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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re H.G., et al., Persons Coming  
Under the Juvenile Court Law.

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LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

K.P.,

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Defendant and Appellant.

B285795

(Los Angeles County  
Super. Ct. No. DK23053)

APPEAL from a judgment of the Superior Court of Los Angeles County, Rudolph A. Diaz, Judge. Affirmed.

Takin Khorram, under appointment by the Court of Appeal, for Defendant and Appellant.

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

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## ***INTRODUCTION***

The juvenile court found jurisdiction over mother's two children, sustaining three separate counts under Welfare and Institutions Code section 300.<sup>1</sup> In the first count, the Department of Children and Family Services (DCFS) alleged that mother and father's domestic violence endangered the children. The second count alleged that father's current and historic drug use endangered the children, and that mother failed to protect the children from it. The third alleged that mother's historical drug use endangered the children. Mother appeals the court's finding true the first and third counts. Mother's appeal is nonjusticiable because she does not challenge all bases for jurisdiction and has not provided this court sufficient reason to exercise our discretion to address her appeal on the merits.

## ***FACTS AND PROCEDURAL BACKGROUND***

### **1. DCFS Discovers Parental Drug Use and Domestic Violence**

Mother and father have more than a 20-year difference in age and met on the streets in a location frequented by drug abusers. The parents have two young children (born in August 2015 and 2016).<sup>2</sup> When this case commenced, mother was pregnant with their third child. The family lives in a house shared by father's relatives.

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<sup>1</sup> All subsequent statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Father has other children outside of this relationship. Due to his instability and methamphetamine abuse, father has been unable to raise any of these other children.

In May 2017, DCFS received a referral alleging that mother was a victim of domestic violence by father in front of their two children. The referral alleged that father had a long history of methamphetamine use and that mother complained one child had access to father's drug pipe.

DCFS investigated and interviewed two paternal aunts, two teenage paternal cousins, and a paternal grandmother, with whom the parents and children resided. One aunt reported that father had a long history of drug abuse and was a current user. Father later admitted to DCFS that he had a twenty-year history of methamphetamine use and that he was currently using, sometimes disappearing for days on a drug binge. Father confessed to being under the influence of the drug while around the children.

Despite acknowledging that he would disappear for days at a time, mother told a DCFS social worker that she was ignorant of father's methamphetamine use. Mother also had a history of drug use but did not appear to be presently using drugs and tested negative for drugs. Nonetheless, family members found drugs in the parents' bedroom and a methamphetamine pipe in the garage. Mother had told a paternal aunt that her two-year-old child licked the methamphetamine pipe.

Both paternal aunts conveyed that father was violent toward mother and had a history of hitting her. Most recently, father hit mother, who was pregnant with his child, and kicked her in the stomach. Mother's arm and face were red, and her nail was broken as a result of the attack. A paternal cousin, who resided with the parents, did not see the attack but overheard it. The cousin decided to call the police when she heard sounds of father breaking down the bedroom door, hitting, mother asking

father to stop hitting her, and the children crying. Father left the home when the police arrived.

Mother corroborated some of these events, telling DCFS that father became angry, and took and broke her cellular phone. Father then followed mother into another room and he kicked the door down to get to her. Mother fled the home to escape father, who disappeared before police arrived on the scene.

When interviewed, father admitted to having pushed mother five times previously, with two occasions in the presence of the eldest child. Father also acknowledged that he and mother engaged in verbal confrontations in front of the children.

Mother appeared to be in denial about the danger father posed to her and the children. Despite recounting this recent attack to a DCFS social worker, mother denied father's history of domestic violence. Mother claimed the children were not affected by their conflicts because they only engaged in verbal arguments and father usually walked away from the conflict. Mother reported to DCFS that she was in the process of having the court lift the five-year restraining order she had previously obtained against father. Indeed, in May 2017, the superior court granted mother's petition to terminate the 2015 restraining order.

## **2. Removal and Section 300 Petition**

On May 25, 2017, DCFS filed a petition under section 300, subdivisions (a) and (b)(1), alleging that the children were at risk of harm due to: (1) domestic violence between the parents, (2) father's history of and current substance abuse and mother's failure to protect the children from it, and (3) mother's history of substance abuse.

