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SUMMARY
August 8, 2024

2024COA90

No. 23CA1761, *People in Interest of C.M.* — Juvenile Court — Dependency and Neglect — Neglected or Dependent Child — Environment Injurious to Child’s Welfare

A division of the court of appeals clarifies that when a child has been removed from the parents’ care by a department of human services, the relevant environment for purposes of an adjudication of dependency or neglect under section 19-3-102(1)(c), C.R.S. 2023, is the child’s environment in the custody of the child’s parents. An injurious environment in foster care, or otherwise in the physical custody of the department, cannot sustain an adjudication.

Because the juvenile court granted summary judgment adjudicating the children dependent or neglected based solely on one child’s exposure to methamphetamine, despite a genuine factual dispute as to whether that exposure occurred in foster care or the parents’ care, the division reverses the summary judgment.

Court of Appeals No. 23CA1761
Montrose County District Court No. 22JV30033
Honorable D. Cory Jackson, Judge

The People of the State of Colorado,

Appellee,

In the Interest of C.M., L.M., M.M., P.M., and D.H., Children,

and Concerning V.M. and T.M.,

Appellants.

JUDGMENT AFFIRMED IN PART AND REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division I
Opinion by JUDGE SCHOCK
Welling and Taubman*, JJ., concur

Announced August 8, 2024

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*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2023.

¶ 1 V.M. (mother) and T.M. (father) appeal the summary judgment order adjudicating C.M., L.M., M.M., P.M., and D.H. dependent or neglected based on D.H.'s positive test for methamphetamine.¹

¶ 2 The juvenile court concluded that there was a factual dispute as to whether D.H. was exposed to methamphetamine while in mother's care or in foster care. But it concluded that the dispute was immaterial because D.H.'s exposure established that her environment was injurious to her welfare, regardless of who was at fault for the exposure. It then imputed that injurious environment to the other children, who were living in different homes at the time.

¶ 3 We conclude that the juvenile court erroneously conflated the issue of parental fault with the issue of which environment must be injurious for purposes of section 19-3-102(1)(c), C.R.S. 2023. When a child has been removed from the parents' care, the relevant environment is the one the child would be in if returned to the parents — not the child's environment while in the physical custody of the department. Because D.H.'s exposure to methamphetamine

¹ Father is the father of only C.M., L.M., and M.M. (father's children) and thus appeals the adjudication only as to those three children. The fathers of P.M. and D.H. are not parties to this appeal.

in foster care would have no bearing on the child’s environment with mother — much less on the *other* children’s environments — the juvenile court erred by granting summary judgment while a material factual dispute existed as to where the exposure occurred.

¶ 4 We reverse the summary judgment order adjudicating the children dependent or neglected and remand the case for further proceedings. We affirm the juvenile court’s denial of the parents’ motion to disqualify the Montrose County Department of Human Services (the Department) and the Montrose County Attorney.

I. Background

¶ 5 The Department filed a prior dependency and neglect case concerning C.M., L.M., M.M., and P.M. (the older children) in October 2022. D.H. was born on October 12, 2022, while that case was pending. D.H. remained in mother’s care for the first thirty-six days of her life, but on November 17, 2022, she was removed from mother’s home and placed in foster care. The Department then added D.H. to the pending case. On December 13, 2022, a jury found that the children were not dependent or neglected.

¶ 6 D.H. was returned to mother that day, and the older children were returned the next day. According to the allegations in the

petition in this case, when the caseworker returned three of the older children, mother hit the caseworker multiple times. Mother was arrested and charged with third degree assault and child abuse. The Department again removed all five children from mother's home and filed a new petition in dependency and neglect, alleging that the children's environment was injurious to their welfare. The children were placed in three separate foster homes: D.H. in one; P.M. in another; and C.M., M.M.,² and L.M. in a third.

¶ 7 On January 13, 2023, while living in foster care, D.H. tested positive for methamphetamine, indicating that she had been exposed to methamphetamine within the preceding ninety days. D.H. had tested negative for substances at birth. The foster parents took drug tests on January 27 and tested negative. Mother tested negative on February 27. Father had tested positive for methamphetamine on December 19, but D.H. (who is not father's child) was not in father's care for any relevant period of time.

