Filed 8/6/15 In re K.A. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re K.A., a Person Coming Under the Juvenile Court Law.	B258826 (Los Angeles County Super. Ct. No. PJ50796)
THE PEOPLE, Plaintiff and Respondent, v. K.A., Defendant and Appellant.	

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert J. Schuit, Judge. Affirmed.

Esther R. Sorkin, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Victoria B. Wilson and Jessica C. Owen, Deputy Attorneys General, for Plaintiff and Respondent.

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In this juvenile delinquency case, the court placed appellant on probation without wardship after finding the allegations of a petition under Welfare and Institutions Code section 602 to be true. Appellant contends the court erred in denying her motion to exclude evidence or, in the alternative, to dismiss the petition. We affirm.

FACTS AND PROCEDURE

On January 31, 2014, at approximately 3:30 a.m., Officers Edgar Cruz and Karen Torres were in their black and white police vehicle and dressed in full uniform when they observed appellant and another female in the area of Sepulveda Boulevard and Vose Street. Appellant and her companion were in an area known for prostitution. Officer Cruz recognized appellant's companion from a prior contact. The officers were observing the activity of appellant and her companion for over 30 minutes. Appellant and her companion stopped at a corner and were monitoring traffic, specifically looking into vehicles with lone male motorists. At one point, appellant's companion separated from her and went to a waiting vehicle that had parked. At another point, a male approached them and engaged them in conversation. Officer Cruz believed their behavior was consistent with loitering for prostitution. The officers contacted appellant and her companion and asked their names. Appellant first told Officer Cruz that her name was Georgetta Lanice Ray. He looked up the name on the computer and was unable to find appellant using that name. They asked appellant her name again, and she provided another name that was not her true name. She eventually provided her true name. The officers' investigation was delayed for roughly one and a half hours by appellant providing false names.

The district attorney filed a petition under Welfare and Institutions Code section 602 alleging that appellant had unlawfully resisted, delayed, and obstructed Officers Torres and Cruz in violation of Penal Code section 148, subdivision (a)(1). Appellant moved to exclude any evidence that she engaged in conduct relating to a commercial sex

act under Evidence Code section 1161,[1] or in the alternative, a motion to dismiss the petition in the interests of justice under Welfare and Institutions Code section 782.[2] Specifically, she wanted to exclude "evidence of her alleged conduct of engaging and agreeing to engage in [a] commercial sex act." The court denied appellant's motion and found the allegations of the petition true. The court placed appellant on probation for six months without declaring her a ward of the court (Welf. & Inst. Code, § 725, subd. (a)).[3] Appellant filed a timely notice of appeal.

DISCUSSION

Appellant contends the court abused its discretion in denying her motion to exclude evidence under section 1161. We disagree.

Section 1161 is one part (among many parts) of the Californians Against Sexual Exploitation (CASE) Act, approved by the voters in November 2012. (*In re Aarica S.* (2014) 223 Cal.App.4th 1480, 1483, 1485.) In enacting the CASE Act, the voters' declared purpose and intent was "'[t]o combat the crime of human trafficking and ensure just and effective punishment of people who promote or engage in the crime of human trafficking'" and "'[t]o recognize trafficked individuals as victims and not criminals, and to protect the rights of trafficked victims.'" (*Aarica S.*, at p. 1486.)

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1 Further undesignated statutory references are to the Evidence Code.

2 Welfare and Institutions Code section 782 provides in pertinent part: "A judge of the juvenile court in which a petition was filed may dismiss the petition, or may set aside the findings and dismiss the petition, if the court finds that the interests of justice and the welfare of the person who is the subject of the petition require that dismissal, or if it finds that he or she is not in need of treatment or rehabilitation."

3 Under Welfare and Institutions Code section 725, subdivision (a), the court may place a minor on probation for up to six months without adjudging him or her a ward of the court. If the minor fails to comply with the conditions of probation, the court may reinstitute wardship proceedings and adjudge the minor a ward of the court. (*Ibid.*) If the minor successfully completes probation, however, the court must dismiss the wardship petition, and the arrest on which the petition was based will be deemed not to have occurred. (Welf. & Inst. Code, § 786.)

When the voters enacted former section 1161, subdivision (a), it provided: "Evidence that a victim of human trafficking . . . has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability *for any conduct related to that activity.*" (Prop. 35, § 4, approved Nov. 6, 2012, eff. Nov. 7, 2012, italics added.) A "commercial sex act" is defined as "sexual conduct on account of which anything of value is given or received by any person." (Pen. Code, § 236.1, subd. (h)(2).)

Effective January 1, 2014, the Legislature amended section 1161, subdivision (a). The current form of the statute provides: "Evidence that a victim of human trafficking . . . has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability *for the commercial sexual act*." (Stats. 2013, ch. 126, § 1, italics added.) Thus, the amendment narrowed the scope of the evidentiary exclusion. Previously, evidence that a victim of human trafficking engaged in a commercial sex act was inadmissible to prove the victim's criminal liability for any conduct merely related to the commercial sex act. As of January 1, 2014, that same evidence is inadmissible only when offered to prove the victim's criminal liability for the commercial sex act itself. The amended statute governs in this case, which involves events occurring after the effective date of the amendment.

