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IN THE SUPREME COURT OF CALIFORNIA

In re A. N.,

THE PEOPLE,

Plaintiff and Respondent,

v.

A. N.,

Defendant and Appellant.

S_____

Ct. App. 2/6 B275914
(Ventura County
Super. Ct. No. 2015040294)

SUPREME COURT
FILED
JUN 12 2017
Jorge Navarrete Clerk
Deputy

PETITION FOR REVIEW

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PETITION FOR REVIEW

TO CHIEF JUSTICE TANI CANTIL-SAKAUYE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Petitioner A. N. asks this Court to grant review of the Court of Appeal's published decision in the above-captioned matter to consider the statewide issue of whether the use of a School Attendance Review Board (SARB), or a similar type of mediation program, is a condition precedent before a juvenile court is vested with jurisdiction for the prosecution of truancy. (A copy of the published opinion of the Court of Appeal is bound at the back of this petition.) The decision was filed May 2, 2017.

In the instant case, the opinion held that neither the utilization of a SARB nor the issuance of a fourth truancy report was required before the prosecution for truancy could commence. The opinion relied on two arguments. First, the opinion held that the truancy statutory scheme set forth in the Education Code "provide[s] the court with flexibility to achieve the legislative objective of a full-time education for

California's students." (*In re A. N.* (2017) 11 Cal.App.5th 403, 407.) According to the opinion, this flexibility does not require that there be any use of a SARB as a condition precedent to a truancy prosecution. Second, the opinion held that only four truancies is a prerequisite before a court can assert jurisdiction. In so holding, the opinion specifically rejected the contention that a fourth truancy report is required under Education Code, section 48265.5. (*Id.* at p. 408.)

Petitioner contends that this opinion conflicts with this Court's decision in *In re Michael G.* (1988) 44 Cal.3d 283, 290 (*In re Michael G.*), which stated that the utilization of a SARB is a condition precedent to the juvenile court jurisdiction for truancy. This Court reasoned that the use of a SARB "as a condition precedent to the juvenile court's intervention is understandable and in keeping with legal commentary calling for greater participation of school and social welfare professional, even to the exclusion of the juvenile court's jurisdiction." (*Ibid.*) Petitioner A. N. submits *In re Michael G.* was correctly decided and the opinion below is in error.

The opinion also misinterpreted the truancy statutory scheme. The truancy statutory scheme requires that before a court is vested with jurisdiction for a truancy, the use of a SARB and the issuance of a fourth truancy report are required, not merely a certain number of unexplained absences. The opinion is wrong to conclude otherwise. (*In re A. N., supra,* 11 Cal.App.5th at 408.)

Review is appropriate because there is a split of opinion between the opinion's reasoning and that in *In re Michael G.* Review is also needed to properly interpret the truancy statutory scheme.

QUESTIONS PRESENTED

- **Is the utilization of the School Attendance Review Board mandatory before a juvenile can be prosecuted for truancy?**

- **Does the truancy statutory scheme set forth in Education Code, section 48264.5, require the issuance of a fourth truancy report before commencing a juvenile truancy prosecution?**

Petitioner's Contentions

- **The utilization of the School Attendance Review Board is a condition precedent to the juvenile court intervention with respect to a truancy prosecution.**
- **Education Code, section 48264.5, requires the issuance of a fourth truancy report rather than simply four unexplained truancies before a juvenile court is vested with jurisdiction for a truancy prosecution.**

THE NECESSITY FOR REVIEW

Review is necessary to settle important questions of law. (Calif. Rules of Court, Rule 8.500 (b)(1).) Review is also necessary to resolve the split of authority between the opinion and this Court's decision in *In re Michael G.* (Compare *In re A. N.* (2017) 11 Cal.App.5th 403 and *In re Michael G.* (1988) 44 Cal.3d. 283.) An additional ground for review is whether, as petitioner contends, the opinion incorrectly interpreted the statutory truancy scheme, as amended in 2012.

The issue of whether a juvenile must be afforded the use of a school attendance review board before being prosecuted for truancy is an issue of great statewide public importance that should be resolved promptly. Accordingly, under well-settled principles, it is appropriate that this Court exercise its jurisdiction to review. (Cal. Rules of Court, rule 8.500 (b)(1).)