¶ 8 The Department moved for summary judgment on its petition as to all five children based on D.H.'s positive test. It argued that

² M.M. was later moved to a kinship placement with P.M.

D.H.'s exposure to methamphetamine established that her environment was injurious to her welfare, regardless of the source of that exposure. It further argued that D.H.'s positive test meant that the other children were also in an injurious environment or would be if they were returned to the parents' care. In support of its motion, the Department submitted, among other things, the results of D.H.'s drug test and a letter from a pediatrician opining that methamphetamine exposure negatively affects children.

¶ 9 Mother and father opposed the Department's motion on similar grounds. First, they asserted that the Department had failed to establish that D.H. had been exposed to methamphetamine while in mother's care, as opposed to while in the custody of the Department. Second, they argued that the Department had failed to establish that D.H. was harmed as a result of the exposure. Third, mother argued that whether the older children were, or would be, in an injurious environment depended on the circumstances of D.H.'s exposure. Mother submitted an affidavit, attesting that she did not expose D.H. (or the other children) to methamphetamine and that she tested negative for all substances during and before the prior dependency and neglect case.

¶ 10 The juvenile court granted the Department’s motion, adjudicating all five children dependent or neglected. The court rejected the inference that D.H. was exposed to methamphetamine in mother’s care, concluding that such an inference was “too attenuated from the undisputed facts” and “illogical.” It noted that D.H. was in mother’s care for thirty-six days of the ninety-day period covered by the positive test and in the foster family’s care for the remaining fifty-four days. It also cited mother’s negative drug test and the undisputed statements in her affidavit that she had also tested negative during and prior to the previous case. Based on these circumstances, the court determined that it was “more reasonable to infer that [D.H.] was exposed” while in foster care.

¶ 11 Nevertheless, the court concluded that it did not matter where D.H. had been exposed to methamphetamine because, under *People in Interest of J.G. v. M.L.*, 2016 CO 39, parental fault is not required to sustain an adjudication based on an injurious environment. The court observed that “[i]t certainly appears a perverse outcome to enter a judgment of adjudication in the circumstance that a child’s injurious environment may have occurred while in the custody of

the [Department] and foster care.” But it determined that mother’s arguments about the cause of the environment were irrelevant.

¶ 12 As to the older children, the court concluded that D.H.’s exposure to methamphetamine supported an inference of an injurious environment for them as well. The court also noted that father had tested positive for methamphetamine and that father’s children would be in an injurious environment if placed with father.

¶ 13 Mother and father jointly moved for reconsideration on the ground that D.H.’s exposure to methamphetamine while in the custody of the Department could not support an adjudication of dependency or neglect. They also moved to disqualify the Department and the County Attorney on the ground that their conduct in the case demonstrated bias and a conflict of interest.

¶ 14 The juvenile court denied the motion for reconsideration. It also denied the motion for disqualification, concluding that the parents had not identified any actual conflict of interest or other basis to disqualify the Department or the County Attorney.

¶ 15 After a dispositional hearing, the court entered an order adopting the treatment plans proposed by the Department and ordering the children to remain in the Department’s custody.

II. Summary Judgment

¶ 16 Mother and father both argue that the juvenile court erred by adjudicating the children dependent or neglected based on D.H.'s positive test for methamphetamine, despite its conclusion that D.H.'s exposure could have occurred while in foster care. We agree.

A. Standard of Review and Applicable Law

¶ 17 An adjudication of dependency or neglect by summary judgment “may be warranted infrequently.” *People in Interest of S.N. v. S.N.*, 2014 CO 64, ¶¶ 1, 25; *see also People in Interest of M.M.*, 2017 COA 144, ¶¶ 22-25 (concluding that summary judgment was proper where father admitted children were in an injurious environment); *People in Interest of S.B.*, 742 P.2d 935, 938-39 (Colo. App. 1987). Summary judgment is appropriate when there is no genuine issue as to any material fact, and the moving party is entitled to judgment as a matter of law. *S.N.*, ¶ 14; C.R.C.P. 56(c).

