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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

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

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Plaintiff and Respondent,

v.

R.A.,

Defendant and Respondent;

A.G.,

Appellant.

F069176

(Super. Ct. No. 09CEJ300113-4)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Fresno County. Mary Dolas,
Commissioner.

Donna Furth, under appointment by the Court of Appeal, for Defendant and
Appellant.

Daniel C. Cederborg, County Counsel, and Amy K. Cobb, Deputy County
Counsel, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Gomes, J., and Franson, J.

Appellant A.G. (minor) is the 18-month-old subject of these dependency proceedings. Minor appeals from the juvenile court's order continuing reunification services for her mother at a combined review hearing. (Welf. & Inst. Code, § 366.21, subds. (e) & (f).)¹ She contends the juvenile court erred in finding there was a substantial probability she could be returned to her mother's custody. (§ 366.21, subd. (g)(1).) While minor's appeal was pending, the juvenile court placed her in her father's care under family maintenance services and terminated reunification services for her mother. We dismiss the appeal as moot.

PROCEDURAL AND FACTUAL SUMMARY

The facts in this case are undisputed. In February 2013, the Fresno County Department of Social Services (department) took the minor into protective custody at the hospital because her mother tested positive for methamphetamine while giving birth to her. Mother previously lost custody of her other five children because of her drug use. She was provided reunification services but failed to comply. The children were placed in legal guardianship.

At the time of the minor's birth, her mother and father were living together. Father also had a substance abuse problem, primarily methamphetamine and phencyclidine, and had lost custody of several children for failing to comply with reunification services. He notified the department that he may have Indian heritage.

The juvenile court ordered the minor detained pursuant to a dependency petition but did not offer reunification services to mother and father because it appeared they satisfied at least one of the provisions for denying reunification services under section 361.5, subdivision (b).

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

In May 2013, the North Fork Rancheria of Mono Indians of California intervened and advised the juvenile court that the minor was an Indian child as defined under the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). The juvenile court adjudged the minor a dependent child and set the dispositional hearing for June 2013.

In August 2013, the juvenile court conducted the dispositional hearing after several continuances and ordered reunification services for mother and father.

In April 2014, the juvenile court conducted a combined and contested six- and twelve-month review hearing. The department's recommendation going into the hearing was to terminate mother's reunification services but continue father's services to the 18-month review hearing in August 2014. The department reported that mother had not completed any of her court-ordered services and was homeless. She was removed from the visitation schedule twice because she did not regularly attend visits and had not contacted the department to reinstate visitation. Father, on the other hand, had made significant progress in his services plan and enjoyed regular unsupervised visits with the minor. The department further reported that the minor was in a foster home and doing well and that no relatives had requested placement.

Luis Franco, mother's caseworker, testified that mother had not completed any of her court-ordered services. However, she resumed visitation which was going well and was participating in inpatient substance abuse treatment which she began on February 7, 2014. If she completed inpatient treatment on schedule, Franco believed she could also complete aftercare services by August. Franco further testified mother had not completed a mental health assessment which could possibly result in additional mental health services. He said as her social worker he would like her to continue her services but could not say she made significant progress. He also said she last used drugs on February 4, 2014.

Mother testified she believed she could complete substance abuse treatment on schedule. She said father was supportive of her and willing to work for their family. Asked whether she planned to live with father when permitted, she said “Not yet.” She said there was someone who wanted to help her “get going” when she completed treatment.

At the conclusion of the hearing, the juvenile court found that the department provided mother and father reasonable services. The court also found there was a substantial likelihood the minor could be returned to the custody of either or both parents by the 18-month review hearing and that it was in the minor’s best interest to continue reunification services for both parents. As to mother, the court found that she made moderate to good progress since February 2014. In so finding, the court was swayed by Franco’s testimony of a “substantial change” in mother’s efforts and progress and his belief that she could complete her case plan objectives. The court also considered the support the family was receiving from the tribe. The court set the 18-month review hearing for July 2014.

Minor appealed from the juvenile court’s order continuing reunification services for her mother. Appellate counsel argued the juvenile court erred in finding there was a substantial probability the minor could be returned to mother’s custody by the 18-month review hearing.

County counsel conceded that the juvenile court erred on the grounds raised by appellate counsel but argued the issue would become moot at the 18-month review hearing and asked that we deny the appeal as moot. It subsequently came to this court’s attention that on July 23, 2014, the juvenile court terminated mother’s reunification services and placed the minor in her father’s care with family maintenance services.

In light of the juvenile court’s order terminating mother’s reunification services, we issued an order granting appellate counsel leave to file a letter brief explaining why we should not dismiss the appeal as moot.

Having reviewed appellate counsel’s brief, we dismiss the appeal as moot for the reasons we now explain.²

DISCUSSION

Generally, “[w]hen no effective relief can be granted, an appeal is moot and will be dismissed.” (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315.) Appellate counsel concedes the appeal is moot because we cannot “rescind services that have already been received” by the minor’s mother. (*In re Pablo D.* (1998) 67 Cal.App.4th 759, 761.)

Nevertheless, appellate counsel asks us to exercise our discretion to review the merits of the juvenile court’s order continuing reunification services because “dismissal would have the unseemly consequence of affirming an erroneous order” and because this case poses an issue of “broad public interest that is likely to recur.”

We see no reason to invoke the exception to the mootness doctrine in this case. (*County of Fresno v. Shelton* (1998) 66 Cal.App.4th 966, 1008.) We do not presume, despite respondent’s concession, that the juvenile court’s order was error. Therefore, our dismissal of the appeal does not, in our view, result in the affirmance of “an erroneous order.” For the same reason, the public interest is not served by our review of an appeal that is clearly moot challenging an order that is arguably sound.

DISPOSITION

The appeal is dismissed as moot.

² This court also granted appellate counsel leave to explain why this court should not take judicial notice of the July 23, 2014 minute order. Appellate counsel addressed this in the letter brief and did not object. We therefore take judicial notice of the minute order. (Evid. Code, §§ 452 & 459.)