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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re J.E., a Person Coming Under the Juvenile Court Law.	B272205 (Los Angeles County Super. Ct. No. CK21985)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. A.R., Defendant and Appellant.	

APPEAL from orders of the Superior Court of Los Angeles County, Emma Castro, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) The jurisdictional order is affirmed, the appeal challenging the dispositional order is dismissed.

Konrad S. Lee, 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.

Minor J.E. reported that her legal guardian, appellant A.R., physically abused her. The juvenile court assumed jurisdiction over J.E. pursuant to Welfare and Institutions Code section 300, subdivisions (a) and (b)[1] and removed J.E. from A.R.'s care after finding that reasonable efforts had been made to forestall such removal. A.R. contends that neither the jurisdictional nor the reasonable efforts findings were supported by substantial evidence. We conclude that substantial evidence supported the court's jurisdictional findings, and that A.R.'s challenge to the reasonable efforts findings has been mooted by J.E.'s subsequent return to her care. Accordingly, we affirm the jurisdictional order and dismiss as moot A.R.'s appeal of the dispositional order.

FACTUAL AND PROCEDURAL BACKGROUND

A.R. is the maternal aunt of J.E. (born August 2006) and was appointed her legal guardian in 2012. A.R. and J.E. lived in Los Angeles with an unrelated roommate, Rhonda D.

A. *Initial Allegations*

The family came to the attention of the Los Angeles County Department of Children and Family Services (DCFS) on September 12, 2015, when J.E. told the reporting party that A.R. kicked her out of the house because J.E. told A.R. that she liked Rhonda better than A.R. J.E. further stated that A.R. had dragged her across the floor by her hair a few days earlier, leaving scratches on her legs. The reporting party noted that J.E.

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[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

had scratches on her legs. The reporting party confronted A.R. with J.E.'s allegations, and A.R. told the reporting party, "go ahead, take this problem child, this is what she does all the time, she makes up allegations." The reporting party then took J.E. to a nearby police station.

Law enforcement officials spoke to J.E., who told them that she was afraid to go back to A.R.'s home. Law enforcement officials also spoke to A.R., who reportedly told them that J.E. "is the problem child and to go ahead and take her."

DCFS children's social worker (CSW) Heads interviewed J.E. about the allegations on September 12, 2015. J.E. stated A.R. asked her if J.E. liked A.R. better than Rhonda. A.R. became upset when J.E. responded that she liked Rhonda better and "told her that since she like [*sic*] Rhonda more after all she's done for her, she could leave and had 15 seconds to get out or [A.R.] will call the cops." J.E. left the house and ran into Rhonda and Rhonda's brother Jerome in the front yard. Jerome asked J.E. what happened after he noticed her crying. J.E. told Jerome and Rhonda that A.R. had kicked her out.

J.E. informed Heads that, earlier in the week, A.R. had "pulled her by her hair (pony tail) as she dragged her out of the bedroom on the floor due to her not cleaning up her room." J.E. stated that the incident caused scratches on her legs and a bruise on her neck, which had since gone away. J.E. further reported that "as a form of discipline in the home her aunt hits her with her hand, fist or scratches her with her fake sharp [finger]nails." She stated that A.R. had most recently scratched her on the face, but that the scratch marks had disappeared. J.E. was "very adamant" that she did not want to return to A.R.'s house.

A.R. denied the allegations of abuse during her interview with CSW Heads. According to A.R., on September 12 she asked J.E. to take some items out to the garage. J.E., whom A.R. described as "a well mannered and good child," took the items to the garage but did not return. When A.R. noticed J.E.'s absence, she called J.E.'s daycare down the street and confirmed that J.E. was there. Sometime later, law enforcement officers arrived and told her J.E. had made allegations of abuse. A.R. denied telling them that J.E. was "a problem child"; she claimed "her comment was taking [*sic*] out of context" and stated that she loved and cared for J.E. and would never kick her out of the house.

