Filed 12/19/18 In re M.B. CA2/7

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

In re M.B. et al., Persons Coming Under the Juvenile Court Law.	B287599
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. JOSHUA B., Defendant and Appellant.	(Los Angeles County Super. Ct. No. DK24524)

APPEAL from an order of the Superior Court of Los Angeles County, Daniel Zeke Zeidler, Judge. Reversed and remanded with instructions.

Paul A. Swiller, under appointment by the Court of Appeal, for Defendant and Appellant.

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

INTRODUCTION

Joshua B. appeals from the juvenile court's jurisdiction findings declaring his children, M.B. and A.B., dependents of the court under Welfare and Institutions Code section 300, subdivision (b),[1] and from the court's disposition order. The court found that Joshua and the children's mother, R.R., who is not a party to this appeal, had a history of domestic violence placing the children at risk of serious physical harm and that placing the children with Joshua would be detrimental to the safety, protection, or physical or emotional well-being of the children. The court also made jurisdiction findings based solely on R.R.'s conduct under section 300, subdivisions (b) and (j).

Joshua challenges the jurisdiction findings based on his conduct and the disposition order for lack of substantial evidence. He also argues the juvenile court erred by failing to make the necessary findings regarding the children's placement pursuant to section 361.2 and by failing to comply with the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). We conclude that substantial evidence does not support the court's jurisdiction findings that domestic violence placed the children at risk, that the court erred by failing to make necessary findings under section 361.2, but that the issue of the court's compliance with ICWA is moot. Therefore, we reverse the juvenile court's jurisdiction findings based on Joshua's conduct and the disposition order and remand for the juvenile court to reconsider the placement of the children with Joshua pursuant to section 361.2.

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[1] Undesignated statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Investigation and Petition*

R.R. moved from Michigan to California in May 2017 when her two children, M.B. and A.B., were 15 months and one month old, respectively. Joshua, the children's father and R.R.'s former boyfriend, remained in Michigan. R.R. and her children moved into a homeless shelter in California with an on-site manager. In July 2017 the manager told the Los Angeles County Department of Children and Family Services that R.R. neglected her children by failing to adequately supervise, feed, and bathe them.

In an interview with a case social worker, R.R. said she and Joshua had a history of domestic violence before she moved to California. R.R. said Joshua "pepper sprayed" her while she was pregnant with A.B. because he did not want her to go shopping with a friend, although R.R. did not say whether M.B. was present during this incident. R.R. stated she filed a police report, but she suggested the police either did not arrest Joshua or the prosecutor did not bring charges against him. R.R. said that she left for California soon after giving birth to A.B. and that Joshua has had no contact with the children since she arrived.

A case social worker called Joshua, who initially denied he was the father of M.B. and A.B. because he thought the social worker would ask him to pay child support. Once the social worker explained the purpose of her call, Joshua admitted that he was the children's father and that he had heard R.R. neglected their children. Joshua said he was willing to care for his children but might not be able to go to California to attend a court hearing. Joshua said he had an older son by another woman and visited him often.

Joshua admitted to the social worker he had "maced" R.R. He said he "was trying to leave," and R.R. and her friend "wouldn't let me so I maced her." Joshua said that the case against him was "dismissed" and that he had no criminal history involving children, although he admitted he was on probation until November 2017 for a nonviolent offense. Over the course of the next week, Joshua called the case social worker three times to express his desire to care for his children and to offer the names of relatives in Michigan who could care for them if the court did not release the children to him. In his Statement Regarding Parentage, Joshua said that he provided diapers and food for M.B. when R.R. lived in Michigan and that he brought M.B. Christmas and birthday gifts. Joshua also said he attended family gatherings with M.B. and R.R. and lived with R.R. and M.B. for approximately six months before A.B. was born.

