

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

In re: D.A.T., :  
Appellant. : No. 14AP-763  
(C.P.C. No. 10JU-07-10348)  
(REGULAR CALENDAR)

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D E C I S I O N

Rendered on April 23, 2015

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*Ron O'Brien*, Prosecuting Attorney, and *Katherine J. Press*,  
for appellee.

*Emily E. Dunlap* and *Kimberly P. Jordan*, for appellant.

*Meghann S. Scott*, Guardian ad litem.

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APPEAL from the Franklin County Court of Common Pleas,  
Division of Domestic Relations, Juvenile Branch

TYACK, J.

{¶ 1} D.A.T. ("D.T.") came to this country with her mother when D.T. was 11 years old. They entered this country legally, having a visa which allowed their presence here. However, they did not return to Mexico when the visa expired and therefore became undocumented.

{¶ 2} When D.T. was 15 years old, she shot a man in the back which led to delinquency charges of felonious assault being filed against her. As a part of a plea bargain, she entered an admission to the charge and, in return, the State of Ohio discontinued its efforts to bind her over to be treated as an adult.

{¶ 3} D.T. was committed to the custody of the Ohio Department of Youth Services ("DYS") for a term of at least one year. DYS could retain custody of her until she turned 21.

{¶ 4} While still in the custody of DYS, D.T. filed a motion with the juvenile division of the Franklin County Court of Common Pleas seeking certain findings to be made which could open the door for her to become documented. After a number of hearings, a judge of the juvenile division refused to make the requested findings. Counsel for D.T. then initiated this appeal. Counsel has set forth four assignments of error for our consideration:

I. The Juvenile Court Erred in Finding It Was Unable To Grant D.T.'s Requested Special Findings.

II. The Juvenile Court Abused Its Discretion In Failing To Find That D.T. Had Been Declared Dependent On A Juvenile Court When The Court Had Committed Her To The Department Of Youth Services, A State Agency.

III. The Juvenile Court Abused Its Discretion In Failing To Find That Reunification With D.T.'s Father Was Not Viable When He Had No Contact With D.T. For Years.

IV. The Juvenile Court Abused Its Discretion in Failing To Find That It Is Not In D.T.'s Best Interest To Be Returned To Mexico When Her Primary Support System Is In Ohio,

{¶ 5} The whole set of issues regarding undocumented persons has been much debated in the last two years. The current President of the United States has initiated a number of changes in immigration proceedings. Those changes are currently on hold due to the order of a Federal District Court in Texas.

{¶ 6} At present, an earlier law regarding Special Immigrant Juvenile Status is currently binding. Under that law, a juvenile can petition the United States Customs and Immigration Services for a special status which allows an undocumented juvenile to remain in this country. Three special findings are necessary:

1) That the juvenile is dependent or has been committed to the custody of a state agency;

2) That the juvenile cannot viably be reunited with a parent or parents; and

3) The juvenile's remaining in the United States is in the juvenile's best interest.

{¶ 7} Special Immigrant Juvenile Status clearly was initiated to protect juveniles who were in the United States but whose parents were not properly caring for them. There is no reason in the record before us to believe that D.T.'s mother has ever failed to properly care for her. D.T.'s father has not really had much opportunity to care for her since D.T. and her mother moved to the United States over his objections.

{¶ 8} Special Immigrant Juvenile Status was not intended to reward a juvenile who has committed felonious activity by allowing the juvenile to acquire documents which would make her presence in this country legal. Stated differently, the federal statute was enacted to help those who are helpless, not to reward those who engage in serious criminal conduct.

{¶ 9} D.T. is not and has never been dependent in terms of the traditional legal definition of "dependent" in the State of Ohio. The federal expansion of the term "dependent" to allow persons to be considered dependent who are or have been placed in state custody can only be reasonably construed to apply to juveniles who are placed in state custody because of their dependency or other status beyond their control. The definition of "dependent" cannot be reasonably construed to apply to juveniles who are in state custody because they have committed serious crimes. In short, the juvenile division was correct to refuse to make the requested findings to expedite the possibility of obtaining documented status where the only reason for state custody was the commission of a serious crime.

{¶ 10} Turning to the literal assignments of error, the juvenile court did not make the special findings requested because D.T. did not qualify for such special findings. Further, there is serious question as to whether a juvenile court could make any of these findings under the facts of D.T.'s case. A final disposition of D.T.'s delinquency charge was made years before D.T. requested the special findings. The requested special findings are for purposes of addressing issues under immigration law, not issues directly pertaining to D.T.'s rehabilitation following her adjudication of being a delinquent minor. Immigration issues are better handled in a forum devoted to immigration matters, not in the context of delinquency proceedings.

{¶ 11} The first assignment of error is overruled.

{¶ 12} As expressed earlier, we construe the federal statute as applying to truly dependent minors, including those who are committed to state custody due to their dependency or other status not the fault of the juvenile or the result of the juvenile's criminal conduct.

{¶ 13} The second assignment of error is overruled.

{¶ 14} Our earlier findings render the third and fourth assignments of error moot. D.T.'s father had little to say about her departure to the United States in the company of D.T.'s mother, but that does not matter in the context of our interpretation of the pertinent federal statutes. Further, at age 20, D.T. is expected to be an independent adult. She apparently has support systems in both countries, but her "best interests" are no longer the primary concern for the juvenile court which no longer has jurisdiction over her.

{¶ 15} In summary, the first and second assignments of error are overruled. Our rulings in the first two assignments of error render the third and fourth assignments of error moot. The refusal of the juvenile court to make the requested findings is affirmed.

*Judgment affirmed.*

SADLER, J., concurs  
LUPER SCHUSTER, J., concurs in judgment only

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