Statement of Facts

In 2015-2016, A. N. was enrolled in the 9th grade of Hueneme High School in Oxnard, California. Her 9th grade came after a difficult 8th grade, where, due to a custody situation at home with her nephew, Daniel, she engaged in self-mutilation. (CT: 72.)

A. N.'s problems continued into 9th grade and she either came to school late or missed classes. Her tardiness and or absences resulted in a computer-generated school notification of truancy on October 6, 2015, which documented four unexplained absences/tardiness. (*In re A. N., supra,* 11 Cal.App.5th at 406-7.) A second notification of truancy was mailed on October 13, 2015, which listed five more unexplained absences and/or tardiness. (*Ibid.*)

A third letter was sent on December 15, 2015. In addition to documenting the days that A. N. was either tardy or absent ten times, the letter stated that A. N. was now classified as an Habitual Truant pursuant to Education Code, section 48262[1], and that she was now being referred to the School Attendance Review Board. (*Ibid.*; CT: 84.)

On December 12, 2015 - three days before the third notification letter was mailed - an Oxnard Police Officer issued A. N. a misdemeanor citation at her residence for an alleged section 48262 violation. (CT: 2.) On December 31, 2015, prior to A. N. appearing before the SARB, the prosecution filed a petition against A. N. for being habitually truant. (CT: 1.) The petition specifically contended that on or about December 12, 2015, A. N. was in violation of section 48262 due to her failure to "respond to the directives of a school attendance review board, or to services provided." The petition contended that the juvenile court was vested with jurisdiction under Welfare and Institutions Code, section 601, subdivision (b).[2] (*Ibid.*) On January 5, 2016, the juvenile court issued a letter requesting that she appear for a court hearing on the petition on February 5, 2016. (CT: 3-4.)

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[1] All statutory references are to the Education Code unless otherwise specified.

[2] Referred to herein as W&I 601(b) for ease of reading.

On January 12, 2016, A. N. attended a SARB hearing. At the conclusion of the hearing, A. N. signed a contract wherein she agreed to attend school regularly and be on time. Further, A. N.'s mother was directed to contact the school about all absences and provide doctor reports for any illnesses. (CT: 90.)

On May 6, 2016, the trial court sustained the petition. (1RT: 134-135.) The court concluded that the three letters sent to A. N. documented 19 unexplained absences or tardiness and that satisfied the prerequisites to sustain the petition. (*Ibid.*).

Division Six of the Second District agreed with the trial court. The opinion stated: "The juvenile court properly exercised jurisdiction here. The first notice of truancy lists four of A. N.'s unexcused absences - one more than required under section 48260. The second notice lists an additional five - four more than required under section 48261. The third lists an additional 10 - nine more than required under section 48262." The opinion held that that many truancies exceeded "the four truancy threshold that vests jurisdiction in the juvenile court." (*In re A. N., supra,* 11 Cal.App.5th at 407.)

The decision specifically rejected the notion that "failing to respond to a SARB directive is a prerequisite to juvenile court intervention." (*Ibid.*) Instead, the court reasoned that section 48264.5, subdivision (d), and W&I 601(b), do not require SARBs to take specific steps before commencing a juvenile truancy prosecution. (*Ibid.*) The court posited that the Legislature intended the juvenile court to have flexibility in exercising jurisdiction over truancy.

The court also denied that this Court required the use of a SARB as a condition precedent to the juvenile court intervention. "While the court in *In re Michael G.* (Citations omitted) noted the Legislature's move toward the use of SARBs as a 'condition precedent to the juvenile court's intervention,' its holding did not turn on the use or nonuse of the SARB process. (Citations omitted.)" (*In re A. N., supra,* 11 Cal.App.5th at 407.)

Last, the opinion rejected the claim that a fourth truancy report must issue before the juvenile court can assert jurisdiction over truancy. (*Id.* at 408.) The court concluded that when the Legislature amended section 48264.5 in 2012, it intentionally

omitted the word "report" in 48264.5, subdivision (d). Therefore, there is not a requirement that a fourth truancy report be issued. (*Ibid.*)

Memorandum of points and authorities in support of the petition for review.

I.

The statutory truancy scheme intends that the use of a school attendance review board be a condition precedent before court intervention.

The opinion held that the "SARB process is not a prerequisite to juvenile court intervention." (*Ibid.*) That holding misconstrues the truancy statutory scheme and directly contradicts this Court's decision in *In re Michael G.* (1988) 44 Cal.3d. 283.

