

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA10-415

HAYLEE DALE BLACK

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered December 1, 2010

APPEAL FROM THE FAULKNER
COUNTY CIRCUIT COURT
[No. JV-2009-243]

HONORABLE RHONDA K. WOOD,
JUDGE

REVERSED and DISMISSED

LARRY D. VAUGHT, Chief Judge

Appellant Haylee Dale Black was ordered to have “no contact” with another minor pursuant to a juvenile-court order. Black violated the order and was found in contempt of court. On appeal, she argues that because the no-contact order flowed from a dismissed Family In Need of Services (FINS) petition, the juvenile court acted without jurisdiction. We agree and reverse and dismiss the case.

Black was born on May 9, 1991. Prior to reaching the age of majority, her father (Jon Black) filed a FINS petition with the juvenile court of Faulkner County, Arkansas. The court entered a FINS adjudication order in April 2009. The order included the following provision:

YOU ARE ORDERED NOT TO CONTACT John Allison, III either in person, by telephone, in writing or otherwise, either directly or indirectly, or through someone else, and to stay at least 100 [feet] from h[im], even if [] he seems to allow or request contact.

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On May 9, 2009, Black reached the age of majority. In anticipation of Black's emancipation, on May 4, 2009, the court dismissed Black's FINS case. The order stated that "[Ms. Black] is no longer in need of services." However, despite dismissing Black's case, the juvenile court extended the no-contact provision for one year.

On January 22, 2010, John Allison II filed a contempt petition, alleging that Black had contacted his son on numerous occasions within the prohibited one-year (post-FINS dismissal) period. A hearing on the matter took place on February 17, 2010. Black's counsel filed a pre-hearing motion objecting to the court's alleged jurisdictional ability to enforce a FINS-related order against Black after she had reached the age of majority. The motion was denied; the court stated that it had ongoing jurisdiction to enforce its own orders and that Black had violated the no-contact order. The court found Black to be in contempt and ordered a ninety-day detention. Specifically, the court held:

Haylee Black is in civil contempt of court. She shall serve 90 days in detention. She has the opportunity to purge the contempt after 48 hours in detention by a) written letter explaining how she realizes the seriousness of her actions and her plan for complying with the court's order[;] b) immediately beginning weekly individual counseling[;] c) continued compliance with the no contact order.

On March 2, 2010, Black filed a timely notice of appeal from the trial court's order.

As a preliminary point, we note that an order of contempt is a final, appealable order. *Central Emergency Med. Servs. v. State*, 332 Ark. 592, 966 S.W.2d 257 (1998). As to the merits, Black's sole argument on appeal is that the court lost jurisdiction to enter the no-contact and resulting contempt order when she reached the age of majority. The governing statute gives circuit courts exclusive jurisdiction to protect families alleged to be in need of services. FINS

cases help families whose juvenile evidences the following behavior: habitually absent from school; habitually disobedient to the reasonable and lawful commands of his or her parent, guardian, or custodian; or absenting himself or herself from the home without permission or justification. Ark. Code Ann. § 9-27-303(24) (Repl. 2009). However, the reach of this statute is limited to persons below the age limit of eighteen (with limited exceptions not applicable to this case). Ark. Code Ann. § 9-27-303(24).

Here, Black turned eighteen on May 9, 2009. The court, in contemplation of Black reaching the age of majority, dismissed the FINS proceeding, stating “[Black] was no longer in need of services.” However, in spite of the dismissal, the court found Black in contempt and extended the no-contact order one year beyond Black’s emancipation. Over Black’s objection, the court stated that it had inherent powers to enforce its order that allowed it jurisdiction beyond that related to the FINS petition. Certainly, punishment for contempt is an inherent power of the court; however, the power must be premised on disobedience of a valid order of a court having jurisdiction to enter it. *White v. Taylor*, 19 Ark. App. 104, 717 S.W.2d 497 (1986).

The State essentially concedes this point, but raises two new theories for affirmance under a right-result-wrong-reason analysis. *Miles v. State*, 59 Ark. App. 97, 954 S.W.2d 286 (1997) (concluding that a trial court can be affirmed for reaching the right result, even for a different reason that was first mentioned on appeal). The State first claims that the trial court should be affirmed because the issue is moot. The State contends that because Black purged the contempt, the resolution of the issue has no legal effect on the existing controversy. *Bryant v. Ark. Pub. Serv. Comm’n*, 45 Ark. App. 47, 870 S.W.2d 775 (1994). However, the record only shows that Black

authored a letter of apology, served the forty-eight hours of detention, and initiated counseling. The record does not indicate whether Black continued with the counseling component, pursuant to the court's order. Also, the no-contact order was renewed for an additional year's time, beyond Black's age of majority. As such, this case fits within an established exception to the mootness doctrine because it is capable of repetition yet evade review—Black will have ample opportunity to violate the order over the course of the next year. *Swindle v. State*, 373 Ark. 519, 285 S.W.3d 200 (2008).

In its second theory in support of affirmance, the State argues that although the court lost jurisdiction over Black at the age of majority (as it relates to her FINS case), the court had jurisdiction over Black under the strictures of the Arkansas Domestic Abuse Act, which is codified at Ark. Code Ann. § 9-15-101 (Repl. 2009). The State argues that although it *appears* from the face of the orders that the court was exercising its jurisdiction under the FINS case—and admittedly used the case numbers and headings from the FINS case—it was *really* exercising jurisdiction pursuant to this Act, which allows the court an “adequate mechanism whereby the State of Arkansas can protect the general health, welfare, and safety of its citizens by intervening when abuse of a member of a household by another member of a household occurs or is threatened to occur, thus preventing further violence.” Ark. Code Ann. § 9-15-101.

There are two obvious flaws with this theory. First, the court was clearly relying on the FINS case as the basis for its jurisdiction, as evidenced by the form (case number) and substance (prohibiting Black from contacting her boyfriend) of the order. Second, the statute cited by the State is inapplicable because there is no domestic abuse implicated in this case, and the parties

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involved in the no-contact order are not members of the same household (a requisite of the statute). Also, the statute does not confer *general* jurisdiction upon the court to enter a no-contact order. Instead, the party must file a verified petition alleging and establishing domestic abuse. Ark. Code Ann. § 9-15-201 (Repl. 2009).

Accordingly, the trial court lost jurisdiction to prevent or limit Black's ability to contact John Allison III when she reached the age of majority. Furthermore, as to the contempt finding, it is impossible for Black to "violate" an order that was entered without an adequate jurisdictional basis. As such, the decision of the juvenile court is reversed, and Black's case is dismissed.

Reversed and dismissed.

GLADWIN and HENRY, JJ., agree.