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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re DEVON C., a Person Coming Under the Juvenile Court Law.	B286618 (Los Angeles County Super. Ct. No. CK61868)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. DONALD C. et al., Defendants and Appellants.	

APPEALS from an order of the Superior Court of Los Angeles County, Zeke Zeidler, Judge. Affirmed.

Nicole Williams for Defendants and Appellants.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Stephanie Jo Reagan, Principal Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Morgan and Donald C., the mother and father of four-year-old Devon C., appeal from the juvenile court's disposition order limiting their right to make educational and developmental services decisions for him under Welfare and Institutions Code section 361, subdivision (a).[1] Morgan and Donald contend the juvenile court abused its discretion in limiting their decisionmaking rights. We dismiss Morgan's appeal as moot. In Donald's appeal, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Petition and Ex Parte Application To Limit Parental Rights To Make Educational Decisions*

In March 2017 the Los Angeles County Department of Children and Family Services detained Devon from his parents and filed a petition pursuant to section 300, subdivision (b)(1), alleging Devon was at substantial risk of serious physical harm as a result of his parents' failure to supervise or protect him adequately and their inability to provide regular care because of Donald's substance abuse. The Department alleged, among other things, that police officers conducting a probation compliance

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[1] Statutory references are to the Welfare and Institutions Code.

check of Morgan and Donald's home found heroin, methamphetamine, a loaded syringe, and other drug paraphernalia, all accessible by Devon.[2] The Department alleged the officers also found swords, knives, daggers, and brass knuckles "within access of the child." At the detention hearing, the juvenile court ordered Devon to remain detained.

In April 2017 Dr. Joseph Rojas of the Olive View-UCLA Medical Center examined Devon and recommended he receive "a regional center assessment immediately as he shows signs of being on the autism spectrum." Dr. Rojas's written assessment noted his "[c]oncern for autism spectrum disorder" based on, among other things, severe delays in Devon's speech development and his self-injurious behaviors, including severe tantrums in which he hit himself in the face with closed fists and threw himself violently to the floor.

On June 12, 2017 the Department filed an ex parte application to limit Morgan's and Donald's rights to make educational decisions for Devon and to appoint his foster parent, Yvette R., to make those decisions. In its ex parte application the Department stated that, despite Dr. Rojas's recommendation, Morgan and Donald "refused to complete [the] required paperwork for regional center assessment" of Devon. According to the Department, a social worker asked Morgan to sign a consent form for the regional center, which she did. The Department forwarded that form to the regional center and received, in return, an application for Morgan to complete. The Department sent the application to Morgan by email, and she confirmed receipt, but stated she wanted her attorney to review

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[2] The primary subject of the compliance check was Donald, who was on probation for a firearm-related offense.

the application before she signed it. The Department "followed up with [Morgan] and also attempted to reach [Donald] by phone to ask for his help but neither parent [was] cooperative with competing the paperwork." Morgan eventually informed the Department she was not going to complete the application because she did not believe there was anything wrong with Devon.

The Department also reported in its ex parte application that on May 10, 2017 Donald was arrested and, shortly after, sentenced to serve 120 days in jail. The Department stated that, prior to his arrest, Donald was not available when the Department tried to contact him using the telephone number he had provided and that, since his arrest, he had not contacted the Department. The Department expressed concern that Devon would miss "the cut-off for Early Start services through the Regional Center since he will be 3 on 6/14/17" and stated that the delay in assessment for regional services was affecting the Department's ability to meet Devon's educational and developmental needs.

On June 21, 2017 the juvenile court heard argument on the ex parte application. Counsel for the Department urged the court to grant the application because Morgan and Donald still had not signed the requisite forms and Devon, whose "needs [were] apparently quite serious," was still "in need of an assessment." Neither Donald, who was in custody, nor Morgan, who left the courtroom prior to the hearing, was present, but through counsel both opposed the ex parte application. Counsel for Morgan stated that he had not yet reviewed the application with his client, but that "about 15 minutes ago, in the hallway," Morgan said she would sign it. Counsel for Donald stated that, to her knowledge,

Donald had not been contacted about the regional center paperwork and that she was willing to take the paperwork to him and have him "sign whatever needs to be signed so that his son can get assessed." The juvenile court granted the Department's ex parte application, limiting Morgan's and Donald's educational and developmental services decisionmaking rights and making Yvette responsible for those decisions. The court noted it could revisit the issue at disposition and consider reinstating Morgan's and Donald's decisionmaking rights at that time.

B. *The Jurisdiction Findings and Disposition Order*

On July 24, 2017 the juvenile court held a combined jurisdiction and disposition hearing. Donald, who had been released from jail on July 2, and Morgan were present. Both entered pleas of no contest, and the juvenile court sustained the operative first amended petition, declaring Devon a dependent of the court under section 300, subdivision (b)(1).

