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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B279917

(Los Angeles County
Super. Ct. No. DK19240)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

BARBARA K.,

Defendant and Appellant.

APPEAL from a jurisdictional finding and dispositional orders of the Superior Court of Los Angeles County. Karin Borzakian, Juvenile Court Referee. Dismissed.

Johanna R. Shargel, under appointment by the Court of Appeal, for Defendant and Appellant.

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

Barbara K. (Mother) appeals from the jurisdictional finding and dispositional orders declaring her daughter, Alyssa K. (the child), a dependent of the court under Welfare and Institutions Code¹ section 300. Mother contends the juvenile court erred in its jurisdictional and dispositional orders. Mother also contends the orders violated her due process rights. On May 10 and May 11, 2017 (while the current appeal was pending), the juvenile court entered a family law custody order defining the terms of the child's custody and an order terminating jurisdiction.² We provided the parties an opportunity to address whether we should declare moot the issues currently on appeal.

The Department of Children and Family Services (Department) took the position that the appeal is subject to dismissal as moot. Mother took the position that the jurisdictional findings could affect future family law court proceedings. She asserted the juvenile court's erroneous judgment could only be challenged before this court.

¹ Further statutory references are to the Welfare and Institutions Code.

² We took judicial notice of the juvenile court's May 10 and May 11, 2017 orders on May 25, 2017. The juvenile court ordered sole custody of the child to her other parent, A.M., and unmonitored visits for mother.

“As a general rule, an order terminating juvenile court jurisdiction renders an appeal from a previous order in the dependency proceedings moot. [Citation.]” (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488.) “[N]o direct relief can be granted even were we to find reversible error, [if] 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.) “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.*, *supra*, at p. 1488.) Hence, we set forth below a summary of the procedural history of this case.

On September 1, 2016, the Department alleged Mother failed to protect the child in violation of section 300, subdivision (b).³ The juvenile court found a *prima facie* case to detain the child. It ordered the Department to provide Mother with appropriate referrals, including random drug testing. On October 12, 2016, the juvenile court held the jurisdiction and disposition hearing. The court found substantial danger to the physical health of the child and there was no reasonable means to protect the child without removal from Mother’s custody. The court issued a case plan the same day that required Mother to submit to random or on demand drug/alcohol testing upon suspicion, attend parenting classes, and receive individual counseling to address case issues and anger management.

In the May 11, 2017 custody order in favor of A.M., the presumed other parent, the juvenile court made specific findings:

³ The juvenile dependency petition included allegations that Mother failed to ensure Alyssa K. received psychiatric treatment and medication and that Mother permitted intravenous drug users to reside in and/or visit her home.

“The Court Finds that [Mother] has not made substantial progress in her *court ordered case plan* as follows: [¶] Parenting Classes; [¶] Individual Counseling to address case issues and anger management; and [¶] Drug/Alcohol testing, upon suspicion.” (Emphasis added.) As noted, the juvenile court issued the case plan on October 12, 2016, the same day as the jurisdictional findings and dispositional order. Mother’s failure to make substantial progress on the plan was the stated finding for the custody order, not the prior jurisdictional findings.

This is a different situation than that found in *In re Joshua C.* (1994) 24 Cal.App.4th 1544, cited by Mother in her letter brief. In that case the court noted: “As the jurisdictional findings [regarding sexual abuse of the minor] are the basis for the restrictive visitation and custody orders, error in the former undermines the foundation for the latter.” (*Id.* at p. 1548.) It went on to hold that the termination of dependency proceedings did not render minor’s Father’s appeal of the jurisdictional findings moot. (*Ibid.*)

We find no reason to issue a ruling regarding the jurisdictional findings. The juvenile court specifically found: “[T]hose conditions which would justify the initial assumption of jurisdiction under . . . section 300 *no longer exist* and are not likely to exist if supervision is withdrawn.” (Emphasis added.) The termination of juvenile court jurisdiction in this case rendered the issues on appeal moot.⁴

⁴ We have reviewed the record. Even if we had reached the merits of the appeal, the record demonstrates substantial evidence supports the juvenile court’s jurisdictional findings.

DISPOSITION

The appeal is dismissed.

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LANDIN, J.*

We concur:

KRIEGLER, Acting, P.J.

BAKER, J.

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