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ADVANCE SHEET HEADNOTE

June 13, 2022

2022 CO 27

No. 21SA383, *In Re People In Interest of S.A.* – Children's Code – Dependency or Neglect Proceedings – Jurisdiction.

In this opinion, the supreme court reviews whether a juvenile court had jurisdiction to enter an order requiring therapeutic visitation between the subject of a dependency or neglect proceeding and his two siblings, who were not adjudicated dependent or neglected.

The supreme court now holds that no provision of the Colorado Children's Code, §§ 19-3-100.5 to -905, C.R.S. (2021), or the Foster Youth Siblings Bill of Rights, §§ 19-7-201 to -204, C.R.S. (2021), granted the juvenile court personal jurisdiction over the siblings. Additionally, the juvenile court's personal jurisdiction over the child's parents and subject matter jurisdiction over the proceeding did not extend to allow the court to issue an order requiring the parents to bring the non-dependent siblings to therapeutic visitation.

Accordingly, we make absolute the rule to show cause and vacate the juvenile court's order.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2022 CO 27

Supreme Court Case No. 21SA383
Original Proceeding Pursuant to C.A.R. 21
Park County District Court Case No. 21JV9
Honorable Stephen A. Groome, Judge

In Re

The People of the State of Colorado in the Interest of:

Child:

S.A.,

Petitioner:

Park County Department of Human Services,

v.

Respondents:

B.A. and J.A. n/k/a J.W.,

and

Special Respondent:

A.W.

Rule Made Absolute
en banc

June 13, 2022

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JUSTICE BERKENKOTTER delivered the Opinion of the Court, in which **CHIEF JUSTICE BOATRIGHT, JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE HART, and JUSTICE SAMOUR** joined.

JUSTICE BERKENKOTTER delivered the Opinion of the Court.

¶1 We accepted original jurisdiction under C.A.R. 21 to consider whether the Park County District Court, sitting as a juvenile court, erred by issuing an order requiring therapeutic visitation between the subject of a dependency or neglect proceeding and his two younger siblings, who are *not* parties in the proceeding. We now hold that neither the Foster Youth Siblings Bill of Rights, §§ 19-7-201 to -204, C.R.S. (2021), nor the dependency or neglect provisions of the Colorado Children’s Code, §§ 19-3-100.5 to -905, C.R.S. (2021), granted the juvenile court personal jurisdiction over the siblings. Additionally, the court’s personal jurisdiction over the parents and its subject matter jurisdiction over the case did not grant the court authority over the non-dependent siblings. Accordingly, we make absolute the rule to show cause, vacate the juvenile court order, and remand for further proceedings consistent with this opinion.

I. Facts and Procedural History

¶2 Respondents below, B.A. and J.W., adopted S.A., a minor, and his two younger siblings. In 2020, S.A. had homicidal and suicidal ideations and allegedly acted out against his siblings. S.A. was eventually placed in foster care at the

request of B.A., J.W., and A.W. (collectively, “Parents”).¹ After initially opening a voluntary case, the Park County Department of Human Services (“Department”) filed a petition in dependency or neglect as to S.A. The Park County District Court, sitting as a juvenile court, adjudicated S.A. dependent or neglected on September 16, 2021. No party has filed a petition in dependency or neglect on behalf of either of S.A.’s siblings, and no court has adjudicated the siblings dependent or neglected. The juvenile court, after conducting a series of hearings, reviewing the proposed treatment plans, and considering the parties’ position statements, ordered therapeutic sibling visits between S.A. and his two younger siblings “[p]ursuant to [section] 19-7-204,” C.R.S. (2021). The court entered this order over Parents’ strenuous objection. Parents then filed a petition before this court for a Rule to Show Cause under C.A.R. 21, which we granted.² The Park County District Court, the Department, and S.A.’s guardian ad litem (collectively, “Responding Parties”) submitted responses to the court’s order for a Rule to Show Cause.

¹ After B.A. and J.W. adopted S.A., they divorced. When A.W. married J.W., he became S.A.’s stepfather, and the Park County Department of Human Services named him as a special respondent pursuant to section 19-3-502(6), C.R.S. (2021).

² Though the petition alleged several grounds for error, we directed the parties “to limit their briefing to whether the Park County District Court ha[d] jurisdiction to enter this order.”

II. Analysis

¶3 We begin by discussing the applicable standards of review. We then review the law governing the jurisdiction of juvenile courts. After reviewing the law and the facts of this case, we conclude that no statute granted the juvenile court jurisdiction to enter the order requiring S.A.'s non-dependent siblings³ to attend therapeutic visitation with him.