On August 28, 2017 the Department filed a juvenile dependency petition on behalf of M.B. and A.B. under section 300, subdivisions (a), (b) and (j). The Department alleged in count b-2: "[R.R. and Joshua] have a history of engaging in violent altercations. On a prior occasion, [Joshua] pepper sprayed [R.R.] when [she] was six months pregnant. Such violent conduct on the part of the father against the mother endangers the children's physical health and safety and places the children at risk of serious physical harm, damage and danger." The Department also alleged R.R. endangered M.B. and A.B. by failing to adequately supervise them and by carrying M.B. up a flight of stairs by her arm and dropping her to the floor.

B. *Detention and Further Investigation*

The juvenile court detained M.B. and A.B. and placed them in the Department's care. Joshua appeared telephonically at the August 28, 2017 detention hearing and stated he did not have any known Indian ancestry. R.R. and her mother said they might have Indian ancestry but provided no additional details. The court ordered the Department to attempt to contact R.R.'s grandmother to obtain additional information about the children's possible Indian ancestry.

In October 2017 the Department again interviewed R.R. She explained that Joshua pepper sprayed her "because he could not get his way with [her]." She continued: "We really don't fight like that. We would just get in disagreements." Joshua admitted the police went to his house after the pepper spray incident but he told the Department, "We don't really have any history of violent altercations. I was never charged with anything and the case was dismissed."

C. *Jurisdiction Findings and Disposition Order*

At the November 14, 2017 combined jurisdiction and disposition hearing, R.R. and Joshua stipulated they would testify to their statements in reports submitted by the Department. Counsel for R.R. added that R.R. moved to California to live closer to her mother and to "get away from [Joshua] after the domestic violence incidents." R.R. said she planned to stay in California because if she returned to Michigan she would be "harassed."

R.R. submitted to an amended petition that did not include several allegations relating to R.R. but that left unchanged the domestic violence allegation in count b-2. Joshua asked the court

to strike that allegation for insufficient evidence and to place the children with him or his cousin in Michigan.

Counsel for the children acknowledged Joshua lived outside California and was no longer in a relationship with R.R. Counsel argued, however, that there was no evidence Joshua had "address[ed] his domestic violence issues, et cetera" and that "the risk still exists." Counsel for the Department agreed and argued R.R. "fled [Michigan] and came to California to get away from the domestic violence." Counsel for the Department also asserted that R.R. maintained contact with "the domestic violence perpetrator" by phone and that the Department did "not know if the parents will stay in separate states" because of R.R.'s unstable housing situation. The Department therefore argued "there are still current risks posed by [Joshua's] conduct" alleged in the petition.

The court sustained the domestic violence allegation in count b-2 (as well as the submitted counts against R.R.) and declared M.B. and A.B. dependents of the court.[2] Counsel for

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[2] The court stated in its November 14, 2017 minute order that it had conferred with a judge in Michigan and that Michigan had "cede[d] jurisdiction" over M.B. and A.B. to California. At the hearing, the court summarized the content of its telephone call with the Michigan court. Therefore, the juvenile court satisfied its obligations under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). (Fam. Code, § 3400 et seq.; see *In re Cristian I.* (2014) 224 Cal.App.4th 1088, 1098 [the UCCJEA requires California courts to make a record of substantive communications with courts in another state]; *In re C.T.* (2002) 100 Cal.App.4th 101, 112 [a record including notes of a telephone call between courts in California and another state satisfies the UCCJEA's requirement that a California court

Joshua reiterated his request the court release the children to him or a relative in Michigan. The court found by clear and convincing evidence that leaving the children in R.R.'s home or placing them with Joshua would pose substantial risk of detriment or danger to the children's physical health, safety, protection, or physical or emotional well-being. The court placed the children under the care and supervision of the Department, permitted semiweekly visits in California, and ordered reunification services for both parents, including a Department-approved domestic violence program for Joshua. The court also ordered the Department to submit an application under the Interstate Compact on the Placement of Children for the children's possible placement with Joshua's mother in Michigan.

At the time of the hearing the Department had not yet contacted R.R.'s grandmother about the children's possible Indian ancestry. R.R.'s mother stated at the hearing that it was *her* great-grandmother who told her she had Indian ancestry but that she did not know from which tribe. The court again instructed the Department to investigate the children's Indian ancestry. Joshua timely appealed.[3]

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contact the court of a child's home state before making custody determinations concerning that child].)

