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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re DANNY P., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

DANNY P.,

Defendant and Appellant.

G048428

(Super. Ct. No. ST001185)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Kimberly Menninger, Judge. Dismissed as moot with directions.

Cynthia M. Jones, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Charles C. Ragland and Kathryn Kirschbaum, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

The Orange County Juvenile Court declared Danny P. a ward of the court based on habitual truancy (Welf. & Inst. Code, § 601, subd. (b)). Danny contends the juvenile court erred by admitting school attendance records under the hearsay exception for business records (Evid. Code, §§ 1271, 1561, and 1562). He also objects to various probation conditions as vague and overbroad. While this appeal was pending, Danny turned 18 years old, which prompted the juvenile court to terminate his “wardship and all proceedings.” The court’s August 30, 2013 order terminating all juvenile court proceedings precludes us from granting any practical relief. Accordingly, we dismiss the appeal as moot.

I

FACTS AND PROCEDURAL BACKGROUND

In May 2012, the Orange County Probation Department filed a petition alleging Danny P. (born August 1995) came within the juvenile court’s jurisdiction because he missed four or more school days without a valid excuse and qualified as a habitual truant. (Welf. & Inst. Code, § 601, subd. (b).)¹ The petition alleged Danny

¹ Welfare and Institutions Code section 601, subdivision (b) provides, “If a minor has four or more trancies within one school year as defined in Section 48260 of the Education Code or a school attendance review board or probation officer determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor’s persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or probation officer or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge the minor to be a ward of the court. However, it is the intent of the Legislature that no minor who is adjudged a ward of the court pursuant solely to this

missed 63 full days of school and 43 class periods between September 2011 and March 2012. The petition also alleged authorities had referred Danny to the school attendance review board (SARB), but he failed to respond to SARB's directives, or those of the probation officer, and available public and private services could not correct his truancy.

In June 2012, the juvenile court provided Danny and his mother with referrals to alternative education, counseling programs, and a parenting class. But ultimately these informal efforts did not persuade Danny to attend school.

At the jurisdiction hearing on March 18, 2013, the juvenile court admitted Exhibit 1, a packet of documents prepared by Janie Hoy, the Director of Student Services at Huntington Beach Union High School District (HBUHSD). The packet contained a computer printout entitled "Westminster High School Student Attendance Quick Print," and truancy notification letters addressed to Danny's mother. The school documents reflected that between September 2011 and March 2012 Danny qualified as a habitual truant because he missed more than the allowable number of days or periods. The court declared Danny a ward of the court, and at the disposition hearing, placed him on probation on various terms and conditions.

subdivision shall be removed from the custody of the parent or guardian except during school hours."

Education Code section 48260 provides that "(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district. [¶] (b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting. [¶] (c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil's circumstances, are deemed to constitute a valid excuse."

Danny turned 18 years old in August 2013. A minute order dated August 30, 2013 reflects the juvenile court found Danny had turned 18 years of age, he had been unsuccessful in the truancy court program, there were no further services for him, home supervision was terminated, and the “601 wardship and all proceedings [were] terminated.”²

II

DISCUSSION

Mootness

We invited the parties to submit supplemental briefs addressing whether the appeal was rendered moot by the juvenile court’s August 30, 2013 order terminating Welfare and Institutions Code section 601 wardship proceedings after Danny turned 18 years of age.

“A case is moot when any ruling by [the appellate] court can have no practical impact or provide the parties effectual relief. [Citation.]’ . . . ‘[A] matter is considered moot if, as a result of changed circumstances, its determination by declaratory relief will no longer significantly affect the legal relations of the parties. [Citation.]’ [Citation.] “[A]n action which originally was based upon a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.” [Citations.]’ [Citation.]” (*Carson Citizens for Reform v. Kawagoe* (2009) 178 Cal.App.4th 357, 364.)

As noted in *In re Katherine R.* (1970) 6 Cal.App.3d 354, 357 (*Katherine R.*), an appeal from a judgment or order making a minor a ward of the juvenile court that is not predicated on a finding the minor has committed a criminal act, where “the nub of [the minor’s] complaint” is the restraint on liberty occasioned by the wardship order, is

² We previously granted minor’s motion to augment the record with the August 30, 2013 minute order.

moot where there is a subsequent order terminating the wardship that lifts the restraint on liberty. (Cf. *In re Dana J.* (1972) 26 Cal.App.3d 768, 771 [juvenile's right of appeal affords the opportunity to rid himself of "the stigma of criminality" and to "clear his name" of a criminal charge].)

The Attorney General argues the appeal should be dismissed as moot in its entirety because there is no relief this court can provide. She argues that "even if the court agrees with appellant that the attendance records were improperly admitted into evidence during his truancy proceeding, appellant's wardship has already been terminated. Additionally, appellant is no longer subject to any of the challenged probation conditions. Accordingly, there is no effective relief this court can grant to appellant." The Attorney General notes that "where an appellant has been accused of criminal charges or where the case presents an issue of broad public interest that is likely to recur yet evade review, an appellate court may decline to dismiss an appeal despite mootness. . . . However, neither exception applies here. Appellant was found to be habitually truant; he was not accused of any criminal charges and thus has no need to 'rid himself of the "stigma of criminality."' . . . Moreover, while some of the issues pertaining to the challenged probation conditions are likely to recur in future cases, these issues are not of the sort that are likely to evade review because not all juvenile appellants will reach the age of majority during the pendency of the appeal."

