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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re JONATHAN R., et al.,
Persons Coming Under the
Juvenile Court Law.

B268470

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. DK11716)

Plaintiff and Respondent,

v.

B.R.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Frank J. Menetrez, Judge. Dismissed.

Karen B. Stalter, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, R. Keith Davis, Acting Assistant County Counsel, Jacklyn K. Louie, Principal Deputy County Counsel, for Plaintiff and Respondent.

B.R. (mother) appeals from a juvenile court order asserting dependency jurisdiction over her two children, Jonathan R. and J.R. While mother's appeal was pending, the juvenile court terminated dependency jurisdiction with orders awarding mother sole legal and physical custody of the children. Respondent contends the appeal is now moot. We agree and dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

Five-year-old Jonathan and two-year-old J.R. (the children) came to the attention of the Los Angeles County Department of Children and Family Services (DCFS) in June 2015, after J.R. was hospitalized. At the time, mother and the children were living with mother's aunt, Maria O., and Maria's children, including 10-year-old Alexis R. In addition to renting living space to mother, Maria agreed to babysit the children while mother was at work. On June 7, 2015, while mother was working, Maria left the children alone in the house with Alexis. According to Jonathan, while Maria was gone, Alexis punched two-year-old J.R. in the face, pulled her hair, and threw her against the sofa. Alexis also hit Jonathan. Upon returning home, Maria called mother and told her J.R. had fallen from the couch and cut her lip. Maria said she had left the children with her 16-year-old daughter, Pilar, while she went out.

When mother got home, she saw that J.R.'s face and ears were red and swollen. Her lip was cut and she was drooling. Jonathan told mother that Alexis hit J.R. and threw her. Mother asked Alexis and Pilar what had happened. Pilar acted

surprised; Alexis pretended to be asleep.¹ Mother took J.R. to the police station; paramedics then took her to the hospital. J.R.'s jaw was fractured. Her face was bruised and cut. She also had bruises on her lower back and an abrasion on her arm.

Several individuals told DCFS Maria had a history of leaving her own children (ages 10, 13, and 16) without supervision. Mother also knew this history. She indicated Maria justified leaving her children alone because they were older and could take care of themselves. Mother also admitted Jonathan had previously told her Alexis often intentionally tripped J.R. as she walked past him. Mother confronted Maria about this information at the time; Maria denied it was true. On another occasion, mother discovered a dark bruise or mark under J.R.'s eye. Maria told mother J.R. sustained the bruise after she fell off the sofa.

The children were detained. By the time of the jurisdiction and disposition hearing, mother had moved out of Maria's house and had new living arrangements. She was participating in parenting classes and individual counseling. She had also made new childcare arrangements. Despite these changes, DCFS continued to express concern about the children's safety, given the severity of J.R.'s injuries and mother's lack of judgment in

¹ Alexis denied hitting J.R. in an interview with a DCFS social worker. He said J.R.'s injuries were either self-inflicted, or caused by Jonathan hitting J.R. The social worker found Alexis not credible because several of his statements about the incident were verifiably untrue, he admitted J.R. annoyed him by frequently screaming, and he also admitted intentionally tripping J.R.

leaving the children with Maria, despite knowing that Maria often left her own children unsupervised.

At the October 2, 2015 jurisdiction hearing, the juvenile court found the children to be persons described by Welfare and Institutions Code section 300, subdivision (b), and asserted dependency jurisdiction over them.² At disposition, the court removed the children from the respective fathers, placed them home of mother, and ordered family maintenance services. Mother appealed the jurisdiction order. On April 8, 2016, the juvenile court terminated dependency jurisdiction as to Jonathan, and terminated but stayed dependency jurisdiction as to J.R., pending receipt of a juvenile custody order. On April 13, 2016, the court terminated jurisdiction as to J.R. and issued an order awarding mother sole legal and physical custody of J.R., with father to have supervised visits.³

² In addition to an allegation based on mother's act of leaving the children with Maria, who she knew to have a history of failing to adequately supervise her own children, the sustained petition included an allegation that J.R.'s father was unwilling to provide for her and that unwillingness placed her at risk of serious physical harm and damage, and endangered her physical health, safety and well-being. J.R.'s father told DCFS he could not care for J.R. and he had no relatives who could be considered for placement. J.R.'s father is not a party to this appeal.

³ We have granted DCFS's request for judicial notice of the minute orders reflecting the termination of jurisdiction.