A.R. also denied that she used physical force as a form of punishment. She told Heads that she punished J.E. by restricting her television privileges or not allowing her to play outside. A.R. further stated that J.E. recently had been punished for spray painting walls at school and not completing her homework. A.R. said J.E. was not used to "being on punishment" and acted out by doing things like taking the screen out of the window. A.R. also reported that J.E. "has a vivid imagination" and had a history of falsely reporting abuse to her daycare and her friends' parents. A.R. stated that J.E. suffered abuse at her parents' hands in the past and at one point had been treated for post-traumatic stress disorder. A.R. further stated that J.E. was not enrolled in therapy or taking medication at the time.

Heads also spoke with Rhonda and J.E.'s maternal grandmother (grandmother). Rhonda told Heads that she and Jerome had seen J.E. outside the house, crying. When they asked J.E. what was wrong, she told them that A.R. had kicked her out of the house and she had nowhere to go. Rhonda also reported that J.E. told her she felt she had to leave because A.R.

had said mean things to her and given her "so many seconds to get out or she will call the police." Grandmother told Heads that J.E. had suffered "a lot of abuse in her biological mother's care" and that A.R. "fought to get custody" and "treated [J.E.] wonderfully." Grandmother did not believe the allegations that A.R., her daughter, had been abusive toward J.E. Grandmother said she would be willing to take J.E. into her home.

J.E. told Heads that grandmother was "mean" and said she had not seen grandmother since she was in the second grade. J.E. said that she liked Rhonda and wanted to live with her "because she is nice and she is able to spend a lot of time with her." Heads explained to J.E. that she would have to enter foster care, and J.E. said she had "no issues" with that. J.E. was cleared for placement and placed in a group home.

B. ***Prior History***

J.E. previously alleged abuse in March 2015 by leaving a note for her teacher stating, "I am being abused by my auntie. She said that I can go to foster care to get beat up and raped. Then she hit me with a broom until it broke."

DCFS CSW Rivas and law enforcement officers investigated the allegations at that time. J.E. told Rivas that A.R. hit her on the back of the neck with a broom a few days before. Rivas did not see any marks or bruises on J.E.'s neck. Rivas asked J.E. to demonstrate how A.R. hit her, "but [J.E.] keep doing hand gestures as if she was being hit with an open hand but [J.E.] stated it was with a broom." J.E. also told Rivas that A.R. punished her by pulling her hair, pushing her, and hitting her on the ear. J.E. was not able to state when such incidents happened. Rivas did not observe any marks or bruises on J.E.

Rivas interviewed A.R. separately. A.R. denied the allegations and characterized them as "completely false." She stated that she never hit J.E. and that J.E. "would have bruises if she hit her." A.R. further denied ever telling J.E. she would have to go to foster care or that she would be raped. A.R. told Rivas that J.E. was a "good child" who rarely needed to be punished and responded well to verbal reprimands when she did. A.R. also explained that J.E. had a "difficult" life and had "been through a lot." A.R. said that J.E. had some "emotional problems" and "had counseling for the entire trauma" she experienced with her parents.

Rivas also spoke to the law enforcement officers who had interviewed J.E. They stated that J.E. told them A.R. hit her with the broom about two before. She "showed them where" by slapping the back of her neck. The officers examined J.E.'s neck and did not see any marks or bruises. They accordingly concluded that J.E.'s story was inconsistent. They told Rivas that they "were only going to do an injury report; there was no evidence of a crime, so it will be no crime committed."

During what appears to have been a follow-up visit to A.R.'s home—no date is given but a reference to a medical exam suggests this visit followed the initial investigatory visit—J.E. told Rivas that A.R. "had not hit her and she has not yelled at her or said anything bad to her. [J.E.] stated that she feels good and is not scared of her aunt." Rivas did not observe any marks or bruises that would indicate abuse or neglect. DCFS ultimately closed the referral as inconclusive.

