

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF: S.W., A MINOR

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.W.

No. 2840 EDA 2013

Appeal from the Dispositional Order of August 20, 2013
In the Court of Common Pleas of Bucks County
Criminal Division at No.: CP-09-JV-0000195-2013

BEFORE: FORD ELLIOTT, P.J.E., LAZARUS, J., and WECHT, J.

MEMORANDUM BY WECHT, J.:

FILED JULY 01, 2014

S.W. appeals the August 20, 2013 dispositional order, which was imposed after S.W. was adjudicated delinquent of escape.¹ We affirm.

The juvenile court set forth the factual and procedural history of this case as follows:

Following a June 7, 2013 [] hearing where [S.W.] was adjudicated delinquent on a charge of simple assault, [the juvenile court] ordered that she be placed in Hoffman Homes for Youth. Following an adjudication hearing held August 6, 2013, [the juvenile court] found that [S.W.] was under the [juvenile court's] custody at Hoffman Homes, and on July 23, 2013, [S.W.] intentionally escaped custody. [The juvenile court] adjudicated [S.W.] delinquent and subsequently directed she be placed and committed at Adelphia Village Middle Creek Secure Treatment Program.

The following is a brief summary of the facts. On July 23, 2013, while [S.W.] was still under court order to be placed at Hoffman Homes, Jennifer Minner, a therapist at Hoffman Homes, took

¹ 18 Pa.C.S. § 5121(a).

[S.W.] to her court date in Berks County, where she was scheduled to appear. The judge in Berks County dismissed the pending charges against [S.W.], and she was to return to Hoffman Homes with Ms. Minner. Ms. Minner, Mr. Shane Parkinson, a mental health worker from Hoffman Homes, and [S.W.] left the Berks County Courthouse to return to the Hoffman Homes van located in the parking garage. Ms. Minner was seated in the driver's seat, Mr. Parkinson was in the passenger's seat and [S.W.] was in the back seat. When Ms. Minner stopped to pay the parking ticket, [S.W.] exited the back seat of the van and ran away. After an unsuccessful attempt to find [S.W.], Ms. Minner called the local police. On July 25, 2013, the police found [S.W.] and she was returned to Hoffman Homes. [S.W.] stated that she did not believe she was still under the supervision of the court when she left the vehicle.

[S.W.] was fifteen years old at the time of her adjudication and has been in 27 different placements since she was six years old. Her parents' parental rights were terminated in 2007 because of substance abuse. While in placement, [S.W.] has threatened and been aggressive towards others. From 2010 to January 2013, [S.W.] was placed in a number of different hospitals for her mental health issues, specifically threatening others and having suicidal ideations.

[S.W.] was at Hoffman Homes from June 10, 2013 to July 23, 2013. During her short time there, she had six physical restraints with staff at Hoffman Homes, all for aggression. [S.W.] spit on staff, spit in a nurse's face and bit a peer in her last physical intervention. On June 17, 2013, [S.W.] and another peer placed at Hoffman Homes [absconded] and left the facility, although they returned a short time later. [S.W.] vandalized her bedroom walls at Hoffman Homes with vulgar statements and racial slurs. Based on her extensive history in the juvenile justice system, reports provided to the court by staff at Hoffman Homes and the Juvenile Probation Office revealing the foregoing, [the juvenile court] adjudicated [S.W.] delinquent and directed [that] she be placed and committed at Adelphi Village Middle Creek Secure Treatment Program.

Juvenile Court Opinion ("J.C.O."), 11/14/2013, at 1-3 (references to notes of testimony omitted; some capitalization modified).

On September 18, 2013, S.W. filed a notice of appeal. In response, the juvenile court directed S.W. to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). S.W. timely complied. On November 14, 2013, the juvenile court issued an opinion pursuant to Pa.R.A.P. 1925(a).

S.W. presents the following two questions for our consideration:

1. Was the evidence insufficient to adjudicate [S.W.] delinquent of escape when a Berks County judge dismissed the pending charges against [S.W.] and told her she was free to leave?
2. Did the [juvenile] court err in adjudicating [S.W.] delinquent and not dependent when [S.W.] had a history of mental illness and abuse and a history of treatment and supervision by the Department of Children and Youth as a dependent child?

Brief for S.W. at 4.

In her first issue, S.W. challenges the sufficiency of the evidence presented at her delinquency hearing to prove her delinquent beyond a reasonable doubt of escape. Our standard of review is well-settled:

In a juvenile proceeding, the hearing judge sits as the finder of fact. ***In the Interest of A.D.***, 771 A.2d 45, 53 (Pa. Super. 2001). The weight to be assigned the testimony of the witnesses is within the exclusive province of the fact finder. ***Id.*** In reviewing the sufficiency of the evidence, we must determine whether the evidence, and all reasonable inferences deducible therefrom, viewed in the light most favorable to the Commonwealth as verdict winner, are sufficient to establish all of the elements of the offenses beyond a reasonable doubt. ***In the Interest of J.C.***, 751 A.2d 1178, 1180 (Pa. Super. 2000). The Commonwealth may sustain its burden of proving every element of the crime beyond a reasonable doubt by means of wholly

circumstantial evidence. ***In the Interest of J.D.***, 798 A.2d 210, 212 (Pa. Super. 2002).