A. Standards of Review

¶4 Whether a juvenile court has subject matter and personal jurisdiction to enter an order is a question of law which we review de novo. *People v. C.O.*, 2017 CO 105, ¶¶ 17, 25–33, 406 P.3d 853, 857, 858–60 (stating that questions of subject matter jurisdiction are reviewed de novo and considering whether the court had personal jurisdiction without deference to the lower court's determinations). Additionally, “[w]e review issues of statutory construction de novo.” *Doubleday v. People*, 2016 CO 3, ¶ 19, 364 P.3d 193, 196. When we interpret a statute, our goal is to “ascertain and give effect to the intent of the General Assembly[,] . . . giving words and phrases their plain and ordinary meanings.” *Id.* (citation omitted). We read the statute “as a whole, giving consistent, harmonious,

³ We refer to the siblings as non-dependent as a shorthand for children whom a court has not adjudicated dependent or neglected.

and sensible effect to all of its parts.” *Id.* at ¶ 20, 364 P.3d at 196. If, based on this analysis, the statute is not ambiguous, we need not go any further. *Id.*

B. Applicable Law

¶5 A court’s jurisdiction is defined as “its ‘power to entertain and to render a judgment on a particular claim.’ Put differently, ‘jurisdiction’ is the court’s authority to hear and determine a matter; it is the court’s power to decide.” C.O., ¶ 21, 406 P.3d at 858 (citation omitted) (quoting *In re Est. of Ongaro*, 998 P.2d 1097, 1103 (Colo. 2000)). To issue orders, a court must have two types of jurisdiction: (1) subject matter jurisdiction—the power to determine a specific type of claim; and (2) personal jurisdiction—the power over a specific party. *Id.* at ¶ 22–24, 406 P.3d at 858; *People in Int. of Clinton*, 762 P.2d 1381, 1386–87 (Colo. 1988). Without personal jurisdiction, a court is “powerless to proceed” and cannot enter binding orders against a party. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 584 (1999) (quoting *Emps. Reinsurance Corp. v. Bryant*, 299 U.S. 374, 382 (1937)).

¶6 District courts are typically courts of general subject matter jurisdiction with wide-sweeping powers. Colo. Const. art. VI, § 9(1); *Matter of A.W.*, 637 P.2d 366, 373 (Colo. 1981). However, at times, district courts also act as juvenile courts, as was the case here. See § 19-1-103(89), C.R.S. (2021). And juvenile courts, as creatures of statute, have “no jurisdiction except that provided by statute.” *Pueblo Cnty. Comm’rs v. Dist. Ct.*, 708 P.2d 466, 467 (Colo. 1985); see, e.g., § 19-1-104, C.R.S.

(2021) (listing the types of cases and parties over which juvenile courts have jurisdiction). Accordingly, we look to the governing statutory provisions to determine whether they grant juvenile courts jurisdiction over the type of claim, *see, e.g., Pueblo Cnty. Comm'rs*, 708 P.2d at 467 (noting that “[n]othing in the provisions of section 19-1-104 authorizes the juvenile court to” decide the claim), or party, *see, e.g., C.O.*, ¶ 30, 406 P.3d at 859 (looking to section 19-1-104(1)(b) to determine whether the juvenile court had jurisdiction over the minor child).

C. Application

¶7 We begin by emphasizing that the question before us is not whether S.A. would benefit from therapeutic visitation with his siblings or whether the juvenile court abused its discretion in entering this order. The issue before us is a purely legal one: whether the juvenile court had jurisdiction—that is, the legal authority—to order S.A.’s non-dependent siblings to attend therapeutic visitation. We conclude it did not.

¶8 As an initial matter, we note that section 19-1-104 (the “Jurisdictional Statute”), which outlines the jurisdiction of juvenile courts and grants them authority over a wide variety of claims and parties, does not explicitly give juvenile courts jurisdiction over the non-dependent siblings of dependent or neglected children. The Jurisdictional Statute’s provisions are extensive: In addition to granting juvenile courts “exclusive original jurisdiction” over cases

“[c]oncerning any child who is neglected or dependent,” § 19-1-104(1)(b), they also grant juvenile courts authority to “determine the legal custody of any child or to appoint a guardian of the person or legal custodian of any child who comes within the juvenile court’s jurisdiction under provisions of this section,” § 19-1-104(1)(c); to “terminate the legal parent-child relationship,” § 19-1-104(1)(d); to issue “orders of support,” § 19-1-104(1)(e); to “determine the parentage of a child and to make an order of support in connection therewith,” § 19-1-104(1)(f); over “the adoption of a person of any age,” § 19-1-104(1)(g); over “any youth who is voluntarily participating in the foster youth in transition program,” § 19-1-104(1)(n); over “any adult who abuses, ill-treats, neglects, or abandons a child who comes within the court’s jurisdiction under other provisions of this section,” § 19-1-104(2); and to “issue temporary orders providing for legal custody, protection, support,” or medical treatment, § 19-1-104(3)(a).

