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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

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

B286118

(Los Angeles County
Super. Ct. No. DK18305)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.I.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Stephen C. Marpet, Judge. Affirmed.

John L. Dodd, under appointment by the Court of Appeal, for
Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant
County Counsel, and Stephen D. Watson, Deputy County Counsel,
for Plaintiff and Respondent.

L.I. (Mother) appeals from the juvenile court's jurisdiction and dispositional orders made after the court adjudged her children K.A. (born in 2011) and Y.I. (born in 2016) dependents under Welfare and Institutions Code section 300.¹ Mother contends that the evidence did not support the jurisdictional finding. Although the court has returned the children to Mother and terminated jurisdiction, we decline to dismiss the appeal because the sustained jurisdictional findings might have a future adverse effect on Mother. As we shall explain, however, sufficient evidence supported the court's exercise of jurisdiction. Accordingly, we affirm.

FACTUAL AND PROCEDURAL HISTORY

Mother and the minors² first came to the attention of the Department of Children and Family Services (DCFS) in July 2016, when DCFS received a referral from the hospital about the newborn Y.I. and Mother. The reporting party stated that Mother had tested positive for opiates and marijuana at Y.I.'s birth, and the baby was exhibiting symptoms of drug withdrawal.³ The referral also stated that Mother was disregarding medical advice and recommendations, that she admitted to using hydrocodone⁴ and marijuana during her pregnancy, that she acted "hypomaniac," presented with depressive symptoms, and had a diagnosis of

¹ All statutory references shall be to the Welfare and Institutions Code unless otherwise indicated.

² The children have different fathers, neither of whom are parties to this appeal.

³ Notwithstanding symptoms Y.I. showed at birth consistent with prenatal exposure to drugs, the toxicology screen for Y.I. was negative for drug exposure.

⁴ The drug is also referred to as "opiates" and "Norco" in the record.

Bipolar Disorder. The hospital staff and treaters expressed a concern that Mother might harm the baby while in a hypomanic or depressive state.

The DCFS investigation revealed that Mother had a documented history of Bipolar Disorder, was hospitalized three times between 2008 and 2009 for mania and depression, and in 2009, she had expressed a desire to commit suicide. Mother had discontinued mental health treatment after her last hospitalization and had refused to use psychotropic medication. Mother denied having a history of mental illness; she told the hospital psychiatrist that she “‘faked [mental illness] for disability benefits.’” The hospital psychologist reported that Mother was “very oppositional,” showed paranoia, and was overly suspicious of hospital staff. It was also noted Mother was documented as being depressed during prenatal visits, but she did not follow through on mental health referrals.

When the social worker interviewed Mother, she refused to disclose the whereabouts of K.A. Concerning her drug use, Mother explained that she had prescriptions for hydrocodone and marijuana and used both while pregnant with Y.I. and K.A. She reported that she had worked as a preschool teacher for a number of years, but had quit her job during her pregnancy with Y.I. Y.I.’s father told the social worker he was aware that Mother used hydrocodone and marijuana according to her prescriptions but denied knowledge that Mother had any mental health issues.

DCFS obtained a removal order and detained Y.I. After that, DCFS discovered that K.A. had been with his father, who told the DCFS social worker that he suspected that Mother had a history of mental illness and abused prescription medications. He was concerned about K.A.’s safety in Mother’s care because of her lack of mental stability.

On July 13, 2016, DCFS filed a petition alleging the children came under Welfare and Institutions Code section 300, subdivision (b). Count (b)-1 alleged Mother had a history of substance abuse and was a current abuser of prescription medication and marijuana, rendering her unable to provide regular care and supervision of the children. Count (b)-2 alleged Mother had a history of mental and emotional problems, including a diagnosis of Bipolar I Disorder, depression, and anxiety, which rendered her incapable of providing regular care and supervision of the children. It further alleged that Mother had been involuntarily hospitalized for evaluation and treatment of her psychiatric condition; she failed to take her psychotropic medication as prescribed; and “[s]uch mental and emotional condition on the part of the mother endangers the children’s physical health and safety and places the children at risk of serious physical harm and damage.” The court detained the children from Mother, released K.A. to his father, granted Mother monitored visits, and ordered DCFS to provide Mother referrals for testing, classes, counseling, and services. Y.I. was placed in foster care.

During subsequent court proceedings, DCFS reported that Y.I. had to be placed in several different foster homes because Mother had contacted and harrassed the fosters parents, acted aggressively towards them and posted about them and the case on the Internet. Although the court ordered Mother to keep the proceedings confidential and not to contact the foster parents directly, Mother continued to post information on social media and made efforts to contact the foster parents. On January 13, 2017, the juvenile court issued a temporary restraining order keeping Mother from Y.I., except for monitored visits at a DCFS office. The court also ordered Mother to undergo a mental health examination pursuant to Evidence Code section 730.

Mother submitted evidence that she enrolled in a parenting group and began attending the classes and group sessions in January 2017. According to the leader of the group, Mother appeared willing to comply with the program but also appeared to be in denial as to why DCFS was involved in her life. Mother also submitted evidence from a clinical psychologist she had retained, indicating that after examining hospital and DCFS documents and interviewing Mother, the psychologist had determined that Mother was not a danger to herself or the children, did not have a substance abuse problem or mental illness, and had a history of maintaining a stable and loving home with K.A. The psychologist acknowledged that Mother's records showed that she had been diagnosed with Bipolar Disorder. Mother also provided documents from Kaiser Permanente, one of which reflected that she had been prescribed Norco for fibroid pain in May 2016 when she was 33 weeks pregnant with Y.I.⁵ In March 2016, Mother told doctors she was struggling with depression and anxiety but was not open to medication.

