

Filed 7/31/18 In re Emely G. CA2/7

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re EMELY G. et al., Persons
Coming Under the Juvenile
Court Law.

B286766

(Los Angeles County
Super. Ct. No. DK09682)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

JEMINA F.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Stephen Marpet, Juvenile Court Referee.
Dismissed.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Defendant and Appellant.

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

The juvenile court sustained a dependency petition pursuant to Welfare and Institutions Code section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling),¹ alleging Jemina F. and Jorge G., the mother and presumed father of Emely G. and Isaac G., had failed to ensure necessary medical care for their children. The court, without adjudicating Emely and Isaac dependents of the court, ordered informal supervision and services pursuant to section 360, subdivision (b). On appeal Jemina contends only that the court's findings of medical neglect by her were error. She does not challenge either the findings of medical neglect as to Jorge or the order for informal supervision. Because we cannot grant Jemina any effective relief, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

1. The Petition

Emely, now nine years old, and Isaac, now seven years old, have cerebral palsy and seizure disorders, are nonambulatory, are unable to communicate and require feeding tubes for nutrition. The children receive in-home nursing care four-to-six days per week. Jemina and Jorge were married for 10 years and divorced in 2013. Pursuant to a family court order, Jorge has

¹ Statutory references are to this code.

custody of the children 36 percent of the time and sees them on Tuesdays, Thursdays and every other weekend.²

On September 13, 2016 Jorge brought Emely and Isaac to the emergency room with respiratory issues. The Los Angeles County Department of Children and Family Services (Department) was contacted due to allegations Jemina and Jorge had not brought the children to the hospital until five days after Isaac developed a fever despite knowing he was susceptible to respiratory infections.

After an extended investigation the Department filed a nondetain dependency petition under section 300, subdivisions (b) and (j), on January 27, 2017, alleging Jemina and Jorge had failed to ensure Emely and Isaac had follow-up visits with medical specialists and failed to obtain necessary occupational and physical therapy. The juvenile court ordered the children remain released to their parents and ordered family maintenance services.

2. The Jurisdiction and Disposition Hearing

The jurisdiction/disposition hearing was held on July 18, 2017. Jorge requested he be dismissed from the petition, arguing he had attempted to provide appropriate medical care for the children, but, due to the specifics of their custody arrangement, Jemina had prevented him from doing so. Jemina requested the petition be dismissed in its entirety because the children had been to their recent doctor appointments and their conditions were stable. While acknowledging the children's situation was "a little better" since the Department's initial involvement, the

² Jorge and Jemina have two other children together who were not subject to the dependency proceeding.

Department nonetheless argued the petition should be sustained because there were still services that were not being received. The children's attorney agreed with the Department's position, stating the children had been "suffering greatly" and the parents' difficulties in getting along and communicating were interfering with the children's medical care.

The court sustained the petition in its entirety, finding by a preponderance of the evidence that the children were persons described by section 300, subdivisions (b) and (j). Proceeding to disposition the court declined to declare Emely and Isaac dependents of the court but instead ordered informal supervision by the Department pursuant to section 360, subdivision (b),³ and ordered family preservation services be provided.

DISCUSSION

Jemina challenges the juvenile court's jurisdiction findings as to her on the ground that "the evidence did not show that her care caused the children's medical problems or was inadequate to meet their needs." Jemina does not challenge the court's findings

³ "Section 360 is a disposition statute and sets forth several of the options available to the court at the disposition hearing." (*In re Summer H.* (2006) 139 Cal.App.4th 1315, 1324.) Under section 360, subdivision (b), "If the court finds that the child is a person described by Section 300, it may, without adjudicating the child a dependent child of the court, order that services be provided to keep the family together and place the child and the child's parent or guardian under the supervision of the social worker for a time period consistent with Section 301." (See Cal. Rules of Court, rule 5.695 (a)(2) [at a disposition hearing the court may "[p]lace the child under a program of supervision for a time period consistent with section 301 and order that services be provided"].)

that Jorge's failure to ensure medical care placed the children at substantial risk of harm. Those findings provide independent bases for the juvenile court's exercise of its authority to place Emely and Isaac under a program of supervision regardless of any alleged error in the findings as to Jemina. (See *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [jurisdiction finding involving one parent is good against both; ""the minor is a dependent if the actions of either parent bring [him or her] within one of the statutory definitions of a dependent""]; see also *In re M.W.* (2015) 238 Cal.App.4th 1444, 1452; *In re Briana V.* (2015) 236 Cal.App.4th 297, 310-311.) As a result, even if we struck the jurisdiction findings as to Jemina, the juvenile court would still be empowered to order all reasonable services necessary to protect Emely and Isaac, including services directed to Jemina and addressing conduct not alleged in the petition. (See *In re Briana V.*, at p. 311 [""The problem that the juvenile court seeks to address need not be described in the sustained section 300 petition. [Citation.] In fact, there need not be a jurisdictional finding as to the particular parent upon whom the court imposes a dispositional order"]; *In re I.A.*, at p. 1492 [""[a] jurisdictional finding involving the conduct of a particular parent is not necessary for the court to enter orders binding on that parent, once dependency jurisdiction has been established"]; see generally § 362, subd. (a) [the juvenile court ""may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child"].) Thus, any order entered on Jemina's appeal ""will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief." (*In re I.A.*, at p. 1491.)

Notwithstanding Jemina's failure to challenge the juvenile court's order for informal supervision, she contends her appeal is justiciable and urges us to consider the merits, arguing the jurisdiction findings could prejudice her in future dependency proceedings and carry with them a high degree of blameworthiness and stigma. In limited circumstances reviewing courts have exercised their discretion to consider a dependency appeal challenging a jurisdiction finding despite the existence of an independent and unchallenged ground for jurisdiction when the jurisdiction findings "could be prejudicial to the appellant or could impact the current or any future dependency proceedings" or "the finding could have consequences for the appellant beyond jurisdiction." (*In re J.C.* (2014) 233 Cal.App.4th 1, 4; see *In re Drake M.* (2012) 211 Cal.App.4th 754, 763; *In re D.P.* (2015) 237 Cal.App.4th 911, 917.)

Jemina has failed to identify any specific prejudice or adverse consequence that could possibly flow from the jurisdiction findings in this case. Any future dependency proceeding would have to be based on conditions existing at that time. A past jurisdiction finding would have limited, if any, relevance and does not create a high risk of prejudice. (See *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1495.) Further, that Jemina failed to ensure the children had follow-up visits with their physicians and failed to obtain services is not particularly stigmatizing or inflammatory. Because Jemina has not established any actual or threatened prejudice from the jurisdiction findings as to her, we dismiss the appeal on the ground there is no justiciable controversy for which we can grant any effective relief. (*In re Briana V.*, *supra*, 236 Cal.App.4th at

pp. 309-310; *In re J.C.*, *supra*, 233 Cal.App.4th at p. 4; *In re I.A.*, at p. 1492.)

DISPOSITION

The appeal is dismissed.

PERLUSS, P. J.

We concur:

ZELON, J.

SEGAL, J.