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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re PAIGE J., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

PAIGE J.,

Defendant and Appellant.

F063351

(Super. Ct. No. JW123630-03)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Peter A. Warmerdam, Juvenile Court Referee.

Kendall D. Wasley, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Michael A. Canzoneri and Charles A. French, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Kane, J. and Detjen, J.

The court found that 15-year-old appellant, Paige J., was a person described in Welfare and Institutions Code section 602¹ after appellant admitted allegations charging her with felony vehicular manslaughter (count 1/Pen. Code, § 192, subd. (c)(1)), felony vehicle theft (count 2/Veh. Code, § 10851, subd. (a)), driving without a license (count 7/Veh. Code, § 12500, subd. (a)), violating a previous grant of probation (count 8.041/102Welf. & Inst. Code, § 777), and four counts of misdemeanor unlawfully driving a vehicle causing injury (counts 3, 4, 5 & 6/Veh. Code, § 23104, subd. (a)).

On June 28, 2011, the court ordered appellant placed at the Forrest Ridge Youth and Family Services (Forrest Ridge) facility in Iowa.

On appeal, appellant contends the court exceeded its jurisdiction in placing her in an out-of-state group home because it did not comply with certain statutory requirements. We affirm.

FACTS

On January 16, 2011, sometime between 7:00 p.m. and 10:00 p.m., appellant's mother was transported to the hospital by ambulance. Afterwards appellant, who was unlicensed, drove two friends in her mother's truck to pick up three other friends and to look for someone from whom to purchase marijuana. The group then returned to appellant's house and "hung out." Later that evening appellant's mother called and told appellant that she had been released from the hospital. Appellant and her friends decided to pick up appellant's mother and boarded the mother's truck. Along the way, appellant drove into a store parking lot where she suddenly sped up, lost control of the truck and struck a light pole. One of appellant's friends was killed in the accident and another was paralyzed from the neck down. Appellant's mother had not given her permission to use the truck.

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise noted.

On March 1, 2011, the district attorney filed a wardship petition charging appellant with the offenses she admitted.

On March 17, 2011, appellant entered her plea in this matter.

On March 30, 2011, the court aggregated time from prior sustained petitions, set appellant's maximum term of confinement at seven years eight months, and committed her to the Pathways Academy. During the hearing, defense counsel objected to the court's stated intent to commit appellant to Forrest Ridge in Iowa on the ground that there had not been a showing that in-state programs would be ineffective in treating appellant.

On June 28, 2011, the court issued an order placing appellant at Forrest Ridge.

On August 19, 2011, defense counsel filed an objection to the court's placement order arguing that the placement did not comply with section 727.1's requirement that the choice of placement be based "upon selection of a safe setting that is the least restrictive or most family like, and the most appropriate setting that is available and in close proximity to the parent's home...."

On September 2, 2011, defense counsel filed a petition to modify the court's order placing appellant at Forrest Ridge (Welf. & Inst. Code, § 778).

On September 13, 2011, at a hearing on the petition, defense counsel argued that the court's order placing appellant out of state was no longer appropriate because appellant had successfully completed the Pathways Academy. He also appeared to argue that there had been no showing that appellant had any special needs or that if she did have such needs, that there were no group homes in California that could address them.

After hearing testimony from the probation officer regarding service available in group homes in California compared to services available at Forest Ridge, the court found that in-state programs were unavailable or inadequate to meet appellant's needs and it denied the petition to modify its order placing appellant at Forest Ridge.

DISCUSSION

Section 727.1, in pertinent part provides:

“(b) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that all of the following conditions are met:

“(1) In-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor.

“(2) The State Department of Social Services or its designee has performed initial and continuing inspection of the out-of-state residential facility or program and has either certified that the facility or program meets all licensure standards required of group homes operated in California or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety, pursuant to subdivision (c) of Section 7911.1 of the Family Code.

“(3) The requirements of Section 7911.1 of the Family Code are met.”

Family Code section 7911.1, in pertinent part provides:

“(d) ... On or after March 1, 1999, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home facility. [¶] ... [¶]

“(f)(1) “A multidisciplinary team shall consist of participating members from county social services, county mental health, county probation, county superintendents of schools, and other members as determined by the county.”

Appellant contends the court acted in excess of its jurisdiction in ordering her to be placed out of state at Forrest Ridge because the court did not comply with Family Code section 7911.1, subdivision (d) or Welfare and Institutions Code section 727.1, subdivision (b)(2). We find that appellant forfeited these issues by her failure to raise them in the juvenile court.

In *People v. Scott* (1994) 9 Cal.4th 331 (*Scott*), the Supreme Court held that a defendant's failure to object in the trial court forfeits "*claims involving the trial court's failure to properly make or articulate its discretionary sentencing choices*. Included in this category are cases in which the stated reasons allegedly do not apply to the particular case, and cases in which the court purportedly erred because it double-counted a particular sentencing factor, misweighed the various factors, or failed to state any reasons or give a sufficient number of valid reasons." (*Id.* at p. 353, italics added.) "*In essence, claims deemed waived on appeal involve sentences which, though otherwise permitted by law, were imposed in a procedurally or factually flawed manner.*" (*Id.* at p. 354, italics added.)

Appellant's claim that the court failed to comply with the requirements of section 727.1, subdivision (b)(1) and Family Code section 7911.1 amounts to claim that her commitment to Forrest Ridge was imposed in a procedurally and/or factually flawed manner. Further, although defense counsel objected to appellant's out-of-state placement, neither appellant nor defense counsel objected to the placement on the grounds she now asserts for challenging the court's order on appeal. Accordingly, we conclude that appellant forfeited her claim that the court erred in committing her to Forrest Ridge because it failed to comply with the code sections noted above.

Appellant contends that she may raise these issues on appeal despite her failure to raise them in the juvenile court through an appropriate objection because her placement at Forrest Ridge amounted to an unauthorized sentence that can be challenged on appeal even though no challenge was raised in the trial court. Appellant misconstrues the meaning of an unauthorized sentence. A sentence is unauthorized "where it could not lawfully be imposed under any circumstance in the particular case[, such as] where the court violates mandatory provisions governing the length of confinement." (*Scott, supra*, 9 Cal.4th at p. 354.) Appellant's placement at Forrest Ridge did not constitute an unauthorized sentence because the juvenile court could lawfully place her there, although

it was required to comply with certain statutory requirements. Accordingly, we reject appellant's challenges to her placement at Forrest Ridge in Iowa.

DISPOSITION

The judgment is affirmed.