IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re D.P.,	)	
	)	
A Person Coming Under	)	
the Juvenile Court Law.	)	S267429
_____	)	
Los Angeles County Department	)	
of Children and Family Services,	)	
	)	
Petitioner and Respondent,	)	
	)	
v.	)	
	)	
T.P.,	)	
	)	
Objector and Appellant.	)	
_____	)	

Second Appellate District, Division Five Case No. B301135
Los Angeles Superior Court No. 19CCJP00973
Hon. Craig S. Barnes, Judge Presiding

Application to File Amicus Curiae Brief and Amicus Curiae Brief Supporting Appellant by Los Angeles Dependency Lawyers, Law Office of Emily Berger; Thirteen Appellate Dependency Attorneys

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v.	)	
	)	
T.P.,	)	
	)	
Objector and Appellant.	)	
_____	)	

Application to File Amicus Curiae Brief by Los Angeles Dependency Lawyers, Law Office of Emily Berger; Thirteen Appellate Dependency Attorneys

To the Honorable Tani Cantil-Sakauye, Chief Justice, and the Honorable Associate Justices of the Supreme Court:

Los Angeles Dependency Lawyers, Law Office of Emily Berger, and Thirteen Appellate Dependency Attorneys apply to file an amicus brief in support of appellant.

Statement of Interest

Law Office of Emily Berger

The Law Office of Emily Berger is one of five law firms that make up Los Angeles Dependency Lawyers, Inc. (LADL), a non-profit organization of attorneys practicing in juvenile dependency proceedings.[1] When DCFS files a petition alleging child abuse or neglect in dependency court, the Los Angeles Superior Court appoints LADL lawyers to represent the parents. LADL works to retain or regain a parent's custody of his or her children and has represented more than 200,000 parents over nearly fifteen years in existence.

Currently, approximately 180 LADL attorneys serve over 20,000 parents throughout Los Angeles. LADL firms commit to these clients, work to keep families together, and understand the lifelong repercussions created by even allegations in dependency court, whether sustained or not. Based on this experience with the enduring post-termination consequences for parents, the Law Office of Emily Berger wishes to file an amicus brief regarding mootness.

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[1] LADL also administers funds, policies, procedures, and training for Dependency Legal Services of San Diego, where 16 lawyers represent over 2,000 parent clients.

The attorneys practicing there have seen how past findings, even where DCFS and the court recognize there is no current risk, can imperil parents' futures. Most obviously, even an anonymous tip can generate a referral. DCFS workers rely on the past finding to substantiate the current allegation and present it to the court, and courts rely on past findings to sustain new allegations — even where the current allegation involves a completely different parenting issue.

Findings regarding child mistreatment impose special penalties on parents. Many job applications require disclosure of child abuse rulings, even when findings are not listed on CACI. Licensed therapists, medical professionals, and fully accredited teachers, among others, can be and are denied positions in public and private agencies and institutions due to *liability concerns* arising from a previously sustained petition. Law enforcement employees must disclose if they have been involved in dependency proceedings, and their cases are referred to the agency's Internal Affairs department. Those who fail to disclose court proceedings and their findings can be subject to fraud charges and, at a minimum, dismissal.

These concerns have heightened our attorneys' awareness of the myriad hardships imposed on families by unwarranted mootness dismissals. Based on our attorneys'

experience with these undeserved consequences, the Law Office of Emily Berger applies to file the attached amicus brief.

Dated: November 18, 2021 Respectfully submitted,

_____

Emily Berger
Los Angeles Dependency Lawyers, Law Office of Emily Berger

Thirteen Appellate Dependency Attorneys

Thirteen Appellate Dependency Attorneys also wish to file this amicus brief. These attorneys, listed below, have seen how this issue imposes costs on parents who wish to appeal adverse dependency findings. Due to delays in preparing transcripts, as well as DCFS extension requests, it is almost always the case that by the time the Court of Appeal can review the merits of the case, the dependency court has held the six-month hearing (Welf. & Inst. Code, § 366.21, subd. (e)), during which it may terminate jurisdiction. Even if it does not, the appeal might not be decided before the *twelve*-month hearing (§ 366.21, subd. (f)), which gives the dependency court a second opportunity to terminate jurisdiction
This means the parents who are the most diligent in completing their case plans will already have had the dependency court terminate jurisdiction before the Court of Appeal can rule on their case, and they will suffer the same dismissal for mootness that the parents in this case suffered. Several of the undersigned attorneys have had clients' appeals dismissed more than half a dozen times.

