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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

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

B294590
(Los Angeles County
Super. Ct. No.
18CCJP3357A)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

N.R.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Steff Padilla, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Appeal dismissed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

Following entry of the juvenile court's dispositional order, N.R. (Mother) challenges the juvenile court's jurisdictional findings. She contends the evidence is insufficient to support the findings her daughter B.C. is a dependent under Welfare and Institutions Code section 300, subdivisions (b)(1) and (c).¹ Because the juvenile court has terminated jurisdiction over B.C., we dismiss the appeal as moot.

FACTUAL AND PROCEDURAL BACKGROUND

A. Events Leading To Dependency Jurisdiction

B.C. was born to Mother in November 2012. J.C. (Father) is B.C.'s biological father. Father and Mother had a history of domestic violence. The last incident occurred in December 2015; each parent claimed the other was the aggressor. They permanently separated in 2016. In June 2017, Father initiated proceedings in family court. The parents were awarded joint legal and physical custody of B.C. in August 2017.

B.C. came to the attention of the Department of Children and Family Services (Department) in April 2018 following a report that Mother had physically assaulted B.C. and Father had failed to seek medical care. A second referral one month later again alleged B.C. had been physically assaulted by Mother. The Department investigated and ultimately closed the referrals, determining they were unfounded or inconclusive.

While investigating the referrals, child therapists and Department social workers learned from B.C. that she had lied about Mother's purported physical abuse at Father's behest. They

¹ Statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

also determined that during the parents' fierce custody battle, Father had become fixated on the idea Mother was physically abusing B.C. and he made numerous reports to the Department and law enforcement. It became apparent to the authorities that neither parent had physically abused B.C. Both parents, however, talked negatively to each other, and about each other, in their daughter's presence. Father was more vociferous in expressing his animosity toward Mother, but the staff at B.C.'s elementary school reported Mother as well as Father complained about the other in B.C.'s presence. As a result, a school counselor observed, B.C. felt "stuck in the middle." One therapist noted when B.C. was with Mother, she would claim Father was mean and she feared him. When B.C. was with Father, she showed him love and claimed Mother was mean. B.C. was diagnosed as suffering from depression, anxiety, and somatization symptoms of pain, specifically stomach pain caused of her parents' mutual animosity.

B. Dependency Proceedings

On May 25, 2018, the Department filed a petition under section 300. The petition alleged the Father's history of domestic violence with Mother placed B.C. at risk of serious physical harm (§ 300, subd. (a)). The petition also alleged the parents' failure to protect B.C. from such violent conduct placed B.C. at risk of serious physical harm (§ 300, subd. (b)(1)). Finally, the petition alleged Mother and Father were emotionally abusing B.C. by enmeshing her in their custody dispute, causing her to suffer or to be at substantial risk of suffering serious emotional damage (§ 300, subd. (c)). The juvenile court ordered B.C. released to the parents at the detention hearing.

When the contested jurisdiction hearing ended on July 24, 2018, the juvenile court struck the risk of physical harm (§ 300, subd. (a)) allegations and sustained the failure to protect (§ 300, subd. (b)(1)) and emotional abuse (§ 300, subd. (c)) allegations against both parents. Addressing the parents, the court stated, “I find that this child has been so extremely coached and the toxicity, the violent relationship with the parents has gone from physical violence to emotional violence, and your daughter is the victim.” The court further stated, “I find that, when you take a five-year-old and you give her posttraumatic stress syndrome and depression, and when she’s with mom she makes allegations of abuse, and when she’s with dad, she makes allegations of abuse, that is a sufficient [factual basis] for a [subdivision] (c) [finding].”

The juvenile court continued the disposition hearing and appointed a psychologist to complete an Evidence Code section 730 evaluation of B.C. and assessment of her parents’ conflict.

At the December 4, 2018 disposition hearing, having reviewed the psychologist’s evaluation, the juvenile court declared B.C. a dependent of the court, removed her from Father and released her to Mother with Father to have unmonitored visits. The court ordered the parents to attend individual counseling and conjoint counseling with B.C. Mother filed a timely notice of appeal.