In 1994, the Legislature amended W&I 601(b). (Stats. 1994, ch. 1023, § 6; SB 1728.) As amended, the statute read: "If a minor has four or more truancies 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 directive 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." (Welf. & Inst. Code, § 601, subd. (b).)[3]

The opinion interpreted that statute to confer jurisdiction on the juvenile court when (1) the student has four or more truancies within one year; (2) the SARB determines that available resources are insufficient or inappropriate; or (3) the student fails to respond to SARB directives. (*In re A. N., supra,* 11 Cal.App.5th at 407.) 'The

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[3] W&I 601(b) was last amended in 2014. The 2014 amendments are not relevant to this Petition for Review.

court concluded that a juvenile court is vested with jurisdiction when a student has four truancies without any use of SARB.

Under well-established principles of statutory construction, if the language of a statute is clear and unambiguous, the court must follow the plain meaning. (*People v. Canty* (2004) 32 Cal.4th 1266, 1276.) A reviewing court must look at a statute in the context of an overall statutory scheme and not simply in isolation. (Cite.) "Every statute should be construed with reference to the whole system of law of which it is a part so that all may be harmonized and have effect. [Citations omitted.]" (*Landrum v. Superior Court* (1981) 30 Cal.3d 1, 14.)

Petitioner contends that the language of the four truancies in W&I 601(b), cannot be read in isolation but must be construed with reference to section 48264.5, which was enacted under the same legislation that amended W&I 601(b). (1994 Cal. SB 1728.) In other words, the four truancies in W&I 601(b) track the language of 48264.5, which prescribes the consequences of truancy. The first truancy report may result in a meeting with the school to address the issue. (§ 48264.5, subd. (a).) The second truancy report may generate a warning by a peace officer that will remain in the pupil's school file. (§ 48264.5, subd. (b).) The third truancy report results in the pupil being classified a habitual truant. The third truancy report also requires that a meeting occur between the pupil and the school attendance review board or another comparable truancy mediation. (§ 48264.5, subd. (c).) The fourth time a truancy report is generated, *then and only then* is the juvenile court vested with jurisdiction under W&I 601(b). (See § 48264.5, subd. (d).)

The interpretation that a fourth truancy report under the truancy statutory scheme can only occur after the utilization of SARB is consistent with the legislative history of the relevant amendment to W&I 601(b). "Upon the 3rd truancy within the same year, the bill would provide the pupil be referred to and required to attend a school attendance review board, truancy mediation program, or a comparable program. This bill would provide that if a pupil who has attended certain programs including a school attendance review board has a 4th truancy in the same school year, the pupil . . . may be

adjudged a ward of the court." (1994 Cal. Legis. Serv., ch. 1023 (SB 1728).) The analysis of SB 1728 by the Assembly Committee commented that "[u]pon failure of the earlier steps to alleviate the truancy problems, the juvenile court may exert jurisdiction over the minor pupil." (CA B. An., S.B. 1728 Assem., Aug. 9, 1994, p. 3.) These earlier steps are the written warnings, the afterschool programs, and finally, the school attendance review board, or equivalent programs. Only once those earlier steps were tried and failed, did the legislature contemplate referral to a juvenile court, stating that "[c]ourt intervention is reserved until after other steps have failed, so as not to overburden already heavy court calendars until necessary." (*Ibid.*)

The opinion below erred by interpreting "four truancies" to mean simply six or more unexplained absences, without requiring the use of SARB as a condition precedent. (*In re A.N., supra,* 11 Cal.App.5th at 406.) As the legislative history of SB 1728 makes clear, neither the amendment to W&I 601(b), nor section 48264.5, subdivision (d), intended to remove the SARB process before court intervention.

The utilization of SARB as a precondition before a juvenile court is vested with jurisdiction is consistent with this Court's interpretation of the statutory scheme. In *In re Michael G.,* this Court explained the difference between a juvenile court's authority to incarcerate juvenile contemnors - after the court properly found the juvenile a ward of the court - and the Legislature's limitation on the court having authority for truancy in the first place. The Court was clear that the legislation made the utilization of SARB prior to any juvenile court intervention. "The Legislature's move towards utilizing the school attendance review boards as a *condition precedent* to the juvenile court's intervention is understandable and in keeping with legal commentary calling for greater participation of school and social welfare professionals, even to the exclusion of the juvenile court's jurisdiction." (*Id.,* at 290, emphasis added.) This Court added that the "most important overall change [to Welf. & Inst. Code, § 601, subd. (b)] was to require referral of truants to school attendance review boards before juvenile court intervention." (*Ibid.*) The legislature is presumed to be aware of this Court's decision when it enacted section 48264.5 and amended W&I 601(b). (*People v. Weidert* (1985) 39 Cal.3d 836, 844.)

