

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In re the Matter of

JESSICA RAMOS,

A Vulnerable Adult.

No. 41685-9-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — Jessica Ramos is a 20-year-old developmentally disabled adult who lived with Tyrone Gamble and his wife Babysalome.¹ Babysalome appeals from an order of protection – vulnerable adult (VAPO) limiting her contact with Ramos, her daughter. We affirm.²

In 2004, Tyrone was charged with third degree child rape against Ramos. Tyrone was convicted of the lesser offense of third degree assault against Ramos. A no-contact order prohibiting Tyrone from contacting Ramos was entered against him as part of that conviction, but the order was rescinded in 2006.

On September 27, 2010, Adult Protective Services (APS) received a referral alleging that

¹ We use the Gambles' first names for clarity and intend no disrespect.

² A commissioner of this court initially considered Babysalome's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

Ramos was being sexually abused by her step-father, Tyrone. Ramos was living with the Gambles at the time of the referral. When APS initially contacted Ramos about the referral on September 30, 2010, she denied any abuse. But the next day, she reported the abuse to her job coach. During a second interview on October 1, 2010, Ramos reported that Tyrone had been sexually abusing her since she was 17 years old, with the last abuse occurring in June 2010. She said that the abuse only occurred when Babysalome was not at home and that she had not told her about the abuse. Ramos moved to an adult family home after the second interview.

APS filed a petition for a VAPO on Ramos's behalf as to both Tyrone and Babysalome. At a hearing on the petition, APS asked that contact between Babysalome and Ramos be supervised because Ramos is very susceptible to undue influence and because Babysalome has previously said that Ramos's allegations of sexual abuse by Tyrone should not be believed. Babysalome opposed the entry of a VAPO because there was no evidence that she was aware of Tyrone's alleged abuse of Ramos. The court commissioner found that Ramos is a vulnerable adult and that Babysalome had neglected her. The commissioner entered a VAPO limiting Babysalome's contact with Ramos to supervised visits at the adult family home where Ramos was living.³ The VAPO form used in the order states that the court had found that Babysalome had "committed acts of abandonment, abuse, neglect and/or financial exploitation" of Ramos. Clerk's Papers (CP) at 7. Babysalome's motion to revise was denied.

First, Babysalome argues that the court erred in finding that she had "committed acts of abandonment, abuse, neglect and/or financial exploitation" of Ramos because there was no evidence that she had committed acts of abandonment, abuse, or financial exploitation. CP at 7.

³ The commissioner also entered a VAPO restraining Tyrone from any contact with Ramos. He is not a party to this appeal.

While that is true, the finding used the disjunctive “or” and therefore need not be stricken.

Second, Babysalome argues that the court erred in finding that she had committed acts of neglect of Ramos. She contends that because the no-contact order restricting Tyrone’s contact with Ramos had been rescinded in 2006, and because Ramos had never told her about Tyrone’s sexual abuse that allegedly began in 2007, there is no evidence that she neglected Ramos by allowing Tyrone to return to the family home. She also contends that her opinion, that she does not believe Ramos’s allegations, is not evidence of neglect. But the court had evidence that Ramos was very vulnerable to undue influence and was extremely reluctant to tell Babysalome anything that would disrupt her relationship with Tyrone. Adding this evidence to Tyrone’s prior assault of Ramos, which had originally been pleaded as third degree rape of a child, Babysalome’s act of allowing Tyrone to live with her and Ramos was sufficient evidence of neglect to support the VAPO.

Finally, Babysalome notes that she does not object to the order requiring supervised visitation. She objects only to the finding that she neglected Ramos. She suggests that the court need not make a finding of neglect in order to enter a VAPO and asks that the finding be stricken. But a petition for VAPO can be filed only when a vulnerable person seeks “relief from abandonment, abuse, financial exploitation, or neglect.” RCW 74.34.110(1). While the statute defining the judicial relief that may be ordered in a VAPO, RCW 74.34.130, does not expressly require the court to make a finding of abandonment, abuse, financial exploitation, or neglect involving the vulnerable adult, a requirement for such a finding is fairly implied by RCW 74.34.110(1). Thus, we decline Babysalome’s invitation to strike the finding of neglect but leave the remainder of the VAPO intact.

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We affirm the entry of the VAPO restricting Babysalome to supervised visits with Ramos.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

We concur:

ARMSTRONG, P.J.

JOHANSON, J.