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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re R.T., et al., Persons
Coming Under the Juvenile
Court Law.

B287653

(Los Angeles County
Super. Ct. No. DK24280,
DK24280A, DK24280B)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.T.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Thomas E. Grodin, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Dismissed.

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

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Sally Son, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

T.T. (father) appeals dependency jurisdictional and dispositional orders relating to his children, R.T and Ri.T. Because father has challenged only one of two grounds for jurisdiction, and the juvenile court has since terminated jurisdiction, no effective relief can be granted. We therefore dismiss the appeal as moot.

BACKGROUND AND DISCUSSION

R.T., born in 2012, and Ri.T., born in 2015, came to the attention of the Los Angeles County Department of Children and Family Services (DCFS) following a referral from the La Verne Police Department. On April 8, 2017, at about 3:30 in the morning, officers witnessed a physical fight between mother and father in the middle of the street; mother was punching father in the head. Mother told officers that the fight began after father pushed one-year-old Ri.T. off the bed onto the floor. Mother became angry with father and began yelling at him, which angered father, who then hit mother. Father told officers that he had moved Ri.T. to a different place on the bed, and then he and mother got into a physical fight. Father said mother went outside and he followed, then mother tried to lock him out of the house. Father said he pushed mother, and she began punching him. Officers noted that mother had injuries on her knuckles; father had a raised bump on his forehead from mother punching him. The officers determined that mother “was the dominant aggressor” and caused visible injuries, and she was arrested.

Officers went inside to check on the children, who were awake and seated on a sofa in the living room of the residence. The children appeared happy and without any injuries; they had been with their aunt, who also lived in the residence. The aunt reported that she woke up to Ri.T. crying and mother screaming at father. The aunt then heard “a loud ‘boom’ on a bedroom wall and more screaming.” The police department contacted DCFS.

The detention report stated that a social worker discussed the incident with mother and father separately. Father said they were all sleeping in the same bed, and mother woke father and asked him to put the baby in her bed. Father said he “flung” Ri.T. to her bed, and she ended up on the floor instead of on the mattress where she sleeps. Ri.T. was not injured. Mother was upset, and mother and father started to fight; they ended up outside, where police encountered them. The children were inside with their aunt at the time. Father was adamant that the children not be placed in foster care, because R.T. has mild autism and he wanted family to care for her. Father stated that he would be willing to move out immediately to keep the children with family.

Mother reported that the fight started because she was mad about how father “flung the baby to her bed.” When mother questioned father about it, his answer was “flip,” which angered mother more. Mother was upset that father was not listening to her, so she began to walk out; father followed her, and that’s when she hit him in the face. Mother said no criminal charges were filed. She also said that the children did not witness the domestic violence. Mother reported that there had been a prior domestic violence incident between her and father in 2014 in Texas, in which father was choking mother and she cut father

with a knife, resulting in a wound that required more than 20 stitches.¹ Mother said father had been arrested because he was the aggressor.

DCFS conducted a protracted investigation before a petition was filed. On April 22, 2017, father reported that he found housing and a job in Bakersfield and would be moving shortly. On April 25, mother said DCFS would not break up their family, and father would not be moving. On May 30, father again said he was planning to move. When the social worker visited, however, father had not moved out and mother stated that father would not be moving. The social worker noted in the detention report that even though father had contacted the social worker separately, “in the presence of mother father always agrees with the mother.” On June 21, father was still living in the home with mother and the children.

The social worker felt that it was safe and appropriate to leave the children in the home, but she referred parents to a domestic violence program. In July 2017, however, DCFS stated that a non-detention petition would not be filed, due to the severity of the domestic violence incident and because parents had not done anything to address it. Father again stated that he would move out. On August 7, 2017—four months after the domestic violence incident—DCFS removed the children from the home. The children were placed in shelter care briefly, and then were placed with their maternal grandmother.