We review the court's ruling on the motion to exclude evidence for abuse of discretion. (*People v. Alvarez* (1996) 14 Cal.4th 155, 201.) We also review the ruling on a motion to dismiss a delinquency petition for abuse of discretion. (*In re Greg F.* (2012) 55 Cal.4th 393, 413.)

Here, the court properly denied appellant's motion because section 1161 clearly did not apply. We will assume for the sake of argument that appellant was a victim of human trafficking. Even so, the petition alleged appellant resisted, obstructed, and delayed Officers Cruz and Torres in discharging their duties (Pen. Code, § 148, subd. (a)(1)), not that appellant engaged in a commercial sex act. The district attorney was not trying to prove that appellant was criminally liable for a commercial sex act. Only her criminal liability for violating Penal Code section 148 was at issue. The officers testified

about how appellant behaved consistent with loitering for purposes of prostitution and then gave them false names, but they did not testify that she engaged in any sexual conduct in exchange for something of value. To the extent there was any evidence that appellant had actually engaged in a commercial sex act, the district attorney did not offer it to prove her criminal liability for the commercial sex act itself. Thus, section 1161 did not render such evidence inadmissible.

Appellant acknowledges that if one looks at the letter of the law, the trial court properly denied her motion. She nevertheless argues that the court abused its discretion because it violated the spirit of the law, which is to ensure that victims of human trafficking are not treated as criminals. If one follows the spirit of the law, appellant asserts, she should not be prosecuted for any offense related to a commercial sex act, and the court should have granted her alternative motion to dismiss the petition. She resorts to legislative history to support her argument and contends that following the letter of the law results in absurd consequences the Legislature did not intend. We are not persuaded.

First, section 1161 is not a shield to prosecution. It simply regulates what evidence is or is not admissible. If the voters (in the case of the original enactment) or the Legislature (in the case of the amendment) wanted to provide victims of human trafficking with a blanket immunity from prosecution for any crime, they could have done so. They did not. Second, section 1161 is unambiguous. "Courts must look first to the plain words of an enactment and, if there is no ambiguity in the language, must presume the legislative body meant what it said without resort to legislative history." (*People v. Bradley* (2012) 208 Cal.App.4th 64, 83.) The plain language of the statute excludes evidence of a commercial sex act to prove criminal liability for the commercial sex act. It does not exclude the evidence in other circumstances. We presume the Legislature meant exactly what it said and need not look to the legislative history.

Even were we to look at the legislative history, we would not be persuaded that applying the letter of the law results in absurd and unintended consequences.[4] As a representative example, appellant relies on an analysis of the proposed amendment prepared for the Assembly Committee on Public Safety. The analysis contains a statement from the bill's author that the original version of section 1161 could have reached beyond its intended use and "'jeopardize[d] other serious prosecutions'" of the victim of human trafficking. (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 694 (2013-2014 Reg. Sess.) May 7, 2013, p. 2.) For instance, if a victim of human trafficking was charged with robbery or murder of the human trafficker, evidence that the victim of human trafficking had engaged in a commercial sex act at the behest of the trafficker could be key in establishing motive. (*Ibid.*) The author went on to state that narrowing section 1611 "'to apply only to prosecutions for the commercial sexual act'" would allow for evidence of the commercial sex act to be used in "'other prosecutions.'" (Assem. Com. on Public Safety, Rep. on Assem. Bill No. 694, *supra*, p. 2.)

Appellant contends that these statements evince an intent to aid the prosecution of serious offenses or offenses affecting third persons, but not minor offenses like obstructing or delaying an officer. Preliminarily, we observe that "[s]tatements by a bill's author as to its intended purpose are not cognizable evidence of the legislative intent." (*People v. Bradley*, *supra*, 208 Cal.App.4th at p. 83.) Assuming for the sake of argument that these statements were good evidence of legislative intent, the author was plainly concerned with aiding "other" prosecutions that were not for the commercial sex act. Simply because the author discussed prosecutions for robbery and murder does not mean the Legislature intended to aid *only* those prosecutions for serious offenses. Again, the plain language of the statute is our best guide. If the Legislature intended to exclude

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4 Appellant requests that we take judicial notice of various materials she received from the Legislative Intent Service concerning section 1161. Respondent has not expressed opposition to the request for judicial notice. We grant the request, though the materials do not change our view that the trial court did not err here.

evidence of a commercial sex act in prosecutions for minor offenses related to the commercial sex act, it could have easily drafted the amended statute that way. Instead, it drew a bright line between "the victim's criminal liability for the commercial sexual act" (§ 1161, subd. (a)) and the victim's criminal liability for all other offenses.

In sum, the officers did not offer any evidence that appellant had actually engaged in a commercial sex act. The district attorney was not prosecuting appellant for a commercial sex act. Section 1161 did not therefore exclude any such evidence, and it did not bar appellant's prosecution for resisting, obstructing, or delaying the officers by providing false names. The trial court did not err.

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.