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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re PAULINE V., a Person Coming Under the Juvenile Court Law.	B278783 (Los Angeles County Super. Ct. No. XK01761)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Appellant, v. PAULINE V., Defendant and Respondent.	

APPEAL from an order of the Superior Court of Los Angeles County. Margaret Henry, Judge. Affirmed.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Kim Nemoy, Deputy County Counsel, for Plaintiff and Appellant.

Megan Turkat Schirn, under appointment by the Court of Appeal, for Defendant and Respondent.

The Los Angeles County Department of Children and Family Services (DCFS) appeals from a juvenile court order retaining jurisdiction over Pauline V. (Pauline, born June 1996), a married nonminor dependent. DCFS argues that the juvenile court erred in denying its request to terminate dependency jurisdiction over Pauline, who is now a married nonminor and whose husband is in the military and providing her with support, housing, and benefits through the military.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 2013, Pauline, who was then 16 years old, was declared a dependent of the juvenile court based upon allegations of physical abuse perpetrated by her father, failure to protect by her mother, her father's criminal lifestyle and drug abuse, and the parents' domestic violence. Upon reaching the age of majority, Pauline remained a dependent of the juvenile court as a nonminor dependent.

By all accounts, Pauline took great advantage of the services provided by DCFS and is a successful young adult, having graduated from high school, complying with case plan requirements, and attending California State University Channel Islands to pursue a degree in graphic design. DCFS provided services to her, including securing her funds to purchase a laptop, paying for graduation expenses, and helping her apply for and obtain a $3,000 scholarship. DCFS also furnished Pauline's dorm room and obtained a bus pass so that she could visit relatives on weekends and during school breaks. Pauline and the DCFS social worker together updated the Transitional Living Plan and Agreement.

In May 2016, Pauline married her long-time boyfriend, Christian O. (Christian), who is in the armed services and was due to be deployed to Afghanistan. Since they married, they have been living together in military housing.

Because Pauline is now a married adult, DCFS requested that the juvenile court terminate dependency jurisdiction over her.

Initially, Pauline agreed that her dependency case should be closed since she was married. She planned to take a year off from school to live on base with Christian until his deployment and then reenroll in school to finish her degree. Until then, she wanted to obtain employment and enroll in college courses near her home with her husband, who was gainfully employed by the military, able to provide for her, and already had enrolled her in his military medical benefits plan. The DCFS social worker visited Pauline at her new residence with Christian, which is paid for by the military.

DCFS submitted the JV-365 Termination of Juvenile Court Jurisdiction—Nonminor form, indicating that the social worker had provided Pauline with various requisite documentation.

At Pauline's request, the juvenile court set the matter for a contested hearing on August 30, 2016. DCFS informed the juvenile court that Pauline now wanted her case to remain open, so that she could continue receiving services and funding.

At the hearing, the juvenile court received various reports into evidence. By the time of the hearing, Pauline had enrolled in a community college close to her new home with Christian.

The juvenile court noted that there was no federal or state law prohibiting married persons from receiving nonminor dependent funds and services. County counsel conceded the

point, but cited to Welfare and Institutions Code section 11403, subdivision (j),[1] which directs the California Department of Social Services (CDSS) to publish instructions on the implementation of Assembly Bill No. 12 (AB 12), the bill that resulted in the laws pertaining to nonminor dependents. According to DCFS, this delegation resulted in an All County Letter, issued on October 13, 2011, which, in relevant part, deems married adults ineligible for AB 12 services.

The trial court responded: "They can't change the law or make law. They can take something and interpret it, but it has to be the law." The juvenile court acknowledged budgetary concerns, but noted that there was a competing public interest in allowing nonminor dependents to marry and remain eligible for services and funding. The juvenile court was concerned about nonminor dependents, even those starting families, refraining from getting married until they were 21 in order to retain nonminor dependent status. Thus, it denied DCFS's request to terminate dependency jurisdiction over Pauline.

DCFS's timely appeal ensued.

DISCUSSION

"The Legislature enacted section 391 in 2000 'in response to concerns that dependent children who had reached the age of 18 were being removed from the dependency system before they had adequate skills or resources to support themselves, and evidence that 45 percent of these young persons became homeless within a year after leaving the foster care system. [Citation.] The Youth Law Center, which sponsored the legislation, posited that

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[1] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

"[h]omelessness is not merely a housing issue, but is related to poor education, lack of a support system, estrangement from family, lack of marketable skills, poor employment prospects and lack of community linkages. Emancipation of foster youth before they are ready to live independently creates significant costs—both to the youth and to the state." [Citation.]' [Citation.] In 2009, the Legislature rewrote section 391 to conform to federal law so as to maximize federal financial participation and extend transitional foster care services for youth between the ages of 18 and 21. [Citation.]