C. *Section 300 Petition*

On September 16, 2015, DCFS filed a section 300 petition. It alleged, once under subdivision (a) and once under subdivision

(b), that "On or about 09/10/2015, the child [J.E.'s] maternal aunt and legal guardian, A[.] R[.], physically abused the child by pulling the child's hair and dragging the child on the floor inflicting scratches to the child's legs and a bruise to the child's neck. On 09/12/2015, the maternal aunt legal guardian excluded the child from the child's home. On prior occasions, the maternal aunt legal guardian struck the child with a broom, the legal guardian's fists and hands and pushed and scratched the child's body and face. Such physical abuse was excessive and caused the child unreasonable pain and suffering. The child is afraid of the maternal aunt legal guardian due to the legal guardian's physical abuse of the child and does not wish to return to the legal guardian's home and care. The physical abuse of the child by the maternal aunt legal guardian endangers the child's physical and emotional health, safety and well-being, creates a detrimental home environment and places the child at risk of serious physical and emotional harm, damage, danger and physical abuse."

The court held a detention hearing on September 16, 2015 and found that DCFS had made a prima facie case that J.E. was a person described by section 300, subdivisions (a) and (b). The court also found that DCFS had made reasonable efforts to prevent J.E.'s removal from the home. The reasonable efforts detailed in the detention report were DCFS's receipt of a referral, immediate investigation, consultation with law enforcement, receipt of consent from A.R. to provide J.E. with medical care and obtain her records, and provision of information about the detention hearing to A.R.

D. ***Jurisdiction/Disposition Report***

DCFS filed a jurisdiction/disposition report on December 8, 2015. The report noted that J.E. had been moved from her group

home to a foster home. The report documented DCFS investigator Snowden's interviews with J.E., A.R., grandmother, and J.E.'s incarcerated mother, S.E. (mother). DCFS did not interview Rhonda because "her exact whereabouts are currently unknown, and her phone is disconnected." DCFS likewise was unable to locate J.E.'s father.

During her interview, J.E. reported that A.R. told her, "we are going to play baseball," and struck her on the top of the head with a broom. J.E. remembered her head hurting after the incident. Snowden asked J.E. to describe the events that led to A.R. kicking her out of the house on September 12, 2015. J.E. said that A.R. became jealous when J.E. told her she liked Rhonda better and told J.E. that she had 5 [*sic*] seconds to get out of the house before A.R. called the police. J.E. further stated that she never told Rhonda about any abuse and that Rhonda "wasn't around a lot to see anything." When Snowden asked J.E. about not wanting to return to A.R.'s home, J.E. responded, "I don't want to go back and she said I couldn't come back. I want to live with my mom." J.E. stated that she was aware mother was incarcerated and said she wanted to write a letter telling mother she missed her.

A.R. told Snowden that on September 12, 2015, she had asked J.E. to put some pictures in the garage. When she noticed that J.E. had not returned, A.R. asked Rhonda if she had seen J.E. Rhonda told A.R. that she and Jerome had seen J.E. outside crying so they took her to her baby-sitter's house. A.R. continued, "What I don't get is if she was crying why wouldn't she bring her in the house. I did not kick [J.E.] out of the house. This has come out of the blue. I have never abused or neglected her. She has been with me since she was 3-1/2 years old. She is my

princess. She is the perfect child. I have never had problems with her until I allowed Rhonda to move in."

A.R. opined that "[t]his is not [J.E.]" and suggested that "her mother not being around is getting to her. She sees her friends talking about their mothers and she just has me, her auntie. I think that is having an effect on her." A.R. told Snowden that J.E. had received therapy a few years ago. "They said that she had PTSD and prescribed her medication. She took the medicine for awhile but I stopped it because I didn't like the side effects. Maybe she needs to go back for counseling." A.R. told Snowden that she wanted J.E. to come home. "I love her and I am not mad. She has never been removed from me before. This is so hurtful."

Grandmother told Snowden that she thought J.E. was "basically a good kid" who was "making up the allegations because she was recently put on punishment for her involvement in a vandalism incident at school." Grandmother further opined that Rhonda "was a bad element and cause [*sic*] a lot of confusion in the home."

Mother told Snowden that she had not seen J.E. since A.R. obtained legal guardianship in 2012. When asked about J.E.'s allegations against A.R., mother said, "I believe it. . . . My baby wanted to be with me and she [A.R.] came between that. [A.R.] was like that with her son. She was the same with him. I don't want my baby with her."

