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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re L.P., a Person Coming
Under the Juvenile Court Law.

B284406
(Los Angeles County
Super. Ct. No. DK21084)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

M.P.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los
Angeles County, Teresa Sullivan, Judge. Dismissed.

Richard L. Knight, under appointment by the Court of Appeal, for Defendant and Appellant, M.P.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, Jeanette Cauble, Principal Deputy County Counsel, for Plaintiff and Respondent.

M.P. (father) appeals only from the dispositional order removing infant son L.P. from his custody; K.P. (mother) has not appealed. The child was returned to father's custody at the six-month review hearing. Because this court can afford no effective relief and there is no prejudice to father, we dismiss this appeal.

FACTUAL AND PROCEDURAL BACKGROUND

On November 1, 2016, within days of L.P.'s coming home from the hospital after his birth, a Department of Children and Family Services (DCFS) social worker and a case manager and registered nurse from the Welcome Baby Program visited mother and baby at their home. Mother had previously been diagnosed with schizophrenia, but she was breastfeeding and not taking her prescribed medications. At the time of the visit, mother was exhibiting symptoms of post-partum psychosis or depression. She was hospitalized pursuant to Welfare and Institutions Code section 5150.¹

Father arrived home while the social services personnel were still there. He was described as aggressive, rude, profane,

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

and physically intimidating. He would not respond to inquiries concerning mother and L.P.

L.P. was placed with his maternal grandmother. When mother was released from the hospital she moved into maternal grandmother's home.

As the investigation unfolded, mother and father accused each other of domestic violence. Mother brought L.P. to father's home for a visit in December 2016, and father accused mother of throwing a video game controller at him while he was holding L.P. In a visit to the maternal grandmother's home the same month, the child smelled of "sour milk" and had dirt in his neck folds. He had gained only seven pounds since his birth.

In January 2017, with the assistance of law enforcement, L.P. was removed from father's home, and the dependency petition was filed. L.P. was placed with the maternal grandmother.

At the detention hearing, the child remained in the out-of-home placement. Several of father's relatives were to be evaluated as potential placement resources. The juvenile court issued a restraining order for mother against father.

The combined jurisdiction/disposition hearing was conducted on March 22, 2017. All counsel submitted on the DCFS reports for jurisdiction. The juvenile court sustained one count under section 300, subdivision (b)(1) based on mother's mental illness and father's failure to protect the child, but dismissed the counts alleging domestic violence. The juvenile court issued a "stay away" order against father, but declined to issue a permanent restraining order.

Father and paternal grandmother testified for the disposition phase of the hearing. Father admitted he had been

“inappropriate and unprofessional” in his interactions with social workers before the detention hearing and “wouldn’t do it again.” He described his interactions with social workers post-detention as “rough.”

The juvenile court found by clear and convincing evidence that there was a substantial danger to the child if he were to be returned to the care of either parent at that time. Concerning father, the juvenile court noted DCFS “did try on numerous occasions to try to work with [him] to fashion a safety plan or some other type of method to ensure that the child could remain safely in the care of the parents, but the father’s volatile responses to [DCFS] made that impossible.” Father was granted unmonitored visitation for a minimum of three times a week, two hours per visit, in a neutral public place.

Only father appealed, and he challenged only the dispositional order.

DISCUSSION

At the six-month review, while this appeal has been pending, L.P. was returned to father’s custody under DCFS’s continuing jurisdiction.² We invited counsel to submit supplemental briefs addressing whether the order rendered the current appeal moot. DCFS responded it has. Father asserted the appeal is not moot because the initial disposition order “will influence the outcome of subsequent proceedings.” Specifically, he contended that if a subsequent petition under section 342 or a

² We take judicial notice of the juvenile court’s October 18, 2017 minute order returning L.P. to his father’s custody and ordering family maintenance services for father and son.

supplemental petition under section 387 were filed, he would be prejudiced by the initial dispositional order.³ We disagree.

Father's prejudice argument is based on his receiving six months of reunification services while L.P. was in an out-of-home placement, as opposed to the six months of family maintenance services he would have received if L.P. remained in his custody. However, as the Court of Appeal has observed, "At issue when a parent has received child welfare services, in the form of both reunification and family maintenance services, is whether those services were reasonably designed to assist the parent in overcoming the problems which led to the court's intervention; *the label given to the services is not dispositive*. The goal of both reunification and maintenance services is to address the circumstances which required agency and court intervention into a family's life." (*Carolyn R. v. Superior Court* (1995) 41 Cal.App.4th 159, 166, fn. omitted, italics added.) The issue is the length of time that "child welfare services" (*ibid.*) or "court-ordered services" (§ 366.21, subd. (g)) have been provided, not whether those services were in the form of family reunification or family maintenance.

³ A subsequent petition is based on "new facts or circumstances, other than those under which the original petition was sustained. . . . [¶] All proceedings and hearings required for an original petition are applicable to a subsequent petition filed under this section." (§ 342.) A supplemental petition, on the other hand, is required to be filed when DCFS seeks to remove a child from a parent's physical custody on the basis "the previous disposition has not been effective in the . . . protection of the child." (§ 387, subd. (b).)

Father has not demonstrated a dismissal of this appeal would prejudice him. Nor has he raised a question of law that we would review de novo. (*In re A.R.* (2009) 170 Cal.App.4th 733.)

DISPOSITION

The appeal is dismissed.

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DUNNING, J.*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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