II.

The opinion erred by concluding that a fourth truancy report need not be issued before a juvenile court can assert jurisdiction under the 2012 amended Education Code, section 48264.5.

The opinion claimed that section 48264.5, subdivision (d), of the Education Code only requires a fourth truancy to occur - rather than the issuance of a fourth truancy report - before a court is vested with jurisdiction. According to the opinion, this is the plain meaning of the statute and the court is precluded from interpreting it otherwise. "When the Legislature amended section 48264.5 in 2001, it substituted 'truancy report' for 'truancy' in subdivisions (a), (b), (c), and 'truancy is required to be reported' for truancy in subdivision (d). (Stats. 2001, ch. 734, § 29, p. 5786.) When the Legislature amended section 48264.5 again 11 years later, it left in place 'truancy report' in subdivisions (a), (b), and (c), but substituted 'truancy is issued' for 'truancy is required to be reported' in subdivision (d). (Stats. 2012, ch. 432, § 2.) We decline to reinsert 'report' into subdivision (d)." (*In re A.N., supra,* 11 Cal.App.5th at 408.)

Such an interpretation completely misses the mark on the Legislature's intent behind section 48264.5, subdivision (d), as amended in 2012, under established principles of statutory construction. The court's role "is to ascertain the Legislature's intent so as to effectuate the purpose of the law. . . . If the language is clear and unambiguous, [the court] follow[s] the plain meaning of the measure. (*People v. Canty, supra,* 32 Cal.4th at 1276. "If the statutory language permits more than one reasonable interpretation" courts may consider 'extrinsic aids, including . . . the legislative history, public policy. . . and the statutory scheme of which the statute is part." (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977.) Last, '[t]he meaning of a statute may not be determined from a single word or sentence; the words must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible." (*People v. Superior Court* (*Arevalos*) (1996) 41 Cal.App.4th 908, 912.)

With those principles of statutory construction in mind, in 2001, section 48264.5, subdivision (d), was amended to provide in relevant part: "[t]he fourth time a truancy is *required to be reported* within the same school year, the pupil *shall be* within the jurisdiction of the juvenile court . . . ." (Stats. 2001, ch. 734, § 29, p. 5786, emphasis added.) In 2012, the subdivision was amended to read: "[t]he fourth time a truancy is *issued* within the same year, the pupil *may* be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to section 601 of the Welfare and Institutions Code." (Stats. 2012, ch. 432, § 2.)

The 2012 amendment was not intended to remove the requirement that fourth report be issued before a juvenile is within the jurisdiction of the juvenile court, but rather, to remove the mandatory language that a juvenile *shall* be within the jurisdiction of the juvenile court upon the issuance of a fourth report. In other words, the amendment "eliminates the mandate that a pupil found truant for the fourth time in a school year be referred to the juvenile court." (2011 Legis. Bill Hist. CA A.B. 2616, pg. 2.) This is consistent with the fact that the mandatory language for when a report is required to be issued was also removed in section 48262.5, subdivisions (a), (b), and (c). The Court of Appeal was wrong to conclude otherwise.

Any ambiguity as to whether the Legislature intended to remove the issuance of a fourth truancy requirement is dispelled by the following explanation of the bill by the Legislative Service. "The bill would revise certain penalties resulting from the issuance of specified truancy reports and would specify that the first time a truancy report is issued, the pupil and, as appropriate, the pupil's parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance. The bill would specify that the 2nd time a truancy report is issued, the pupil may be personally given a written warning by a peace officer, as specified, and that the *4th time a truancy report is issued,* a pupil who is adjudged a ward of the court may instead be required to pay a fine." (2012 Cal. AB 2616, Stats. Ch. 432, emphasis added.)

