

RENDERED: October 29, 2004; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-000405-MR

A.S., A CHILD

APPELLANT

v. APPEAL FROM CLARK CIRCUIT COURT
HONORABLE JEAN CHENAULT LOGUE, JUDGE
ACTION NO. 99-J-00311

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** *

BEFORE: JOHNSON, TAYLOR, AND VANMETER, JUDGES.

TAYLOR, JUDGE: A.S., a child brings this appeal from the December 19, 2003, order of the Clark Circuit Court, Family Court Division. We affirm.

In October 1999, a juvenile petition was filed alleging appellant had been habitually truant in violation of Kentucky Revised Statute (KRS) 630.020(3). Appellant eventually "pled status," and the court placed certain restrictions on her behavior. Among the restrictions placed upon appellant were that she attend school without fail. Appellant was frequently

absent from school over the next few years and was subsequently found in contempt of court for violating those restrictions.

Appellant was eventually committed to the custody of the Cabinet for placement in a residential treatment facility. Upon appellant's completion of the treatment program, the Commonwealth made a motion requesting a dispositional review of appellant's case. Pursuant to the Commonwealth's motion, on September 25, 2003, an order was entered discharging appellant from commitment to the Cabinet.

On December 1, 2003, the Commonwealth again filed a motion for contempt based upon appellant's failure to attend school. An order was entered on December 19, 2003, finding appellant to be in contempt of court. This appeal follows.

Appellant contends she could not be held in contempt of court for her failure to attend school, as there was no valid order in place requiring her to do so. Specifically, appellant asserts the September 25, 2003, order discharging her from commitment to the Cabinet extinguished any prior court order finding appellant to be habitually truant and requiring her to attend school. Appellant contends she was discharged from commitment to the Cabinet and that no additional restrictions were placed on her behavior. As such, appellant contends when she was again absent from school, the Commonwealth was required

to file a new juvenile petition alleging habitual truancy, rather than a motion for contempt.¹

It is clear that in enacting the Unified Juvenile Code, Kentucky Revised Statutes (KRS) Chapters 600-645, it was the legislature's intent to promote the protection of children, ensure children had a safe and nurturing home and provide treatment to those children brought before the court pursuant to the code. KRS 600.010. It is equally clear that pursuant to KRS 610.010(13), the court has continuing jurisdiction over a child who has been adjudicated habitually truant until the child reaches the age of eighteen (18). Both the general intent of the juvenile code and the more specific language of KRS 610.010, indicate that the court continued to have jurisdiction over this matter.

It is also well established that a court has the inherent authority to secure compliance with its orders. Dunagan v. Commonwealth, Ky., 31 S.W.3d 928 (2000). Furthermore, KRS 600.060 specifically states that "[n]otwithstanding any other provision of KRS Chapter 600 to 645 [the Kentucky Unified Juvenile Code], the inherent contempt power of the court shall not be diminished." As such, the court had the authority to

¹ A review of the record indicates that from the time appellant was discharged from commitment to the Cabinet on September 25, 2003, until she was before the court on the motion for contempt on December 1, 2003, she only attended school twelve days.

utilize its inherent power of contempt in this juvenile proceeding.

Appellant misconstrued the September 25, 2003, order discharging her from commitment to the Cabinet. The order merely discharged appellant from commitment. The order did not, as appellant contends, extinguish any previous orders of the court. The order directing appellant to "attend school without fail" remained in effect and was a valid order. Thus, when appellant violated the court's order, it was proper for the Commonwealth to proceed by way of a motion for contempt.

Under the circumstances presented, requiring the Commonwealth to file a new petition would be against the general intent of the juvenile code and offensive to the notion that a court has the inherent authority to enforce compliance with its own orders. The order discharging appellant from commitment to the Cabinet was very concise and directed only that appellant be discharged from commitment. The order did not state, nor did it imply, that any previous order of the court was otherwise extinguished by its entry. The order requiring appellant to attend school without fail remained in effect. Appellant choose not to attend school, in violation of that court's order and, thus, was properly found in contempt of court.

For the foregoing reasons, the December 19, 2003, order of the Clark Circuit Court, Family Court Division, is affirmed.

ALL CONCUR.

BRIEFS AND ORAL ARGUMENT FOR
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