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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re ANGEL J. et al., Persons Coming  
Under the Juvenile Court Law.

B267813

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

(Los Angeles County  
Super. Ct. No. DK12268)

Plaintiff and Respondent,

v.

JOSE J.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles  
County, Philip Soto, Judge. Dismissed.

Toni Taylor Buck, under appointment by the Court of  
Appeal, for Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis,  
Assistant County Counsel, and Jessica S. Mitchell, Deputy  
County Counsel, for Respondent.

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Jose J. (Father) appeals jurisdictional orders issued by the juvenile dependency court as to his four children. We dismiss Father's appeal because it has been rendered moot by further rulings in the dependency court while the appeal was pending.

## **FACTS**

### ***Background***

Father and J.J. (Mother) are the parents of four children: Angel J. (born in 2000), Luz J. (2002), Juan J. (2005), and Gabriel J. (2008). Between 2003 and 2013, the Los Angeles Department of Children and Family Services (DCFS) initiated and closed as inconclusive a number of referrals of domestic trouble in the family home.

In July 2015, DCFS received a "5-day" referral reporting that Father emotionally abused the children and physically harmed Luz. The referral reported a specific incident in late June 2015 during which Father "socked" Mother in the face in the presence of all four children, and Luz suffered a bloody nose. Although Mother and the children had initially left the family home after the June 2015 incident, they returned within a few days with the parents intending to "work through their problems," and to "remain together as a couple," given their 16 year relationship.

A DCFS social worker investigated the referral and interviewed a number of involved persons. During the interviews, information developed that Father's aggressive behavior was related to his use of alcohol.

### ***The Dependency Proceedings***

The social worker completed an assessment on the family and deemed the children to be at high risk for abuse or neglect. The social worker based her conclusion on the allegation that

Father's recent domestic violence on Mother occurred in the children's presence, and Mother's statement about the parents' ongoing domestic violence for approximately 16 years, and Mother's expressed concern about Father's increasing drinking and possible drug use.

On July 9, 2015, DCFS sought a removal order to detain the children from Father. On July 10, 2015, the dependency court issued a removal order. DCFS served the order on the parents at the family home on July 14, 2015, and Father voluntarily left the home.

On July 17, 2015, DCFS filed a section 300 petition<sup>1</sup> on behalf of all four children. As subsequently amended, the petition alleged the following conduct and or omissions as to the parents pursuant to section 300, subdivisions (a) [serious physical harm] and (b) [failure to protect]:

“[Mother and Father] have a history of domestic violence and engaging in violent altercations in the presence of the children. On 06/30/2015, [Father] repeatedly struck [Mother]’s face and cheek with [his] fists. [Mother and Father] pushed each other. On prior occasions [Father] physically assaulted [Mother]. [Mother and Father] repeatedly engaged in verbal altercations with each other in the presence of the children. [Mother] failed to protect the children in that [she] allowed [Father] to reside in the children’s home and have unlimited access to the children. Such violent conduct on the part of [Father] against [Mother] and [Mother]’s

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

failure to protect the children endanger the children's physical and emotional health and safety and place the children at risk of serious physical and emotional harm, damage, danger and failure to protect."

"[Father] has a history of substance abuse and is a current abuser of alcohol which renders [him] incapable of providing the children with regular care and supervision. On 06/30/2015 and on prior occasions, [Father] was under the influence of alcohol while the children were in [his] care and supervision. The child Gabriel is of such a young age as to require constant care and supervision and [Father]'s substance abuse interferes with providing regular care and supervision of the child. [Mother] knew of [Father]'s substance abuse and failed to protect the children. [Father]'s substance abuse and [Mother]'s failure to protect the children endanger the children's physical health, safety and well-being, and place the children at risk of serious physical harm, damage and failure to protect."

On September 10, 2015, at the conclusion of a contested jurisdiction hearing at which the dependency court considered DCFS's reports and heard live testimony from Angel and Luz, the court sustained the petition. The court then turned to disposition. Father's counsel requested that the court issue a home-of-parents order with provisions directing Father to participate in Alcoholics Anonymous and drug and alcohol testing. Mother's counsel joined with Father's counsel in requesting that Father be allowed to return to the family home.