[3] We acknowledge the unchallenged jurisdiction findings against R.R. support the court's jurisdiction over M.B. and A.B. even if we reverse the court's jurisdiction findings on count b-2. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [""the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent""]; *In re X.S.* (2010) 190 Cal.App.4th 1154, 1161 [a "'jurisdictional finding

DISCUSSION

A. *Substantial Evidence Does Not Support Jurisdiction Based on Domestic Violence Between the Parents*

1. *Applicable Law and Standard of Review*

The Department has the burden of proving by a preponderance of the evidence that a child is a dependent of the court under section 300. (*In re I.J.* (2013) 56 Cal.4th 766, 773; *In re M.W.* (2015) 238 Cal.App.4th 1444, 1453.) A court may declare a child a dependent under section 300, subdivision (b), if "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 . . . to adequately supervise or protect the child.'" (*In re D.L.* (2018) 22 Cal.App.5th 1142, 1146; see § 300, subd. (b)(1).)

"Physical violence between a child's parents may support the exercise of jurisdiction under [section 300,] subdivision (b) but only if there is evidence that the violence is ongoing or likely to continue and that it directly harmed the child physically or placed the child at risk of physical harm." (*In re Daisy H.* (2011)

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good against one parent is good against both'"].) "'However, when, as here, the outcome of the appeal could be "the difference between father'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, we find it appropriate to exercise our discretion to consider the appeal on the merits.'" (*In re Andrew S.* (2016) 2 Cal.App.5th 536, 542, fn. 2; see *In re Quentin H.* (2014) 230 Cal.App.4th 608, 613.) The Department does not contend Joshua's appeal is not justiciable for this reason.

192 Cal.App.4th 713, 717; accord, *In re M.W.*, *supra*, 238 Cal.App.4th at p. 1453.) The social services agency must show that at the time of the jurisdiction hearing the child is at risk of serious physical harm in the future. (See *In re D.L.*, *supra*, 22 Cal.App.5th at p. 1146; *In re A.G.* (2013) 220 Cal.App.4th 675, 683.) "To establish a defined risk of harm at the time of the hearing, there 'must be some reason beyond mere speculation to believe the alleged conduct will recur.'" (*In re D.L.*, at p. 1146; see *In re Kadence P.* (2015) 241 Cal.App.4th 1376, 1384 ["[a] parent's "'[p]ast conduct may be probative of current conditions" if there is reason to believe that the conduct will continue'"].) The court, however, need not wait until a child is seriously abused or injured to assume jurisdiction and take steps necessary to protect the child. (*In re D.L.*, at p. 1146; *In re Kadence P.*, at p. 1383; *In re N.M.* (2011) 197 Cal.App.4th 159, 165.) "Indeed, ongoing domestic violence in the household where children are living, standing alone, 'is a failure to protect [the children] from the substantial risk of encountering the violence and suffering serious physical harm or illness from it.'" (*In re M.W.*, at pp. 1453-1454.)

We review a challenge to the sufficiency of the evidence supporting jurisdiction findings for substantial evidence. (*In re I.J.*, *supra*, 56 Cal.4th at p. 773; *In re D.C.* (2015) 243 Cal.App.4th 41, 51.) ""'In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court." [Citation.] "We do not reweigh the evidence or exercise independent judgment, but merely determine if there are

sufficient facts to support the findings of the trial court.'"'" (*In re I.J.*, at p. 773; see *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451 ["[w]eighing evidence, assessing credibility, and resolving conflicts in evidence and in the inferences to be drawn from evidence are the domain of the trial court, not the reviewing court"].)