"For nonminor dependents who have permanent plans of long-term foster care, 'the court *may* continue jurisdiction of the nonminor as a nonminor dependent of the juvenile court or *may* dismiss dependency jurisdiction pursuant to Section 391.' [Citations.]

"Section 391 expresses the legislative preference for retaining jurisdiction and so the statute authorizes the termination of jurisdiction in only three specific circumstances: the court finds (1) '[t]hat the nonminor does not wish to remain subject to dependency jurisdiction'; (2) '[t]hat *the nonminor is not participating in a reasonable and appropriate transitional independent living case plan*'; or (3) 'after reasonable and documented efforts [that] the nonminor cannot be located.' [Citations.]" (*In re Nadia G.* (2013) 216 Cal.App.4th 1110, 1117–1118.)

"If the juvenile court holds a hearing at which it considers terminating jurisdiction over a nonminor, a county welfare department must '[s]ubmit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction' and, if the agency recommends

termination of jurisdiction, 'submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.' [Citation.] The court *must* continue the dependency of a nonminor dependent who meets the statutory definition and who wishes to remain subject to dependency jurisdiction unless 'the nonminor is not participating in a reasonable and appropriate transitional independent living case plan' or unless after reasonable and documented efforts, the nonminor cannot be located. [Citations.] The party seeking to terminate jurisdiction bears the burden of proof. [Citation.]" (*N.S. v. Superior Court* (2016) 7 Cal.App.5th 713, 721, italics added.)

In light of this statutory language, the juvenile court did not err in denying DCFS's request to terminate jurisdiction over Pauline. (See *People v. Albillar* (2010) 51 Cal.4th 47, 54–55 [when construing a statute, our goal is to ascertain the intent of the Legislature; we do so by first examining the words of the statute; if the words are not ambiguous, their plain meaning controls].) The juvenile court was required to continue dependency jurisdiction because she met the statutory definition of a nonminor dependent, she wanted to remain subject to dependency jurisdiction, and she was participating in an appropriate case plan. (See also Cal. Rules of Court, rule 5.555(d)(2)(A) [noting that the juvenile court "must" continue its jurisdiction unless it finds that certain conditions exist].)

And it is in Pauline's best interests to remain subject to dependency jurisdiction. (*In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1160.) As recognized by DCFS in its opening

brief, Pauline has demonstrated nothing short of success since the time she became subject to dependency court jurisdiction. Presumably, DCFS and its services have helped Pauline achieve her success. It would be a shame and certainly not in her best interests to terminate jurisdiction in order to save DCFS money. (*Id*. at p. 1161.)

In urging us to reverse, DCFS makes the following argument: Section 11403, subdivision (j), directs CDSS to publish instructions on the implementation of AB 12. On October 13, 2011, CDSS published an All County Letter, which deems married adults ineligible to receive benefits as nonminor dependents. Because Pauline is now a married adult, receiving support and benefits by and through her husband, she is not entitled to services through DCFS.

We cannot agree. While section 11403, subdivision (j), instructs CDSS to publish instructions on how to implement AB 12, the October 13, 2011, All County Letter goes beyond that directive. It actually alters the statutory language by adding a basis for terminating dependency jurisdiction that does not exist in section 391's plain language. We cannot, and will not, validate verbiage that changes statutory language. (*Vasquez v. State of California* (2008) 45 Cal.4th 243, 253.)

It follows that we reject DCFS's argument that because the All County Letter deems youth who are in the military ineligible for AB 12 services, Pauline, whose husband is in the military, is no longer eligible for DCFS services. To the extent the All County Letter conflicts with the plain statutory language of section 391, it does not apply.

We also are not convinced by DCFS's attempt to liken Pauline, a married nonminor dependent, to an emancipated minor. Simply put, the terms are different. An emancipated minor is considered a legal adult over whom a juvenile court may not establish jurisdiction. (Fam. Code, § 7050, subd. (c).) Similarly, a child who enters into a valid marriage is an emancipated minor over whom a juvenile court has no jurisdiction. (Fam. Code, § 7002.) Pauline, however, is not a minor; she is a "nonminor dependent." (§ 11403, subd. (a).) This distinction is key—AB 12 was enacted to provide services to nonminors between the ages of 18 and 21; that is a far cry from an emancipated minor not subject to dependency court jurisdiction.

Because we conclude that the juvenile court rightly denied DCFS's request to terminate dependency jurisdiction pursuant to the plain language of section 391, we need not address Pauline's assertion that ruling otherwise would amount to an impermissible infringement on her right to marry.

DISPOSITION

The juvenile court's order is affirmed.

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_____, Acting P. J.
ASHMANN-GERST

We concur:

_____, J.
HOFFSTADT

_____, J.*
GOODMAN

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