¶ 18 Two criteria must be satisfied for a court to grant summary judgment adjudicating a child dependent or neglected: (1) the evidentiary facts — the raw historical data underlying the controversy — must be undisputed, and (2) a reasonable trier of fact must not be able to draw divergent inferences when applying

the undisputed facts to the statutory criteria for dependency or neglect. *S.N.*, ¶¶ 21, 23; *M.M.*, ¶ 17. In this analysis, the nonmoving party is entitled to all reasonable favorable inferences, and all doubts must be resolved against the moving party. *Brodeur v. Am. Home Assurance Co.*, 169 P.3d 139, 146 (Colo. 2007).

¶ 19 A child is dependent or neglected if “[t]he child’s environment is injurious to his or her welfare.” § 19-3-102(1)(c). Although the statute does not define “injurious environment,” the Department must show that the child is “in a situation that is likely harmful to that child.” *J.G.*, ¶ 26. This situation generally must exist as of the date of the adjudication. *People in Interest of N.G.*, 2012 COA 131, ¶ 25. A child may also be adjudicated dependent or neglected based on prospective harm — that is, when the child’s environment *will* be injurious to the child’s welfare in the future. *S.N.*, ¶ 12.

¶ 20 We review de novo the juvenile court’s grant of summary judgment adjudicating a child dependent or neglected. *M.M.*, ¶ 11.

B. Source of D.H.’s Exposure

¶ 21 The juvenile court concluded that the undisputed facts could reasonably support an inference that D.H. was exposed to methamphetamine while in the custody of the Department. The

Department appears to take issue with this conclusion, pointing out that (1) no evidence suggests that D.H. was exposed while in the care of the foster family, and (2) the positive test *could have* resulted from an exposure while D.H. was with mother. But the Department does not assert that the *only* reasonable inference is that the exposure occurred while D.H. was in mother's care. See *S.N.*, ¶ 18.

¶ 22 We agree with the juvenile court that a reasonable trier of fact could draw divergent inferences as to whether D.H.'s exposure to methamphetamine occurred while in mother's care or while in foster care. See *id.* at ¶ 23. The parties agree that a positive test indicates exposure to methamphetamine within the ninety days preceding the test, meaning that D.H.'s alleged exposure occurred between October 15, 2022, and January 13, 2023. D.H. was in mother's care for less than half that time — from October 15 to November 17 and for less than twenty-four hours on December 13 and 14. D.H. was in foster care for the remainder — from November 17 to December 13 and December 14 to January 13.

¶ 23 There was no evidence that either mother or the foster parents had used methamphetamine during the ninety-day period in which D.H. had been exposed. The foster parents and mother each tested

negative for all substances — the foster parents on January 27 and mother on February 27. Mother also attested in an affidavit that “[a]t no time did [she] expose [D.H.] . . . to methamphetamine.” And although father tested positive for methamphetamine, there was no evidence that D.H. was ever in father’s care. Thus, there was no evidence as to where the exposure occurred. Indeed, in its motion for summary judgment, the Department did not even assert — at least not explicitly — that the exposure occurred when D.H. was with mother, arguing instead that it did not matter.

¶ 24 We acknowledge that, if mother’s drug test were subject to the same ninety-day lookback period as D.H.’s test (a point that is not in the record), it would not cover all the time that D.H. was in mother’s care. And thus, the facts *could* support an inference that D.H. was exposed to methamphetamine while in mother’s care — more than ninety days before mother took the negative test.

¶ 25 But for purposes of summary judgment, we must draw all favorable inferences in favor of mother as the nonmoving party. See *id.* at ¶ 16. On this record — where mother tested negative and denied exposing D.H. to methamphetamine, the Department presented no evidence to the contrary, and D.H. was out of mother’s

care for more than half of the period of possible exposure — we conclude that a fact finder could reasonably infer that the exposure to methamphetamine occurred while D.H. was in foster care in the custody of the Department. *See id.* (noting that the moving party bears the burden of showing that no disputed material fact exists).

