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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Amador)

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In re C.B., a Person Coming Under the Juvenile Court  
Law.

C074237

AMADOR COUNTY HEALTH AND HUMAN  
SERVICES AGENCY,

(Super. Ct. No. 13CV8244)

Plaintiff and Respondent,

v.

CHRISTOPHER D.,

Defendant and Appellant.

Christopher D. (father) appeals from an order of the juvenile court concerning his request under Welfare and Institutions Code section 827 for disclosure of the file in the underlying dependency case concerning his minor son.<sup>1</sup> Father contends the trial court erred in failing to rule on his request for disclosure of his psychological evaluation for

<sup>1</sup> Further statutory references are to the Welfare and Institutions Code.

use in supporting his Supplemental Security Income (SSI) benefits claim. He also requests that we conduct an independent review of the file and determine whether the juvenile court abused its discretion in concluding the records were properly redacted.

We conclude that father forfeited his disclosure claim by failing to raise it in the juvenile court, but upon conducting an independent review of the file, we find the redaction of the records does not properly reflect father's consent to the disclosure of information over which he alone had the right to control access. Accordingly, we remand to the juvenile court.

### **BACKGROUND**

Following dependency proceedings initiated by the Amador County Health and Human Services Agency (County) in 2011, the juvenile court ordered minor placed with mother. Father's case plan included "a mental health assessment and psychological evaluation, a medication evaluation, weekly therapy, a parenting class, a substance abuse assessment, substance abuse testing, and weekly supervised visits with the minor." (*In re C.B.* (Mar. 12, 2013, C070741) [nonpub. opn.].) Ultimately, the juvenile court granted mother sole physical custody and father supervised visitation, and terminated jurisdiction. (*Ibid.*; see also *In re C.B.* (Mar. 30, 2015, C071981) [nonpub. opn.].)

In February 2013 father filed a "Request for Disclosure of Juvenile Case File." He argued he needed the material for a civil lawsuit he intended to file and needed the psychological evaluation for use in his pending claim for SSI benefits. The matter came before the court on April 30, 2013. The County agreed to "provide copies of what they wish to redact from the juvenile case file to the court for review. Court will review and determine what can be redacted and what cannot, or if the request applies to this case."

On May 3, 2013, the County provided the court with one set of unredacted records and one set of proposed redacted records from the juvenile court file. The County had redacted all personal identifying information for mother and minor, as well as the addresses of mother, minor, and father; and the names, identifying information, and

addresses of reporting parties, unrelated suspects, victims, and the minors in the police reports. The County also set forth a number of statutory and regulatory privileges and confidentiality laws to guide the juvenile court in determining what information should be redacted from the child protective services (CPS) and court files.

The juvenile court conducted an in camera review of the redacted and unredacted records. The court ordered the County to provide father with the redacted copies of the records with conditions and restrictions. Specifically, the court ordered the records could only be used for the limited purpose of filing claims and/or lawsuits against parties connected to the dependency case, which would be filed under seal and returned to the County at the conclusion of the litigation; could not be disclosed to anyone other than father, his attorney, and his investigators and experts; and could not be made public without further order of the court or disseminated over any social networking sites or any other form of electronic or print media.

## **DISCUSSION**

### **I**

Father has asked this court to independently review the redacted and unredacted records and determine whether the trial court abused its discretion in approving the redactions. County counsel contends that if we conduct an independent review, this court would essentially be determining what records should have been released to father. We disagree. The juvenile court has already determined what records should be released to father, and what statutory and regulatory privileges should be applied to those records. Father has raised no argument regarding either of those determinations and we will not revisit them. However, we can review whether the trial court properly applied those privileges to the records at hand. We find it did not.

