Filed 2/14/18 In re Arthur B. CA2/7

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

In re ARTHUR B., a Person Coming Under the Juvenile Court Law.	B283442 (Los Angeles County Super. Ct. No. DK16545)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. D.W. et al., Defendants and Appellants.	

APPEAL from an order of the Superior Court of Los Angeles County, Marguerite Downing, Judge. Dismissed.

Maureen L. Keaney, under appointment by the Court of Appeal, for Defendant and Appellant D.W.

Julie E. Braden, under appointment by the Court of Appeal, for Defendant and Appellant Arthur B., Sr.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Brian Mahler, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

D.W. and Arthur B., Sr. (Arthur Sr.), parents of infant Arthur B., Jr. (Arthur), appeal from the juvenile court findings declaring Arthur a dependent of the court pursuant to a petition under Welfare and Institutions Code section 300, subdivisions (a) and (b).[1] D.W. and Arthur Sr. contend substantial evidence does not support the court's finding under section 300, subdivision (a), that their son faced a substantial risk of serious physical harm from their violent altercations. The Los Angeles County Department of Children and Family Services moves to dismiss the appeal by D.W. and Arthur Sr. as not justiciable because D.W. and Arthur Sr. do not challenge the juvenile court's jurisdiction findings under section 300, subdivision (b), based on their history of domestic violence and substance abuse, or the court's disposition order. Because we cannot grant D.W. and Arthur Sr. any effective relief, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

A. *The Petition*

Approximately two weeks after Arthur was born in December 2016, his mother, D.W., told family members she used methamphetamine while pregnant with Arthur. She also said she and Arthur Sr. used alcohol and marijuana in the presence of their infant son.

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

Following a referral to the Department, D.W. told a Department social worker she used methamphetamine "a couple times during the pregnancy and once after." She said that she had been using methamphetamine "[o]ff and on for about a year" and that she and Arthur Sr. had used methamphetamine in a hotel room while Arthur slept. D.W. admitted she needed help and asked her aunt and grandmother to take care of Arthur.

The Department also interviewed Arthur Sr., who said he and D.W. had been in a relationship for a year and "argue a lot." Arthur Sr. said a few days before Arthur was born, he and D.W. fought, and she hit him with a plate that "sliced [his] arm almost to the bone." Arthur Sr. received 19 staples to close the laceration. Arthur Sr. stated there had been other incidents of domestic violence with D.W., but most of their arguments were verbal. Arthur Sr. also admitted he had used methamphetamine and marijuana occasionally for two years. He said he knew he and D.W. needed help and he wanted what was best for Arthur.

D.W. and Arthur Sr. consented to Arthur's detention, and the Department placed Arthur with D.W.'s grandmother. On January 11, 2017 the Department filed a petition on behalf of Arthur pursuant to section 300, subdivisions (a) and (b)(1). The Department alleged in count a-1 that the history of domestic violence between Arthur Sr. and D.W. created a substantial risk of serious physical harm to Arthur. The Department alleged in counts b-1 and b-2 that the past and current substance abuse by D.W. and Arthur Sr. rendered them incapable of caring for Arthur and endangered him. Count b-3 restated the domestic violence allegations in count a-1.

B. *The Jurisdiction and Disposition Hearing and Orders*

At the joint jurisdiction and disposition hearing on March 28, 2017 Arthur Sr. stipulated to certain amendments to count b-2, submitted to the petition as amended, and waived his right to a trial or hearing on the merits. D.W. objected to the court's jurisdiction. She acknowledged past domestic violence and substance abuse, but she argued she had complied with Department referrals and no longer posed a risk to Arthur. She also asked the court to return Arthur to her. The court admitted the Department's reports into evidence, sustained the petition as amended, declared Arthur a dependent of the court, placed him with the Department for suitable placement, and ordered reunification services. D.W. and Arthur Sr. timely filed a joint notice of appeal.

DISCUSSION

In their briefs, D.W. and Arthur Sr. challenge only the juvenile court's jurisdiction finding pursuant to section 300, subdivision (a). They do not contest the jurisdiction findings pursuant to section 300, subdivision (b), or the disposition order. As a result, we cannot grant D.W. and Arthur Sr. any effective relief and must dismiss their appeal.

