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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re S.M., et al., a Person Coming
Under the Juvenile Court Law.

B297281

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. 18CCJP07435)

Plaintiff and Respondent,

v.

T.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles
County, Kristen Byrdsong, Commissioner. Dismissed.

Christine Johnson, under appointment by the Court
of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Kim Nemoy, Deputy County
Counsel, for Plaintiff and Respondent.

T.M. (Father) appeals from the juvenile court's jurisdiction and disposition orders made after it adjudged his daughter S.M. (born in 2003), a dependent under Welfare and Institutions Code section 300. Father contends that the evidence did not support the jurisdictional findings against him. As we explain, the appeal has been rendered moot by subsequent events: Father's acceptance by stipulation of allegations that he endangered S.M. and the dependency court's sustaining those allegations. Accordingly, we dismiss the current appeal as moot.

BACKGROUND

A. *Background and Prior Child Welfare Involvement with the Family*

The family in this matter includes Father, the minor S.M. and the minor's mother, D.T.¹ (Mother). Although the parents had joint legal custody of S.M., she had lived primarily with Mother.

The family first came to the attention of the Department of Children and Family Services (DCFS) in 2005 when DCFS received a referral that the parents engaged in domestic violence and used drugs. DCFS substantiated the domestic violence allegations and DCFS opened a voluntary case, which it closed six months later when the family stabilized.

B. *Current Dependency Proceedings*

In September 2018, DCFS received a report that S.M., now 15 years old, was psychiatrically hospitalized because she posed a danger to herself. According to the report, S.M. and Mother had argued, and S.M. cut herself with a box cutter. She also had cigarette burns on her arm and had a history of running away, drug use, and promiscuity.

¹ Neither S.M. nor Mother are parties in this appeal.

A DCFS emergency-response worker responded to the referral and spoke to Mother, who explained that she and S.M. had lived for several years in San Clemente, but in the last year, they had relocated to Sacramento to live with Mother's then-fiancé. S.M. and Mother's fiancé started arguing, the child secluded herself, and developed an eating disorder. After Mother and fiancé ended their relationship, Mother moved to the maternal grandmother's home in Burbank while S.M. stayed with friends in Sacramento to finish the school year. In June 2018, S.M. returned to southern California to live with Mother at the home of the maternal grandmother.

During the summer of 2018, Mother allowed S.M. to visit a friend in San Clemente, but the child stayed for an entire month and refused Mother's request to return to Burbank. After learning that S.M. was using drugs, including methamphetamine, and dating a drug dealer, Mother sent S.M. paperwork so she could emancipate, but nothing came of it.

While she was in San Clemente, S.M. contacted Father, who had not been actively involved in her life for several years. Father agreed to allow S.M. to stay in San Clemente with her friend, and he allowed her to enroll in a local school, giving the friend's mother "caretaker responsibility." In September 2018, the friend's mother contacted the parents and asked them to immediately retrieve S.M. Father picked up S.M. and returned her to Mother's home.

Thereafter, S.M. tried to run away, and at one point she brushed a knife against her wrist, then went to the garage and retrieved Mother's box cutters. Mother called authorities, and S.M. was hospitalized for psychiatric observation. After her release, she returned to Mother's house, who sought treatment for her. Father told S.M. that she could not stay with him and according to Mother, Father ignored her requests that he take S.M.

On November 19, 2018, DCFS filed a petition pursuant to section 300, subdivision (b)(1) regarding 15-year-old S.M. The petition alleged, among other allegations, that S.M. had mental and emotional problems, including self-injuring behaviors and a suicide attempt. The petition also alleged that the parents had limited ability to provide care and supervision, and that their limited abilities placed S.M. at risk of serious physical harm.

The juvenile court detained S.M. from Mother's custody and released S.M. to Father.

After S.M.'s placement in Father's home, she repeatedly ran away with different boys and men, including for six weeks in late 2018 and early 2019.

