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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re S.H. et al., Persons Coming Under the
Juvenile Court Law.

T.H.,

Plaintiff and Respondent,

v.

DEPARTMENT OF SOCIAL SERVICES
OF ALAMEDA COUNTY,

Defendant and Appellant.

A141933

(Alameda County
Super. Ct. Nos. OJ12018648,
OJ12018649, OJ12018650)

T.H., father (Father) of 18-year-old S.H., 16-year-old I.H., and 14-year-old R.H., appeals from the juvenile court’s family maintenance review order of April 21, 2014. He contends the juvenile court erred in: (1) ordering supervised visits and future therapeutic supervised visits because there was insufficient evidence that any restriction on visitation was necessary; and (2) continuing dependency jurisdiction because there was insufficient evidence of ongoing risk to the children. We hereby take judicial notice of subsequent proceedings in which the juvenile court dismissed the dependency action, and shall dismiss this appeal as moot.

FACTUAL AND PROCEDURAL BACKGROUND

On March 27, 2012, the Department of Social Services of Alameda County (the Department) filed a dependency petition on behalf of S.H., I.H., and R.H. Father

appealed from the jurisdictional and dispositional orders sustaining allegations against him and the children's mother (Mother), continuing the children's placement with Mother, and ordering family maintenance services for Mother and informal child welfare services for Father. We affirmed the orders.¹

On April 21, 2014, the juvenile court issued a family maintenance review order continuing dependency jurisdiction and awarding supervised visits and future therapeutic visits to Father. Father appealed from that order. On January 27, 2015, while the appeal was pending, the juvenile court dismissed the dependency as to all three children on the ground that “[c]onditions do not exist which would justify initial assumption of jurisdiction . . . and are not likely to exist if supervision is withdrawn.”² The juvenile court awarded physical custody of I.H. and R.H., who were still minors at the time of the judgment, to Mother, with unsupervised visitation to Father for one hour every Saturday.

The Department filed a motion to dismiss the appeal on February 2, 2015, on the ground that the dismissal of dependency jurisdiction on January 27, 2015 rendered the appeal moot. Father filed an opposition to the motion to dismiss on February 16, 2015.

DISCUSSION

“ [A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.’ ” (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404; *In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315 [“When no effective relief can be granted, an appeal is moot and will be dismissed”].)

Here, as noted, the juvenile court dismissed the dependency over all three children on January 27, 2015, and Father was awarded unsupervised visitation. Thus, the controversies that existed at the time Father filed his appeal no longer exist. Father's

¹We take judicial notice of our opinion in Father's appeal from the jurisdictional and dispositional orders, *In re S.H.* (June 12, 2014, A138887) [nonpub. opn.]. (Evid. Code, § 451.)

²S.H. turned 18 before the dependency was dismissed.

appeal is moot because even if he were to prevail on his appeal, the result can have no practical impact or provide him effectual relief in the dependency case.

Father opposes the dismissal on several grounds. First, he argues this court should not consider post-judgment evidence because it is “outside the record on appeal, . . . [¶] . . . [¶] . . . occurred post-judgment, and . . . demonstrates subsequent remedial measures in an attempt to try to correct the legal error in this case.” However, it is settled that an appellate court has the authority to consider post-judgment evidence in determining whether an appeal has become moot. (*In re Karen G.* (2004) 121 Cal.App.4th 1384, 1390 [“It is not uncommon for an appellate court to take judicial notice of subsequent proceedings in the juvenile court and find the appeal has been rendered moot”].)

Second, Father asserts the appeal must not be dismissed because it presents “an issue of continuing public concern.” He relies on cases in which courts held it was appropriate to resolve moot issues where they involved compelling legal issues or were of widespread significance. (Citing, e.g., *In re Jeanette H.* (1990) 225 Cal.App.3d 25, 30 [“In view of the [juvenile] court’s intention to establish new policy, and in order to provide guidance to the juvenile court in future matters, it is appropriate for us to decide the issues raised despite the resolution of the underlying contested matter].) The issues presented in Father’s appeal, however—e.g, whether continuing dependency jurisdiction was appropriate under the facts of this particular case, or whether Father’s visits with his children should have been supervised or therapeutic—are not issues of public concern and widespread significance.

Third, he asserts the juvenile court’s findings and orders can “have negative consequences” for him because the “jurisdictional facts might be disclosed . . . in other forums” and “the findings and orders in the dependency case may continue to negatively affect [him] in future cases.” Father, however, previously appealed from the jurisdictional and dispositional orders, and as noted, we affirmed those orders. Thus, the possibility that the jurisdictional findings might harm him in future proceedings already

existed at the time he filed the instant appeal, and a reversal of the family maintenance order would not negate that possibility of harm.

DISPOSITION

The appeal is dismissed as moot.

McGuinness, P.J.

We concur:

Pollak, J.

Jenkins, J.