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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re VINCENT C., a Person Coming  
Under the Juvenile Court Law.

B254900  
(Los Angeles County  
Super. Ct. No. DK01488)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

A. W.,

Defendant and Appellant.

APPEAL from findings of the Superior Court of Los Angeles County.  
Rudolph A. Diaz, Judge. Reversed.

Lisa A. Raneri, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Richard D. Weiss, Acting County Counsel and William D. Thetford, Deputy  
County Counsel, for Plaintiff and Respondent.

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A. W. (mother) appeals from juvenile court jurisdictional findings made pursuant to Welfare and Institutions Code section 300, subdivisions (b) and (g)<sup>1</sup> regarding her son Vincent C. (Vincent, born June 1997). Without conceding error, the Department of Children and Family Services (DCFS) has no objection to the jurisdictional findings being reversed.

In light of Vincent's age and the fact that the underlying case has since been terminated, we reverse the juvenile court's findings.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On September 21, 2013, DCFS received a hotline referral that then 16-year-old Vincent and his parents were homeless when the parents were arrested and jailed for vandalism. The alleged father denied parentage and he was dismissed from the case. His biological father was never identified.

While incarcerated, mother placed Vincent with a maternal aunt. However, the aunt was having financial difficulties and could not care for him. Therefore, the aunt took Vincent to LA Youth Network, a 30-day temporary youth shelter. Mother had no other relatives to care for Vincent. When Vincent's time at the youth shelter expired, DCFS placed him in a foster home.

On September 25, 2013, DCFS filed a section 300 petition on Vincent's behalf, alleging that Vincent's parents were incarcerated and failed to make an appropriate plan for his care and supervision.

On November 26, 2013, mother notified the social worker that she had been released from jail. However, it was unknown where mother was or how to contact her. On December 12, 2013, the social worker was able to make telephone contact with mother through the maternal aunt. Mother confirmed that she had been released from jail and requested that Vincent be released to her custody. But, she had also informed the social worker that she had no stable home, income, or transportation. The social worker

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

asked if mother would be amenable to participating in a voluntary case plan. Mother declined.

At the jurisdiction hearing on December 18, 2013, mother provided the juvenile court with a notification of mailing address form that provided an address. County counsel articulated DCFS's concerns and noted that the address mother had provided was possibly only a mailing address. Vincent's attorney and mother's attorney asked the juvenile court to dismiss the petition. The juvenile court stated that the petition did not indicate that mother was currently incarcerated but that she was incarcerated at the time she placed Vincent with his maternal aunt who could not care for him; therefore, the allegations were true. The juvenile court acknowledged that mother had been released from jail, but stated that she had only provided a mailing address. Thus, the juvenile court did not know where Vincent would be living if he were released to mother. Accordingly, the juvenile court sustained the section 300 petition and continued the disposition hearing.

At the disposition hearing, DCFS recommended that the juvenile court release Vincent to mother, conditioned on mother participating in individual counseling and family preservation services, obtaining a stable home, providing proof of income, identifying a relative with whom Vincent could live if mother were incarcerated again, allowing DCFS access to her home, keeping DCFS updated as to her criminal case, and staying in contact with DCFS. Mother's counsel agreed to the release, but objected to the conditions. The juvenile court followed the recommendation, releasing Vincent to mother and ordering the conditions.

On February 28, 2014, mother's timely appeal ensued.

While this appeal was pending, on June 9, 2014, the juvenile court terminated jurisdiction. Mother timely appealed this juvenile court order as well.

## DISCUSSION

### *I. The Appeal is not Moot*

In its letter brief responding to mother's opening brief, DCFS asserts that this appeal is "arguably moot." We disagree. Although the juvenile court terminated dependency jurisdiction and released Vincent to mother, we agree with mother that dismissing this appeal could have "severe and unfair consequences" to her in the future. (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 716; see also *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170, 1179–1180, 1199–1200.)

### *II. Substantial Evidence Does not Support the Jurisdictional Findings*

Mother argues that the jurisdictional findings against her cannot stand because she was no longer incarcerated at the time of the jurisdictional hearing. We agree. Because there were no current grounds for dependency jurisdiction at the time of the jurisdictional hearing, there is no substantial evidence to support the findings made by the juvenile court. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193; *Maggie S. v. Superior Court* (2013) 220 Cal.App.4th 662, 673; *In re Aaron S.* (1991) 228 Cal.App.3d 202, 208.)

To the extent the juvenile court sustained the allegations based on mother's homelessness and uncooperativeness, we still cannot affirm. Those allegations were not pled in the section 300 petition. (*In re J.O.* (2009) 178 Cal.App.4th 139, 152–153, fn. 13.) And, setting that procedural obstacle aside, those facts alone are not proper grounds for intervention or removal of children. (See, e.g., *In re P.C.* (2008) 165 Cal.App.4th 98, 104; *In re Danielle M.* (1989) 215 Cal.App.3d 1267, 1270–1271.)

**DISPOSITION**

The juvenile court's findings are reversed.

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\_\_\_\_\_, Acting P. J.  
ASHMANN-GERST

We concur:

\_\_\_\_\_, P. J.  
CHAVEZ

\_\_\_\_\_, J.  
HOFFSTADT