A. *The Notice of Appeal Sufficiently Identified the Juvenile Court's Jurisdiction Order*

In their notice of appeal, D.W. and Arthur Sr. stated they were appealing from the March 28, 2017 findings and orders of the court "that our child was not placed back into our care." In section seven of the form notice of appeal for juvenile court, D.W.

and Arthur Sr. checked the boxes indicating "[t]he order appealed from was made under" section 360 (declaration of dependency and removal of custody) and section 725 (declaration of wardship and other orders). In connection with the order under section 360, D.W. and Arthur Sr. did not check the box labeled "with review of section 300 jurisdictional findings." In connection with the section 725 order (which does not exist), D.W. and Arthur Sr. checked the box labeled "with review of section 601 jurisdictional findings" (which also do not exist). The Department argues D.W. and Arthur Sr.'s failure to check the box for section 300 jurisdiction findings deprives this court of jurisdiction to consider the appeal. The Department reads the notice of appeal too narrowly.

"'[I]t is, and has been, the law of this state that notices of appeal are to be liberally construed so as to protect the right of appeal if it is reasonably clear what [the] appellant was trying to appeal from, and where the respondent could not possibly have been misled or prejudiced.'" (*In re Joshua S.* (2007) 41 Cal.4th 261, 272; see Cal. Rules of Court, rule 8.100(a)(2) [a "notice of appeal must be liberally construed"].) A notice of appeal "is sufficient if it identifies the particular judgment or order being appealed." (Cal. Rules of Court, rule 8.100(a)(2); *In re Joshua S.*, at p. 272.)

The notice of appeal filed by D.W. and Arthur Sr. stated they were appealing from "findings and orders" made on March 28, 2017. The juvenile court's jurisdiction finding sustaining count a-1 occurred on that date. To the extent D.W. and Arthur Sr. mistakenly checked the box indicating an appeal from jurisdiction findings under section 601 instead of section 300, "'there is no showing' that the Department was 'or

could have been misled or prejudiced'" as a result of this mistake. (See *In re Joshua S.*, *supra*, 41 Cal.4th at p. 272 [notice of appeal was sufficient where it identified the date of the juvenile court order appealed from and did not mislead or prejudice the Department regarding the scope of the appeal].) Thus, the notice of appeal was sufficient to give this court jurisdiction to review the juvenile court's jurisdiction findings. Moreover, the juvenile court's jurisdiction findings were not directly appealable, and D.W. and Arthur Sr. can only challenge them in an appeal from the disposition order, which is also dated March 28, 2017. (See *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393, fn. 8, disapproved on another ground in *In re R.T.* (2017) 3 Cal.5th 622, 628; *In re Javier G.* (2005) 130 Cal.App.4th 1195, 1199-1200.). Thus, we construe the notice of appeal to encompass the court's March 28, 2017 jurisdiction findings.

B. *The Appeal Is Not Justiciable*

The Department argues D.W. and Arthur Sr.'s appeal is not justiciable because we cannot grant them any effective relief. The Department is correct.

"'When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the [trial] court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.'" (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762; accord, *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) Thus, even if we were

to agree with D.W. and Arthur Sr. that substantial evidence does not support the juvenile court's finding under section 300, subdivision (a), the juvenile court would still have jurisdiction over Arthur based on its findings under section 300, subdivision (b), which D.W. and Arthur Sr. do not challenge. Therefore, the appeal raises only """abstract or academic questions of law""" because "we cannot render any relief . . . that would have a practical, tangible impact" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492) on Arthur's dependency proceeding. (See *id.* at p. 1491 [father's appeal was nonjusticiable where he did not challenge all of the juvenile court's jurisdiction findings]; see also *In re N.S.* (2016) 245 Cal.App.4th 53, 60 ["the critical factor in considering whether a dependency appeal is moot is whether the appellate court can provide any effective relief if it finds reversible error"]; *In re A.B.* (2014) 225 Cal.App.4th 1358, 1364 [an appeal is moot if the reviewing court cannot grant effective relief].)

