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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re KIANA F., a Person Coming
Under the Juvenile Court Law.

B276345

(Los Angeles County
Super. Ct. No. DK15361)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T. F.,

Defendant and Appellant.

APPEAL from the jurisdictional finding and dispositional
order of the Superior Court of Los Angeles County, Rudolph A.
Diaz, Judge. Dismissed.

Christopher Blake, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel and Jessica S. Mitchell, Deputy County Counsel, for Plaintiff and Respondent.

Tamara F. (mother) appeals from the jurisdictional finding and dispositional order declaring her daughter, Kiana F. (Kiana), a dependent of the court under Welfare and Institutions Code section 300, subdivision (b).¹ Mother contends substantial evidence does not support the court's jurisdictional finding that, based on mother's problems with alcohol, Kiana is at risk of suffering serious harm. She also argues the dependency court lacked jurisdiction to hear the case under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). (Fam. Code, § 3400 et seq.)

On February 24, 2017 (while the current appeal was pending), the dependency court entered a family law order defining the terms of Kiana's custody, and an order terminating jurisdiction.² We provided the parties an opportunity to address whether we should take judicial notice of the dependency court's February 24, 2017 orders, and declare moot the issues currently on appeal.

¹ Further statutory references are to the Welfare and Institutions Code unless otherwise noted.

² While the dependency proceedings were being litigated in the superior court, mother and father (H.F.) had a pending divorce case in Louisiana.

Both parties filed their letter briefs on March 20, 2017. The Department of Children and Family Services expresses no objection to judicial notice and takes the position that the appeal is subject to being dismissed as moot. Mother asks this court to exercise its discretion to decide the UCCJEA issue because the issue is a matter of public importance and “will likely escape appellate review unless an appellate court invokes one of the exceptions to the mootness doctrine.” Mother does not address the propriety of judicial notice. We take judicial notice of the orders mentioned above (Evid. Code, §§ 452, subd. (d)(1), 459, subd. (a)) and turn to the question of mootness.

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.]” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) “[N]o direct relief can be granted even were we to find reversible error, [if] the juvenile court no longer has jurisdiction and we are only reviewing that court’s ruling.” (*In re Michelle M.* (1992) 8 Cal.App.4th 326, 330.) “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.*, *supra*, at p. 1488.)

The termination of dependency court jurisdiction in this case rendered the issues on appeal moot. We can give no effective relief to mother because there is no ongoing proceeding in the dependency court. (*In re Michelle M.*, *supra*, 8 Cal.App.4th at p. 329.)

As stated above, mother argues her claim regarding the applicability of the UCCJEA should not be dismissed because it raises a significant issue that is likely to evade appellate review in the future. She concedes the trial court had emergency

jurisdiction under the UCCJEA (Fam. Code, § 3424) when the dependency proceedings commenced (January 29, 2016).³ However, mother argues the dependency court should have granted her May 19, 2016 motion to dismiss because the “emergency” that justified emergency jurisdiction no longer existed.⁴

Mother is concerned that, in future cases, appellate panels will not have the opportunity to decide the appropriate scope of a dependency court’s emergency jurisdiction because, by the time the appellate court considers the issue on an appeal challenging the dependency court’s ruling, the purported emergency will cease to exist. As we will explain, mother has not convinced this court that it is appropriate to disregard mootness and address the dependency court’s jurisdictional determination.

³ Emergency jurisdiction under the UCCJEA can be explained in the following way. “[A] court that otherwise lacks jurisdiction to modify a child custody determination can make a temporary emergency order ‘if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child . . . is subjected to, or threatened with, mistreatment or abuse.’ [Citation.] Such a temporary emergency order must specify a period adequate for the person seeking relief ‘to obtain an order from the state having jurisdiction’; the temporary order remains in effect only until an order is obtained from the other court or the specified period expires. [Citation.]” (*In re Marriage of Paillier* (2006) 144 Cal.App.4th 461, 470.)

⁴ Neither party takes the position that the question of whether there was sufficient evidence to support the dependency court’s finding pursuant to section 300, subdivision (b) is one of public importance or capable of repetition yet evading review.

First, the basis for the dependency court's jurisdiction under the UCCJEA is not clearly reflected in the record. The court made no specific finding that it was exercising "emergency jurisdiction." Rather, it appears the dependency court ruled it had jurisdiction over the case because the judge in Louisiana effectively stayed the divorce proceedings pending the result of the dependency matter. (See Fam. Code, § 3426, subd. (a).) Thus, resolution of the UCCJEA issue may not turn on the applicability of its emergency jurisdiction provision.

Second, we disagree with mother's assertion that issues concerning the scope of a trial court's emergency jurisdiction will escape future appellate review. A party appealing a jurisdictional finding and dispositional order is at liberty to argue the dependency court improperly exercised emergency jurisdiction over the cause. (See, e.g., *In re Jaheim B.* (2008) 169 Cal.App.4th 1343, 1349-1351 [addressing the propriety of a dependency court's determination that it had emergency jurisdiction under the UCCJEA].) In addition, a ruling on the point is subject to immediate review by a writ of mandate and could, in the appropriate case, result in the issuance of an order to show cause and a written opinion by an appellate panel. (See, e.g., *Grahm v. Superior Court* (2005) 132 Cal.App.4th 1193, 1196-1201 [granting mandate petition after finding California retained exclusive jurisdiction under the UCCJEA]; *Peery v. Superior Court* (1985) 174 Cal.App.3d 1085, 1089, 1093 [court considers, on mandamus, whether California has jurisdiction under the former version of the UCCJEA⁵].) There is no appreciable danger

⁵ The former version of the UCCJEA, i.e., the version prior to 1997, was the Uniform Child Custody Jurisdiction Act. (*In re Marriage of Sareen* (2007) 153 Cal.App.4th 371, 373, fn. 1.)

UCCJEA issues similar to the one raised by mother will evade future review.

DISPOSITION

The appeal is dismissed.

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KUMAR, J.*

We concur:

KRIEGLER, Acting P.J.

BAKER, J

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