Based on this familiarity with this problem, the undersigned attorneys apply to file the attached amicus brief.

Dated: November 18, 2021 Respectfully submitted,

_____

Mitchell Keiter
Counsel for Amicus Curiae
Thirteen Appellate Dependency
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	)	
Objector and Appellant.	)	
_____	)	

Amicus Curiae Brief Supporting Appellant

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Introduction

This case illustrates the maxim that no good deed goes unpunished. California authorizes appellate review to ensure the substantive accuracy and procedural validity of lower court determinations. It would fatally undermine this process if parents' diligence in complying with court orders perversely leads to the forfeiture of their right to challenge the underlying finding against them. But that is what happened below. The dependency court found there was a need to take jurisdiction, but, due to the parents' diligent compliance with their case plan, terminated that jurisdiction before the Court of Appeal could review the underlying judgment. And the Court of Appeal penalized the parents for that diligence by dismissing their challenge to the judgment, because the juvenile court had already withdrawn the direct consequence of the judgment.

Terminating jurisdiction did not, however, remove all *indirect* consequences of the judgment, so the parents should be able to pursue their appellate challenge to the judgment. This Court has recognized this principle regarding criminal convictions; a defendant who has completed his prison term and has been released from confinement may still pursue reversal of the conviction "for the purpose of clearing his name." (*Ex parte Byrnes* (1945) 26 Cal.2d 824, 828.) More

recent caselaw has recognized the perverse disincentive it would impose on defendants if their compliance with a treatment program resulted in the forfeiture of appellate rights, while noncompliant defendants still retain them. (*People v. DeLong* (2002) 101 Cal.App.4th 482, 484., 492.)

Appellate rights must not be abridged due to judicial inconvenience. If evaluating appellants' claim is a suboptimal use of judicial resources, the better practice is to reverse and remand the judgment with directions to dismiss the case as moot. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 134.) When courts do not address the merits, "it is appropriate to avoid thus 'impliedly' affirming a judgment." (*Ibid.*) Such reversal-dismissals will serve judicial economy, save parents from permanent stains on their record (especially appropriate after they have addressed all concerns to the dependency court's satisfaction), and allow the appellate court to maintain its neutrality on the merits of the appeal.

The parents deserve the right to appeal even more than the appellants in *Byrnes* or *Paul*. This Court should reverse the finding of mootness.

Certification of Nonassistance
(Cal. Rules of Court, rule 8.520(f)(4))

No party or counsel for a party assisted in writing this brief or made a monetary contribution to facilitate its submission.

Dated: November 18, 2021

_____	_____
Emily Berger	Mitchell Keiter
Los Angeles Dependency Lawyers	Thirteen Appellate
Law Office of Emily Berger	Dependency Attorneys

Argument

I. Courts should not impliedly affirm jurisdictional findings that have not undergone appellate review.

A. This Court has protected the right to appeal the indirect and reputational consequences of criminal convictions.

"*A good name is more desirable than great riches; esteem is better than silver or gold*." Proverbs 22:1

Californians have protectible interests in not only their liberty but also in their reputation. (*Perry v. Brown* (2011) 52 Cal.4th 1116, 1147.) This Court has vindicated the latter in holding a criminal defendant's release from prison does not render moot his challenge to the underlying appeal. (*Ex parte Byrnes* (1945) 26 Cal.2d 824, 828.) Because a past finding against a dependency defendant is directly admissible and probative in future dependency proceedings as a past criminal conviction is not in future prosecutions, and because the termination of jurisdiction undercuts an initial dependency finding (of a current risk of serious harm to the child) as a release from prison does not undercut the initial conviction, the logic of *Byrnes* applies, a fortiori, to dependency law.

1. Criminal defendants retain the right of appeal to protect their reputational interest.

The parents here completed their case plan so diligently that the court terminated jurisdiction before the Court of Appeal could complete its review of the case. Criminal defendants often find themselves in a comparable predicament; they complete their sentences before the Court of Appeal can resolve their appellate challenge to their conviction. But this Court has held such defendants may continue their challenge even after release from confinement.

> [A]lthough Byrnes served the full terms of imprisonment imposed under the judgments of conviction in the first action, that fact does not bar his right to an appeal from such judgments **for the purpose of clearing his name**.