The report indicated that A.R. had a history of DCFS involvement with her (now adult) son, A.H. In 1998 and 1999, when A.H. was six, DCFS received five referrals variously alleging physical abuse, general neglect, and caretaker incapacity. All five of those investigations were closed as

inconclusive. In 2001, when A.H. was eight, another allegation of neglect was deemed inconclusive. In 2006, when A.H. was 13, DCFS substantiated an allegation that A.R. "beat and punched" A.H., leaving visible bruises on his face. A.H. was removed from A.R.'s care, but the family reunified the following year after receiving services. After A.H. was arrested for burglary at the age of 14, DCFS noted that it "would continue to monitor the family." It is unclear what came of the monitoring or when it terminated, but DCFS noted that A.R. "was not able to use appropriate discipline" with A.H. A.R. denied that A.H. was ever removed from her care by a child welfare agency.

Based on J.E.'s "consistent" statements, albeit with "quite limited" details, as well as A.R.'s history with A.H., DCFS recommended that the court sustain the allegations and order suitable placement for J.E., with reunification services for A.R. DCFS identified several "safety factors" that would place J.E. at risk if she were returned to A.R.'s care, including "over reliance on corporal punishment as a means of discipline," "[t]he presence or emergence of a Parent-Child conflict," and "prior child welfare history." DCFS asserted that reasonable efforts had been made to prevent J.E.'s removal; it referred back to the efforts it had described in the detention report.

E. *Jurisdiction/Disposition Hearing*

The jurisdiction/disposition hearing was scheduled for December 9, 2015. On that date, the court ordered that J.E. "be enrolled in counseling forthwith" and be placed with grandmother "forthwith" if DCFS deemed grandmother's home appropriate. The court then continued the hearing to March 8, 2016. In a last-minute information filed on March 8, 2016, DCFS reported that J.E. was enrolled in counseling but her treatment

was disrupted when she was placed in grandmother's home in mid-February.

At the hearing, the court admitted into evidence DCFS's detention report, jurisdiction/disposition report, and last-minute information. DCFS rested without presenting additional evidence. A.R. called J.E. as a witness. J.E. testified that she stopped living with A.R. because she "wandered off" despite being grounded. J.E. said she did not remember telling a social worker and a daycare worker that A.R. hit her. J.E. remembered telling the police and Rhonda that A.R. hit and dragged her, but denied those events occurred. She stated, "I just want to go home because I miss my auntie and I miss my school and I miss my friends. And I just want to go home. My auntie loves me, and I love her too, and I won't do it again - - if I'm being punished or something." The court asked J.E. to clarify what she would not do again, and J.E. responded, "I won't lie. I won't wander off, and I won't act up."

J.E. testified that she told the police A.R. hit her "[b]ecause I didn't get my way; so I got mad." She remembered speaking to a social worker about the March broom incident, but denied that incident ever occurred. J.E. also denied that A.R. ever hit or dragged her. J.E. said that A.R. punished her by taking away her television or outdoor privileges. J.E. said she was not scared of A.R. and wanted to go home with her after the hearing.

On cross-examination by DCFS counsel, J.E. testified that Rhonda was alone on September 12; Jerome was not present. She further testified that she was not crying when she encountered Rhonda outside the house. J.E. remembered telling Rhonda that A.R. had given her 15 seconds to leave the house, and telling a social worker that A.R. was upset that J.E.

preferred Rhonda. J.E. denied that either of those things happened. J.E. further denied that A.R. pulled her from her bedroom by the hair or scratched her with her fingernails. J.E. said that scratches on her leg were due to "fall[ing] at school sometimes," and that she could not remember how she bruised her neck.

