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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re A.C., a Person Coming
Under the Juvenile Court Law.

B285415
(Los Angeles County
Super. Ct. No. CK62621)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

CALVIN C.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County. Joshua Wayser, Judge. Affirmed and
remanded.

Serobian Law, Inc., and Liana Serobian, for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Respondent.

Calvin C., father of A.C., appeals from the dependency court's Minute Order of May 3, 2017, terminating jurisdiction over A.C., declaring him a ward of the delinquency court and releasing him to the probation department. Calvin C. contends that it was error to declare A.C. a ward of the delinquency court without first obtaining the Welfare and Institutions Code section 241.1¹ report which is mandated in the case of a dual status minor. We affirm the termination of dependency jurisdiction, but remand the matter to the dependency court to correct its Minute Order of May 3, 2017, to reflect the orders actually issued by the court on the record.

BACKGROUND

The juvenile court adjudicated A.C. and his four siblings dependents of the juvenile court in September 2014 based on the mental and emotional issues of their mother, Shanell W. (mother), her failure to provide them appropriate care and supervision, and the inability of the fathers of the respective children to provide care and supervision and/or their criminal history. A.C. was removed from his mother's custody and placed

¹ All further statutory references are to the Welfare and Institutions Code.

in foster care with an order that family reunification services be provided.

By March of 2015, A.C. had had multiple placements due to his physical and verbal aggression towards peers and adults. He experienced serious mental health instability and was placed on psychiatric holds on at least two occasions. In January of 2015, he was placed at the Five Acres Group Home where he received therapy, medication management and psychiatric services. He responded to therapy and was reported to be making “tremendous” progress.

One year later, on March 9, 2016, the court released A.C. to his father’s custody, finding by clear and convincing evidence that there was a substantial danger to the physical health, safety and emotional well-being in allowing A.C. to remain in the home of the mother.

The Los Angeles County Department of Children and Family Services (Department) reported on May 3, 2017, that A.C. was receiving all necessary mental health services while in his father’s care and that it did not appear that A.C. would benefit from further services. The Department recommended granting the father sole custody and terminating jurisdiction. The following exchange took place between the court and counsel for A.C. on the record that day:

“The Court: . . . I think the progress is to [A.C.] -- I believe we’re here to just consider when the case can close.

“Counsel: Your Honor, we have not been able to reach [A.C.] at all, so I have no direction. The last information we have is from his court hearing that was in February that he did not show up, so there was a warrant that was issued.

“The Court: And that would be in our delinquency court.

“Counsel: Yes, delinquency court.

“The Court: Under the circumstances I’m inclined to close the case and we’ll close the case as to [A.C.] The conditions which justified the jurisdiction as to him no longer exist. I recognize a pending delinquency case. But I don’t think we need the juvenile court case open anymore. I’m going to close as to [A.C.]”

There was no objection to the termination of the juvenile court’s jurisdiction over A.C. The Minute Order issued following the May 3, 2017 hearing indicates that “JURISDICTION IS TERMINATED as to the minor(s) [A.C.] subject to further proceedings re financial responsibility per WIC 903. Child has been declared a ward pursuant to WIC 602” and that he is “RELEASED TO: PROBATION DEPT.”

Calvin C. filed this appeal on June 28, 2017.

DISCUSSION

A. The Dependency Court Did Not Declare A.C. a Ward of the Delinquency Court.

A.C.’s father argues that it was improper on May 3, 2017, for the dependency court to declare A.C. a ward of the delinquency court and to release him to the probation department without a report and recommendation pursuant to section 241.1, governing dual status children.

Subdivision (a) of that section provides in pertinent part that “[w]henver a minor appears to come within the description of both Section 300 and Section 601 or 602, the county probation department and the child welfare services department shall, pursuant to a jointly developed written protocol described in subdivision (b), initially determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments shall be presented to the

juvenile court with the petition that is filed on behalf of the minor, and the court shall determine which status is appropriate for the minor. . . .” (§ 241.1, subd. (a).)

Section 241.1 does not apply here. The purpose of the May 3, 2017 hearing was only to consider termination of the dependency court’s jurisdiction. The reporter’s transcript demonstrates the court terminated its jurisdiction over A.C., and in the course of doing so, simply stated that it “recognize[d] a pending delinquency case.” Despite the court’s observation, there is no evidence in the record that a petition was pending under either section 601 or 602 and therefore no evidence A.C. had dual status as both a dependent and delinquent child. The subsequently prepared Minute Order is clearly incorrect in its recital that A.C. “has been declared a ward pursuant to WIC 602” if it is intended to document the dependency court orders of May 3, rather than recognize a past act.

Where there is a conflict between the court’s oral statements reflected in the reporter’s transcript of the hearing and the recitals in the clerk’s transcript, the reporter’s transcript is presumed to be the more accurate. (*Jennifer T. v. Superior Court* (2007) 159 Cal.App.4th 254, 259.) Clerical mistakes in the minute order do not constitute reversible error. (*Stone v. San Francisco Brick Co.* (1910) 13 Cal.App. 203, 206 [judgment not reversed because of mere clerical error].) The matter must be remanded to the juvenile court to correct the Minute Order to reflect the court’s stated orders.

B. Appellant Failed To Demonstrate Prejudice Because the Conditions Which Justified Jurisdiction Over A.C. No Longer Exist.

Section 13 of Article VI of the California Constitution prohibits setting aside a judgment unless the error resulted in a miscarriage of justice. That language has been interpreted to permit reversal only where it is reasonably probable the result would have been more favorable to the appellant had the error not occurred. (*In re Celine R.* (2003) 31 Cal.4th 45, 59.) Calvin C. has failed to present any argument either he or A.C. has suffered any prejudice or that there was a miscarriage of justice as a result of the Minute Order.

Nor can any prejudice be shown. When a minor “appears to come within the description of both Section 300 [dependency] and Section 601 or 602 [delinquency], the county probation department and the child welfare services department shall . . . determine which status will serve the best interests of the minor and the protection of society. . . .” (§ 241.1, subd. (a).) The resulting report and recommendations are then considered by the court in determining which agency will assume jurisdiction. In this case, however, the juvenile court terminated its dependency jurisdiction on May 3, 2017, upon a finding that “[t]he conditions which justified the jurisdiction as to [A.C.] no longer exist[ed].” Since A.C. was no longer a minor within the description of Section 300, he was not a dual status child. No prejudice can be shown from the absence of a report concerning which agency should assume jurisdiction over the child.

DISPOSITION

The court finds that the Minute Order of May 3, 2017, reciting an order not made by the juvenile court contains a clerical error. The matter is remanded to the juvenile court to correct the error and issue an amended Minute Order clarifying the minor is released to his father's custody.

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_____, J.*
MATZ

We concur:

_____, P. J.
LUI

_____, J.
HOFFSTADT

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.