D.W. and Arthur Sr. acknowledge this principle but argue we should exercise our discretion to reach the merits of their appeal based on *In re Drake M.*, *supra*, 211 Cal.App.4th 754 and *In re Briana V.* (2015) 236 Cal.App.4th 297. Those cases stand for the proposition that while, as a general rule, a single jurisdiction finding supported by substantial evidence is sufficient to support jurisdiction and render nonjusticiable or moot a challenge to the other findings, a court of appeal may review the merits of a parent's appeal when a challenged jurisdiction finding "(1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) 'could

have other consequences for [the appellant], beyond jurisdiction.'" (*In re Drake M.*, at pp. 762-763; accord, *In re Briana V.*, at p. 309.) For example, in *In re Drake M.,* the father challenged a single jurisdiction finding against him involving his use of medical marijuana, but neither he nor the child's mother challenged the jurisdiction findings against the mother. (See *In re Drake M.*, at p. 762.) The court reached the merits of the father's appeal because its outcome was "the difference between [the] father being an 'offending' parent versus a 'non-offending' parent," a distinction that "may have far reaching implications with respect to future dependency proceedings in this case and father's parental rights." (*Id.* at p. 763.)

Arthur Sr. argues the juvenile court's order sustaining count a-1 prejudices him in "future dependency and family court proceedings as well as other administrative actions," including the possibility the Department may report him to the Department of Justice for inclusion in the Child Abuse Central Index (CACI).[2] D.W. also argues that the court's jurisdiction

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[2] The CACI is maintained by the California Department of Justice, which must disclose substantiated reports of child abuse and severe neglect to any law enforcement or other agency conducting a child abuse investigation, as well as to certain agencies conducting background checks of applicants seeking employment involving contact with children. (Pen. Code, § 11170; see *Saraswati v. County of San Diego* (2011) 202 Cal.App.4th 917, 921, fn. 1 ["[t]he CACI consists of an index of all reports of child abuse and severe neglect submitted to the DOJ pursuant to the [Child Abuse and Neglect Reporting Act] under Penal Code section 11169"]; *In re C.F.* (2011) 198 Cal.App.4th 454, 462-463 [same].) "Reports . . . and the names of persons

findings could result in her inclusion in the CACI and that the CACI is "made available to county licensing agencies and others conducting background investigations of people seeking employment or volunteer work, and to out-of-state agencies investigating prospective foster or adoptive parents." (See Pen. Code, § 11170, subds. (b)(4) & (8), (e)(1).) Neither Arthur Sr. nor D.W., however, contends he or she would be disqualified from working in any current or future position as a result of their inclusion in the CACI or that they intend to become foster or adoptive parents.

Moreover, the juvenile court sustained count b-3, which is identical to count a-1, and neither Arthur Sr. nor D.W. challenges the finding sustaining count b-3 as a basis for the court's jurisdiction. To the extent the finding in count a-1 provides a basis for reporting Arthur Sr. or D.W. to the Department of Justice for possible inclusion in the CACI, so does the finding in count b-3. Arthur Sr. argues a "finding pursuant to section 300, subdivision (a) has far more serious implications than a finding pursuant to section 300, subdivision (b)(1) wherein inadvertent and neglectful conduct creates a substantial risk to the child's well-being." Arthur Sr., however, cites no authority for that proposition, and in any case the Child Abuse and Neglect Reporting Act, pursuant to which the legislature created the CACI, requires the CACI to include "an index of all reports of child abuse and severe neglect submitted" pursuant to the Act. (Pen. Code, § 11170, subd. (a)(1).) Conduct constituting "child abuse" or "severe neglect," as the Child Abuse and Neglect

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making them are deemed confidential." (*In re C.F.,* at p. 462; see Pen. Code, §§ 11167, 11167.5.)

Reporting Act defines those terms (see Pen. Code, §§ 11165.2, subd. (a), 11165.6), may arise from allegations sustained under either section 300, subdivision (a), or section 300, subdivision (b)(1).

Finally, Arthur Sr.'s general reference to future dependency and family court proceedings is too vague to demonstrate the type of "far reaching implications" that would support appellate review of the merits of an otherwise moot or nonjusticiable appeal. (See *In re Drake M.*, *supra*, 211 Cal.App.4th at p. 763; see also *In re I.A.*, *supra*, 201 Cal.App.4th at p. 1493 [where a parent fails to identify any "specific legal or practical consequence from [the challenged] finding, either within or outside the dependency proceedings," the reviewing court may decide it can grant no effective relief and dismiss the appeal as nonjusticiable].) Because Arthur Sr. and D.W. have not identified any specific adverse consequence that could result from the jurisdiction finding on count a-1, we decline to exercise discretion to review the merits of their appeal.

DISPOSITION

The appeal is dismissed.

SEGAL, J.

We concur:

PERLUSS, P. J. ZELON, J.