

IN THE COURT OF APPEALS OF IOWA

No. 1-132 / 10-2086
Filed March 30, 2011

**IN THE INTEREST OF D.V. and L.S.,
Minor Children,**

**S.M.J., Mother,
Appellant.**

Appeal from the Iowa District Court for Scott County, John G. Mullen,
District Associate Judge.

A mother appeals the juvenile court's order adjudicating her children as
children in need of assistance. **APPEAL DISMISSED.**

John O. Moeller, Davenport, for appellant mother.

Brenda Drew-Peebles, Davenport, for father of D.V.

Steven Newport, Davenport, for father of L.S.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney
General, Michael J. Walton, County Attorney, and Julie Walton, Assistant County
Attorney, for appellee State.

Maggie Moeller, Davenport, for minor children.

Considered by Vogel, P.J., and Doyle and Tabor, JJ.

DOYLE, J.

On September 14, 2010, the juvenile court adjudicated D.V. and L.S. children in need of assistance (CINA). The court entered its dispositional order on October 21, 2010. Following a denial of her motion for new trial, the children's mother S.M.J. filed her notice of appeal on December 22, 2010, challenging the adjudication. The case was then transferred to this court on February 16, 2011.

A review of the juvenile court files revealed two discharge orders entered by the juvenile court on January 11, 2011, dismissing the CINA petitions in the juvenile cases following a contested review hearing held on the 10th. On February 22, 2011, this court entered an order requesting the parties respond within ten days of the order why the appeal should or should not be dismissed as moot.

On March 1, 2011, the State filed its response asserting that the appeal should be dismissed as moot. On March 15, 2011, the mother filed her response, noting that the "dismissal of the CINA petitions will cause this appeal to be moot in the sense that the determination by this court will not affect a continuing controversy." However, the mother requests this court decide her appeal because "the factual determination by the juvenile court will have continuing collateral consequences because of the Central Registry report pursuant to [Iowa Code section] 232.71D." Alternatively, the mother argues the dismissal of the case by the juvenile court so quickly after the disposition indicates her appeal had merit. Because, as the mother argues, these types of circumstances are likely to evade appellate review in the future, the mother urges us not to dismiss the case as moot.

“An issue is moot if it no longer presents a justiciable controversy because it has become academic or nonexistent.” *In re D.C.V.*, 569 N.W.2d 489, 494 (Iowa 1997). “The test is whether the court’s opinion would be of force or effect in the underlying controversy.” *Id.* “As a general rule, we will dismiss an appeal ‘when judgment, if rendered, will have no practical legal effect upon the existing controversy.’” *In re M.T.*, 625 N.W.2d 702, 704 (Iowa 2001) (citations omitted). An exception to this general rule exists “where matters of public importance are presented and the problem is likely to recur.” *Id.* “Under these circumstances, our court has discretion to hear the appeal.” *Id.* In deciding whether to do so, an important factor to consider is “whether the challenged action is such that often the matter will be moot before it can reach an appellate court.” *Christensen v. Iowa Dist. Ct.*, 578 N.W.2d 675, 679 (Iowa 1998).

Upon our review, we agree with the State that the appeal should be dismissed as moot. The mother concedes our decision would have no effect on the underlying action because the CINA petitions have been dismissed. We decline to exercise our discretion to reach the merits of the issues raised by the moot appeal. The issue in this case is fact specific, and there is no reason to find that the issue here is such that it often will be moot before it can be addressed by an appellate court. Accordingly, we dismiss the appeal as moot.

APPEAL DISMISSED.