(*Byrnes*, *supra*, 26 Cal.2d 824, 828, emphasis added.) Even though Byrnes had been released from custody and thus could not obtain relief regarding his imprisonment, his challenge to his conviction was "not moot" and he was "entitled to an appeal from the judgments in that case for the purpose of clearing his name." (*Id.* at p. 827, cited in *People v. Lindsey* (1971) 20 Cal.App.3d 742, 744.)

This Court then extended *Byrnes* from the context of a criminal conviction to the "special proceedings of a civil nature" related to mentally disordered offenders. (*People v. Succop* (1967) 67 Cal.2d 785, 790.) Defendant Succop was

convicted of indecent exposure and found to be, in a proceeding that violated due process, "a mentally disordered sex offender not amenable to treatment." (*Id*. at pp. 788-789.) Although Succop was no longer confined at the Atascadero State Hospital (ASH) when the Court decided the appeal, it was not moot, as he was "entitled to the opportunity to clear his name of the adjudication that he is a probable mentally disordered sex offender." (*Id*. at p. 790, citing *Byrnes*, *supra*, 26 Cal.2d at pp. 827-828; see also *People v. Burnick* (1975) 14 Cal.3d 306, 322.) And though the prosecution could refile the charge, the order committing the defendant to ASH was *vacated*. (*Succop*, at p, 790, cited in *People v. Kellum* (1969) 71 Cal.2d 352, 355.)

Even convictions that already have been "set aside" may have collateral consequences — and thus may be challenged. After defendant DeLong sustained a drug possession conviction, she completed her treatment program and her conviction was set aside (just as the parents here, after the court took jurisdiction, completed their program and the court terminated jurisdiction). (*People v. DeLong* (2002) 101 Cal.App.4th 482, 484.) DeLong's appeal was not "rendered moot . . . . because she is entitled to an opportunity to clear her name and **rid herself of the stigma of criminality**." (*Id*. at p. 484, emphasis added.)

These cases recognize that ending the direct consequence of *confinement* does not render the case moot. The same rule must be true here, where the direct consequence of *jurisdiction* has ended.

An individual's interest in clearing his name is so strong that it extends beyond one's lifetime. On November 18, 2021, a New York judge agreed to dismiss the convictions of two men for assassinating Malcolm X. (James Fanelli & Corinne Ramey, *Two Men Convicted of Malcom X Murder Are Exonerated*, Wall St. J., Nov. 18, 2021 https://www.wsj.com/articles/two-men-convicted-of-malcolm-x-murder-are-exonerated-11637267277.) Both men had been paroled in the 1980's and *one had already died*. If even the deceased have a legitimate interest in clearing their name, a fortiori, so do parents who may face tangible consequences.

2. Parents face consequences beyond stigma.

And the consequences can be severe; mere allegations can lead to lifelong consequences. DCFS maintains two county-wide database systems, "CWS/CMS" (Child Welfare Services/Case Management System) and "WCMIS" (Welfare Case Management Identification and Indexing System"). These databases include previously sustained petition

allegations, unsustained petition allegations, and child abuse or hotline referrals regardless of whether DCFS' investigation found the allegations to be "substantiated," "unsubstantiated," or "unfounded." (See http://policy.dcfs.lacounty.gov/#Clearances.htm#Child_Welfare_Services_Case_Management_S.) Though no statutory authority supports the practice, DCFS policy compels a supervisor to conduct an in-house risk evaluation using these databases before approving any placement candidate and their cohabitants. (See http://policy.dcfs.lacounty.gov/#Evaluating_a_Prospective.htm#Procedure6) Even where the parent does not appear on a CLETS or CACI search, DCFS policy requires administrative "clearance" of any CWS/CMS or WSMIS listing:

> A WCMIS clearance is used to determine if an individual has a history with DCFS.... Prior to child placement, a WCMIS clearance is required on every adult … who lives in the home where the identified child victim may be placed (e.g., prospective relative caregiver, non-offending parent or nonrelative extended family member); [or who] has caregiver responsibilities (e.g., license-exempted day care provider, including an in-home provider and/or relative).

http://policy.dcfs.lacounty.gov/#Clearances.htm#Child_Welfare_Services_Case_Management_S

In this way, DCFS labels family members ineligible for placement consideration if they, *or anyone in their household*, has a listing on either database.[2] There is no provision in DCFS policy to appeal the administrator's denial of clearance, and there is no waiver process. Children may have available and willing family members to care for them, who warrant relative placement preference, but they instead will be placed by DCFS in the care of strangers, and have little or no recourse in the law.