That same day, the court ordered the children detained from the parents' custody and for the parents to have supervised visitation. The children were placed with a paternal aunt.

### **3. Adjudication and Disposition**

In June 2017, the court held the adjudication hearing. Father submitted a waiver of rights form, waiving his right to a trial and submitting on the evidence in the DCFS reports. Mother argued that her drug history did not pose a current threat to the children. DCFS argued that mother's denial of current drug use lacked credibility because mother had not told the truth about her relationship with father. The court agreed that mother had a credibility issue.

The court sustained all three counts of the petition as pled regarding (1) the parents' domestic violence, (2) father's drug abuse and mother's failure to protect the children from it, and (3) mother's history of substance abuse.

At disposition, the court found the children suitably placed with the aunt, and ordered reunification services and visitation for the parents. Mother argued she should not have to complete a full drug rehabilitation program because she was not a current user. The court granted her request. The court ordered mother to complete a parenting class, individual counseling to address domestic violence and substance abuse issues, 12-step meetings, and random, on-demand drug and alcohol testing. If mother missed a test or tested positive for drugs, she was to complete a full drug rehabilitation program.

### ***DISCUSSION***

"It is a fundamental principle of appellate practice that an appeal will not be entertained unless it presents a justiciable issue." (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1489.) In

dependency cases, because the court takes jurisdiction over the child and not over the individual parents, a jurisdictional finding good against one parent is good against both. (*In re X.S.* (2010) 190 Cal.App.4th 1154, 1161.) Thus, as a general rule, “a single jurisdictional finding supported by substantial evidence is sufficient to support jurisdiction and render moot a challenge to the other findings.” (*In re M.W.* (2015) 238 Cal.App.4th 1444, 1452). This is because the appellate court “cannot render any relief to [the parent] that would have a practical, tangible impact on his position in the dependency proceeding.” (*In re I.A., supra*, 201 Cal.App.4th at p. 1492.)

Here, mother contests only two of the three jurisdictional findings. Even if we reversed those findings, we are unable to render mother any relief as the single uncontested jurisdictional finding about father’s drug use still stands. Nonetheless, mother urges this court to exercise its discretion to consider the merits of her appeal pursuant to *In re Drake M.* (2012) 211 Cal.App.4th 754, 762 (*Drake M.*).

In *Drake M.*, the Court of Appeal stated: “we generally will exercise our discretion and reach the merits of a challenge to any jurisdictional finding when the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction.’” (*Drake M., supra*, 211 Cal.App.4th at pp. 762-763.) The *Drake M.* court could have affirmed jurisdiction on the unchallenged finding against the mother but decided to exercise its discretion to address the father’s jurisdictional challenge (regarding his medical marijuana use) because he could be found

to be a nonoffending parent on reversal. (*Id.* at p. 763.) The court stated: “Here, the outcome of this appeal is the difference between father’s being an ‘offending’ parent versus a ‘non-offending’ parent. Such a distinction may have far reaching implications with respect to future dependency proceedings in this case and father’s parental rights.” (*Ibid.*)

Mother acknowledges that even if we reverse the two jurisdictional findings she challenges, she will still be an offending parent because of the failure to protect the children from father’s drug abuse allegation. Mother asserts that we should still address the merits of her appeal because “[a]ny sustained counts on mother will affect her in future proceedings. Mother was pregnant at the time of the detention hearing; therefore, it would be important for her not to have sustained drug abuse counts on her DCFS record at the time of giving birth to the new baby.” Mother contends that the jurisdictional findings could affect potential custody proceedings in family court when the family leaves the dependency system.

We decline to exercise our discretion to address the merits of mother’s appeal. Unlike *Drake M.*, mother challenges two of the three bases for jurisdiction and reversal will not have a certain and substantial impact on her case. “*Drake M.* provides a narrow exception to the general rule that we will not address the merits of challenges to jurisdictional findings that do not affect the child’s status as a dependent of the court. It does not apply where, as here, several jurisdictional findings have been sustained involving different conduct of the parent.” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 310.) While Mother asserts she *may* face negative consequences from the

jurisdictional finding, these consequences on this record are speculative.

**DISPOSITION**

We affirm because mother's appeal is moot.

RUBIN, Acting P.J.

WE CONCUR:

GRIMES, J.

ROGAN, J.\*

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