DCFS filed a petition on August 10, 2017, asserting that mother and father had a history of violent altercations in the children’s presence. The petition cited the April 2017 incident

¹In later testimony at the adjudication hearing, mother denied this incident occurred as stated in the report.

and the 2014 choking/cutting incident, and stated that the violent conduct endangered the children's health and safety. The petition asserted one count under Welfare and Institutions Code section 300, subdivision (a), and one count under subdivision (b).²

At the detention hearing on August 10, 2017, mother stated that father was in New Mexico with family. The court ordered that the children remain with their grandmother, and ordered various services for mother and father, including domestic violence education courses.

A jurisdiction/disposition report dated October 10, 2017 stated that the children remained living with their grandmother. Mother had regular visits with the children, and father was living in New Mexico. Mother was attending counseling and had enrolled in a parenting class; father was enrolled in a domestic violence education program. DCFS reported that mother was beginning to accept responsibility for her involvement in the circumstances leading to DCFS intervention, and she was cooperative with DCFS. DCFS therefore recommended that the court sustain the petition, order the children returned to mother's care, and order family maintenance services.

On October 10, 2017, the court ordered the children into mother's care, and continued the adjudication proceeding to November. At the adjudication hearing on November 13, 2017, mother testified about the April 2017 incident and denied that the 2014 incident had occurred. Mother also testified about a 2010 violent incident in which father choked her and she "slashed" father with a hair clip. The court sustained both counts in the petition, as amended to delete references to the 2014

²All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

incident and to add the 2010 incident. The court ordered the children to remain in mother's care; father was to have monitored visitation, and both parents were to continue services.

Father timely appealed. In his opening brief, he asserts that he is challenging only the count sustained under section 300, subdivision (a), and he does not challenge the count sustained under section 300, subdivision (b). He acknowledged that this position potentially renders his appeal moot, because "[w]hen a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence." (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Father asks that we exercise our discretion to consider the merits of his appeal nonetheless, asserting that the finding could be prejudicial to him in the future. (See *In re Drake M.* (2012) 211 Cal.App.4th 754, 762.)

In its respondent's brief and in a later-filed motion to dismiss, DCFS asserts that the appeal is moot for multiple reasons, including the reasons father acknowledges. DCFS also contends that the appeal is moot because the court has since terminated jurisdiction. In a request for judicial notice—which we hereby grant (Evid. Code, §§ 452, subd. (d), 459)—DCFS submitted minute orders from July 17, 2018 and final judgments and exit orders dated July 24, 2018. The minute orders show that on July 17, 2018, the court found that the conditions

justifying jurisdiction under section 300 no longer existed. The court awarded joint legal custody to both parents, sole physical custody to mother, and unmonitored visitation to father.

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot.” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488. “[T]he critical factor in considering whether a dependency appeal is moot is whether the appellate court can provide any effective relief if it finds reversible error.” (*In re N.S.* (2016) 245 Cal.App.4th 53, 60.) “[N]o direct relief can be granted” when “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.) On the other hand, a case “is not moot if the purported error is of such magnitude as to infect the outcome of [subsequent proceedings] or where the alleged defect undermines the juvenile court’s initial jurisdictional finding. Consequently the question of mootness must be decided on a case-by-case basis.” (*In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547.)

In his response to DCFS’s motion to dismiss, father did not address the juvenile court’s termination of jurisdiction. Instead, father repeated his arguments about addressing one basis for jurisdiction even when additional jurisdictional grounds are not challenged. He has not asserted that any alleged error undermines the juvenile court’s initial jurisdictional finding; indeed, he does not challenge that finding. Father contends that the court’s jurisdictional finding under section 300, subdivision (a) could be prejudicial to him because “if there is some future social services involvement with appellant,” then DCFS might “emphasize” the “subdivision (a) count with its more serious

implications than the ‘(b) count.’” The suggestion that one count might be “emphasized” over another in a hypothetical future proceeding is nothing more than speculation. Father therefore has not demonstrated the existence of an error of such magnitude that it could infect the outcome of subsequent proceedings.

Jurisdiction was appropriate on grounds not challenged on appeal, and even if we found reversible error we could not offer effective relief because jurisdiction has been terminated. Father has not established any basis to depart from the policy of declining to address moot issues. This appeal is therefore moot.

DISPOSITION

The appeal is dismissed.

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COLLINS, J.

We concur:

MANELLA, P. J.

WILLHITE, J.