And sustained findings raise even worse "non-speculative," concerns. Many job applications require disclosure of child abuse rulings, even when findings are not listed on CACI. Licensed therapists, medical professionals, and fully accredited teachers, among others, can be and are denied positions in public and private agencies and institutions due to *liability concerns* arising from a previously sustained petition. Law enforcement employees must disclose

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[2] This policy applies even if the "offending" relative is willing to move out, because placements are made based on the ability to provide a permanent plan for the child, should the parents fail to reunify. If there is any claim to the residence, either through marriage, property title, or residential lease agreement, it is not legally feasible to permanently exclude the offending relative from the family home, especially after DCFS or court jurisdiction terminates.

if they have been involved in dependency proceedings, and their cases are referred to the agency's Internal Affairs department. Those who fail to disclose court proceedings and their findings can be subject to fraud charges and, at a minimum, dismissal. This is the real-life impact of "the loss of significant state benefits, such as child-care licenses or employment" described in *Humphries v. County of Los Angeles* (9th Cir. 2009) 554 F.3d 1170, 1185, 1200.

3. The case for mootness is weaker in dependency than in criminal cases.

In fact, there is even less justification for dismissing As moot a dependency appeal than a criminal one. An invalid finding will impose greater prejudice on parents in dependency cases than will an invalid conviction. Beyond a few exceptions (see e.g. Pen. Code, § § 1108, 1109), prior convictions are inadmissible if the defendant faces a later prosecution, and the defendant will enjoy a presumption of innocence. By contrast, dependency courts may (and do) rely on the prior finding in making a new one. (§ 300, subd. (j); *In re Dorothy I.* (1984) 162 Cal.App.3d 1154, 1159; see also *In re Francisco D.* (2014) 230 Cal.App.4th 73, 81: "the court may consider past events" in adjudicating petition.) Prior findings are considered so probative in dependency proceedings that one of the first and most prominent

headings in the social study report concerns the defendant's "Legal History."

Moreover, the case for considering appeals of dependency findings (and rejecting the mootness arguments raised to defend them) is stronger than the case for similarly reviewing criminal convictions. A criminal charge alleges the defendant committed a particular crime on a particular date, and future events do not affect the accuracy of that finding. By contrast, dependency adjudications focus less on defendants' *past* conduct than on their *current* parental suitability; section 300, subdivision (b) findings may not rest on a single episode of endangering conduct unless such conduct is *likely to recur*. (*In re Yolanda L.* (2017) 7 Cal.App.5th 987, 993; *In re J.N.* (2010) 181 Cal.App.4th 1010, 1026.) A dependency finding of current risk to the child, therefore, might be rendered inaccurate by the parents' compliance with case plan, whereas the accuracy of a criminal conviction would remain unaffected by the defendant's treatment efforts.

DeLong, *supra*, 101 Cal.App.4th 482, further recognized the perverse effect it would have on defendants' treatment efforts to dismiss appeals based on mootness; the defendant's very compliance with the plan prescribed by the court would have the effect of depriving her of the opportunity to appeal.

"[A] conclusion that the present appeal is moot would disserve Proposition 36 by *penalizing* defendants who completed their drug programs while *rewarding* defendants who did not, since only the latter could maintain such appeals." (*Id.* at p. 484, emphasis added.) The same reasoning that refuted the prosecution's assertion of mootness in *DeLong* applies here as well. Under the reasoning of the *DeLong* prosecution,

> Defendants who successfully completed their programs and fulfilled their probation conditions would have their . . . appeals . . . be moot . . . but convictions of defendants who did not successfully complete their treatment and who fulfilled none of their probation conditions . . . could prosecute their appeals.

(*Id.* at p. 492.)

Declaring the instant appeal moot would penalize parents who diligently complete their case plan before the Court of Appeal can resolve their appeal. Such parents who *no longer present a current risk to their children* would lose the chance to challenge the initial finding of jurisdiction, whereas parents who fail to exercise such diligence would retain their right to appeal. Such a perverse incentive would undermine the very programming that parents are ordered to pursue.

4. Unreviewed jurisdictional findings prejudice parents more than mere allegations.

One appellate panel concluded it does not matter if courts rely on mootness to affirm unreviewed judgments, because even if the social services department could not introduce the *judgment* in a future case, it could still present the *evidence* supporting it. (*In re Madison S.* (2017) 15 Cal.App.5th 308.) *Madison S.* found that affirming an unreviewed judgment would not prejudice the parent; she could not show "any meaningful adverse effect from the continued existence of the jurisdictional findings," because even if the court did reverse, the "facts contained in the allegations . . . 'would almost certainly be available' " in future proceedings. (*Id.* at p. 330, fn. 15, internal citation omitted.) But there is fundamental difference between an DCFS *allegation* (often rooted in hearsay), and a judicial *finding* that the allegation is true, just as there is a difference between a criminal conviction and a charge that leads to acquittal.