J.E. essentially recanted the entirety of her previous allegations. She stated that she was telling the truth today but had lied at every other juncture. "All this stuff that I said was a lie cause I was mad, and I was thinking of stuff to make up so she could seem like the bad guy. But I really do love my auntie and I want to go home." When asked if she thought she would "be allowed to go back with your auntie if you say that nothing happened," J.E. said, "Yes." She agreed that she wanted to go back to A.R.'s house because she missed A.R., her friends, and her previous school. When asked what she thought would happen if she said A.R. did hit her, J.E. responded, "Then I'll probably wouldn't forgive myself." She also said "no" when asked if she thought she would be able to return to A.R. if she testified that A.R. hit her. J.E. admitted telling a social worker that she did not want to live with A.R., but said, "That's 'cause I was mad." She reiterated, "[e]verything I told everybody else was a lie."

J.E.'s counsel questioned her about the letter she wrote to her teacher about the broom incident. J.E. remembered writing the letter but did not remember what she wrote. She said she wrote the letter because she was mad at A.R. for punishing her for falsely telling "some people that my auntie was doing stuff to me." In response to further questioning by the court, J.E. stated that she had told "people down the street" that A.R. "was yelling

and hitting me and stuff." The neighbors came and talked to A.R. but did not otherwise report the incident. J.E. said A.R. did not get angry about the lies, but told her "it's not right what you did, and I don't want you to lie because that's not right."

Due to time constraints, the court continued the remainder of the hearing to April 12, 2016. The court ordered all parties to refrain from discussing the petition or J.E.'s testimony with J.E. in the interim. The court also ordered DCFS to ensure that J.E. was re-enrolled in individual counseling within the next 10 days. DCFS later filed a last-minute information advising the court that a therapist conducted a mental health assessment of J.E. and concluded that she "did not meet diagnostic criteria of any psychiatric diagnosis and thus did not meet criteria of medical necessity for mental health services."

At the continued hearing, the court admitted that last-minute information into evidence and all parties rested. Counsel for DCFS urged the court to sustain the petition. She argued that J.E. "had been quite consistent" in her allegations until she testified, and attributed J.E.'s changed testimony to a desire to reunite with her friends and return to her school. DCFS counsel further argued that it would not be in J.E.'s best interests or safe for her to return to A.R.'s care until A.R. completed conjoint counseling, parenting classes, and/or anger management classes.

J.E.'s counsel asked the court to dismiss the petition. She argued that J.E. had been "very clear about her recantation" and had "consistently and on numerous occasions told me she wants to return home and that she made up these allegations and that they are not true."

A.R.'s counsel also argued for dismissal. She contended that J.E. was "inconsistent and not credible." She noted that J.E.

"was unable to recall detail" even in her initial reports, and that the police officers noted inconsistencies relating to the broom incident.

The court found that J.E. was not "truthful when she testified in court denying the allegations of physical abuse by her aunt. There were too many details in her initial reporting not only to law enforcement, but also to the social worker." The court found it important that J.E. initially made allegations to Rhonda, someone she liked, and that Rhonda, who lived with J.E. and A.R. and was familiar with their relationship, believed the situation warranted police involvement. The court struck from the allegations the sentence "The child is afraid of the maternal aunt legal guardian due to the legal guardian's physical abuse of the child and does not wish to return to the legal guardian's home and care" and sustained both allegations as amended.

At the disposition phase of the hearing, counsel for DCFS and J.E. requested that J.E. remain placed with grandmother. A.R. requested that J.E. be returned to her care, with protective measures such as unannounced home visits and conjoint counseling.

The court found by clear and convincing evidence that returning J.E. to A.R.'s care would pose a substantial danger to J.E.'s physical and emotional well-being, and that there were no reasonable means by which to protect J.E. without removal. The court further found that "[r]easonable efforts were made to prevent the removal of the child from her legal guardian." It ordered J.E. placed with grandmother and ordered visitation and reunification services for A.R.

A.R. timely appealed. At DCFS's request, we took judicial notice of a minute order from the six-month review hearing on

October 3, 2016. At that hearing, J.E. was released to A.R.'s home.

DISCUSSION

I. *Substantial Evidence Supported the Jurisdictional Findings*

A.R. contends that substantial evidence did not support the court's jurisdictional findings under section 300, subdivision (a) or (b). She acknowledges that "it is possible that [she] failed to interact appropriately with J.E. during a single isolated incident on September 10, 2015, and that she would benefit from services related to anger management," but argues that such a "single episode of a caregiver child altercation which failed to physically harm the child" cannot support jurisdiction. We are not persuaded.

