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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

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

B235950
(Los Angeles County Super. Ct.
No. CK35871)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

LETICIA M.,

Defendant and Appellant.

APPEAL from the orders of the Superior Court of Los Angeles County,
Marguerite D. Downing, Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner, Executive Director, and Anne E.
Fragasso, Staff Attorney, under appointments by the Court of Appeal, for Defendant and
Appellant.

Office of the County Counsel, John F. Krattli, Acting County Counsel, James M.
Owens, Assistant County Counsel, and Jacklyn K. Louie, Deputy County Counsel, for
Plaintiff and Respondent.

Leticia M. (mother) appeals from the judgment of August 29, 2011, declaring her daughter, H.M., and son, D.Z., dependents of the court under Welfare and Institutions Code section 360, subdivision (d).¹ Mother contends substantial evidence does not support the jurisdictional finding under section 300, subdivision (g).² The Department of Children and Family Services (Department) contends we need not decide the issue because dependency court jurisdiction is supported by a sustained allegation under section 300, subdivision (b),³ which mother does not challenge. We conclude mother's contention is moot, as there is no effective relief we can give her, and in any event, we conclude the argument has no merit. Accordingly, we affirm the judgment.

STATEMENT OF FACTS AND PROCEDURE

H. was born in 2006 to mother and Paul S., an alleged father.⁴ D. was born in 2009 to mother and Ronald Z., who were married. Ronald (father) was the presumed father of both children.⁵ Father was incapable of providing the children with proper care

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

² Under section 300, subdivision (g), a child who “has been left without any provision for support . . . [or whose] parent has been incarcerated . . . and cannot arrange for the care of the child” is within the jurisdiction of the dependency court.

³ Under section 300, subdivision (b), a child who is at “substantial risk [of suffering] serious physical harm or illness, as a result of the failure or inability of his or her parent . . . to adequately supervise or protect the child, . . . or . . . the willful or negligent failure of the parent . . . to provide the child with adequate food, clothing, shelter, or medical treatment, or . . . the inability of the parent . . . to provide regular care for the child due to the parent's . . . substance abuse” is within the jurisdiction of the dependency court.

⁴ Paul is deceased.

⁵ Father did not appeal the judgment.

and supervision, because he abused drugs, had a long history of drug abuse and was incarcerated most of his life as a result of an extensive criminal history. Mother knew he was involved with drugs.

Mother had a long history of abusing opiates and methamphetamine and of criminal convictions. She failed to reunify with the children's older sibling, and parental rights to the sibling were terminated in 1999.

Mother left the children in father's care when she was arrested for murder in February 2010.⁶ While the children were in his custody, father abused drugs, took them out until 2:00 in the morning, and left them with others for days or a week at a time without food or supplies. He was aggressive with the children and engaged in physical and verbal altercations in front of them. The Department held a team decision meeting with father in mid-June 2011 to determine how to protect the children. Father agreed to drug testing and other services in order to keep the children safely in the home.

Father continued to use methamphetamine. Mother was not able to provide the children with the necessities of life, because she was incarcerated. The Department detained the children on June 28, 2011, in foster care.

Mother appeared at the detention hearing on July 1, 2011. She stated that, if she had been contacted, she would have asked the Department to place the children with paternal grandmother, and she requested the Department investigate the paternal grandmother for placement. On July 11, 2011, the dependency court ordered the children temporarily placed with the paternal grandparents. On about July 20, 2011, father was arrested for grand theft.

The jurisdictional and dispositional hearing was held on August 29, 2011. Mother asked the dependency court to dismiss the allegation under section 300, subdivision (g) on the grounds that, when mother was incarcerated, the children were with father and, at the detention hearing, mother asked that the children be placed in the home of paternal

⁶ Mother remained incarcerated in jail throughout the dependency proceedings, awaiting trial.

grandmother. The court denied the dismissal request.

The children were declared dependents of the court under section 300, subdivisions (b) and (g), based on the following sustained allegations: father has a long history of substance abuse, which renders him unable to provide the children with regular care and supervision (§ 300, subd. (b)); and mother is unable to provide the children with the necessities of life and is currently incarcerated (§ 300, subd. (g)). Custody of the children was taken from father, the parent with whom they resided when the petition was filed. The Department was ordered to provide family reunification services to mother, but mother was not ordered to participate in any specific program. The court stated that a specific case plan would be developed for mother upon her release from incarceration. Mother was ordered to cooperate with services provided by the Department and was granted monitored visitation.

DISCUSSION

Mootness

Mother's sole contention is substantial evidence does not support the sustained allegation under section 300, subdivision (g) that she was not able to provide the necessities of life while incarcerated. The Department contends we need not consider the contention, because the sustained section 300, subdivision (b) allegation (father's drug abuse places the children at risk) is unchallenged and provides a sufficient basis for the finding of dependency jurisdiction. In her reply brief, mother argues her appeal is not moot. We disagree.