The law recognizes this difference. A court may take judicial notice of a judgment, but not the truth of hearsay statements in court files, such as probation (or social study) reports. (*In re Vicks* (2013) 56 Cal.4th 274, 314; *Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 882.) This legal disparity reifies the

principle that there is a qualitative difference between a witness' statements and a court's conclusions.

Dependency courts are not rubber stamps for DCFS' evidence; they distinguish those cases where DCFS' evidence supports jurisdiction from those where it does not. If the evidence offered in support of DCFS' allegations truly were equivalent to a judicial finding, adjudication hearings would be superfluous.

Unreviewed findings create far more harm to parents than the allegations themselves.

B. Appellate courts should reverse moot judgments to avoid unwarranted affirmance.

Appellate courts have an understandable interest in conserving judicial resources, and may wish to avoid reviewing the merits of a contention whose resolution lacks immediate practical significance. But involuntary dismissals *affirm* the underlying judgment. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 413; *In re C.C.* (2009) 172 Cal.App.4th 1481, 1489.) If courts wish to save judicial resources by not reviewing challenged findings on appeal, they should reverse and remand with directions to dismiss the case as moot.

This Court has long authorized such a process. (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129.)

> Ordinarily, of course, when a case becomes moot pending an appellate decision 'the court will not proceed to a formal judgment, but will dismiss the appeal.' [Internal citation omitted.] But . . . The dismissal of an appeal is in effect an affirmance of the judgment or order appealed from * * *.' As we do not reach the merits of the appeal in the case at bench, **it is appropriate to avoid thus 'impliedly' affirming a judgment** which holds unconstitutional a[n enacted] regulation . . . .

(*Id.* at p. 134, emphasis added.)

The Supreme Court recognized the need to *reverse* to facilitate a dismissal while maintaining a neutral stance on the unreviewed merits of the case.

> That result can be achieved by reversing the judgment solely for the purpose of restoring the matter to the jurisdiction of the superior court, with directions to the court to dismiss the proceeding. [Citations omitted.] Such a reversal, of course, does not imply approval of a contrary judgment, but is merely a procedural step necessary to a proper disposition of this case.

(*Id*. at pp. 134-135.)

The *Paul* rationale extends beyond findings of unconstitutionality; mootness-based dismissals do not justify affirming an unlitigated judgment. (See e.g. *Coalition for a Sustainable Future in Yucaipa v. City of Yucaipa* (2011) 198 Cal.App.4th 939, 943-945.)

Paul and *Yucaipa* apply with special force here. Those cases concerned, respectively, a milk price regulation and a building project, both of which ceased to exist after the appeal commenced. The propriety or impropriety of a nonexistent regulation or project was of only theoretical significance, yet in both cases the judgment was erased to avoid any implied conclusion by a higher court. The parents here have *not* ceased to exist, and their record remains tarnished by the court's finding they exposed D.P. to a risk of serious physical harm. Reversing the judgment with directions to dismiss as moot will save the Court of Appeal from the harm of expending its resources, and save the parents from the harm

of the unfavorable finding. If the finding is so devoid of practical significance that the court prefers to avoid reviewing it, DCFS has no legitimate need to preserve it.

And the parents *deserve* to have the finding erased. Unlike the criminal law, which looks backward, dependency law aims not to punish the parent for the past but to protect the child in the future. (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) Regardless of what had happened in the past, the court terminated jurisdiction because it found the parents had negated those past findings by complying with the case plan and proving their care posed no prospective significant risk to the children. Therefore, regardless of whether the evidence formerly supported a jurisdictional finding against the parents, by the time the court terminated jurisdiction, that risk no longer existed. Under the circumstances, neither should the finding.

II. DCFS policies do not deserve judicial deference.

The Department's brief seeks to assure this Court it will not report the instant judgment to the U.S. Department of Justice. It describes its reporting policies, and insists they deserve deference under *Chevron U.S.A., Inc. v. Natural Resources Defense Counsel, Inc.* (1984) 467 U.S. 837. (RB 42-43.) California law does not follow *Chevron*. (*In re H.C.* (2017) 17 Cal.App.5th 1261, 1271 (internal citation omitted): "'*Chevron* deference' … does not exist in California.")