C. Relevant Injurious Environment

¶ 26 Because the undisputed facts could support an inference that D.H.'s exposure to methamphetamine occurred while she was in foster care, the question is whether such exposure is sufficient to show an injurious environment under section 19-3-102(1)(c). The juvenile court framed this question as one of fault, correctly noting that a finding of parental fault is not required. *See J.G.*, ¶ 1. It reasoned that since D.H. was exposed to methamphetamine and methamphetamine is harmful to children, D.H. was necessarily in an injurious environment, regardless of who caused the exposure.

¶ 27 But the issue in this case goes beyond the absence of parental fault. The alleged injurious environment might have been the one where D.H. was placed by the Department *after* she was removed from mother's care. Thus, fault aside, this case presents the separate question of which environment must be injurious to

sustain an adjudication under section 19-3-102(1)(c). Consistent with *People in Interest of S.X.M.*, 271 P.3d 1124 (Colo. App. 2011), we clarify that when a child has been removed from the child’s parents, the relevant environment is the one the child is in — or would be in — while in the custody of the parents. The lack of a parental fault requirement does not obviate the need to determine whether the child’s existing environment, independent of department intervention, is injurious to the child’s welfare.

¶ 28 One purpose of the Children’s Code is to “remove a child from the custody of [the child’s] parents only when [the child’s] welfare and safety or the protection of the public would otherwise be endangered” if the child remained in the parents’ custody. § 19-1-102(1)(c), C.R.S. 2023. An adjudication represents the juvenile court’s determination that “state intervention is necessary *to protect the child* and that *the family* requires rehabilitative services in order to safely parent the child.” *J.G.*, ¶ 16 (emphasis added) (citation omitted). One basis for such intervention is that “the child’s environment is injurious to his or her welfare.” § 19-3-102(1)(c).

¶ 29 Section 19-3-102(1)(c) does not state expressly that the relevant environment is the child’s environment *with the parent*.

And it is often said that a child’s status as dependent or neglected must be determined as of the date of the adjudication. *S.X.M.*, 271 P.3d at 1130. But when a child has been removed from the parents and placed in the custody of the Department, implicit in section 19-3-102(1)(c) is that it is the parents’ environment, not the foster care environment, that is in question. *See S.X.M.*, 271 P.3d at 1130. In other words, the relevant inquiry is whether the child’s environment *would be* injurious to the child’s welfare if the child were returned to the parents, which will generally be based on evidence that the child *was* in an injurious environment while in the parent’s care. *Id.*; *see also S.N.*, ¶ 21 (describing the question of prospective harm as whether, “if the child is returned to the parents, the child’s environment will be injurious to his or her welfare”).

¶ 30 The contrary conclusion — that an injurious environment in foster care could sustain a dependency or neglect adjudication — would violate the statutory purpose of protecting the child and produce absurd results. *See S.X.M.*, 271 P.3d at 1130 (“[P]rovisions of the Children’s Code should be liberally construed to serve the welfare of children and the best interests of society.”); *Town of Erie*

v. Eason, 18 P.3d 1271, 1276 (Colo. 2001) (“[C]ourts must not follow statutory construction that leads to an absurd result.”).

¶ 31 For example, imagine a scenario in which a child is removed from a healthy environment with a parent and placed in a harmful environment in the custody of the Department. Under the juvenile court’s interpretation of section 19-3-102(1)(c), the child — who was well cared for and safe in the custody of the parent — would become dependent or neglected based entirely on the harmful environment provided by the Department. In that case, far from protecting a child who is otherwise endangered, the state intervention would be the direct cause of the harm. Yet the injurious environment created by the Department could then be used to justify continuing the harmful state intervention that was unnecessary in the first place. That is not how the Children’s Code is supposed to work. See *J.G.*, ¶ 37 (“The Children’s Code exists to protect children and ensure that they have a safe and healthy environment.”); *S.X.M.*, 271 P.3d at 1130 (rejecting a construction of the statute that “disregards the best interests of the child and is not consistent with the beneficent purposes of the Children’s Code”).