At the adjudication hearing on March 27, 2017, counsel for the children asked the juvenile court to dismiss the allegations regarding Mother's substance use and sustain the allegations as to her mental health. Mother's counsel asked the court to dismiss the petition in its entirety and characterized Mother's behavior that she "freaked out a little bit." In sustaining the section 300, subdivision (b) allegation relating to Mother's mental health problems, the court disagreed with Mother's counsel's

⁵ The social worker noted the last prescription Mother provided for hydrocodone was in November 2016, did not have the prescriber's information, and stated "no refills." A report from the California Department of Justice indicated Mother had received several prescriptions from six different doctors for hydrocodone from November 2015 to July 2016.

characterization of Mother's behavior.⁶ The court observed that since the outset of the case Mother had ignored and disobeyed orders from DCFS and the court, refused mental health treatment, and consistently harassed the foster families. The court observed that the evidence in record and Mother's behavior during the case showed that she was unstable—that she showed “classic symbols of somebody who has got a Bipolar problem but manifests itself way beyond what it should when the child was detained.”

The psychologist appointed under Evidence Code section 730 to evaluate Mother confirmed Mother's Bipolar Disorder diagnosis and opined that she had poor insight about her current mental health issues and was in denial about her mental health history and was not medication compliant. The Evidence Code section 730 report disclosed a “concern that the children could be at risk if their mother experienced a Bipolar episode while they were in her care.” Also, the psychologist recommended that reunification occur with the children after Mother agreed to a psychiatric consultation and a regimen of psychotropic medication to treat her Bipolar Disorder.

On September 8, 2017, the juvenile court declared the children dependents, returned K.A. and Y.I. to Mother's custody under DCFS's supervision. The court ordered Mother to enroll in individual counseling with a licensed therapist to address all case issues and provide DCFS information about her use of medications.

Mother filed a timely notice of appeal. On March 9, 2018, the dependency court terminated its jurisdiction over the minors, who remained in Mother's custody.⁷

⁶ The court dismissed the section 300, subdivision (b) allegation relating to Mother's alleged substance abuse and use of prescriptions.

⁷ We grant DCFS's request that we take judicial notice of the order terminating dependency jurisdiction in this matter.

DISCUSSION

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.] 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.* (2009) 172 Cal.App.4th 1481, 1488.) The appellate court may review an otherwise moot appeal if the purported error creates severe and unfair consequences for the parent in subsequent dependency or other proceedings. (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 716.)

Mother argues that if the findings against her are sustained, they could affect future dependency proceedings or pose potential adverse consequences for her beyond jurisdiction. She asserts that a sustained petition may result in her being listed on the Child Abuse Central Index⁸ maintained by the California Department of Justice, which might prevent her from resuming work as a teacher. Given her prior employment, her concerns are not unrealistic, and thus we consider the merits of the appeal. We conclude, however, that substantial evidence supports the court’s jurisdictional finding.

(Evid. Code, §§ 459, 452, subd. (d).) In the supplemental brief, DCFS has urged this court to dismiss the appeal as moot, while Mother asks the court to exercise its discretion to reach the merits. As explained herein, we exercise our discretion to consider Mother’s appeal on the merits and therefore deny the motion to dismiss.

⁸ The CACI is maintained by the California Department of Justice, which is required to disclose substantiated reports of child abuse and severe neglect to any law enforcement or other agency conducting a child abuse investigation as well as certain agencies conducting background checks of applicants seeking employment involving contact with children. (See Pen. Code, § 11170.)

When asked to assess whether sufficient evidence exists to support a juvenile court's findings, our task begins and ends with a determination as to whether there is any substantial evidence, contradicted or not, to support the juvenile court's conclusion. (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.) We do not reweigh, judge the value of or resolve conflicts in evidence; nor do we exercise independent judgment or evaluate the credibility of witnesses. (*In re B.D.* (2007) 156 Cal.App.4th 975, 986.) Jurisdictional findings are reviewed in a light most favorable to the challenged order; all conflicts and reasonable inferences are resolved in favor of the order. (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 450-451.)

Mother objects to the juvenile court's finding under section 300, subdivision (b). She insists that her prior diagnosis of Bipolar Disorder is too remote to support a jurisdictional standing alone and that nothing about her behavior or mental health during the course of the dependency proceedings demonstrated a current risk of harm to the children. We disagree.

Substantial evidence in the record discloses that Mother has a history of mental illness that she has refused to acknowledge and treat. In March 2016, while Mother was pregnant with Y.I., she told doctors she was struggling with depression and anxiety but was not open to medication. And even before DCFS became involved with the family, K.A. lived with his father because of concerns about Mother's mental stability and use of prescription drugs. In addition, Mother demonstrated symptoms of her mental illness at Y.I.'s birth; hospital staff and treaters expressed a concern that Mother might harm the baby while in a hypomanic or depressive state. Moreover, as the court observed during the adjudication hearing, throughout Mother's interactions with DCFS, the court, and the foster parents, Mother acted in a paranoid and aggressive manner that suggested she currently suffered from

symptoms of untreated mental illness. The court's assessment of Mother's behavior was substantiated by the court-appointed Evidence Code section 730 mental health evaluator, who confirmed Mother's Bipolar Disorder diagnosis and opined that her lack of insight and denial of her mental illness placed the children at substantial risk of harm. Thus, the record contains sufficient evidence to support the juvenile court's exercise of jurisdiction under section 300, subdivision (b).

DISPOSITION

The order of the juvenile dependency court is affirmed.
NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur.

CHANEY, J.

JOHNSON, J.