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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re T.M., a Person Coming Under the Juvenile Court Law.	
SAN DIEGO COUNTY HEALTH AND HUMAN SERVICES AGENCY, Plaintiff and Respondent, v. R.M., Defendant and Appellant.	D074808 (Super. Ct. No. NJ14891B)

APPEAL from an order of the Superior Court of San Diego County, Michael Imhoff, Judge. Dismissed as moot.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Defendant and Appellant.

Thomas E. Montgomery, County Counsel, John E. Philips, Chief Deputy County Counsel, and Jesica N. Fellman, Deputy County Counsel, for Plaintiff and Respondent.

R.M. (Father) appeals an order purportedly denying a request to facilitate visits with his daughter, T.M., at a postpermanency review hearing after the termination of reunification services in this juvenile dependency proceeding. However, as discussed below, the San Diego County Health and Human Services Agency (the Agency) facilitated several visits between Father and T.M. after he filed his appeal. Given that Father has been granted the relief he seeks in this appeal, we dismiss the appeal as moot.

FACTUAL AND PROCEDURAL BACKGROUND

In January 2014, the Agency petitioned the juvenile court under Welfare and Institutions Code section 300, subdivision (a), on behalf of T.M. and her two siblings. The details of the proceedings are not relevant to the current appeal. Ultimately, in September 2015, the juvenile court terminated reunification services for both parents and permanently placed T.M. at a licensed group foster home.

At a postpermanency review hearing in August 2018, T.M. requested that the court order the Agency to facilitate visits with her father, who was now in county jail. Father joined in the request. The Agency did not oppose visitation, but indicated it would "assess and research as to exactly the father's current circumstances and look into visits."

The court did not deny the request outright, but indicated that it would need to verify that Father was currently permitted to have visitors and coordinate with the jail to determine the proper procedure. The court indicated it would "endorse [visitation] if we can get that arranged."

Father appealed from the court's minute order, stating that it was an effective denial of his request for a visitation order.

DISCUSSION

On appeal, Father contends the juvenile court abused its discretion in "failing to order supervised visitation" with Father while he is incarcerated without a finding of detriment to T.M. Father asks this court to reverse the juvenile court's order and remand the matter "for the juvenile court to issue an order requiring the Department to assist with and facilitate visitation."

During the pendency of this appeal, the Agency filed a motion to augment the record concurrently with its respondent's brief. The motion seeks to augment the record with a report received by the court after the notice of appeal was filed. The report reveals that after the review hearing giving rise to this appeal, the Agency facilitated two visits between T.M. and Father while he was incarcerated in jail. In October 2018, Father was released from jail and sent to a residential treatment program. While housed at the program, the Agency facilitated another visit between T.M. and Father. The report noted that it appeared Father was no longer participating in the treatment program and his whereabouts were unknown. The report concluded that when Father was located, the Agency would continue to facilitate visits. The juvenile court received the report and ordered it entered into the record. In its respondent's brief, the Agency relies on this report to argue Father's appeal is now moot and should be dismissed. Father did not oppose the motion to augment and notes in a letter filed in lieu of a reply brief that "the objective of his appeal has been met."

As a preliminary matter, we consider the motion to augment the record. The Supreme Court in *In re Zeth S.* (2003) 31 Cal.4th 396 cautioned against liberally

augmenting the record in a juvenile dependency appeal with postjudgment evidence not considered by the court in reaching its decision as a basis for *reversing* juvenile court judgments. (*Id.* at p. 414.) Here, however, the Agency asks this court to augment the record with evidence establishing that the appeal is now moot because appellant has already been granted effective relief. This is a well-established basis for augmentation of the record on appeal. (See, e.g., *Reserve Insurance Co. v. Pisciotta* (1982) 30 Cal.3d 800, 813 ["courts have not hesitated to consider postjudgment events . . . when subsequent events have caused issues to become moot"].) Accordingly, we grant the motion to augment the record.

Considering the augmented record, it appears Father has already been granted the relief he seeks by way of this appeal. "An appeal should be dismissed as moot when the occurrence of events renders it impossible for the appellate court to grant appellant any effective relief." (*Cucamongans United for Reasonable Expansion v. City of Rancho Cucamonga* (2000) 82 Cal.App.4th 473, 479.) This general rule applies to juvenile dependency appeals. (See, e.g., *In re A.Z.* (2010) 190 Cal.App.4th 1177, 1180.)

Here, the purpose of Father's appeal was to establish the juvenile court should have ordered the Agency to facilitate visits with T.M. while Father was incarcerated. After he filed his appeal, the Agency facilitated such visits and Father is no longer incarcerated. Thus, Father has already obtained the result he seeks on appeal. Father's letter brief filed in lieu of a reply brief concedes as much, stating that "the objective of his appeal has been met." He makes no argument that any of the recognized exceptions to dismissing a moot appeal apply in this case and this court is unable to independently find

that any exist. Accordingly, we dismiss the appeal as moot because the occurrence of events after the order being appealed renders it impossible for us to grant Father any effective relief regarding the order being challenged.

DISPOSITION

The appeal is dismissed as moot.

NARES, J.

WE CONCUR:

McCONNELL, P. J.

O'ROURKE, J.