A child comes within the jurisdiction of the juvenile court under section 300, subdivision (a) if the court finds that "[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." (§ 300, subd. (a).) The court "may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian that indicate the child is at risk of serious physical harm." (*Ibid.*) Jurisdiction lies under section 300, subdivision (b) if the court finds that the "child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child. . . ." (§ 300, subd. (b).) The finding is a tripartite one;

there must be (1) neglectful conduct by the parent or guardian in one of the specified forms; (2) serious physical harm or illness to the minor, or substantial risk of such harm or illness; and (3) a causal link between the parental conduct and the harm or risk of harm. (*In re James R., Jr.* (2009) 176 Cal.App.4th 129, 135.) Under either subsection, the question is whether circumstances at the time of the hearing are such that the minor is subject to the defined risk of harm. (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 824.)

We review the court's findings for substantial evidence. (*James R.*, *supra*, 176 Cal.App.4th at pp. 134-135.) In doing so, "[w]e do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence, or weigh the evidence. Rather, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order and affirm the order even if other evidence supports a contrary finding." (*Id.* at p. 135.) "Substantial evidence does not mean 'any evidence,' however, and we ultimately consider whether a reasonable trier of fact would make the challenged finding in light of the entire record. [Citation.] The [guardian] has the burden on appeal of showing there is insufficient evidence to support the juvenile court's order." (*In re Isabella F.* (2014) 226 Cal.App.4th 128, 138 (*Isabella F.*).)

The court found credible J.E.'s allegations that A.R. dragged J.E. across the floor by her hair, struck and scratched J.E. with her fists, hands, and a broom, and excluded J.E. from the home. A.R. acknowledges that the juvenile court, as the trier of fact, was entitled to credit this evidence over J.E.'s recantations and A.R.'s denials, and that we may not disturb those findings. These factual findings establish that A.R.

physically abused J.E. on multiple occasions, not merely once during an aberrational "isolated incident," as A.R. suggests. Repeated past instances of abuse are relevant to the court's determination of whether a child presently needs the court's protection. (*In re N.M.* (2011) 197 Cal.App.4th 159, 165.) "'[A] measure of a parent's future potential is undoubtedly revealed in the parent's past behavior with the child'" (*In re Jasmon O.* (1994) 8 Cal.4th 398, 424), and the court had evidence that A.R.'s past behavior toward both A.H. and J.E. turned violent on several occasions. The court also had evidence that A.R. remained in denial about the incident involving her son. This evidence sufficiently demonstrated that J.E. was at substantial risk of suffering serious physical harm by A.R. in the future, supporting jurisdiction under either subdivision (a) or (b).

Although none of the incidents involving J.E. caused serious physical injury, the court "need not wait until the child is seriously injured or abused to assume jurisdiction under section 300, subdivision (a)." (*In re N.M.*, *supra*, 197 Cal.App.4th at p. 165.) Subdivision (a) expressly allows the court to assume jurisdiction not only when a child "has suffered . . . serious physical harm" but also when "there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian." Subdivision (b) likewise protects children from substantial risk of harm. The court reasonably concluded from J.E.'s statements, and the prior history involving A.R.'s son, that J.E. faced a substantial risk of serious harm despite the less serious nature of the scratching and bruising she already had experienced.

A.R. argues this case is similar to *Isabella F.*, *supra*, 226 Cal.App.4th 128. There, the mother "became physical with

Isabella after Isabella resisted getting ready for school." (*Isabella F.*, *supra*, 226 Cal.App.4th at p. 131.) Ten-year-old Isabella reported that mother had hit her in the face, grabbed her by the neck, and locked her in the bathroom. Isabella said this was the first time something like this had happened, but also told a social worker that she was afraid of mother. (*Id.* at pp. 131-132, 133.) Mother told the social worker that Isabella had a "'really bad tantrum'" and admitted to trying to spank her and pulling her into the bathroom. (*Id.* at p. 132.) Mother denied hitting Isabella in the face but acknowledged that her response had been inappropriate and she "should have taken another approach to the situation." (*Ibid.*) The social service agency filed a petition seeking jurisdiction under section 300, subdivision (a) due to the incident. (*Ibid.*) By the next day, however, the social worker and county lawyer assigned to the case both believed Isabella would be more at risk in shelter care, and recommended that she be returned to mother's care. The court agreed. (*Id.* at p. 133.)