“It is the express intent of the Legislature ‘that juvenile court records, in general, should be confidential.’ ” (*In re Keisha T.* (1995) 38 Cal.App.4th 220, 231 (*Keisha T.*), quoting § 827, subd. (b)(1).) “Section 827 sets the current parameters of this state’s

policy with respect to the confidentiality of juvenile records and governs the release of such records. [Citations.]” (*Pack v. Kings County Human Services Agency* (2001) 89 Cal.App.4th 821, 827.) Section 827 restricts access to the case file in a juvenile proceeding, listing those entitled to inspect the file without a court order, and a smaller number of persons who are also entitled to receive copies of the records. (§ 827, subd. (a)(1), (5); Cal. Rules of Court, rule 5.552(b)(1); *In re B.F.* (2010) 190 Cal.App.4th 811, 818; See also *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767, 778, 780-781.) In addition, “[j]uvenile court records may not be disclosed or disseminated except by order of the juvenile court. The juvenile court has *exclusive authority* to determine the extent to which juvenile court records may be disclosed. [Citations.]” (*Cimarusti v. Superior Court* (2000) 79 Cal.App.4th 799, 803-804.)

“The juvenile court must recognize the general policy of confidentiality and hold paramount the best interests of the minors. Confidentiality serves not only to protect the best interests of the minors, it also encourages full disclosure, by the minors and others, of all information necessary for proper functioning of the juvenile welfare system.” (*Keisha T., supra*, 38 Cal.App.4th at p. 240; see also Cal. Rules of Court, rule 5.552.)

Here, the County redacted the records in accordance with the legal authorities it cited. Unfortunately, it appears neither the County nor the court considered that in many instances, and as to some of the records and information, father was the holder of the privilege and the person whose privacy interests were being protected by the statutes and regulations. For example, among the redacted records are reports and summaries of father’s counseling records and a psychological evaluation; laboratory reports from Quest Diagnostics for father’s drug tests; logs detailing discussions about father’s participation in the case plan, including participation in substance abuse counseling; and various mentions of father’s address.

The holder of a privilege may consent to disclosure of the privileged information. (See *Lorenza P. v. Superior Court* (1988) 197 Cal.App.3d 607, 612 [criminal defendant

charged with the murder of her daughter subpoenaed CPS documentary records relating to herself, her daughter, and her son; where defendant sought to obtain her own records, she could consent in writing and waive the protection].) “Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has legal standing and the opportunity to claim the privilege.” (Evid. Code, § 912, subd. (a).) To the extent father is the *exclusive* holder of a privilege, or the records he seeks are redacted to protect his privacy interests (and his alone), his request for disclosure constitutes a waiver of the privilege or any privacy interest *he* holds. The records should be redacted with father’s waiver of his own privileges and privacy interests in mind. It should be emphasized that there may be circumstances in which multiple privacy concerns are implicated, for example, if father’s address is also where minor sometimes resides. In such circumstances, the information should continue to be redacted consistent with the other person’s privacy interests, privileges, or claims of confidentiality.

## II

Father contends the trial court abused its discretion in failing to rule on his ability to use his psychological evaluation for his own purposes. We find father has forfeited this issue.

Father was present at the hearing on his request for the release of the juvenile court records, for both his lawsuit and his pending SSI case. He addressed the court. There is no indication in the record that father raised the issue of his ability to use the psychological evaluation in his SSI case or pressed the court for a ruling on that point. “We follow the long-established rule that where a court, through inadvertence or neglect, neither rules nor reserves its ruling, the party who objected or made the motion must make an effort to have the court actually rule, and that when the point is not pressed and is forgotten the party will be deemed to have waived or abandoned the point and may not

raise the issue on appeal. [Citations.]” (*People v. Brewer* (2000) 81 Cal.App.4th 442, 461-462.) Thus, father is precluded from obtaining appellate review of this issue because he failed to obtain a ruling from the trial court.<sup>2</sup> (*Ibid.*)

**DISPOSITION**

The matter is remanded to the juvenile court. The juvenile court shall order the County to prepare another set of redacted records for the juvenile court’s review, to provide to father pursuant to his request for disclosure. To the extent there is information in the records that pertains *solely* to father’s privacy interests, claims of confidentiality, or privilege, that information should not be redacted. To the extent there is information that also implicates the privacy concerns, or claims of confidentiality or privilege, of other parties, that information should continue to be redacted.

\_\_\_\_\_ RAYE \_\_\_\_\_, P. J.

We concur:

\_\_\_\_\_ HULL \_\_\_\_\_, J.

\_\_\_\_\_ MURRAY \_\_\_\_\_, J.

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<sup>2</sup> We can, however, discern no reason why father cannot renew this motion in the juvenile court.