The court adjudicated the section 300 petition on February 28, 2019. Mother pled no contest. Father's counsel asked that Father be dismissed from the petition. The court sustained the petition under section 300, subdivision (b)(1): "The child . . . has mental and emotional problems, including self-injurious behaviors and a suicide attempt. On or about 9/17/2018, the child was hospitalized for the evaluation and treatment of the child's psychiatric condition. The [parents] have limited ability to provide appropriate care and supervision of the child. Such limited ability on the part of the [parents] endangers the child's physical health and safety and places the child at risk of serious physical harm, damage, and danger."

The court released S.M. to Father's custody and ordered both parents to participate in services.

Father timely appealed.

On August 22, 2019 during the pendency of this appeal, DCFS filed a petition under section 342, alleging that S.M. was a person described under section 300, subdivision (b) based on an allegation that on August 19, 2019, S.M. became aggressive with Father, bit him and that in response he grabbed her and inflicted

bruises on her arm. The subsequent petition further alleged that Father was unwilling to provide S.M. with ongoing care and supervision because of her behavioral issues and drug use, history of running away and mental health issues, and because Father requested that she be removed from his home and care. The new petition further alleged that Father's unwillingness and inability to provide care for S.M. places her at risk of harm.

The juvenile court detained S.M. from Father's custody,² and on October 10, 2019, held the jurisdiction hearing on the new petition.³ According to the minute order for the jurisdiction hearing, Father stipulated that a factual basis existed for the allegations in the new petition and the court sustained the new jurisdictional allegations.

² On September 23, 2019, DCFS filed a request for this court to take judicial notice of the subsequent dependency petition, and the dependency court's minute order detaining S.M. from Father; this court hereby grants the request for judicial notice. (See Evid. Code, § 452.)

³ We, sua sponte, take judicial notice of the minute order from the October 10, 2019 hearing. (See Evid. Code, §§ 452, subd. (d), 459.)

DISCUSSION

On appeal, Father asserts that substantial evidence does not support the court's exercise of jurisdiction based on its true finding in the original petition that he had a limited ability to provide appropriate care and supervision for S.M. He urges the court to reverse that finding and order the dependency court deem him a nonoffending parent. DCFS asks this court to dismiss the appeal, arguing that any error in jurisdictional finding under the original petition is rendered moot by the subsequent petition. We agree.

This court will not grant relief on a moot issue where we cannot render relief that would have a practical, tangible impact. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492.) Such is this appeal. Any error in finding jurisdiction under the original petition is moot because the new allegations against Father in the subsequent petition⁴ to which Father stipulated and the dependency court sustained after he filed this appeal supersedes the allegations against him in the original petition. Thus, at this point, reviewing the allegations against Father in the original petition would be a futile exercise.

Dismissal for mootness, however, in such circumstances is not automatic. (*In re C.C.* (2009) 172 Cal.App.4th 1481, 1488; see also *In re A.B.* (2014) 225 Cal.App.4th 1358, 1364 [“ ‘On a case-by-case basis, the reviewing court decides whether subsequent events in a dependency case have rendered the appeal moot.’ ”].) An

⁴ A subsequent petition is filed when new, independent allegations of dependency arise after the court has initially declared a minor to be a dependent child. (See § 342 [subsequent petitions are appropriate for children who are already dependents when there are “new facts or circumstances” that bring them within a category of section 300 “other than those under which the original petition was sustained”].)

appellate court may consider a parent’s challenge to a juvenile court’s finding if the purported error “could have severe and unfair consequences to [the parent] in future family law or dependency proceedings.” (*In re Daisy H.* (2011) 192 Cal.App.4th 713, 716.) On the other hand, where the parent fails to identify any “specific legal or practical consequence from [the challenged] finding, either within or outside the dependency proceedings,” the appellate court may, in its discretion, decide that no effective relief can be granted and dismiss the appeal as moot. (*In re I.A.*, *supra*, 201 Cal.App.4th at p. 1493.) Here, the court’s subsequent jurisdictional finding against Father—to which he stipulated—regarding the same child makes any negative repercussions from a recent earlier similar charge highly unlikely. (See *In re Drake M.* (2012) 211 Cal.App.4th 754, 763.) Consequently, we decline to exercise our discretion to review the merits.

DISPOSITION

The appeal is dismissed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

CHANEY, J.

WEINGART*

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