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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re A.H., A Person Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

M.H.,

Defendant and Appellant.

B279930

(Los Angeles County
Super. Ct. No. DK20520)

APPEAL from an order of the Superior Court of Los Angeles County. Terry Truong, Juvenile Court Referee. Affirmed.

Michael D. Randall for Defendant and Appellant.

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

* * * * *

Mother M.H. appeals the jurisdictional findings for her now eight-year-old son, A.H., based on domestic violence between mother and her boyfriend, A.I. At the jurisdictional hearing, the juvenile court removed A.H. from mother's care, placed A.H. with his father, T.H., ordered monitored visitation for mother, and terminated jurisdiction. Mother does not challenge A.H.'s removal, placement with his father, or termination of jurisdiction. Her only claim on appeal is that there was no substantial evidence the domestic violence between mother and A.I. harmed A.H. Finding both that the appeal is moot, and that, in any event, substantial evidence supports the jurisdictional finding, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This family came to the attention of the Los Angeles County Department of Children and Family Services (Department) in October 2016. Mother and father were separated, but still married. Mother and A.H. had been living with mother's new boyfriend, A.I., and his two minor sons, for several months. Early on the morning of October 30, 2016, mother called police to report that A.I. had assaulted her. At 3:00 a.m., A.I. had returned home intoxicated. Mother confronted him about flirtatious text messages on his phone, and the two argued. A.I. slapped mother, pushed her to the floor, and kicked her multiple times. He then grabbed his sons and left the house. When police arrived, mother told them she did not want to press charges; she was only concerned for the welfare of A.I.'s children. Mother refused an emergency protective order. A.I. was arrested and his children were released to mother. Mother later bailed A.I. out of jail.

The Department investigated the incident to assess the safety of the children in the home. The secretary at the children's school reported that A.H. had seemed "sad" and was not acting

like “himself lately.” A.H. was observed to be healthy and appropriately dressed. He told the social worker that A.I. “told him about all the people he beat up in Texas.” It was “okay” living with A.I., but A.H. did not know him that well because they had only recently started living together. Concerning the October 30 incident, A.H. “believed” he was sleeping when the police came and arrested A.I. When asked if mother had been hurt, A.H. said he saw a bruise on mother. When asked how he felt about A.I. being back in the home, A.H. told the social worker “I sometimes wish he didn’t come back” because he did not “want to see [his] mom hurt again.”

A.I.’s son, Au.I., told the social worker “I wish [mother] would stop getting hit. I tell my Dad not to hit her. . . . She has 5 or 6 bruises right now and my Dad will tell you it’s an accident that she hurt herself, but that’s not true. He pushes her to the wall, to the floor. He does it to her and I wish it would stop.” On the night of the incident, Au.I. reported that he was sleeping but was awakened by the noise. He did not see mother get hit, “but [he knew] that’s what happened.”

When a social worker interviewed mother several weeks after the incident, mother had visible bruises and injuries. She told the social worker she would like A.I., who was not home at the time, to be present for the interview. However, when mother called A.I., he could be heard yelling with slurred speech, and refused to return home. During the remainder of the interview, A.I. persistently called mother and yelled at her to not cooperate with the Department. Mother insisted that A.I. is a “good guy” and that the children were not affected by what happened between them. Mother told the social worker that “This is how our relationship is. . . . This is the way I like it.” When confronted about her bruises, mother first told the social worker

she fell, and then explained that A.I. “pushes” her “during sex and that’s how [she] like[s] it.”

The Department obtained a warrant to remove the children from the home. A.H. was released to his father’s care.

A.I. testified at the jurisdictional hearing. From his testimony, it appeared that mother and A.I. were still involved in a relationship.

The juvenile court sustained an allegation, under Welfare and Institutions Code section 300, subdivision (b), that “[t]he child[’s] . . . mother . . . and the mother’s male companion . . . have a history of engaging in violent altercations in the presence of the child. On 10/30/2016, the male companion struck[,] slapped[,] kicked [and] pushed the mother. . . . On prior occasions, the male companion struck the mother. The mother failed to protect the child in that the mother allowed the male companion to reside in the child’s home and have unlimited access to the child. The violent conduct by the male companion against the mother, and the mother’s failure to protect the child, endangers the child’s physical health and safety, creates a detrimental home environment, and places the child at risk of harm.”

The court removed A.H. from mother, ordered that mother’s visitation be monitored, placed A.H. with his father, and terminated jurisdiction. This timely appeal followed.

DISCUSSION

Mother only challenges the juvenile court’s jurisdictional findings, and claims no prejudice stemming from any of the court’s other orders. Because jurisdiction has been terminated,

mother's appellate challenge is necessarily moot.¹ (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404 [“ ‘[A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.’ [Citation.]”]; see also *In re Michelle M.* (1992) 8 Cal.App.4th 326, 329-330 [termination of dependency jurisdiction by the juvenile court moots an appeal from an interim ruling by the juvenile court].)

The appeal also fails on its merits. It is well settled that the failure to protect a child from the substantial risk of encountering domestic violence supports jurisdiction under Welfare and Institutions Code section 300, subdivision (b). (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599; *In re Heather A.* (1996) 52 Cal.App.4th 183, 194.) Here, there was ample evidence of continuing domestic violence between mother and A.I., and that mother did not appreciate the harm it could cause A.H. (*In re Cole C.* (2009) 174 Cal.App.4th 900, 916 [addressing the sufficiency of the evidence standard of review].)

DISPOSITION

The order is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.

¹ The Department has not argued that the appeal is moot, therefore, we will briefly reach the merits of mother's claim of error.