

Cite as 2010 Ark. App. 486

ARKANSAS COURT OF APPEALS

No. CA 10-417

D.W., a juvenile

APPELLANT

V.

STATE OF ARKANSAS

APPELLEES

Opinion Delivered JUNE 2, 2010APPEAL FROM THE PULASKI COUNTY
CIRCUIT COURT,
[NO. JD-09-1981]HONORABLE MELINDA GILBERT,
JUDGE

MOTION GRANTED

PER CURIAM

Appellant, a juvenile, has filed a motion seeking to file the record and briefs in this case under seal. He cites Arkansas Code Annotated section 9-27-309(j) and (k) (Repl. 2009) for the proposition that juvenile court proceedings are confidential. In response, the State cites Administrative Order Number 19, which governs access to, and confidentiality of, court records. The State contends that “a record prepared consistently with Administrative Order 19 is sealed for the purpose of protecting confidentiality, and it is therefore unnecessary to seal the entire record and brief.”

Section (VII) of Administrative Order Number 19 provides that certain information in case records is excluded from public access and is confidential absent a court order to the contrary, unless disclosed in open court and made part of a verbatim transcript of court proceedings or included in trial-transcript source materials. Part of the list of excluded

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information is information that is excluded from public access pursuant to the Arkansas Code Annotated. Ark. Sup. Ct. Admin. Order No. 19(VII)(A)(2). The commentary to section (VII) specifically identifies Arkansas Code Annotated section 9-27-309 as a code section “regarding confidentiality of records whose confidentiality may extend to the records even if they become court records.” The commentary clarifies that Administrative Order Number 19 does not supersede any Arkansas law requiring privacy or nondisclosure of information in court records. “Confidential” and “sealed” mean “that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law.” Admin. Order No. 19(III)(11),(12).

We read Arkansas Code Annotated section 9-27-309 to require sealing the record and briefs in juvenile-delinquency cases on appeal, and we disagree with the State’s contention that the statute “merely controls the dissemination of identifying information that would violate the confidentiality of the juvenile, primarily his or her name.” Section 9-27-309(e), which the State cites in support of this contention, clearly applies to the publication of aggregate data, not to whether individual cases should be sealed. Arkansas Code Annotated section 9-27-309(j) provides that “records of the arrest of a juvenile, the detention of a juvenile, and the proceedings under this subchapter shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1967,” with certain exceptions not argued here. Arkansas Code Annotated section 9-27-309(k) provides that “[i]nformation

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regarding the arrest or detention of a juvenile and related proceedings under this subchapter shall be confidential,” again with certain exceptions not argued here.

We further note that our supreme court has recently granted motions to file a record and briefs under seal pursuant to Arkansas Supreme Court Rule 6-3. That rule provides that in cases in which counsel for either side believes that a person’s identity should be protected by the court, counsel may move the court to do so, and specifically states that appeals in juvenile cases are among those in which such a motion may be made. Ark. Sup. Ct. R. 6-3(a).

Motion to file record and briefs under seal is granted.