At disposition the juvenile court heard argument on the Department's recommendation that the court continue to limit the rights of Morgan and Donald to make decisions about educational and developmental services for Devon. Morgan and Donald opposed the recommendation, with Donald arguing he "wasn't even given the opportunity or even asked whether or not he would agree to" sign the regional center paperwork. Counsel for the Department argued that, while "time has been ticking for Devon," neither Morgan nor Donald had made themselves available for signing the regional center paperwork, which even then remained unsigned.

The juvenile court removed Devon from Morgan's and Donald's care and placed him with the Department for suitable

placement, ordered reunification services for Morgan and Donald, and further ordered "the caretaker holds the education and developmental decisionmaking rights."[3] Morgan and Donald timely appealed, each contending the juvenile court erred in limiting her or his educational and developmental services decisionmaking rights.

DISCUSSION

A. *Morgan's Appeal Is Moot*

On May 22, 2018, at a review hearing held after Morgan filed her appeal in this case, the juvenile court terminated its July 24, 2017 suitable placement order for Devon and returned him to Morgan.[4] Rule 5.650(e)(1) of the California Rules of Court provides that a "parent's . . . educational and developmental[ ]services decisionmaking rights are reinstated when the court returns custody to the parent . . . unless the court finds specifically that continued limitation of parental decisionmaking rights is necessary to protect the child." Because the juvenile court, when it returned Devon to Morgan, did not make a finding that continued limitation of Morgan's decisionmaking rights was necessary to protect Devon, Morgan's decisionmaking rights were reinstated. Because we cannot grant Morgan any effective relief in her appeal, we dismiss it as moot.

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[3] The court-ordered case plan indicates that Yvette was the "Educational Rights Holder."

[4] We take judicial notice of the juvenile court's May 22, 2018 minute order pursuant to Evidence Code sections 452, subdivision (d), and 459.

(See *In re N.S.* (2016) 245 Cal.App.4th 53, 58-59 ["[a]n appellate court will dismiss an appeal when an event occurs that renders it impossible for the court to grant effective relief"]; *In re E.T.* (2013) 217 Cal.App.4th 426, 436 ["[a]n appeal may become moot where subsequent events, including orders by the juvenile court, render it impossible for the reviewing court to grant effective relief," but """[a]n issue is not moot if the purported error infects the outcome of subsequent proceedings"""].)[5]

B. *The Juvenile Court Did Not Abuse Its Discretion in Limiting Donald's Decisionmaking Rights*

"If a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child . . . subject to further order of the court." (§ 362, subd. (a).) In particular, although "'[p]arents have a constitutionally protected liberty interest in directing their children's education . . . , a court may limit a parent's ability to make educational decisions on the child's behalf. . . .' [Citation.] . . . 'Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child.'" (*In re D.C.* (2015) 243 Cal.App.4th 41, 58, quoting § 361, subd. (a)(1); accord, *In re R.W.* (2009) 172 Cal.App.4th 1268, 1276; see § 366.1, subd. (e) ["[i]f the parent . . . is unwilling or unable to participate

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[5] In a written submission filed with this court, counsel for Morgan stated she does not object to dismissing the appeal as moot.

in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent . . . to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent . . . to make educational decisions for the child should be limited"].)

"'We review the juvenile court's order limiting parents' educational rights under an abuse of discretion standard [citation], bearing in mind "[t]he focus of dependency proceedings is on the child, not the parent."'" (*In re D.C.*, *supra*, 243 Cal.App.4th at p. 58; accord, *In re R.W.*, *supra*, 172 Cal.App.4th at p. 1277.) "'"When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court."'" (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319; accord, *In re A.R.* (2015) 235 Cal.App.4th 1102, 1117.)

The juvenile court did not abuse its discretion in limiting Donald's educational and developmental decisionmaking rights. From Dr. Rojas's evaluation of Devon and his recommendation a regional center "immediately" assess Devon for autism spectrum disorder, the juvenile court could reasonably infer Devon had serious and time-sensitive educational and developmental needs. From the evidence that Donald did not maintain contact with the Department prior to his May 10, 2017 arrest or during his subsequent incarceration and that, even after his release, Donald did not attend to the uncompleted regional center paperwork, the juvenile court could reasonably infer Donald was unable, unwilling, or unavailable to help address Devon's educational and developmental needs.

Donald argues it is "unclear" from the record whether, and if so when, the Department tried to contact him and whether, and if so when, it informed him of the paperwork that needed completing. He also argues "there is no 'Go to jail, lose your child' or rights rule in California." But he and Morgan were aware at least by June 21, 2017, when the court heard the Department's ex parte application, that they needed to complete the regional center paperwork. Donald was released from jail on July 2, 2017, and yet the paperwork remained uncompleted at the time of the July 24, 2017 disposition hearing. Donald's three-week, post-incarceration failure to do anything about the paperwork he knew he needed to complete supported a reasonable inference he could not or would not address Devon's educational and developmental needs.

DISPOSITION

Morgan's appeal is dismissed. The juvenile court's July 24, 2017 order limiting Donald's educational and developmental services decisionmaking rights is affirmed.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.