

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 CJ 0267

STATE OF LOUISIANA
IN THE INTEREST OF M.A.

Judgment Rendered: JUN 07 2013



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On Appeal from the
City Court of Slidell, Juvenile Division,
Parish of St. Tammany,
State of Louisiana
Trial Court No. 2011 JS 5375

The Honorable James "Jim" Lamz, Judge Presiding

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* * * * *

BEFORE: GUIDRY, CRAIN, AND THERIOT, JJ.

CRAIN, J.

In this Child In Need of Care (CINC) proceeding, the mother of the minor child appeals and objects to language in the judgment of the Slidell City Court, sitting as a juvenile court (referred to as “the juvenile court”), stating that the judgment will remain in effect until the child’s eighteenth birthday or it is modified by that court. We affirm.

FACTS AND PROCEDURAL HISTORY

Pursuant to court order, the minor child, M.A., was removed from the custody of her mother, placed in the custody of the Department of Children and Family Services (DCFS), and adjudicated a child in need of care. Approximately one year later, the juvenile court rendered a judgment of disposition terminating DCFS’s custody of the child, returned custody to M.A.’s mother, and ordered DCFS’s case closed without further court review. After succeeding in having custody returned to her, M.A.’s mother now appeals challenging the following language in the judgment:

This disposition shall remain in effect until the child’s eighteenth birthday or is modified by this Court.

DISCUSSION

The sole issue presented is whether the inclusion of the above-quoted language unlawfully extended the juvenile court’s jurisdiction for this CINC proceeding until the age at which the child reaches majority. There is no pending custody action that either arguably impedes the juvenile court’s jurisdiction or which asks the juvenile court to exercise jurisdiction.

Louisiana Children’s Code article 686 provides that “[a] judgment of disposition shall remain in force only until a child reaches his eighteenth birthday. It may expire earlier by its own terms, if it is modified, or if it is vacated.”

Children's Code article 302(4) provides:

City courts, except where a separate juvenile court with exclusive original juvenile jurisdiction is established by law, shall have original juvenile jurisdiction for their territorial jurisdiction. This jurisdiction shall be concurrent with that of the district court.

Children's Code article 309 pertinently provides:

A. Except as provided in Article 313, a court exercising juvenile jurisdiction shall have continuing jurisdiction over the following proceedings and the exclusive authority to modify any custody determination rendered, including the consideration of visitation rights:

(1) Child in need of care proceedings pursuant to Title VI.

B. In exercise of its jurisdiction to determine the custody of a child under writs of habeas corpus or when custody is incidental to the determination of pending cases, a district court may enter an order of custody or modify any prior order of custody rendered by a juvenile court concerning the same child in any proceeding except those enumerated in Paragraph A of this Article. [Emphasis added.]

These articles all expressly sanction a court exercising juvenile jurisdiction, including a city court such as Slidell City Court, to exercise continuing jurisdiction over CINC proceedings, including the authority to modify any custody determination rendered, except as provided in Article 313.¹

Considering the applicable provisions of the Children's Code, we find no error in the inclusion of the complained of language in the signed judgment. The juvenile court correctly denied the mother's motion to dismiss the CINC proceeding, and there are presently no grounds for termination of the juvenile

¹ Notably, by Acts 1992, Number 705, Section 1, the Legislature deleted from Article 313A's list of bases for termination of a juvenile court's jurisdiction former subpart (7), "permanent placement of the child." The 1992 comment to Article 313 explains:

The deletion of Article 313(7), permanent placement of the child, reflects the fact that the court retains jurisdiction, even though a permanent placement has been achieved for the child, for any disputes arising thereafter in connection with the placement. Thus, according to Article 702(B), although a court is relieved of the responsibility for conducting periodic judicial reviews when a child achieves a "permanent placement" as defined by Article 603(15), it does not lose jurisdiction.

court's jurisdiction under Article 313A. *Accord, Golemi v. Tyler*, 07-1942 (La. App. 1 Cir. 2/8/08) (unpublished opinion).

The Slidell City Court was a city court exercising juvenile jurisdiction pursuant to Article 302(4) in a CINC proceeding, and, in the absence of one of the Article 313 grounds for termination of its jurisdiction, the statement that its dispositional judgment would remain in effect until the child's eighteenth birthday or "unless it is modified by this Court" was in accordance with law. *See*, La. Ch. Code art. 309A(1).²

CONCLUSION

For the foregoing reasons, the judgment of the juvenile court is affirmed. Costs of this appeal are assessed to Loretta Alfonso.

AFFIRMED.

² In her appellate brief, appellant cites the case of *State ex rel. C.F.*, 05-1272 (La. App. 3 Cir. 4/12/06), 928 So. 2d 707, *writ denied*, 07-0425 (La. 3/21/07), 951 So. 2d 1083. In that case the Third Circuit Court of Appeal determined that the trial court's jurisdiction in the CINC proceeding terminated upon the child in need of care's permanent placement. Thus, the trial court could not later exercise jurisdiction through that CINC proceeding to rescind a civil custody order concerning the same child rendered by a judge of the Family Court. The case is notably different from the one *sub judice* in that it concerned a pending custody action with courts exercising arguably competing jurisdiction, whereas our analysis is limited to the accuracy of the challenged language in the judgment. We do not opine regarding issues and circumstances that may arise in the future that could result in another court properly exercising jurisdiction over custody matters relating to M.A. *See, American Waste & Pollution Control Co. v. St. Martin Parish Police Jury*, 93-1348 (La. 11/29/93), 627 So. 2d 158, 161-62.

Also, because they have not been properly raised, we do not address the constitutional challenges to Articles 309 and 313. *See, Williams v. State, Dept. of Health and Hospitals*, 95-0713 (La. 1/26/96), 671 So. 2d 899, 901-02 (setting forth the procedural requirements for an attack of a statute's constitutionality).