

STATE OF MICHIGAN
COURT OF APPEALS

In re POTTERF, Minors.

UNPUBLISHED
January 13, 2022

No. 357172
Genesee Circuit Court
Family Division
LC No. 20-136727-NA

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Before: SWARTZLE, P.J., and K. F. KELLY and REDFORD, JJ.

PER CURIAM.

In these consolidated appeals,¹ respondents appeal as of right the trial court’s order of disposition following a combined adjudicatory and dispositional hearing in which the trial court found that petitioner presented sufficient evidence to establish by a preponderance of the evidence that a statutory ground existed to exercise jurisdiction over respondents’ minor children, AP and NP, under MCL 712A.2(b)(2) (home environment is unfit for the children). However, on August 31, 2021, the trial court dismissed the case in its entirety. Therefore, the trial court no longer has jurisdiction over the children. Although respondents argue that potential registration on the Michigan Electronic Central Registry is a collateral legal consequence of the trial court’s exercise of jurisdiction, respondents have not shown that they are listed on the central registry. Therefore, we dismiss respondents’ appeal as moot.

¹ *In re Potterf Minors*, unpublished order of the Court of Appeals, entered May 25, 2021 (Docket Nos. 357172; 357173).

I. FACTUAL BACKGROUND

Petitioner, the Department of Health and Human Services (DHHS), initially petitioned to remove the children from respondents' care following an altercation between respondents and their neighbors. Police called to the scene found respondents standing in the street shouting profanities at a neighbor in relation to another altercation that had happened earlier that day. Police arrested respondents for disorderly conduct, and respondent-mother arranged for the children to be taken by their paternal grandmother. Respondents pleaded no contest to the charges. The trial court authorized the petition and returned the children to respondents under DHHS supervision. DHHS filed another petition several months later, following an incident in which police were dispatched to respondents' home to conduct a welfare check on respondent-mother. Respondent-father refused to allow the police inside without a warrant which escalated into a 7½-hour standoff with police. Eventually, respondent-mother told police that she had not been assaulted, it was a misunderstanding, and no criminal charges were filed. Nevertheless, the trial court issued an emergency order removing the children from respondents' care. Respondent-father's eldest daughter, who is not at issue in this case, also reported instances of domestic violence in the home. On April 29, 2021, the trial court found that petitioner had proven by a preponderance of the evidence that a statutory ground existed to exercise jurisdiction over the minor children under MCL 712A.2(b)(2). Respondents appealed. Shortly after exercising jurisdiction, the trial court returned the children to respondents' care. On August 31, 2021, the trial court dismissed the case.

II. ANALYSIS

In child protective proceedings, jurisdiction is properly exercised if the trial court finds by a preponderance of the evidence that petitioner established grounds for jurisdiction under MCL 712A.2. *In re Long*, 326 Mich App 455, 460; 927 NW2d 724 (2018). We review mootness de novo, and “mootness is a threshold issue that a court must address before it reaches the substantive issues of a case.” *Can IV Packard Square, LLC v Packard Square, LLC*, 328 Mich App 656, 661; 939 NW2d 454 (2019) (quotation marks and citation omitted).

As a general rule, we will not decide moot issues. *East Grand Rapids Sch Dist v Kent Co Tax Allocation Bd*, 415 Mich 381, 390; 330 NW2d 7 (1982). “Generally speaking, a case becomes moot when an event occurs that makes it impossible for a reviewing court to grant relief, i.e., when the case presents only abstract questions of law which do not rest upon existing facts or rights,” *In re Smith*, 324 Mich App 28, 41; 919 NW2d 427 (2018) (quotation marks and citation omitted), or if the judgment sought “when rendered, for any reason, cannot have any practical legal effect upon a then existing controversy.” *League of Women Voters of Mich v Secretary of State*, 506 Mich 561, 580; 957 NW2d 731 (2020) (quotation marks and citation omitted).

In this case, respondents appeal the trial court's exercise of jurisdiction over their children. However, the trial court dismissed the case on August 31, 2021, which terminated the court's jurisdiction over the children. Even if we concluded that the trial court erred by exercising jurisdiction over the children, we cannot issue a judgment that would have any practical legal effect on an existing controversy, because the trial court no longer has jurisdiction over the children. Therefore, this issue is moot. *League of Women Voters*, 506 Mich at 580.

Respondents argue that this issue is not moot because it has the collateral legal consequence of respondents' placement on the central registry. We have stated that "[a] case is not moot . . . where a court's adverse judgment may have collateral legal consequences for at least one of the parties." *In re Smith*, 324 Mich App at 41 (quotation marks and citation omitted). However, respondents stated in their brief on appeal that they are "presumably" on the central registry, and have not made any offer of proof that they are actually listed on the central registry. Further, respondents have not suggested in their brief that they sought to confirm with DHHS whether they were on the central registry which we take judicial notice of, as allowed by MRE 201, this process may be done by filing a Central Registry Clearance Request as permitted under MCL 722.627(2)(f) and MCL 722.627j and described on the DHHS website. Without proof that respondents are listed on the central registry, respondents ask us to address "abstract questions of law which do not rest upon existing facts or rights." *In re Smith*, 324 Mich App at 41 (quotation marks and citation omitted). Therefore, this issue is moot.

We dismiss this appeal as moot.

/s/ Brock A. Swartzle
/s/ Kirsten Frank Kelly
/s/ James Robert Redford