Within two weeks of the incident, Isabella "appeared to be in good spirits," was participating in individual therapy, and reported that she was not afraid of mother. (*Isabella F.*, *supra*, 226 Cal.App.4th at p. 133.) Mother "had begun anger management classes, was reading books on how to better deal with children who are defiant, and was participating in weekly individual therapy," "acknowledged needing help managing her emotions," and voluntarily sought out additional resources from the local health department. (*Id.* at p. 134.)

At the jurisdiction hearing, mother's counsel argued that the subdivision (a) allegation should be dismissed because Isabella had not suffered serious physical harm. Counsel "stopped short of asking the juvenile court to dismiss the petition,

apparently based on mother's desire to receive services," and the court sustained both allegations in the petition, "focusing on the benefits of reunification services, as opposed to any harm Isabella had suffered." (*Isabella F.*, *supra*, 226 Cal.App.4th at p. 135.)

Mother appealed, and the appellate court reversed. The Court of Appeal found that substantial evidence did support jurisdiction under subdivision (a) because Isabella had not suffered "serious physical harm" during the incident, which was isolated and not part of a pattern of repeated abuse. (*Isabella F.*, *supra*, 226 Cal.App.4th at p. 139.) The Court of Appeal also found that there was no evidence that Isabella was at substantial risk of further serious harm. (*Ibid.*) It noted that the "primary motivating factor in declaring jurisdiction appears to have been to offer mother services," and found that "these good intentions are an insufficient basis upon which to find jurisdiction under section 300, subdivision (a)." (*Ibid.*)

Although the underlying hair-pulling incident in this case is factually similar to the incident in *Isabella F.*, the similarities end there. The incident in *Isabella F.* was an isolated one, not one of several in a pattern involving different children over a span of years. The mother in *Isabella F.* immediately acknowledged her role in the incident, was receptive to the services offered, and even proactively sought out additional services. Here, in contrast, A.R. categorically denied all of the alleged incidents and blamed Rhonda for her troubles with J.E. *Isabella F.* is distinguishable from this case, where substantial evidence supported the court's findings that J.E. faced substantial risk of serious future harm.

II. *The Reasonable Efforts Argument is Now Moot*

At the disposition hearing, the juvenile court found that

DCFS made reasonable efforts to prevent J.E. from being removed from A.R.'s home. The court did not enumerate what those efforts were; the only recitation of reasonable efforts in the appellate record is DCFS's assertions in the detention report that it received and investigated a referral in consultation with law enforcement, received consent from A.R. to obtain J.E.'s records and provide her with medical care, and provided A.R. with information about the detention hearing. A.R. now contends the court "failed to state on the record which facts supported" its findings, in violation of section 361, subdivision (d), and that "no substantial evidence supported such a conclusion in any event."

While this appeal was pending, the juvenile court held a six-month review hearing. We took judicial notice of a minute order documenting that hearing, in which the court stated, "[J.E.] is released to the home of legal guardian."

An appeal is moot where there is neither any actual controversy upon which a judgment could operate nor effective relief which could be granted to any party. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 132; *In re Dani R.* (2001) 89 Cal.App.4th 402, 406 [mother's appeal of dispositional order denying reunification services dismissed as moot where she was granted such services during the pendency of the appeal]). That is the case here, where J.E. has been returned to A.R.'s care. We accordingly dismiss as moot A.R.'s appeal of the court's reasonable efforts finding.

DISPOSITION

The jurisdictional order finding that J.E. was described by section 300, subdivisions (a) and (b) is affirmed. A.R.'s appeal challenging the reasonable efforts findings in the dispositional order is dismissed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.