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NO. COA05-335

NORTH CAROLINA COURT OF APPEALS

Filed: 20 December 2005

IN THE MATTER OF:
S.N.W., Juvenile.

Richmond County
No. 02J40

Appeal by juvenile from orders entered 2 December 2004 by Judge Christopher Bragg in Richmond County District Court. Heard in the Court of Appeals 3 November 2005.

Attorney General Roy Cooper, by Assistant Attorney General Karen A. Blum, for the State.

Robert W. Ewing, for the juvenile-appellant.

LEVINSON, Judge.

Juvenile appeals from adjudication and disposition orders of the trial court adjudicating the juvenile delinquent and placing her on court supervision for six months. We affirm.

At a hearing held 5 October 2004, the juvenile was adjudicated delinquent pursuant to N.C. Gen. Stat. § 7B-1501(7). The court found that on 2 September 2004 the juvenile "unlawfully, willfully did assault Melvin Ingram, Jr., a school employee of the Richmond County Schools . . . in violation of G.S. § 14-33(c)(6) assault on a school employee." On 2 December 2004 the trial court ordered a Level 1 disposition for the juvenile of six months in-home court supervision with, *inter alia*, the following conditions:

1. Remain on good behavior and not violate any laws.
2. Not violate any reasonable and lawful rules of the juvenile's parent, guardian, or custodian.
3. Attend school regularly.
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5. Not associate with (specify person):
ANY PERSON DEEMED INAPPROPRIATE BY THE JUVENILE COURT COUNSELOR.
6. Not be in the following place(s):
ANY PLACE DEEMED INAPPROPRIATE BY THE JUVENILE COURT COUNSELOR.
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10. Abide by the following curfew:
ABIDE BY A CURFEW AS TO PERSON, PLACES AND TIMES AT THE DISCRETION OF THE JUVENILE COURT COUNSELOR.
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12. Possess no firearm, explosive device, or other deadly weapon.
13. Report to a court counselor as often as required by the court counselor.
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The trial court did not stay the court supervision pending appeal. From the orders of adjudication and disposition, the juvenile appeals.

Due to the passage of time, we conclude the juvenile's first two arguments on appeal, that the trial court erred by (1) authorizing the Juvenile Court Counselor to establish the conditions of the juvenile's curfew, and (2) failing to stay the court supervision pending appeal, have been rendered moot.

"A case is 'moot' when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing controversy." Further, "[w]henever, during the course of litigation it develops that the relief sought has been granted or that the questions originally in controversy between the parties are no longer at issue, the case should be dismissed, for courts will not entertain or proceed with a cause merely to determine abstract propositions of law."

In re Stratton, 159 N.C. App. 461, 463, 583 S.E.2d 323, 324 (2003) (quoting *Roberts v. Madison County Realtors Ass'n*, 344 N.C. 394, 398-99, 474 S.E.2d 783, 787 (1996), and *Dickerson Carolina, Inc. v. Harrelson*, 114 N.C. App. 693, 697, 443 S.E.2d 127, 131 (1994)).

The juvenile's court supervision, which began December 2004, was for a duration of six months. Court supervision was not stayed pending appeal, and there is nothing in the record to indicate that the term of supervision was extended. Because the record on appeal shows only that the juvenile's court supervision has already expired, any opinion of this Court regarding the validity of the conditions of her court supervision, and whether the court supervision should have been stayed pending appeal, could have no practical effect on any existing controversy. Therefore, the juvenile's first two arguments on appeal are moot and are dismissed.

While the doctrine of mootness controls our disposition of the juvenile's first two arguments on appeal, we conclude the doctrine does not apply to the juvenile's third argument on appeal, which concerns the court's adjudication and disposition order. The

juvenile contends the trial court erred by denying her motion for the trial court to recuse himself from her case. We disagree.

[W]here a party moves for recusal, the burden is on the movant to "demonstrate objectively that grounds for disqualification actually exist. Such a showing must consist of substantial evidence that there exists such a personal bias, prejudice or interest on the part of the judge that he would be unable to rule impartially."

In re Lineberry, 154 N.C. App. 246, 249, 572 S.E.2d 229, 232 (2002) (quoting *State v. Fie*, 320 N.C. 626, 627, 359 S.E.2d 774, 775 (1987)) (internal quotation marks and citation omitted).

The juvenile's motion follows:

[ATTORNEY FOR JUVENILE]: Your Honor, I have a motion before we begin. A motion to request that you recuse yourself.

[THE COURT]: Yes, sir.

[ATTORNEY FOR JUVENILE]: Judge, my client's father has asked me to make a motion for you to recuse yourself in the case based on a prior history with, I believe, him and his family.

[THE COURT]: That motion is denied.

There is nothing else in the record beyond defense counsel's statement supporting the juvenile's motion for recusal. The juvenile failed to demonstrate that grounds for disqualification existed. Consequently, we cannot hold that the trial court erred by denying the motion. This assignment of error is overruled.

Affirmed.

Judges MCCULLOUGH and ELMORE concur.

Report per Rule 30(e).