¶ 32 This case is the flip side of *S.X.M.* In that case, the child was removed from her father’s care and placed in foster care based on allegations of sexual abuse. *S.X.M.*, 271 P.3d at 1126. The father argued the jury should have been instructed that it must find that the child’s environment “is” (present tense) injurious to her welfare, rather than that the environment “was” (past tense) injurious to her welfare. *Id.* In rejecting this argument, the division explained that the use of the present tense could cause “massive confusion” if, at the time of the hearing, “the child has been removed from harm and is doing well in foster care.” *Id.* at 1130. Such a scenario could result in a finding that the child is not dependent or neglected — and thus, must be returned to his or her parent’s care — “despite evidence showing that he or she was neglected or abused while in her parent’s care, and likely will be neglected or abused if returned to his or her parent’s care.” *Id.* The division rejected that result as contrary to the purpose of the Children’s Code, concluding that the critical inquiry is whether the child was, and would be, in an injurious environment while in the parent’s care. *Id.* at 1131.

¶ 33 The same analysis, in reverse, applies in this case. More specifically, considering whether the child’s environment *in foster*

care is injurious to the child’s welfare could result in a finding that the child *is* dependent or neglected — and thus, must remain removed from the parent’s care — “despite [no] evidence showing that he or she was neglected or abused while in her parent’s care, [or] likely will be neglected or abused if returned to his or her parent’s care.” *Id.* at 1130. Such a finding is no more consistent with “the best interests of the child and the beneficent purposes of the Children’s Code” than the scenario in *S.X.M.* *Id.* at 1132.

¶ 34 *J.G.* is not to the contrary. In *J.G.*, one child had allegedly sexually assaulted two other children in the family home. *J.G.*, ¶ 3. There was therefore no question that the alleged injurious environment was the children’s environment in their mother’s care. The question was whether the injurious environment provision *also* requires findings that (1) neither parent is available, able, and willing to provide reasonable parental care; and (2) the parent was at fault for the child’s injurious environment. *Id.* at ¶¶ 12, 32. The supreme court held that it does not. *Id.* at ¶¶ 31, 40. In other words, when a child’s home environment with a parent is injurious, the child may be adjudicated dependent or neglected “regardless of the parents’ actions or failures to act.” *Id.* at ¶ 40; *see also M.M.*,

¶¶ 24-25 (holding that father’s admission that the children “were in danger when in mother’s care” was “effectively an admission that the children were in an injurious environment”).

¶ 35 But *J.G.* did not address the situation in this case, where the injurious environment may have arisen while the child was in the custody of the Department *after* she was removed from the parent’s care. In that scenario, the issue is not simply that the injurious environment was beyond the parent’s control, as it was in *J.G.* Nor is the issue who *caused* the injurious environment. Instead, the issue is that there is no basis to conclude that the child’s home environment was injurious in the first place. See *J.G.*, ¶ 18 (noting that the purpose of the adjudicative process is to determine whether the child’s status “warrants intrusive protective or corrective state intervention into the familial relationship”) (citation omitted).

¶ 36 Thus, we conclude that, in determining whether a child’s environment is injurious to their welfare under section 19-3-102(1)(c), the relevant environment is the child’s environment in the custody of the parents — not the child’s environment in foster care or otherwise in the custody of the department after removal.

D. D.H.

¶ 37 The sole basis for the juvenile court’s adjudication of D.H. as dependent or neglected was D.H.’s positive test for exposure to methamphetamine. The court concluded that the positive test alone established that D.H.’s environment was injurious, even though it was “more reasonable to infer that the child was exposed during the fifty-four days she was in the foster-family’s care.”

¶ 38 Because D.H.’s exposure to methamphetamine in foster care cannot, as a matter of law, show an injurious environment in the care and custody of mother, we reverse the summary judgment.