DISCUSSION

In this appeal, Mother challenges only the juvenile court’s jurisdictional findings. Mother contends the evidence is insufficient to support the section 300, subdivision (b)(1) failure to protect allegation because she and Father were separated and no longer in physical contact at the time of the jurisdiction

hearing and therefore B.C. was not at substantial risk of future physical harm. Mother further contends she should have been stricken from the section 300, subdivision (c) emotional abuse allegation because the evidence was insufficient that she contributed to B.C.'s emotional harm. As a result, Mother argues, the jurisdictional findings against her should be reversed.

While Mother's appeal was pending, the juvenile court terminated its jurisdiction over B.C. and awarded Mother and Father joint legal and physical custody of their daughter. We take judicial notice of the juvenile court's orders.² At our request, the parties provided supplemental briefing on the effect of this development. County counsel urges us to dismiss on the ground the appeal is moot. Mother disagrees, arguing the appeal is not moot because the juvenile court's jurisdictional findings are erroneous and prejudicial.

"As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in 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.] [¶] 'An issue is not moot if the purported error infects the outcome of subsequent proceedings.'" (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488. (*C.C.*); see also *In re Michelle M.* (1992) 8 Cal.App.4th 326, 330.)

In *C.C.*, the juvenile court found continued visitation with the mother to be detrimental to the child and suspended visitation in its disposition orders. (*C.C.*, *supra*, at p. 1487.) After the mother's appeal, the juvenile court terminated jurisdiction

² County counsel provided us with copies of the juvenile court's orders described above.

and restored her right to visitation, the very relief she sought by her appeal. (*Id.* at p. 1488.) The appellate court rejected the mother's argument the juvenile court's finding of detriment created the possibility of prejudice in subsequent family law proceedings, finding that concern to be "highly speculative." (*Id.* at p. 1489.) The court nonetheless considered the merits of the mother's appeal "in an abundance of caution" and because the juvenile court's finding of detriment and visitation order were not made in accordance with the proper standard. (*Id.* at pp. 1483, 1489.)

Here, Mother retains joint legal and physical custody of B.C. with Father, and there is no effective relief we can grant her. Further, Mother's concerns regarding potential prejudice are similarly highly speculative. Mother contends she would be prejudiced by the juvenile court's findings because: (1) Future dependency and/or family court proceedings between her and Father are highly likely given their prior custody and family welfare disputes and B.C.'s youth; (2) the allegedly erroneous findings and Mother's status as an offending parent may prejudice her in any such future proceedings; and (3) the findings and Mother's status as an offending parent may prevent her from working in a field "that require[s] child welfare background checks."³

³ Presumably, Mother is referring to the consequences of being listed in the Child Abuse Central Index, or CACI, the database managed by the Department of Justice containing reports of investigations of alleged physical abuse, sexual abuse, mental or emotional abuse, or severe neglect of a child. Information may be provided to designated social welfare agencies to help screen applicants for licensing or employment in child care facilities and foster homes, and to aid in background

Mother has failed to identify any specific future impact of the jurisdictional findings, however, and we find none on our own. B.C. was never detained from Mother. And, Mother exited dependency court just as she entered it—with joint legal and physical custody of B.C. Thus, the juvenile court’s jurisdictional findings did not result in orders that would continue to adversely affect her. As for any detrimental consequences beyond court proceedings, Mother has failed to show she intends to seek or has sought employment in any field involving children, much less with an agency that would seek her CACI file from the Department of Justice.

In contrast, Mother relies on *In re J.K.* (2009) 174 Cal.App.4th 1426, 1431 and *In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1547, in which, notwithstanding the termination of juvenile court jurisdiction, the disposition order in each case continued to adversely affect the appellant father, because the mother was awarded sole legal and physical custody and the father’s visitation was restricted. In other decisions cited by Mother, the appellate court, like the court in *C.C.*, exercised its discretion to consider the merits although the case was moot. (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 716, fn. 4; *In re C.V.* (2017) 15 Cal.App.5th 566, 571). We decline to do so in this instance.

checks for other possible child placements, and adoptions. (See Pen. Code, §§ 11164-11174.31.)

DISPOSITION

The appeal is dismissed as moot.

CURREY, J.

We concur:

WILLHITE, Acting P.J.

COLLINS, J.