s rights in future dependency or family law actions. Without reasoned argument and evidence to support Father’s contentions on appeal (see, e.g., *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115), “[w]e see no reason to review the juvenile court’s jurisdictional findings here on the basis of such speculation or caution” (*In re N.S.* (2016) 245 Cal.App.4th 53, 62). (See also *In re I.A.* (2011) 201 Cal.App.4th 1484, 1494–1495 [“Father . . . fails to suggest any way in which this [jurisdictional] finding actually could affect a future dependency or family law proceeding, and we fail to find one on our own.”].) We decline to exercise our discretion in considering the merits and find Father’s appeal is moot.

#### **DISPOSITION**

The appeal is dismissed.

#### **NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

STRATTON, J.

We concur:

BIGELOW, P. J.

GRIMES, J.