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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re E.L., a Person Coming Under the  
Juvenile Court Law.

B257891

(Los Angeles County  
Super. Ct. No. DK05211)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

JESSICA L.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Connie R. Quinones, Judge. Reversed and remanded.

Frank H. Free, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

No appearance on behalf of Minor.

\* \* \* \* \*

Appellant Jessica L. (mother) appeals the visitation order issued in connection with an exit order which terminated the dependency court's jurisdiction over her three children. Mother maintains that the order imposes a drug abuse treatment requirement in the absence of any evidence that mother used or abused drugs. We agree that the order is legally infirm, and so reverse it and remand the matter to the juvenile court for further proceedings.

### FACTUAL AND PROCEDURAL BACKGROUND

The Department of Children and Family Services (DCFS or the Department) brought a petition under Welfare and Institutions Code<sup>1</sup> section 300 alleging, among other things, that the children were at risk of physical harm due to mother's failure to protect them from her boyfriend, Arturo Duarte. Specifically, the petition alleged that on April 24, 2014, the children were exposed to a violent altercation between mother and Duarte, during which Duarte broke the windows of mother's automobile while the two younger children were in the backseat. Police responding to the incident issued a temporary restraining order to mother. Duarte was arrested and charged with battery, vandalism, terrorist threats and child endangerment. Mother tried to get the charges against him dropped, and refused to apply for a permanent restraining order. The petition also alleged that two years earlier, mother had engaged in a violent altercation with the father of her two younger children in their presence.

On July 17, 2014, the juvenile court sustained the foregoing allegations of the petition, adjudged the children dependents of the court, removed them from mother's custody and, following a disposition hearing, placed them with their fathers. Intending to terminate jurisdiction with family law exit orders, the court stayed the termination order and continued the hearing for a week to permit the parents to agree to a visitation schedule, and for counsel to prepare the exit orders.

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

On July 24, 2014, the court awarded custody of Omar and Carlos to their father, ordered monitored visitation for mother, and terminated juvenile court jurisdiction. The visitation order stated that mother's visits with Omar and Carlos were to be monitored because, among other things, she had failed to complete a court-ordered drug abuse treatment program.

Mother appeals the visitation order. She contends that the order is unauthorized because it requires her to undergo treatment for drug abuse even though she was never ordered to complete a drug treatment program, and drug or alcohol abuse was not alleged or documented as an issue which lead to the need for dependency court jurisdiction. Mother fears that the order may negatively affect her ability to regain custody of her children in the future.

DCFS has declined to defend the juvenile court's order, acknowledging that "A review of the record appears to support the mother's contention." The Department continues: "There was no count pled or sustained in the Welfare and Institutions Code section 300 petition regarding drug use by the mother. DCFS's investigation did not reveal any concerns regarding the mother abusing drugs. And, DCFS did not include a drug treatment program in its recommended case plan for the mother. Lastly, no information regarding the mother's use of any illegal substances was raised in the adjudication below."

## DISCUSSION

In issuing an "exit order," by which a matter is transferred from juvenile court to family court (see § 362.4; Cal. Rules of Court, rule 5.700), a "juvenile court may direct any and all reasonable orders to the parents . . . of the minor who is the subject of any proceedings under this chapter. . . . Such an order may include a direction to participate in a counseling . . . program. . . . The program in which a parent . . . is required to participate shall be designed to eliminate those conditions that led to the court's finding that the minor is a person described by Section 300." (*In re Chantal S.* (1996) 13 Cal.4th 196, 203, citing § 362, subd. (c).)

After the matter has been transferred to family court jurisdiction, any terms of the exit order may be modified based on the best interests of the child. (§ 362.4; Fam. Code, §§ 3011, 3020 et seq.) An error in a juvenile court's order which remains in place after jurisdiction is terminated and may adversely affect future proceedings in the juvenile or family courts is not rendered moot on appeal. (See *In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1548; *In re Joel H.* (1993) 19 Cal.App.4th 1185, 1192-1193.)

Here, the order states that mother's visitation is to be supervised because, among other things, she failed to complete a drug abuse treatment program as ordered by the court. This is not correct as the court never ordered mother to participate in a drug abuse program. Consequently, we reverse the order and remand the case to the juvenile court to correct the erroneous order.

#### DISPOSITION

The order is reversed and the matter remanded to the juvenile court for correction of the visitation portion of the exit order.

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GOODMAN, J.\*

We concur:

TURNER, P.J.

MOSK, J.

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