'"'"Substantial evidence is evidence that is 'reasonable, credible, and of solid value'; such that a reasonable trier of fact could make such findings.'"'" (*In re D.C.*, *supra*, 243 Cal.App.4th at p. 52; accord, *In re D.B.* (2018) 26 Cal.App.5th 320, 328.) "'Evidence from a single witness . . . can be sufficient to support the trial court's findings.'" (*In re D.C.*, at p. 52; see *In re Alexis E.*, *supra*, 171 Cal.App.4th at p. 451.) "'But substantial evidence "is not synonymous with any evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal."'" (*In re Joaquin C.* (2017) 15 Cal.App.5th 537, 560.) "'Inferences may constitute substantial evidence, but they must be the product of logic and reason. Speculation or conjecture alone is not substantial evidence.'" (*Patricia W. v. Superior Court* (2016) 244 Cal.App.4th 397, 420; see *In re Donovan L.* (2016) 244 Cal.App.4th 1075, 1093 [a "juvenile court's conclusion 'supported by little more than speculation' [is] not based on substantial evidence"].) The appellant has the burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order. (*In re D.C.*, at p. 52; *In re A.E.* (2014) 228 Cal.App.4th 820, 826.)

2. *Substantial Evidence Does Not Support The Juvenile Court's Finding of a Substantial Risk of Future Serious Physical Harm from Domestic Violence*

The record does not contain substantial evidence that violence between R.R. and Joshua was "ongoing or likely to continue" (*In re Daisy H.*, *supra*, 192 Cal.App.4th at p. 717), and cases with similar facts have not supported dependency jurisdiction. For example, in *In re M.W.*, *supra*, 238 Cal.App.4th 1444 the juvenile court found evidence of a single incident of domestic violence between the parents more than seven years before the jurisdiction hearing was sufficient to sustain an allegation under section 300, subdivision (b). (*In re M.W.*, at p. 1453.) The court in *In re M.W.* reversed, stating "there was no evidence that mother or father engaged in any subsequent altercations, either with one another or with other partners," and no "evidence that mother and father lived together." (*Id.* at p. 1454.) Moreover, the children had not had any contact with their father for several years (since he had been arrested on unrelated charges). (*Ibid.*) The court held, "None of this evidence suggests even a minimal risk that the children were currently or would subsequently be exposed to domestic violence between mother and father [citation], particularly where father was incarcerated at the time of the hearing." (*Ibid.*)

The record here similarly contains evidence of a single domestic violence incident between R.R. and Joshua almost a year before the combined jurisdiction and disposition hearing. There was no evidence R.R. and Joshua engaged in any subsequent altercations (other than a contentious telephone

call),[4] and no evidence R.R. and Joshua lived together or even lived in the same state.[5] Although the most recent incident between R.R. and Joshua was much closer in time to the jurisdiction hearing than the incident in *In re M.W.*, there is similarly no evidence that another incident is likely to occur.[6]

The Department cites *In re J.N.* (2010) 181 Cal.App.4th 1010, where the court stated: "In evaluating risk based upon a single episode of endangering conduct, a juvenile court should consider the nature of the conduct and all surrounding circumstances. It should also consider the present circumstances, which might include, among other things, evidence of the parent's current understanding of and attitude toward the past conduct that endangered a child, or participation in educational programs, or other steps taken, by the parent to address the problematic conduct in the interim, and probationary support

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[4] R.R. told the Department Joshua called her and told her he was going to take the children from her.

[5] The Department suggested R.R. might return to Michigan because her "housing in California is . . . not stable." R.R., however, told the court, "I'm staying down here" in California.

[6] The Department cites *In re M.M.* (2015) 240 Cal.App.4th 703 in support of its assertion the pepper spray incident placed M.B. and A.B. at substantial risk of injury. That case, however, described a more serious incident of domestic violence between the parents, as well as additional incidents. (See *id.* at p. 720 ["father was actually holding minor while mother was hitting father and while father was choking mother," and the incident "involved severe domestic violence by both mother and father, which included 'choking, hitting, grabbing, throwing objects [and] pushing'"]; *id.* at pp. 720-721.)

and supervision already being provided through the criminal courts that would help a parent avoid a recurrence of such an incident." (*Id*. at pp. 1025-1026.) The Department contends Joshua failed to present any evidence he had addressed his domestic violence issues, "regressed to denying and minimizing the parents' history of domestic violence," "continued to taunt and aggravate [R.R.] by phone," and "would no longer have probationary support or accountability" after his probation ended.