Additionally, the opinion's interpretation that section 48264.5 was amended to make it easier for juvenile court intervention in truancy matters conflicts with the author of the bill. "Research shows that the approaches that work best for addressing attendance and truancy involve parents, community, schools, and counselors first and foremost and law enforcement only for extreme cases and as the very last resort. In addition, research shows that involving children in the Juvenile Court system, as a means for addressing school attendance issues, actually makes it as much as four times more likely that they will drop out of school, which of course, runs counter to the purpose of any approach to reengage a student in school and improve their attendance." (2011 Legis. Bill Hist. CA A.B. 2616, pg. 3.) The appellate court erred by focusing entirely on the absence of the word "report" without construing the statute in context with the other subdivisions within the statute or attempting "to ascertain the Legislature's intent so as to effectuate the purpose of the law." (*People v. Canty, supra,* 32 Cal.4th at 1276.)

III.

The purpose of the truancy statutory scheme to limit jurisdiction of the juvenile court supports A. N.'s petition for review.

The requirement that a violation of a SARB directive is a condition precedent before a pupil becomes a ward of the juvenile court furthers the purpose of the statutory scheme for school truancy. School truancy is a status offense applicable only to juvenile pupils subject to compulsory full-time education. (§ 48260.) Truancy does not apply to adults and therefore is not considered criminal in nature. (*In re Michael G., supra*, 44 Cal.3d at 305, fn. 2.)

Given that truancy is not criminal and applies only to juveniles having attendance issues, there was a move in the 1970's to eliminate Juvenile Court jurisdiction over status offenders. (See Ketchum, *Why Jurisdiction Over Status Offenders Should be Eliminated from Juvenile Courts* (1977) 57 B.U.L. Rev. 645.) The reason for this movement was that vast amounts of resources were wasted on juvenile courts when there was no evidence that such intervention increased attendance. In fact, in 1971, the

California Legislative Committee for Juvenile Court Processes stated that "[n]o one can prove that truants who become wards of the court end up better educated than those who do not." (California Assembly Interim Committee on Criminal Procedure, Report, Juvenile Court Processes (1971).) With this backdrop, California sought a middle ground. Juvenile Court would retain jurisdiction over truancy, but only after the utilization of school attendance review boards. (*In re Michael G., supra*, 44 Cal.3d at 290; § 48264.5.) The hope was, that with aggressive intervention by the schools coupled with the use of social resources, there would be little need for juvenile courts.

In the instant case, the district attorney short-circuited the truancy statutory scheme. Instead of waiting to see how the SARB process played out, the prosecution filed a petition prior to petitioner's SARB meeting. Therefore, the prosecution involved the juvenile court before the utilization of the School Attendance Review Board. This violated both the statutory truancy scheme and this Court's interpretation of such scheme. Accordingly, the opinion erred by holding that the juvenile court properly sustained the district attorney's petition.

THE PRAYER

Petitioner A.N. asks this Court to grant review of the Court of Appeal's decision, and to write an opinion reversing the judgment of the Court of Appeal.

Dated: June 9, 2017

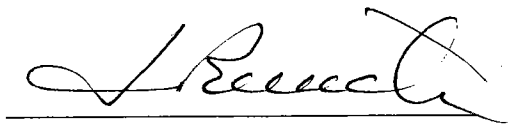
Respectfully Submitted,
STEPHEN P. LIPSON, Public Defender

By William M. Quest, Senior Deputy
SBN 191461
Attorney for Petitioner A. N.

CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that by utilization of MSWord word count feature there are 4,711 words in Times New Roman font in this document, excluding attachment and Declaration of Service.

Dated: June 9, 2017



Jeane Renick
Legal Mgmt. Asst. III

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re A.N., a Person Coming Under the Juvenile Court Law.	2d Juv. No. B275914 (Super. Ct. No. 2015040294) (Ventura County)
THE PEOPLE, Plaintiff and Respondent, v. A.N., Defendant and Appellant.	COURT OF APPEAL – SECOND DIST. FILED May 02, 2017 JOSEPH A. LANE, Clerk S. Claborn Deputy Clerk

A.N. refused to go to school. She demonstrated her unwavering commitment to avoiding an education when she earned more than 25 unexcused absences during the first half of the academic year. As required, school officials made a "conscientious effort" to meet with A.N. and her parents to address her absenteeism. (Ed. Code, § 48262.)[1] They then referred her case to the School Attendance Review Board (SARB).

[1] All further statutory references are to the Education Code unless otherwise stated.

(§ 48263.) But A.N.'s behavior never changed. School officials thus turned to the juvenile court in their continuing effort to compel A.N.'s attendance. She objects, contending that the juvenile court lacks jurisdiction because school officials failed to sequence their disciplinary and counseling resources in conformity with law. We disagree.

