STATE OF LOUISIANA IN RE C.F.	*	**NO. 2007-C-0027**
	*	**COURT OF APPEAL**
	*	**FOURTH CIRCUIT**
	*	**STATE OF LOUISIANA**
	*	
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BELSOME, J., DISSENTS WITH REASONS

The majority holds that La. Ch. C. article 909's language "[e]xcept as provided for in the Children's Code Article 897.1" **must** be read to apply to the entire paragraph of the code article, and not only to the first sentence and that the majority **must** conclude that it is reasonable to interpret the "termination" of a sentence as constituting a "modification" of that sentence. I respectfully dissent and would deny the writ.

The code article in question states:

> Except as provided for in Article 897.1, after the entry of any order of disposition, the court retains the power to modify it, including changing the child's legal custody, suspending all or part of any order of commitment, discharging conditions of probation, or adding any further condition authorized by Article 897(B) or 899(B). **It may also terminate an order of disposition at any time while it is still in force.**

La. Ch. C. art. 909 (emphasis added)

The Louisiana Supreme Court has consistently held the following regarding statutorily construction:

> The settled rule of statutory construction that the mention of one thing in a statute implies the exclusion of another thing, i.e., the doctrine of *Expressio Unius est Exclusio Alterius,* dictates that when the legislature specifically enumerates a series of things, the legislature's omission of other items, which could have easily been included in the statute is deemed intentional. (citations omitted)

Filson v. Windsor Court Hotel, 04-2893, p. 6 (La. 6/29/05); 907 So. 2d 723, 728.

In this case, the omission in the list of examples of modification in the article, which include changing custody, suspending the commitment, or adding and discharging various conditions, is evidence that the legislature did not intend to interpret the termination of a sentence as constituting a modification of that sentence. If the Legislature intended to include termination under modification, it would have added it to the end of the enumerated list instead of adding a separate sentence. Accordingly, the last sentence of La. Ch. C. art. 909 concerning termination should not be deemed restricted by the language at the beginning of the article. Simply put, termination is termination and not modification. They are two different actions.

In addition, it should be noted that the ability of the trial court to terminate a disposition in this case does not conflict directly with the stated

public policy and legislative intent as the majority suggests. In reviewing the juvenile justice system, the Louisiana Supreme Court stated:

> **The juvenile justice system dates back to the early 1900s and was founded as a way to both nurture and rehabilitate youths**. Janet E. Ainsworth, *Re Imagining Childhood and Reconstructing the Legal Order: The Case for Abolishing the Juvenile Court*, 69 N.C. L.Rev. 1083, 1096-97 (1991) [hereinafter *Re-Imagining Childhood*]; *see also*, Barry C. Feld, *Violent Youth and Public Policy: A Case Study of Juvenile Justice Law Reform*, 79 U. Minn. L.Rev. 965, 969 (1995) [hereinafter *Violent Youth*]. "[O]rdinary retributive punishment for the adolescent [was] inappropriate," in part, because "[j] uvenile court philosophy made no distinction between criminal and non-criminal behavior, as long as the behavior was considered deviant or inappropriate to the age of the juvenile." Ainsworth, *Re-Imagining Childhood*, *supra*, at 1097-98. As one commentator notes, "[t]he hallmark of the [juvenile] system was its disposition, individually tailored to address the needs and abilities of the juvenile in question." *Id.* at 1099. **The Louisiana juvenile system was founded upon this philosophy.** *See e.g.*, La. Ch. C. art. 801.

In re D.J, 01-2149 (La. 5/14/02), 817 So. 2d 26, 29 (emphasis added).

Therefore, I would deny the writ.