It was the Department's burden, however, not Joshua's, to show by a preponderance of the evidence Joshua had not "addressed his domestic violence issues," and the Department cites no such evidence. Nor does the Department identify how it provided court-ordered services to Joshua or whether Joshua failed to participate in those services.

To support its assertion Joshua had "regressed" to "denying and minimizing" the pepper spray incident, the Department cites the following conversation between its case social worker and Joshua:

Joshua: "We don't really have any history of violent altercations. I was never charged with anything and the case was dismissed."

Social Worker: "The police came to your home regarding the pepper spray incident."

Joshua: "Yes, they came out and I was arrested but the charges were dismissed in 2016. I was never charged with that. I never said I did. She said I did that."

Joshua's statements are ambiguous at best. It is unclear whether he denied the incident occurred or denied he was charged with a crime following the incident. Moreover, Joshua admitted in other interviews with the Department that he

"maced" R.R., and he stipulated at the hearing he would testify to the statements appearing in reports submitted by the Department, including that statement. Joshua's statement he and R.R. "don't really have any history of violent altercations" is consistent with R.R.'s statements that "[w]e really don't fight like that" and they "would just get in disagreements." Despite the Department's repeated allegations of a "history" of domestic violence between the parents, there was no evidence of such a history. The only incident R.R. ever described was the pepper spray incident, which occurred when Joshua and R.R. lived in the same state, not over 2,000 miles apart. While "[t]he nature and circumstances of a single incident of harmful or potentially harmful conduct may be sufficient, in a particular case, to establish current risk depending upon present circumstances" (*In re J.N.*, *supra*, 181 Cal.App.4th at p. 1026), in this case "there was no evidence from which to infer there is a substantial risk such behavior will recur." (*Ibid.*) Therefore, we reverse the juvenile court's jurisdiction findings on count b-2.

B. *The Juvenile Court Did Not Make the Findings Required by Section 361.2*

Section 361.2, subdivision (a), provides: "When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional

well-being of the child." Section 361.2, subdivision (c), provides: "The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b)."

M.B. and A.B. did not reside with Joshua at the time the events or conditions arose that brought the children within the provisions of section 300. And Joshua made clear he wanted custody of the children. Therefore, the juvenile court had an obligation under section 361.2, subdivision (a), to place the children with Joshua unless the court found by clear and convincing evidence that placement with Joshua would be detrimental to the children's safety, protection, or physical or emotional well-being. (See *In re C.M.* (2014) 232 Cal.App.4th 1394, 1401 ["[t]o comport with due process, the detriment finding must be made under the clear and convincing evidence standard"].)

Joshua argues the juvenile court failed to state the basis for its determination that placing the children with Joshua "would pose substantial risk of detriment and danger to their physical health, safety, protection, or physical or emotional well-being." Joshua is correct; the court made no such findings in writing or on the record. This was error. (See *In re J.S.* (2011) 196 Cal.App.4th 1069, 1078 ["[a]lthough the court made clear which option it was choosing, it failed to make any formal finding directed to this choice"].)

The Department argues the court's finding that Joshua "had done nothing to resolve the domestic violence issues" supports the court's determination under section 361.2, subdivision (a). Even if we accepted the Department's

characterization of the court's finding,[7] the court did not make this statement in connection with the determination under section 361.2. Instead, the court made that "finding" in connection with concluding it had jurisdiction under section 300. A jurisdiction finding is not the "express finding" required by the Legislature in connection with section 361.2, subdivision (a). (*In re J.S.*, *supra*, 196 Cal.App.4th at p. 1078; see *In re Abram L.* (2013) 219 Cal.App.4th 452, 463 [refusing to imply findings under section 361.2, subdivision (a), because the statute requires "express findings"].)