DISCUSSION

Mother's Challenge to the Jurisdiction Order is Moot

Mother challenges the juvenile court's order asserting dependency jurisdiction over the children as unsupported by substantial evidence. However, dependency jurisdiction has been terminated and the children have been returned to mother's sole custody. Under these circumstances, we conclude this court can provide no effective relief, even were we to find the jurisdiction order was in error. We therefore dismiss the appeal.

The recent case of *In re N.S.* (2016) 245 Cal.App.4th 53 (*N.S.*), is instructive. In *N.S.*, as in this case, during the pendency of the mother's appeal, the juvenile court terminated dependency jurisdiction and awarded the mother custody and the father supervised visits. The appellate court declined to consider the appeal. The court explained: "As a general rule, it is a court's duty to decide 'actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.'" [Citation.] An appellate court will dismiss an appeal when an event occurs that renders it impossible for the court to grant effective relief. [Citation.]" (*Id.* at pp. 58-59.) The court acknowledged the reviewing court "may exercise its inherent discretion to resolve an issue when there remain 'material questions for the court's determination' [citation], where a 'pending case poses an issue of broad public interest that is likely to recur' [citation], or where 'there is a likelihood of recurrence of the controversy between the same parties or others.'" [Citation.]" (*Id.* at p. 59.) But the court concluded the exercise of such discretion was not appropriate in the case before it.

The *N.S.* court’s rationale was fundamentally based on the court’s inability to grant mother any effective relief, even if it were to find reversible error. Unlike other cases in which courts had exercised their discretion to consider cases despite the termination of jurisdiction, in *N.S.*, the mother had been awarded custody of her child, and the jurisdictional findings were not the basis of any current order adverse to her. (*N.S.*, *supra*, 245 Cal.App.4th at p. 61.) Further, the court explained that while it was “sympathetic to Mother’s argument that dismissing this appeal will insulate from review the jurisdictional findings that were arguably entered after excessive weight was given to past conduct and insufficient weight was given to the circumstances existing at the time of the jurisdictional hearing,” review was not appropriate because “there remain[ed] no effective relief we could give Mother beyond that which she has already obtained.”⁴ (*Id.* at p. 62.)

⁴ The court also acknowledged the concern that there was always the possibility of future dependency proceedings, yet it remained “unconvinced . . . that any ruling we could issue here would have any practical effect on future dependency proceedings.” (*N.S.*, *supra*, at p. 63.) The mother admitted “the evidence showed that Mother and *N.S.*’s father were arrested twice in connection with activity at a home that was a marijuana-grow house and where unsafe chemicals and wiring were found. Those facts would almost certainly be available in any future dependency proceedings, as would the facts that Mother moved out of the grow house, took prompt and positive steps to reunite with *N.S.*, and quickly regained custody of her child.” (*Ibid.*)

We find this reasoning applicable to the case at bar. Dependency jurisdiction has been terminated. Both Jonathan and J.R. are in mother's sole legal and physical custody. This case is therefore unlike *In re Joshua C.* (1994) 24 Cal.App.4th 1544, in which the court considered a father's appeal despite the termination of jurisdiction. In *Joshua C.*, the mother was awarded sole legal and physical custody, but the father's visits were restricted. (See also *In re J.K.* (2009) 174 Cal.App.4th 1426 [court terminated jurisdiction awarding mother sole legal and physical custody and limited father's visits; father appealed].) Here, mother was the only parent actively involved in the proceedings and the termination of jurisdiction returned her to the position she was in before dependency proceedings began. The jurisdictional findings are not the basis of current orders adverse to her.

Moreover, *In re Yvonne W.* (2008) 165 Cal.App.4th 1394, upon which mother relies, is easily distinguished. In *Yvonne W.*, the mother challenged a juvenile court review hearing finding that the child could not yet be returned to the mother's care. While the appeal was pending, the juvenile court returned the child to the mother's care, but dependency jurisdiction was not terminated. The appellate court reasoned that despite the return of the child to the mother's custody, the prior adverse finding could affect mother in future proceedings. The court also concluded the issues raised in the appeal regarding a risk of detriment arising out of a parent's housing were of continuing public importance, warranting consideration of the mother's appeal on the merits. (*Id.* at pp. 1403-1404.) In contrast, here dependency jurisdiction has been terminated entirely. No future proceedings are anticipated. Further, this appeal raises no issues

of continuing public importance similar to those identified in *Yvonne W.*

Dependency jurisdiction has been terminated and the accompanying orders awarded mother full legal and physical custody of both children. This court would be unable to grant mother any effective relief even if we found the trial court erred. Mother's appeal is moot.

DISPOSITION

Mother's appeal is dismissed.

BIGELOW, P.J.

We concur:

RUBIN, J.

GRIMES, J.