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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re JORDAN G., a Person Coming Under
the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

JASON G.,

Defendant and Appellant.

D060864

(Super. Ct. No. J518-064)

APPEAL from an order of the Superior Court of San Diego County, Carol
Isackson, Judge. Dismissed.

Jason G., the father of Jordan G., appeals an order granting de facto parent status to the paternal grandparents. Jason contends the juvenile court used an incorrect legal standard in finding the grandparents qualified as de facto parents. Jason also contends the court erred because Jordan had been removed from the grandparents' care.

FACTS

In March 2011, agents from the Drug Enforcement Agency and the San Diego County Sheriff's Department executed a search warrant at Jason's residence and found 217 marijuana plants on the premises.¹ Jordan, Jason and Jordan's mother, S.G., were present at the time. Jason and S.G. were arrested, and Jordan was taken into protective custody. After spending one day at Polinsky Children's Center, Jordan was released to the paternal grandparents.

On March 11, the San Diego County Health and Human Services Agency (Agency) filed a dependency petition on behalf of Jordan alleging she was at substantial risk of harm because her parents had failed to provide her a safe home and the marijuana was easily accessible to the child. (Welf. & Inst. Code, § 300, subd. (b).)²

Jason did not get along with the paternal grandparents. Their relationship declined after Jason started smoking marijuana for medical purposes. While Jason was in jail, he believed the paternal grandparents broke into his home. Jordan said she wanted to stay with the paternal grandparents, noting she was comfortable in their home. In early April, Jordan asked her attorney to tell the court that she likes living with her grandparents and "things are going well.

¹ Jason has a medical marijuana card and operated a medical marijuana collective. (See generally, Health & Saf. Code, §§ 11362.5, 11362.765.)

² Statutory references are to the Welfare and Institutions Code unless otherwise specified.

In late April, Jordan told the social worker the paternal grandparents bickered at each other and raised their voices. Once, Jordan overheard the grandmother complain to the grandfather about taking care of her. Jordan also did not like her grandfather asking her what was wrong and if she was all right. The social worker relayed Jordan's concerns to the grandparents, and they agreed to be more careful and to avoid upsetting her.

On May 5, the juvenile court sustained the petition, declared Jordan a dependent, removed custody of her from the parents, placed Jordan with the paternal grandparents and ordered reunification services for Jason and S.G. The court authorized unsupervised visits for S.G. The court ruled Jason could have unsupervised visits at an Agency office upon positive feedback from his therapist.

By late summer, Jason's visits with Jordan had become problematic.³ Jason was not following visitation guidelines and often discussed anxiety-producing topics. During one visit, security escorted Jason off the premises. During another visit, Jason said "Hi" to Jordan and canceled the rest of the visit.

The grandfather, who drove Jordan to all visits, became upset after two visits ran overtime and was rude to Jordan on one of those occasions. Jordan said she did not want to go home to the grandparents' residence after a visit with Jason because the grandfather would ask her about the visit. After another visit with Jason, Jordan said she wanted to live with S.G.

³ Jordan's counsel filed a section 388 petition in August to discontinue Jason's visits with Jordan. The court made a prima facie finding and set a contested hearing. The court's ruling on the section 388 petition is not included in the record on appeal.

In October, the paternal grandparents applied for de facto parent status. In their application, the grandparents said they had responsibility for Jordan's day-to-day care during the more than seven months she lived with them and they had attended court hearings.

At a pretrial status conference on October 11, the court heard the grandparents' application. Jason and S.G. opposed the application. Jason's counsel informed the court that Agency had removed Jordan from the grandparent's care a day earlier. In granting the application, the court noted grandparents had cared for Jordan for seven months and otherwise met the requirements for de facto parent status. The court said it was important to allow the paternal grandparents' voice to "be heard as to their own self-interest." The court also said the relationship required for de facto parent status should be "assessed in terms of the requesting party's right to continue to further their own interest in the relationship with the child"; not necessarily "in terms of [the] best interest of the child."

On our own motion, we take judicial notice of the minute order for the February 7, 2012 pretrial status conference. (Evid. Code, §§ 452, subd. (d)(1), 459.)⁴ At that status conference, the court vacated the de facto parent status of the paternal grandparents.⁵

⁴ On June 8, 2012, we informed the parties of our intention to take judicial notice of this minute order and invited the parties to respond in a reasonable amount of time if they objected to the proposed judicial notice. (Evid. Code, § 459, subd. (d).) We received no response from the parties.

DISCUSSION

Jason contends the juvenile court erred by granting de facto parent status to the paternal grandparents. However, because this issue is now moot, we need not address it.

"An appellate court will not review questions which are moot and which are only of academic importance. It will not undertake to determine abstract questions of law at the request of a party who shows no substantial rights can be affected by the decision either way." (*Keefe v. Keefe* (1939) 31 Cal.App.2d 335, 337.) Our duty is to decide actual controversies and not to give opinions upon moot questions. (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1316.)

An appeal becomes moot when, through no fault of the parties, the occurrence of an event renders it impossible for the appellate court to grant the appellant effective relief. (*In re Jessica K., supra*, 79 Cal.App.4th at p. 1316.) Generally, a reviewing court will dismiss a case in which the issues are moot. (*Id.* at p. 1315.)

A reviewing court may exercise its inherent discretion to resolve an issue rendered moot by subsequent events if the question to be decided is of continuing public importance and is one capable of repetition, yet evading review. (*In re Yvonne W.* (2008)

⁵ Our taking judicial notice of the subsequent minute order in this case does not contravene *In re Zeth S.* (2003) 31 Cal.4th 396. First, we are taking judicial notice of a subsequent order of the juvenile court, not an unsworn statement of counsel. (*Id.* at p. 407.) Second, the evidence is not offered to obtain a reversal (*In re Josiah Z.* (2005) 36 Cal.4th 664, 676), and taking judicial notice of the order will not overturn a judgment terminating parental rights, nor will it impair "the juvenile law's purpose of 'expediting the proceedings and promoting the finality of the juvenile court's orders and judgment.'" (*In re Salvador M.* (2005) 133 Cal.App.4th 1415, 1421, quoting *In re Zeth S.*, at p. 413.) Third, the minute order related solely to the question whether the appeal should be dismissed as moot, not to the merits of the appeal or the correctness of the judgment. (*In re Josiah Z.*, at p. 676, citing *In re Zeth S.*, at p. 413.)

165 Cal.App.4th 1394, 1404.) We decide on a case-by-case basis whether subsequent events in a juvenile dependency matter make a case moot and whether our decision would affect the outcome in a subsequent proceeding. (*In re Dylan T.* (1998) 65 Cal.App.4th 765, 769.)

Here, whether the juvenile court erroneously granted de facto parent status to the paternal grandparents is no longer a "live" controversy because the juvenile court later rescinded the grant of de facto parent status. (See *In re Hirenia C.* (1993) 18 Cal.App.4th 504, 518.) Thus, no effective relief regarding this issue can be afforded Jason. Moreover, the legal issues raised by Jason do not involve legal questions that are of continuing public importance.

DISPOSITION

The appeal is dismissed as moot.

BENKE, Acting P. J.

WE CONCUR:

McDONALD, J.

AARON, J.