The court ordered the children removed from Father pursuant to section 361, subdivision (c), and found by clear and convincing evidence that returning the children to Father would create a substantial risk to their safety and well being. The court released the children to Mother on condition that she not allow Father to reside in the home, and granted Father monitored visits with the children. The court ordered Father to complete a drug and alcohol program with random drug testing and a domestic violence program for perpetrators. The court ordered Mother to complete a domestic violence program for victims and individual counseling to address child protection and codependency and domestic violence prevention. The court ordered conjoint counseling for the parents. The children were ordered into age-appropriate counseling.

Father filed a timely notice of appeal.

On September 8, 2016, the dependency court conducted a section 364 hearing. At that time, the court terminated its jurisdiction, with a finding that “no exit order [was] required.”<sup>2</sup> The court ordered the children “released to parents.”

### **DISCUSSION**

Father contends the dependency court’s jurisdictional orders and findings must be reversed because they are not supported by substantial evidence. He challenges the ruling that his children were ever at substantial risk of serious harm, arguing that the evidence did no more than show that “ambiguous” allegations of domestic violence had been made against him, and that there “was never a scintilla of evidence

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<sup>2</sup> During the course of Father’s appeal, we granted DCFS’s motion for judicial notice of the dependency court’s rulings after Father initiated his appeal.

that [he] ever intentionally harmed any of his children.” DCFS contends that Father’s appeal should be dismissed as moot. DCFS argues dismissal of Father’s appeal is proper because, while Father’s appeal was pending, the dependency court terminated its jurisdiction with orders returning the children to Mother and Father. We agree with DCFS that Father’s appeal should be dismissed.

*In re N.S.* (2016) 245 Cal.App.4th 53 (N.S.), guides our conclusion. As explained in *N.S.*, an appellate court generally will dismiss an appeal as moot when events occur during the appeal that renders it impossible for the court to grant any effective relief. (*Id.* at pp. 58-61, discussing *In re Michelle M.* (1992) 8 Cal.App.4th 326, 328-330, and *In re Joshua C.* (1994) 24 Cal.App.4th 1544, 1546-1548 (*Joshua C.*.)

We agree with DCFS that no effective relief can be granted to Father here. The children have been returned to Father and Mother with no exit orders. In other words, the family has been restored to its status quo before the intervention of the dependency court. Further, the dependency court’s jurisdictional findings are not the basis of any current order that is adverse to Father. (*N.S. supra*, 245 Cal.App.4th at p. 61.) There is no relief that our court may provide to Father through his appeal. (*Ibid.*)

We acknowledge Father’s argument in his reply brief that we should address his challenge to the sufficiency of the evidence in support of the dependency court’s jurisdiction findings because he has been found to be an “offending parent,” and there is a potential that he may suffer future harm from such a finding. We also recognize that we may exercise discretion to address moot issues when material questions remain for our determination. (See *N.S., supra*, 245 Cal.App.4th at p. 59.)

These concerns were addressed in *N.S.*, and we accept the *N.S.* court's reasoning that, absent a showing of some specific, realistic possibility for harm, our discretion to review should not be exercised. (*Id.* at p. 62.)

As *N.S.* accurately noted, in the published cases where appellate review had been taken up after termination of the dependency court's jurisdiction, it was possible to see that the dependency court's rulings had some discernable effect in that court orders continued in effect. For example, in *Joshua C*, *supra*, the linchpin for the appellate court's decision to review jurisdictional findings there was that those findings were "the foundation for visitation-and-custody orders that remained in effect." (*N.S.*, *supra*, 245 Cal.App.4th at p. 61.) Father has not identified any such distinct, potential effect in his case.

Finally, "[w]e are mindful that parents of young children face the prospect of possible future juvenile court intervention. . . . We are unconvinced, however, that any ruling we could issue here would have any practical effect on future dependency proceedings." (*N.S.*, *supra*, 245 Cal.App.4th at pp. 62-63.)

For the reasons discussed above, we find that Father's appeal should be dismissed as moot. We have no ability to grant Father any material relief through his appeal in light of the dependency court's rulings after he filed his notice of appeal.

**DISPOSITION**

Father's appeal from the dependency court's jurisdiction orders is dismissed.

BIGELOW, P.J.

We concur:

GRIMES, J.

SORTINO, 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.