School officials did everything they could and should do to educate—not abandon—A.N., and they did so in conformity with the law. The juvenile court properly determined that "available public and private services [were] insufficient or inappropriate to correct [A.N.'s] habitual truancy . . . or to correct [her] persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities." (Welf. & Inst. Code, § 601, subd. (b).) We affirm.

BACKGROUND

A.N.'s high school principal sent her parents a notice of truancy after she accumulated four unexcused absences during the first month of the school year. One week later, the principal sent a second notice that documents five more unexcused absences. Her principal later sent a third truancy notice. This notice states that A.N. accrued 10 more absences and would be classified as a habitual truant. It also states that a referral may be made to the SARB. The SARB meeting was held the following month. A.N. accumulated six more unexcused absences before the SARB meeting, and another after it.

Two weeks before the SARB meeting, the district attorney filed a petition in juvenile court to have A.N. declared a habitual truant under section 48262. The court held a hearing on the petition four months later. The court sustained the petition, deemed A.N. a habitual truant, and ordered her to pay a $50 fine.

DISCUSSION

A.N. contends that the juvenile court lacked jurisdiction to hear the petition because school officials and the district attorney did not adhere to the requirements set forth in section 48264.5. We disagree.

A student who accrues three or more unexcused absences during the school year shall be reported truant to the school's attendance supervisor. (§ 48260, subd. (a).) The school shall also notify the student's parents of the truancy. (§ 48260.5.) If the student earns another unexcused absence, he or she shall again be reported truant to the attendance supervisor. (§ 48261.) A student reported truant a third time will be deemed a habitual truant and may be referred to, and required to meet with, the SARB. (§§ 48262, 48263, 48264.5, subd. (c).) If the student subsequently fails to comply with the SARB's directives, or is truant a fourth time (i.e., accrues six or more unexcused absences), he or she falls within the juvenile court's jurisdiction. (§ 48264.5, subd. (d); Welf. & Inst. Code, § 601, subd. (b).)

The juvenile court properly exercised jurisdiction here. The first notice of truancy lists four of A.N.'s unexcused absences—one more than required under section 48260. The second notice lists an additional five—four more than required under section 48261. The third lists an additional 10—nine more than required under section 48262. A.N. accumulated seven more unexcused absences after that. Twenty-six unexcused absences during the first half of the school year exceeds the four-truancy threshold that vests jurisdiction in the juvenile court. (*Harrahill v. City of Monrovia* (2002) 104 Cal.App.4th 761, 769 (*Harrahill*).)

A.N. and amicus curiae California Rural Legal Assistance (CRLA) assert that failing to respond to a SARB directive is a prerequisite to juvenile court intervention. But the Education Code contains no such requirement. (§ 48264.5, subd. (d) [a student "may be within the jurisdiction of the juvenile court" the fourth time a truancy issues].) Nor does the Welfare and Institutions Code. (Welf. & Inst. Code, § 601, subd. (b) [conferring jurisdiction on the juvenile court when: (1) the student "has four or more truancies within one school year"; (2) the SARB "determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor"; or (3) the student "fails to respond to" the SARB's directives].) Rather, these statutes provide the court with flexibility to achieve the legislative objective of a full-time education for California's students. They do not create a single, rigid path leading to the juvenile court. The state's truancy scheme is educational, not penal, in nature. (*In re James D.* (1987) 43 Cal.3d 903, 915.)

The SARB statutory scheme is in accord with the plain language of these statutes. The statute that provides for the creation of SARBs encourages alternatives to juvenile court but does not prohibit its use. (§ 48320, subd. (b)(1) & (2).) The statute that mandates statewide policy coordination for SARBs expresses the Legislature's intent to divert students from court, but does not require SARBs to take specific steps before sending a student there. (§ 48325, subd. (a)(2).) And the statute that describes when a SARB may refer a student to court says nothing to limit referrals of habitual truants. (§ 48263.) Read together, these statutes reinforce the flexibility that schools have when implementing the state's compulsory education law. They do not

render subdivision (d) of section 48264.5 or subdivision (b) of section 601 of the Welfare and Institutions Code superfluous or ambiguous.[2]

Case law is not to the contrary. While the court in *In re Michael G.* (1988) 44 Cal.3d 283 noted the Legislature's move toward the use of SARBs as a "condition precedent to the juvenile court's intervention," its holding did not turn on the use or nonuse of the SARB process. (*Id.* at p. 290.) The *Harrahill* court did not adopt *In re Michael G.*'s dictum as law but rather quoted it as part of the appellants' argument. (*Harrahill, supra,* 104 Cal.App.4th at p. 769.) Its holding does not control here.