In re L.A., 853 A.2d 388, 391 (Pa. Super. 2004).

A person commits escape if she “unlawfully removes [herself] from official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited period.” 18 Pa.C.S. § 5121(a).

Viewed in the light most favorable to the Commonwealth, the record reveals the following summary of the events, which spanned multiple counties, that led to S.W.’s delinquency adjudication. On June 7, 2013, S.W. was adjudicated delinquent of simple assault in Bucks County. As a consequence of that adjudication, S.W. was placed in the custody of Hoffman Homes.

On July 23, 2013, while still under the Bucks County order committing her to Hoffman Homes, S.W. was transported from Hoffman Homes to Berks County for a delinquency hearing on unrelated charges. At that hearing, the Berks County juvenile court dismissed the charges against her. The Berks County proceeding was separate and unrelated to the Bucks County disposition. Notably, S.W. was informed at the Berks County proceeding that she was free to leave on those charges. However, it was not indicated to her in any manner that she no longer was subject to the Bucks County order. The Bucks County order committing her to Hoffman Homes was not, and could not have been, altered in any way.

S.W. argued at her delinquency hearing that, when the Berks County judge informed her that she was free to leave, she believed that she no longer was in the custody of Hoffman Homes. She makes a similar argument to this Court. **See** Brief for S.W. at 10-11. Her argument is unavailing. First, and foremost, the juvenile court found her testimony in this regard to be entirely lacking in credibility. **See** J.C.O. at 5. As noted above, in a juvenile delinquency proceeding, the judge sits as fact finder, and we are bound on appeal by that judge's credibility findings. **See In re A.D., supra.** Second, her argument is belied by her very own actions. When the charges against her in Berks County were dismissed, S.W. returned to the van with Ms. Minner to take her back to Hoffman Homes. S.W. did not object, nor did she question her obligation to return to Hoffman Homes. S.W. also did not walk away from the van in a manner consistent with her belief that she was free from custody. Rather, she entered into the van, got into the back seat, and the van proceeded to leave. S.W. waited until the van came to a stop for Ms. Minner to pay a parking fee, and then jumped out of the back of the van. S.W.'s surreptitious exit from the van directly contradicts her claim that she did not know that she was required to return to Hoffman Homes.

Viewed in the light most favorable to the Commonwealth, this evidence demonstrates that S.W. was in the custody of Hoffman Homes pursuant to a Bucks County order at the time that she fled the van, that she knew that she was subject to the order and custody, and that she

“unlawfully removed [herself]” from that custody. Hence, the evidence was sufficient to support S.W.’s delinquency adjudication of escape.

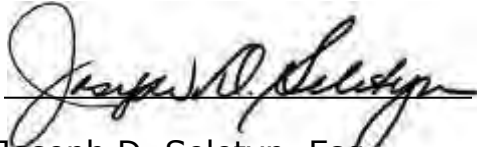
In her second issue, S.W. argues that the juvenile court erred by adjudicating S.W. delinquent based upon her conduct, rather than merely continuing her dependent status. Although not entirely clear, it appears that S.W. is arguing that S.W., an “ungovernable” juvenile, **see** Brief for S.W. at 17, would have been better served by continuing to treat her as a dependent child, and treated as such at Hoffman Homes, instead of “saddling” her with a criminal record. **Id.** In essence, S.W. appears to maintain that the juvenile court should have dismissed the charges against her, and should have considered her actions as part of her ongoing dependency.

S.W. has waived this issue. Aside from a passing reference to the Juvenile Act’s definition of a dependent child, **see** Brief for S.W. at 16 (citing 42 Pa.C.S. § 6302, S.W. offers no citations to any pertinent or binding authorities that would either support the equitable result that she seeks, or that would even demonstrate that this Court has the authority to provide that type of relief. According to Pennsylvania Rule of Appellate Procedure 2119(a), an appellant must support the arguments set forth in her appellate brief with “such discussion and citation of authorities as are deemed pertinent.” Pa.R.A.P. 2119(a). The failure to support an argument with such authorities results in waiver of that claim. **Commonwealth v. Antidormi**, 84 A.3d 736, 754 (Pa. Super. 2014). S.W.’s present failures preclude us from meaningfully addressing her claim, and necessarily produce

the type of undeveloped argument that must result in waiver of S.W.'s substantive claim. Hence, "as [S.W.] has cited no legal authorities nor developed any meaningful analysis, we find this issue waived for lack of development." ***Commonwealth v. McLaurin***, 45 A.3d 1131, 1139 (Pa. Super. 2012) (citing ***Commonwealth v. Johnson***, 985 A.2d 915, 924 (Pa. 2009)); Pa.R.A.P. 2119(a).

Order affirmed.

Judgment Entered.

A handwritten signature in black ink, appearing to read "Joseph D. Seletyn", written over a horizontal line.

Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/1/2014