E. Older Children

¶ 39 The juvenile court’s adjudication of the older children as dependent or neglected as to mother was likewise based entirely on D.H.’s positive drug test. Relying on case law imputing the mistreatment of one child to other children in the same home, the court concluded that D.H.’s exposure to methamphetamine indicated that the older children were in an injurious environment as well. *See People in Interest of C.R.*, 38 Colo. App. 252, 254, 557 P.2d 1225, 1227 (1976) (holding that court could “reasonably infer that the non-abused child lacked proper parental care from the

evidence establishing mistreatment of the others”); *People in Interest of D.L.R.*, 638 P.2d 39, 42 (Colo. 1981) (holding that court may “consider the treatment accorded other children in determining whether the child before it is neglected and dependent”).

¶ 40 We reject this analysis for two reasons. First, because D.H.’s positive test for methamphetamine was insufficient to establish that *D.H.* was or would be in an injurious environment in mother’s care, it was similarly insufficient to show that the older children would be in an injurious environment in mother’s care. While an incident involving one child may be “indicative of a pervasive injurious home environment” that renders other children dependent or neglected, *People in Interest of B.W.*, 626 P.2d 742, 743 (Colo. App. 1981), that is not the case here because D.H.’s exposure in foster care would have no bearing on the older children’s environment with mother.

¶ 41 Second, even if D.H.’s environment in foster care were relevant to D.H., the older children were not in that environment (and there was no reason to believe they ever would be). They were all living in different homes. Thus, there is no basis to impute D.H.’s alleged methamphetamine exposure to the other children. The juvenile

court therefore erred by granting summary judgment adjudicating the older children dependent or neglected as to mother.³

¶ 42 As to father, the juvenile court cited the additional fact that father had tested positive for methamphetamine. While this fact makes the adjudication as to father a closer call, it is insufficient to *compel* the inference that father’s children were, or would be, in an injurious environment “as of the date of the adjudication” for two reasons. *See K.D. v. People*, 139 P.3d 695, 699 (Colo. 2006).

¶ 43 First, father’s positive tests occurred on a single day three months before the adjudication. There was no evidence that he was using methamphetamine at the time of the adjudication or that he had done so at any time in the previous three months. Nor may we draw any such inference, as we must draw all reasonable inferences *in favor* of father, as the nonmoving party. *See S.N.*, ¶ 16.

¶ 44 Second, the Department presented no evidence that any of the children had ever lived with father or were ever in his care — much

³ Because we reverse the adjudication of dependency or neglect, we need not address mother’s challenges to the appropriateness of her treatment plan. *See People in Interest of S.G.L.*, 214 P.3d 580, 583 (Colo. App. 2009) (“[T]he court does not have the power to impose a treatment plan on a parent when the child has not been found to be dependent and neglected by that parent.”).

less at the time of his positive test — or that they would be if returned to mother. The juvenile court rejected any link between father’s positive test and D.H.’s positive test, and there was no evidence that father had exposed any of the children to methamphetamine — much less evidence foreclosing any genuine issue of material fact. Mother and father did not live together, the children had lived with mother, and mother affirmatively stated in response to the Department’s motion for summary judgment that she would “ensure that her children are not exposed to [father].”

¶ 45 Given this evidence (and lack of evidence), a reasonable trier of fact could “draw divergent inferences” as to whether the older children’s environment was injurious to their welfare. *Id.* at ¶ 23. Thus, the district court also erred by granting summary judgment adjudicating father’s children dependent or neglected as to him.

F. Father’s Other Arguments

¶ 46 Father raises several additional arguments concerning the admissibility and sufficiency of the evidence the Department submitted in support of its motion for summary judgment. He argues that (1) the drug test results were inadmissible; (2) the attachments to the expert’s affidavit were inadmissible and failed to

show that D.H.'s exposure to methamphetamine was injurious to her welfare; and (3) the caseworker did not have personal knowledge of several of the facts contained in her affidavit.

