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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re J.A., a Person Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

T.H.,

Defendant and Appellant.

D060882

(Super. Ct. No. SJ12465)

APPEAL from orders of the Superior Court of San Diego County, Garry G.
Haehnle, Judge. Dismissed.

T.H., the mother of J.A., appeals findings and orders entered at the six-month hearing held pursuant to Welfare and Institutions Code section 366.21, subdivision (e).¹ T.H. contends the juvenile court erred by finding reunification services offered by the

¹ Statutory references are to the Welfare and Institutions Code unless otherwise specified.

San Diego County Health and Human Services Agency (Agency) were reasonable and abused its discretion by not ordering unsupervised visits. While this appeal was pending, the court conducted a 12-month review hearing and an 18-month review hearing; at the latter hearing, the court returned J.A. to T.H.'s custody. Because the issues presented here are moot, we dismiss the appeal.

FACTS

In November 2010, Agency filed a dependency petition on behalf of J.A., then 12 years old, after T.H. physically assaulted her by, among other things, slamming the girl's head on the floor and placing a pillow over her face and saying "I hope you die." (§ 300, subd. (a).)² After J.A.'s injuries were treated at a hospital, she was taken into protective custody. The dependency petition also alleged that T.H. drove with J.A. while intoxicated. (§ 300, subd. (b).)

Later that month, the juvenile court lifted a no visitation order and granted T.H. supervised visitation.

In January 2011, the court sustained the dependency petition, removed J.A. from T.H.'s custody, placed J.A. in a licensed group home and ordered reunification services for T.H. Visitation was to remain supervised.

At the contested six-month review hearing on October 18, the court found Agency had provided T.H. with reasonable services, and she had made substantive progress with the provisions of her case plan. The court ordered Agency to provide six more months of

² T.H. denied putting a pillow over J.A.'s face and wishing her dead.

services to T.H. However, the court denied T.H.'s request for unsupervised visits. The court agreed with Agency and J.A.'s counsel that T.H. and J.A. should not have unsupervised visits before they had engaged in conjoint therapy.³

On our own motion, we take judicial notice of the minute orders for the subsequent hearings in the case, particularly the minute order for the 18-month review hearing on May 10, 2012. (Evid. Code, §§ 452, subd. (d)(1), 459.)⁴ At that hearing, J.A. was returned to T.H.'s custody.⁵

DISCUSSION

T.H. contends the juvenile court's reasonable services finding at the six-month review was not supported by substantial evidence and the court abused its discretion by

³ The court-appointed special advocate also recommended that T.H. and J.A. start conjoint therapy before their visits became unsupervised.

⁴ On May 24, 2012, we informed the parties of our intention to take judicial notice of the postorder court minutes 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.

⁵ Our taking judicial notice of the subsequent minute orders in this case does not contravene *In re Zeth S.* (2003) 31 Cal.4th 396. First, the postjudgment evidence consists of orders 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 orders 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 orders 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.)

not ordering unsupervised visitation. However, because these issues are now moot, we need not address them.

"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) 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 found reasonable services were offered to T.H. at the six-month review hearing or whether the court abused its discretion by not ordering unsupervised visits is no longer a " 'live' " controversy because at the 18-

month review hearing, the court returned J.A. to T.H.'s custody. (See *In re Hirenia C.* (1993) 18 Cal.App.4th 504, 518.) Thus, no effective relief regarding these issues can be afforded T.H. Moreover, the substantial evidence and abuse of discretion issues raised by T.H. do not raise legal questions that are of continuing public importance.

DISPOSITION

The appeal is dismissed as moot.

IRION, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.