We hold that the SARB process is not a prerequisite to juvenile court intervention. It is one of several parallel tracks that can lead to a habitual truant's adjudication as a ward of the court. Neither school officials nor the district attorney short-circuited that process here.

A.N. and CRLA alternatively claim that a fourth truancy report must issue before the juvenile court can assert jurisdiction over a habitual truant. We again disagree.

When the Legislature amended section 48264.5 in 2001, it substituted "truancy report" for "truancy" in subdivisions (a), (b), and (c), and "truancy is required to be reported" for "truancy" in subdivision (d). (Stats. 2001, ch. 734, § 29.) When the Legislature amended section 48264.5 again 11 years later, it left in place "truancy report" in subdivisions (a), (b), and (c), but

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[2] Given our conclusion, we decline CRLA's invitation to refer to extrinsic aids. (*People v. King* (2006) 38 Cal.4th 617, 622.) CRLA's request for judicial notice of these irrelevant materials is denied. (*Jordache Enterprises, Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 748, fn. 6.)

substituted "truancy is issued" for "truancy is required to be reported" in subdivision (d). (Stats. 2012, ch. 432, § 2.) We decline to reinsert "report" into subdivision (d). (*Manufacturers Life Ins. Co. v. Superior Court* (1995) 10 Cal.4th 257, 274.)

DISPOSITION

Parents, teachers, schools, and courts labor mightily to educate California's children. The Legislature has sought to compliment these efforts by establishing a program of graded consequences to keep the recalcitrant child in school. Neither corporal punishment nor incarceration (or dunce caps) can or should be used to "encourage" a child to attend school. This case is but one example—and a good one—of the collective community efforts to achieve that end.

The order is affirmed.

CERTIFIED FOR PUBLICATION.

TANGEMAN, J.

We concur:

YEGAN, Acting P. J.

PERREN, J.

William R. Redmond, Commissioner

Superior Court County of Ventura

Stephen P. Lipson, Public Defender, Michael C. McMahon, Chief Deputy Public Defender, William Quest, Senior Deputy Public Defender, for Defendant and Appellant.

California Rural Legal Assistance, Inc., Franchesca S. Verdin, Monica De La Hoya and Cynthia L. Rice, as Amicus Curiae on behalf of Defendant and Appellant.

Kamala D. Harris and Xavier Becerra, Attorneys General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Scott A. Taryle, Supervising Deputy Attorney General, Tannaz Kouhpainezhad, Deputy Attorney General, for Plaintiff and Respondent.

DECLARATION OF SERVICE

Case Name: ***In re A. N.; The People, Plaintiff and Respondent v. A. N., Defendant and Appellant.***

Case No. **S_____ from Ct. App. 2/6** B275914 **[Superior Court No. 2015040294)**

On June 9, 2017, I, Jeane Renick, declare: I am over the age of 18 years and not a party to the within action or proceeding. I am employed in the Office of the Ventura County Public Defender at 800 South Victoria Ave., Ventura, California, 93009. On this date I personally served the following named person(s), at the place(s) indicated herein, with a full, true and correct copy of the attached **PETITION FOR REVIEW:**

Hon. William Redmond, Comm., and
MICHAEL PLANET, Exec. Officer
Superior Court – Hall of Justice
800 South Victoria Ave., 2nd Floor
Ventura, CA. 93009
[Trial Commissioner]

On this date, I e-filed with the California Supreme Court, and *electronically served* the attached **PETITION FOR REVIEW,** as indicated below:

California Court of Appeal, 2/6 Clerk's Office: *2d6.clerk6@jud.ca.gov*
Xavier Becerra Attorney General: *DocketingLAAWT@doj.ca.gov*
Attorney for A. N.: *Joaquin,nava@ventura.org*
Counsel for The People: *AppellateDA@ventura.org*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on the above date at San Buenaventura, California.

STEPHEN P. LIPSON, Public Defender

By _____
Jeane Renick, Legal Mgmt. Asst. III