¶ 47 Most of father's arguments were unpreserved or insufficiently developed in the juvenile court. *See People in Interest of M.B.*, 2020 COA 13, ¶ 14 (“[G]enerally appellate courts review only issues presented to and ruled on by the lower court.”). Regardless, given our reversal of the summary judgment on other grounds, we do not reach these issues because they are unlikely to arise in the same posture on remand. *See People v. Gulyas*, 2022 COA 34, ¶ 29.

III. Motion for Disqualification

¶ 48 Mother also asserts that the juvenile court erroneously denied her and father's joint motion to disqualify the Department and the County Attorney. She argues that disqualification was required because (1) the Department was adverse to mother in ongoing criminal proceedings; (2) the County Attorney represented the prior caseworker in seeking a protection order against mother; (3) the Department made unfounded allegations against mother; and (4) the Department based its actions in this case on allegations that the jury had rejected in the previous case. We disagree.

¶ 49 Although courts “necessarily retain the discretion to disqualify attorneys from further representation,” disqualification is “a severe remedy that should be avoided whenever possible.” *In re Estate of Myers*, 130 P.3d 1023, 1025 (Colo. 2006). It may be based “only upon the showing of a clear danger that prejudice to a client or adversary would result from continued representation.” *Id.* Moreover, a department may be disqualified when there is a conflict of interest between the department and the parents. *See People in Interest of T.D.*, 140 P.3d 205, 220-21 (Colo. App. 2006), *abrogated on other grounds by People in Interest of A.J.L.*, 243 P.3d 244 (Colo. 2010). But the “mere pendency of litigation” between a parent and a department does not require disqualification. *Id.* at 222 (citation omitted). We review a ruling on a motion for disqualification for an abuse of discretion. *Myers*, 130 P.3d at 1025, 1027.

¶ 50 The juvenile court did not abuse its discretion by declining to disqualify the Department or the County Attorney. Although the original caseworker was the victim in mother’s criminal case, the Department changed caseworkers after the alleged assault. *See T.D.*, 140 P.3d at 221-22 (noting that “[i]n no event should the same social worker have remained on th[e] case” after the child was

injured in foster care and father was “openly hostile” to social worker). Contrary to mother’s contention, the Department is not a party to the criminal case. And while the County Attorney represented the original caseworker in a separate case seeking a civil protection order against mother, mother does not explain how she was or would be prejudiced in this case by that representation. *See id.*; *cf. City & Cnty. of Denver v. Cnty. Ct.*, 37 P.3d 453, 457 (Colo. App. 2001) (noting that assistant city attorney’s filing of police report and motion for protective order did not warrant disqualification where they were “lawful and appropriate responses to the city attorney’s perception of the defendant’s conduct”).

¶ 51 Nor does mother’s disagreement with the Department’s allegations or its administration of this case warrant disqualification. In many dependency and neglect proceedings, the Department and its attorneys are adverse to the parents. And naturally, the parents may (and often will) disagree with the Department’s allegations and conduct in the case. The purpose of the hearings and other judicial proceedings is to resolve the parties’ disputes. Those disputes are not grounds for disqualification.

¶ 52 This case is different from *T.D.* In *T.D.*, the parents sued the department for traumatic injuries that their child had suffered in foster care at the same time that the department was required to make reasonable efforts to reunite the family. 140 P.3d at 220. Yet the same professionals who the parents alleged had disregarded their complaints about the foster home — and thus, whose actions were at issue in the civil lawsuit — remained responsible for overseeing the treatment plan. *Id.* at 221-22. Because the termination of the parents’ legal relationship with the child would affect their ability to pursue the lawsuit on the child’s behalf, the outcome of the dependency and neglect proceeding was directly tied to the potential liability of the department in the civil case. *Id.* at 222. Mother has identified no such direct conflict in this case.⁴

IV. Disposition

¶ 53 We reverse the juvenile court’s summary judgment order adjudicating the children dependent or neglected. We affirm the order denying the parents’ motion for disqualification. The case is remanded to the juvenile court for further proceedings.

⁴ Mother also cites section 20-1-107, C.R.S. 2023, but that statute applies only to the disqualification of a district attorney.

JUDGE WELLING and JUDGE TAUBMAN concur.