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A.J. v. Eighth Judicial Dist. Court, 133 Nev. Adv. Op. 28 (June 1, 2017)

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CRIMINAL LAW: JUVENILE PROSTITUTION ADJUDICATION

Summary

NRS 62C.240 is triggered when circumstances surrounding a juvenile's arrest plainly demonstrate that the juvenile was arrested for prostitution or solicitation even if the juvenile is charged with offenses other than prostitution or solicitation.

Background

In 2015, Las Vegas Metropolitan Police Department (LVMPD) stopped and arrested 15-year-old petitioner, A.J., for soliciting prostitution and loitering for the purpose of prostitution. The State filed 4 petitions against A.J. First, the State filed a delinquency petition (Petition 1) charging A.J. with obstructing an officer based on her refusal to provide identification. A.J. entered an admission to the charge and was adjudicated as a delinquent. She was then placed on formal probation, and various other conditions. She was placed at St. Jude's Ranch for Children with GPS monitoring. However, once the GPS monitoring was removed, she ran away.

In September, LVMPD again arrested A.J. for soliciting prostitution. The State filed two subsequent petitions (Petition 2 and 3) alleging A.J. violated her probation for various reasons. The juvenile court determined that A.J. would remain detained pending entry of a plea. She admitted to violating her probation, and the court dismissed Petitions 2 and 3. She was continued on formal probation and released to Clark County Department of Family Services (CCDFS) with GPS monitoring.

In November, a placement home was located for A.J., and the GPS monitor was removed. Again, petitioner ran away, and a writ of attachment was issued. Petitioner was arrested on the writ, and the State filed another petition for violation of probation (Petition 4). The juvenile court committed petitioner to the Division of Child and Family Services (DCFS) for placement. She petitioned for a writ of mandamus or prohibition directing the juvenile court to vacate its order adjudicating her as a delinquent and apply NRS 62C.240.

Discussion

Consideration of the writ petition

The Court addressed the issue of first impression that juvenile courts would likely face—whether NRS 62C.240 applies where a minor is arrested for prostitution or solicitation, but the delinquency petition does not allege that the minor engaged in either of those offenses. Due to this legal question's importance, and in the interest of judicial economy, the Court exercised its discretion to consider writ petitions for extraordinary relief here.

¹ By Briana Martinez.

Interpretation of NRS 62C.240

The parties disagreed as to what triggered NRS 62C.240's application. The State argued that the statute's plain language required the district attorney to charge prostitution or solicitation to trigger NRS 62C.240. Further, the statute did not limit prosecutorial discretion, and the charges alleged in the petition controlled. A.J. argued that the underlying circumstances of the arrest, the referral charge, or other evidence that demonstrated prostitution or solicitation triggered NRS 62C.240. The court agreed with A.J.

The Court referenced the statute's legislative history and determined that the Legislature intended for the conduct and circumstances surrounding the arrest to trigger NRS 62C.240.² Here, the declaration of arrest stated A.J. was arrested for soliciting prostitution and loitering for the purpose of prostitution. The declaration did not indicate that A.J. was arrested for obstruction, yet that was the only charge alleged in Petition 1. The Court concluded that A.J.'s adjudication was precisely the type of circumstance which the Legislature intended to trigger the application of NRS 62C.240.

Further, the Court determined that the legislative history showed that NRS 62C.240's intent was not to allow the State to file additional petitions for certain consent decree condition violations. Here, the juvenile court placed A.J. on probation for Petition 1, and when she violated her probation, the district attorney filed Petition 2. She was then adjudicated as a delinquent a second time on an act that should have triggered NRS 62C.240 protections if she had been under court supervision rather than formal probation.

Finally, the Court addressed prosecutorial discretion under NRS 62C.240. Here, the Court determined it was clear from the Legislature's testimony that the practice of filing fictitious charges in lieu of charges for solicitation or prostitution was rendered unnecessary by enacting NRS 62C.240.

The Court further held that these protections applied to prostitution-related crimes committed contemporaneous to an act. However, this did not mean juveniles were free from delinquency adjudication based on nonprostitution related crimes committed contemporaneous to the act that triggered NRS 62C.240. Therefore, the petitioner was entitled to NRS 62C.240 protections, and the juvenile court abused its discretion by adjudicating her as a delinquent.

Conclusion

The Court held that the Legislature clearly intended for NRS 62C.240 protections to be triggered when circumstances surrounding the arrest plainly demonstrate that the juvenile was arrested for engaging in prostitution or solicitation of prostitution. Further, the Court held these protections applied to prostitution-related crimes committed contemporaneous to an act. Accordingly, the Court granted A.J.'s writ petition and ordered the juvenile court to set aside A.J.'s earlier adjudications.

² Hearing on A.B. 153 Before the Senate Judiciary Comm., 78th Leg. (Nev., April 29, 2015).