“A case is moot when any ruling by this court can have no practical impact or provide the parties effectual relief.’ [Citation.]” (*Carson Citizens for Reform v. Kawagoe* (2009) 178 Cal.App.4th 357, 364.; see also *In re I.A.* (2011) 201 Cal.App.4th 1484, 1489-1490; *In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315-1316.) When “issues raised in [an] appeal present no genuine challenge to the court’s assumption of

dependency jurisdiction[,] . . . any order we enter will have no practical impact on the pending dependency proceeding, thereby precluding a grant of effective relief. For that reason, we find [such an] appeal to be nonjusticiable.” (*In re I.A.*, *supra*, at p. 1491.)

“[I]t is necessary only for the court to find that one parent’s conduct has created circumstances triggering section 300 for the court to assert jurisdiction over the child. [Citations.] Once the child is found to be endangered in the manner described by one of the subdivisions of section 300[,] the child comes within the court’s jurisdiction, even if the child was not in the physical custody of one or both parents at the time the jurisdictional events occurred. [Citation.] For jurisdictional purposes, it is irrelevant which parent created those circumstances. 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. [Citation.] As a result, it is commonly said that a jurisdictional finding involving one parent is “good against both. More accurately, the minor is a dependent if the actions of either parent bring [the minor] within one of the statutory definitions of a dependent.” [Citation.] For this reason, an appellate court may decline to address the evidentiary support for any remaining jurisdictional findings once a single finding has been found to be supported by the evidence. (E.g., *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451 [addressing remaining findings only ‘[f]or [f]ather’s benefit’]; *In re Joshua G.* [(2005)] 129 Cal.App.4th [189,] 202 [when a jurisdictional allegation involving one parent is found supported, it is ‘irrelevant’ whether remaining allegations are supported]; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330 [declining to address remaining allegations after one allegation found supported]; *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72 [same].)” (*In re I.A.*, *supra*, 201 Cal.App.4th at pp. 1491-1492.)

Here, the dependency court has jurisdiction over the children under section 300, subdivision (b), even if the finding under section 300, subdivision (g) is, as mother contends, not supported by substantial evidence. As a consequence, mother’s appeal is moot. (E.g., *In re I.A.*, *supra*, 201 Cal.App.4th at pp. 1491-1492.) Mother does not indicate any way in which striking the challenged finding would have a practical effect

on the proceedings or give her effective relief. The court would still have authority to “exercise personal jurisdiction over [mother] and adjudicate [her] parental rights.” (*Id.* at p. 1492.) Further, as mother’s incarceration renders her unavailable and father’s drug addiction and criminal activities render him parentally unfit, there is no possibility the dependency court will exercise its discretion and decline to declare the children dependents of the court. (See § 360, subd. (d) [“If the court finds that the child is a person described by Section 300, it may order and adjudge the child to be a dependent child of the court.”].) Thus, the dependency court will not vacate the dependency judgment; the children will remain dependents of the court.

Moreover, the dispositional orders will not be more favorable to mother if the section 300, subdivision (g) finding is stricken, because custody was not taken from her and she was granted reunification services and visitation. Mother makes no contention the sustained allegation would prejudice her in future proceedings. (Compare *In re D.C.* (2011) 195 Cal.App.4th 1010, 1015 [court reviewed a challenge to the finding under one subdivision when another basis for jurisdiction was unchallenged, because the finding, child cruelty, could prejudice mother if she were involved in a future dependency case].) Any prejudice that might flow in some speculative future proceeding from the section 300, subdivision (g) finding will be dwarfed by the fact that she lost parental rights to an older sibling due to her parental unfitness.

Substantial Evidence

Assuming the substantial evidence contention is not moot, we alternatively hold that it has no merit.

In determining whether substantial evidence supports the factual findings, “all intendments are in favor of the judgment and [we] must accept as true the evidence which tends to establish the correctness of the findings as made, taking into account as well all inferences which might reasonably have been drawn by the trial court.” (*Crogan v. Metz* (1956) 47 Cal.2d 398, 403-404.) ““[T]he [appellate] court must review the whole record

in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could [make the findings made].” [Citations.]” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.) “[I]ssues of fact and credibility are the province of the trial court. [Citation.]” (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.)

Substantial evidence supports the finding under section 300, subdivision (g) that the children were left without provision for support or mother was incarcerated and could not arrange for their care. It is reasonable to infer that leaving the children in father’s care did not provide for their support based on evidence father abused drugs, engaged in criminal behavior that lead to caretaker absence, left the children with others with no food or supplies, and exposed the children to verbal and physical violence and his late-night activities.

Concerning the alternative ground for jurisdiction under section 300, subdivision (g), mother contends she had a plan for the children’s care after the children were detained from father—they could live with the paternal grandmother. However, mother does not indicate how she would have arranged for legal custody to be transferred to the paternal grandmother. Once the children were detained from father, they could not be placed in mother’s physical custody, because she was incarcerated. The Department had custody and control of the children, and mother had no authority or ability to effect a transfer of custody to paternal grandmother. (See, e.g., § 309.) She could not arrange for their care.

The conclusion reached by the dependency court finding the children come within the jurisdiction of the court under section 300, subdivision (g) is supported by substantial evidence.

DISPOSITION

The orders are affirmed.

KRIEGLER, J.

We concur:

ARMSTRONG, Acting P. J.

MOSK, J.