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### Summary of In re Steven Daniel P., 129 Nev. Adv. Op. 73

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CRIMINAL PROCEDURE: JUVENILE COURT AUTHORITY

**Summary**

The Court determined two issues: (1) whether the juvenile court has authority under NRS 62C.230(1)(a) to dismiss a delinquency petition and refer a juvenile for informal supervision pursuant to NRS 62C.200 without the written approval of the district attorney; and (2) whether the juvenile court's discretion in overseeing a juvenile matter is limited by the authority granted under the Nevada Revised Statutes.

**Disposition**

The juvenile court's authority under NRS 62C.230(1)(a) permits it to dismiss a petition and refer a juvenile for informal supervision only when the requirements of NRS 62C.200 have been met, including the requirement that the district attorney give written approval for placement of the juvenile under informal supervision where the acts alleged in the petition would be a felony or gross misdemeanor if committed by an adult. Furthermore, the provisions of NRS Title 5 limit the juvenile court's discretionary power to carry out its duties in overseeing juvenile justice matters.

**Factual and Procedural History**

In September 2011, the state charged Steven P., a juvenile, with burglary (a felony) and conspiracy to commit burglary (a gross misdemeanor). In January 2012, the juvenile court accepted a plea agreement that dismissed the burglary allegation in exchange for Steven admitting the conspiracy allegation. Based on the report of a probation officer assigned to Steven, the State requested that Steven be made "a delinquent ward of the court" and placed on formal probation. Concerned with ordering formal probation, the court reserved ruling on the State's petition.

Approximately one month later, no decision had been made. In the State's resulting motion for adjudication, the State indicated that Steven's charges could be deferred and dismissed upon his successful completion of probation. Furthermore, "the State contended that pursuant to NRS 62C.200-.230, deferred adjudication required approval from the district attorney prior to the juvenile court allowing informal supervision."

The juvenile court did not obtain the district attorney's written approval prior to dismissing the State's petition and referring Steven for informal supervision. The juvenile court interpreted NRS 62C.230(1)(a) as not requiring such approval. The State now appeals the juvenile court's order.

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<sup>1</sup> By Geordan G. Logan

## Discussion

*The juvenile court does not have authority under NRS 62C.230(1)(a) to dismiss a delinquency petition and refer a juvenile for informal supervision without the written approval of the district attorney*

The issue here of the juvenile court's authority pursuant to NRS 62C.230(1)(a) is a matter of statutory interpretation, and is therefore subject to de novo review.<sup>2</sup> Statutory interpretations must be rooted in a statute's plain meaning as indicated by the statute's express language "unless it is clear that the plain meaning was not intended."<sup>3</sup> The Court will "avoid statutory interpretation that renders language meaningless or superfluous."<sup>4</sup> Further, the Court will enforce the statute as written where the statute's language is clear and unambiguous.<sup>5</sup>

### *NRS 62C.230(1)(a)*

NRS 62C.230(1)(a) states that "[i]f the district attorney files a petition with the juvenile court, the juvenile court may . . . [d]ismiss the petition without prejudice and refer the child to the probation officer for informal supervision *pursuant to NRS 62C.200*."<sup>6</sup> The term "pursuant to" serves as a restrictive term in this construction. Hence, the Court concluded that under the plain language of NRS 62C.230(1)(a), "the juvenile court may dismiss the State's petition and refer a juvenile for informal supervision *only* upon the juvenile court's determination that the requirements of NRS 62C.200 have been met."

### *NRS 62C.200*

"NRS 62C.200 includes preconditions for a juvenile to be placed under informal supervision of a probation officer." This list includes a requirement that "the *district attorney gives written approval* for placement of the child under informal supervision, *if* any of the acts alleged in the complaint are unlawful acts that would have constituted a gross misdemeanor or felony if committed by an adult."<sup>7</sup> From the "plain language" of this statute, the Court concluded that such written approval is required.

Furthermore the Court concluded that where NRS 62C.100(1) uses the restrictive term "pursuant to NRS 62C.200" to outline a probation officer's responsibilities in placing a child under informal supervision, it is not to be construed as requiring the probation officer, rather than the juvenile court, to obtain such written approval. To ensure that the requirements of NRS 62C.200 have been met, NRS 62C.100(1) cannot be read as extinguishing the harmony between

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<sup>2</sup> State v. Eric A.L. (In re Eric A.L.), 123 Nev. 26, 31, 153 P.3d 32, 35 (2007) (holding that statutory interpretations are subject to de novo review).

<sup>3</sup> Hernandez v. Bennett-Haron, 128 Nev. \_\_, \_\_, 287 P.3d 305, 315 (2012).

<sup>4</sup> Hobbs v. State, 127 Nev. \_\_, \_\_, 251 P.3d 177, 179 (2011).

<sup>5</sup> George J. v. State (In re George J.), 128 Nev. \_\_, \_\_, 279 P.3d 187, 190 (2012).

<sup>6</sup> Nev. Rev. Stat. § 62C.230(1)(a) (2013) (emphasis added).

<sup>7</sup> Nev. Rev. Stat. § 62C.200(1)(b) (2013) (emphasis added).

the sections of the statute. “To hold otherwise would render the restrictive language in NRS 62C.230(1)(a) meaningless.”

*NRS 62C.230(1)(b) does not eliminate the requirement of written approval from the district attorney*

That NRS 62C.230(1)(b) expressly states that the juvenile court is required to obtain the approval of the district attorney, while NRS 62C.230(1)(a) has instead a restrictive reference to NRS 62C.200 is of no consequence in determining the need for the juvenile court to obtain the district attorney’s approval. “NRS 62C.230(1)(a) refers to, and thus incorporates the statutory language of, NRS 62C.200.” Thus the juvenile court must comply with the provisions of NRS 62C.200 in order to exercise its authority under NRS 62C.230(1)(a). “A statute by reference made a part of another law becomes incorporated in it and remains so as long as the former is in force.”<sup>8</sup>

*The juvenile court’s authority is statutorily limited*

The Court reiterated its previous holding that “the juvenile court system is a creation of statute, and it possesses only the jurisdiction expressly provided for it in the statute.”<sup>9</sup> This assertion is further supported by NRS 62B.010(4) which maintains that “a judge of the juvenile court has all the powers and duties set forth in this title,” and NRS 62B.300(2), states that the juvenile court must exercise its “jurisdiction pursuant to the provisions of” Nevada’s Juvenile Justice Code. Consequently, “the juvenile court’s discretion to dismiss the State’s delinquency petition and refer Steven for informal supervision was expressly limited by statute.” Therefore, the Court concluded that “the juvenile court exceeded its statutory authority here.”

## **Conclusion**

The juvenile court cannot usurp NRS 62C.200’s requirement that the district attorney provide written approval before a juvenile charged with what would be a felony or gross misdemeanor if committed by an adult can be placed under the informal supervision of a probation officer. Additionally, the provisions of NRS Title 5 statutorily limit the juvenile court’s exercise of authority in overseeing juvenile justice matters. The Court reversed the juvenile court’s order and remanded the matter for further proceedings consistent with the opinion.

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<sup>8</sup> State ex rel. Walsh v. Buckingham, 58 Nev. 342, 349, 80 P.2d 910, 912 (1938).

<sup>9</sup> State v. Barren, 128 Nev. \_\_\_, \_\_\_, 279 P.3d 182, 184 (2012).