Danny disagrees in part. He states that "where the appeal challenges the validity of the underlying true finding, as opposed to the sentence itself, the appellant has a right to clear his name of the adjudication." (See *Katherine R.*, *supra*, 6 Cal.App.3d at pp. 356-357; see also *People v. Succop* (1967) 67 Cal.2d 785, 790 [commitment as mentally disordered sex offender].) Danny further states "an appeal is not moot where there are collateral effects of the judgment beyond the sentence imposed . . ." and "the court may reach the merits of a technically mooted issue where the appeal concerns a question of continuing public interest."

Danny notes *Katherine R.* tied the right to clear one's name to "criminal act[s]," but he says this was dicta and "[o]ther cases have made it clear that the right to clear one's name is not reserved solely to criminal charges." He also relies on *People v. Delong* (2002) 101 Cal.App.4th 482, 487 (*Delong*) to support his conclusion that "California appears to subscribe to the liberal view that an accused's interest in clearing his name permits review of the judgment even without reference to collateral consequences."

A truancy or habitual truancy finding does not tarnish a person's reputation akin to a finding of criminal acts, mental disorder, or official misconduct. Nor do we see any other potential collateral consequences resulting from a Welfare and Institutions Code section 601 wardship finding. (Cf. *In re E.T.* (2013) 217 Cal.App.4th 426, 436 [custody judgment could affect later paternity suit]; *Mazzola v. City and County of San Francisco*, 112 Cal.App.3d 141, 148 [dismissal for misconduct would prevent future ability to run for office or be appointed as an official].) *Delong* is distinguishable. There, the defendant's case was dismissed because she successfully completed the prescribed drug treatment program under Proposition 36. The court held the appeal was not moot because the underlying conviction could still be used as a prior felony conviction and required compliance with recording and disclosure provisions. (*People v. Delong, supra*, 101 Cal.App.4th at pp. 491-492.)

Danny states that "[w]hile dissemination of petitioner's juvenile record is limited, it is still available for use in other proceedings." But he fails to disclose how a truancy finding could be used to prejudice him in any future proceedings.

Danny also argues we should address his evidentiary claim because it is a matter of public interest that is likely to recur but evade appellate review if deemed moot. Relying on *Cucamongans United for Reasonable Expansion v. City of Rancho Cucamonga* (2000) 82 Cal.App.4th 473, 479 he states, "The evidentiary issue raised by minor is a matter of recurring public interest, in that it questions whether what appears to

be a form letter used by the Huntington Beach Union High School District provides sufficient foundation for the admission of evidence in truancy proceedings. A ruling in this case can provide guidance to the school districts, district attorneys and public defenders who handle truancy cases on a regular basis.” He also asserts, it is unlikely we ever will decide this issue in future cases because the extended time frames for processing a truancy case under the Education Code will result in the juvenile reaching adulthood before finalizing an appeal.

Whether one particular school district’s form letter or affidavit complies with foundational requirements for admitting business records does not present an issue of broad public interest. Nor are we aware of anything that suggests this appeal presents recurring issues that will likely evade review if we do not hear the appeal. Much of the delay in this case appears to have occurred due to informal or voluntary efforts to persuade Danny to attend school. This hardly establishes a pattern of delay in other similar cases. There simply is no practical relief we can provide Danny since he no longer is subject to the juvenile court’s jurisdiction. Accordingly, the appeal challenging the wardship is moot.

Danny also claims he is “currently under a prohibition against possessing a firearm until age 30 to be enforced by the Department of Justice. As such, [he] is suffering collateral consequences from the true finding and the appeal is not moot. [Fn. omitted.]” The Attorney General concedes “as Appellant notes in his supplemental opening brief, the court’s oral pronouncement with respect to the condition prohibiting possession of a firearm did not state that the prohibition would apply until appellant turns 30 years old []; thus the minute order was incorrect in this regard and the oral pronouncement should control.” But the Attorney General responds the condition “would have terminated following the August 30, 2013 order.”

The firearm probation condition ended along with the other challenged conditions with the termination of the wardship and “all proceedings.” Penal Code

section 29820 plainly did not apply to Danny.³ To eliminate any confusion, we will direct the juvenile court to correct its minutes to conform to its oral pronouncement at disposition, and to take appropriate action to correct any erroneous reporting to the Department of Justice under Penal Code section 29820.

III

DISPOSITION

The juvenile court is directed to correct its April 17, 2013 dispositional minute order as follows: On page 2 of the minute order, the court is directed to delete the following order: “Penal Code 29820 applies. Minor may not own or possess any firearm until age 30. Probation officer to notify Department of Justice as required by law,” and replace it with the following: “You are not to use, possess any firearm, weapon or weapon replica.” The juvenile court is further directed to take appropriate action to correct any erroneous report to the Department of Justice under Penal section 29820. In all other respects, the appeal is dismissed as moot.

ARONSON, J.

WE CONCUR:

O’LEARY, P. J.

THOMPSON, J.

³ Penal Code section 29820 provides that persons who are adjudged wards of the court for committing specified criminal offenses may not own or possess firearms until they turn 30 years old. The juvenile court is required to notify the Department of Justice of persons subject to the section. The information may be used to determine eligibility to acquire a firearm.