DCFS' request for deference is especially troublesome given its unusual status. American law generally follows the adversarial model, which harnesses the "free-wheeling energies" of the respective parties and enables them to develop and present "the facts and arguments entitling them to relief." (*U.S. v. Sineneng-Smith* (2020) 140 S.Ct. 1575, 1579, 1579, fn. 3.) This contrasts with European law, where the State takes a greater role in selecting evidence and questioning witnesses. (Matthew T. King, *Security, Scale, Form, and Function: The Search for Truth and the Exclusion of Evidence in Adversarial and Inquisitorial Justice Systems* (2001) 12 Int'l Legal Perspectives 185, 191-194.) Dependency proceedings follow a hybrid model, with potentially troublesome consequences. This Court has described social services agencies like DCFS as "disinterested parties," whose

"objectivity" invests them with a "trustworthiness" that other adversaries lack. (*In re Malinda S.* (1990) 51 Cal.3d 368, 377.) But they are neither disinterested nor objective.

The Department wears two hats. It is the party responsible for *gathering* the evidence in the case. It is also the party responsible for *presenting* the evidence to the court and *convincing* it to take jurisdiction or even remove the child(ren) from parental custody. There is a tension between these two tasks. In gathering the evidence, DCFS determines which evidence will be available to support its — or the parents' — position. For example, DCFS may insist a child must be removed from her mother because the mother has a substance abuse problem that impedes her ability to care for the child. (See Welf. & Inst. Code, § 361, subd. (c).) If defense counsel suggests removal from parental custody is not necessary, because the child's grandmother could move into the home and ensure the child received adequate care, the Department can counter there is no evidence in the record that the grandmother is willing to move into the home --- even if the only reason there is no evidence regarding whether the grandmother is willing to move into the home is because **the Department never asked her**. Its deficiency in gathering evidence thus facilitates its task in convincing the court.

DCFS policies do not deserve judicial deference.

Conclusion

This Court has repeatedly affirmed the principle that courts should not impliedly affirm unreviewed judgments. In *Byrnes*, *supra*, 26 Cal.2d 824, 827, this Court authorized an appeal from a defendant who already had been released from confinement — "for the purpose of clearing his name." (See also *Kellum*, supra, 71 Cal.2d 352, 355; *Succop*, *supra*, 67 Cal.2d 785, 790.) And *Paul*, *supra*, 62 Cal.2d 129, 134, found it "appropriate to avoid thus 'impliedly' affirming a judgment" by letting an unreviewed judgment remain in place. And the Court of Appeal has since explained how denying review to defendants *because they diligently complied with their treatment programs* would "disserve" the very rehabilitation intended by the court. (*DeLong*, *supra*, 101 Cal.App.4th 482, 484.) Appellants should either have the opportunity to challenge the judgment or have it reversed and remanded with directions to dismiss as moot.

Dated: November 18, 2021 Respectfully submitted,

_____	_____
Emily Berger	Mitchell Keiter
Los Angeles Dependency Lawyers	Thirteen Appellate
Law Office of Emily Berger	Dependency Attorneys

Certification of Word Count
(Cal. Rules of Court, rule 8.360(b).)

I, Mitchell Keiter, co-counsel for amicus curiae, certify pursuant to the California Rules of Court, that the word count for this document is 3,324 words, excluding tables, this certificate, and any attachment permitted under rule 8.360(b). This document was prepared in WordPerfect version X3 word-processing program, using 13-point Bookman Old Style, and this is the word count generated by the program for this document. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 18, 2021

_____

Mitchell Keiter

Proof of Service

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. On November 18, 2021, I served the foregoing document described as **AMICUS CURIAE BRIEF** in case number **S267429** on the interested parties in this action through TrueFiling / electronic service:

Los Angeles County Counsel
appellate@counsel.lacounty.gov

Megan Turkat-Schirn
schirn@sbcglobal.net

Executed this 18th day of November, 2021, at Beverly Hills, California.

_____
Mitchell Keiter

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **IN RE D.P.**
Case Number: **S267429**
Lower Court Case Number: **B301135**

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2. My email address used to e-serve: **Mitchell.Keiter@gmail.com**

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

11/18/2021

Date

/s/Mitchell Keiter

Signature

Keiter, Mitchell (156755)

Last Name, First Name (PNum)

Keiter Appellate Law

Law Firm