Nevertheless, "[w]e cannot reverse the court's judgment unless its error was prejudicial, i.e., "'it is reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error.'"" (*In re Abram L.*, *supra*, 219 Cal.App.4th at p. 463; see *In re J.S., supra*, 196 Cal.App.4th at p. 1078.) The error here, however, was prejudicial. Other than evidence of the pepper spray incident, the Department submitted virtually no evidence concerning Joshua's competence as a parent, his ability to provide for his children's needs, or other factors that might support a finding that placing the children with Joshua would be detrimental to them. (See *In re Liam L.* (2015) 240 Cal.App.4th 1068, 1086 ["'where a child has a fit parent who is willing to assume custody,

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[7] The court actually said, "And it's not clear that [Joshua has] done anything to resolve" the risk posed by his conduct. "It's not clear" Joshua had done anything to address an alleged domestic violence issue is not a finding Joshua "had done nothing" to resolve it. Moreover, as explained, the Department cited no evidence to support its supposition that Joshua had done nothing in this regard.

there is no need for state involvement unless placement with that parent would create a substantial [risk] of detriment to the child'"].) Had the court applied the standard under section 361.2 to the evidence in the record, it is reasonably probable the court would not have concluded by clear and convincing evidence that placing the children with Joshua would be detrimental. (See *In re Abram L.*, at p. 463.) Therefore, we reverse the disposition order and remand to the juvenile court to reconsider placement of M.B. and A.B. pursuant to section 361.2 and to make findings based on the facts existing at the time of the proceeding. (See *In re Abram L.*, at p. 464, fn. 6 ["[o]n remand the juvenile court must make a decision based on the facts existing at the time of the further proceedings"]; *In re V.F.* (2007) 157 Cal.App.4th 962, 973 [remanding to juvenile court to make findings under section 361.2 where court failed to consider whether placing children with their father would be detrimental to them].)[8]

C. *Whether the Juvenile Court Erred by Failing To Comply with ICWA is Moot*

Joshua argues that the statements of R.R. and her mother at the detention hearing on August 28, 2017 triggered the notice requirements under ICWA and that the juvenile court should not

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[8] We take judicial notice of the juvenile court's May 21, 2018 order (see Evid. Code §§ 452, subd. (d), 459), which terminated reunification services for Joshua. On remand the juvenile court may not imply detriment to the children based solely on that action. (See *In re Z.K.* (2011) 201 Cal.App.4th 51, 66 [rejecting an implied finding of detriment where juvenile court terminated reunification services for a parent whose whereabouts were unknown and who did not have the opportunity to participate in dependency proceeding].)

have held the combined jurisdiction and disposition hearing until after the Department sent notice to the Bureau of Indian Affairs (Bureau) regarding the children's possible Indian ancestry. (See 25 U.S.C. § 1912(a); § 224.2, subd. (d).) On May 21, 2018, however, the juvenile court ordered the Department to submit return receipts showing the Department had notified the Bureau of the proceedings involving M.B. and A.B. On August 3, 2018 the juvenile court found: "ICWA Notice is proper and complete. [¶] The Court does not have a reason to know that [M.B. or A.B.] is an Indian Child, as defined under ICWA, and does not order notice to any tribe or the [Bureau]."[9] Because the Department has now given notice to the Bureau, and the court has determined that neither M.B. nor A.B. is an Indian child, the issue whether notice was required prior to the combined jurisdiction and disposition hearing is moot. (See *In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1388 [post-disposition notice to a tribe rendered moot a challenge to disposition prior to ICWA notice].)

DISPOSITION

The jurisdiction findings on count b-2 and the disposition order denying Joshua's request for placement of M.B. and A.B. with him are reversed. The matter is remanded to the juvenile court with directions to reconsider Joshua's request for custody in

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[9] We take judicial notice of the juvenile court's August 3, 2018 order. (See Evid. Code §§ 452, subd. (d), 459; *In re Kadence P.*, *supra*, 241 Cal.App.4th at p. 1388.) We deny the Department's motion for judicial notice of the Last Minute Information for the Court the Department filed on May 18, 2018.

accordance with section 361.2. In all other respects, the jurisdiction findings and disposition order are affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.