¶9 As pertinent here, however, nothing in the Jurisdictional Statute granted the juvenile court the authority it attempted to exercise: personal jurisdiction over the siblings of dependent or neglected youth when less than the entire sibling group is part of the proceeding.

¶10 It is undisputed that the juvenile court had some jurisdiction over the case. It had subject matter jurisdiction over the proceeding under section 19-1-104(1)(b) because the case concerned S.A., a “child who [was adjudicated] neglected or

dependent.” Section 19-1-104(1)(b) also granted the juvenile court personal jurisdiction over S.A. *See C.O.*, ¶ 20, 406 P.3d at 858 (citing section 19-1-104(1)(b) for the proposition that “[a] juvenile court’s jurisdiction over a child in a dependency or neglect proceeding rests on the status of the child as neglected or dependent”). Additionally, the juvenile court had personal jurisdiction over Parents for orders related to S.A. *See* § 19-1-104(1)(d) (“[t]o terminate the legal parent-child relationship”), (2) (“concerning any adult who . . . neglects . . . a child who comes within the court’s jurisdiction under other provisions of this section”).

¶11 But did the juvenile court also have personal jurisdiction over S.A.’s two younger siblings? Or, alternatively, did the juvenile court’s personal jurisdiction over Parents, along with its wide-sweeping subject matter jurisdiction over dependency or neglect cases combine to authorize the court to issue orders concerning S.A.’s siblings? The parties answer these questions quite differently. Perhaps recognizing that the Jurisdictional Statute does not provide the statutory basis for their claims, the Responding Parties do not rely on it. Instead, they contend that two separate portions of the Colorado Children’s Code – the Foster Youth Siblings Bill of Rights, §§ 19-7-201 to -204, and the dependency or neglect provisions, §§ 19-3-100.5 to -905 – demonstrate that the General Assembly intended juvenile courts to have personal jurisdiction to enter this specific type of order. Because we do not read any provision of the Colorado Children’s Code to

grant juvenile courts this type of jurisdiction, and because their jurisdiction is limited to that which is provided by statute, we disagree and make absolute the rule to show cause.

1. The Foster Youth Siblings Bill of Rights Did Not Grant the Juvenile Court Jurisdiction Over S.A.'s Siblings

¶12 The Foster Youth Siblings Bill of Rights has three primary statutory provisions: sections 19-7-202, -203, and -204, C.R.S. (2021). Section 19-7-202, the legislative declaration, states: “The [G]eneral [A]ssembly finds and declares that it is beneficial for a youth placed in foster care to be able to continue relationships with the youth’s siblings . . . [and] it is the responsibility of all adults involved in a youth’s life . . . to seek opportunities to foster those sibling relationships” § 19-7-202(1)–(2). Section 19-7-203(1) lists a wide range of rights that sibling youth in foster care have, “regardless of whether the parental rights of one or more of the foster youth’s parents have been terminated.” Included within these rights are the right “[t]o maintain frequent and meaningful contact with the youth’s siblings . . . if placement together is not possible,” § 19-7-203(1)(g); the right to “be actively involved in each other’s lives,” § 19-7-203(1)(h); and the right to “have contact with siblings encouraged in any adoptive or guardianship placement,” § 19-7-203(1)(m).

¶13 Section 19-7-204 details the responsibilities of the local department of human services, including that the department “shall provide information on

sibling contact in the visitation plan for a youth,” § 19-7-204(1); shall “[p]romote frequent contact between siblings in foster care,” § 19-7-204(2)(a); and shall, if it is in the best interest of both siblings, “arrange [a] visit” with a sibling if the youth in foster care requests it, § 19-7-204(3). The trial court explicitly referenced this provision, stating that it was ordering sibling visitation “[p]ursuant to [section] 19-7-204.”

¶14 The Responding Parties contend that these provisions, taken together, demonstrate that the General Assembly intended to empower juvenile courts with the authority to order non-dependent children to visit their dependent siblings. But we do not read these provisions to grant juvenile courts any jurisdiction beyond what is contained in the Jurisdictional Statute, which as we explained above, does not provide juvenile courts with this type of authority. Instead, we read the Foster Youth Siblings Bill of Rights to be the General Assembly’s direction to the adults involved in the life of a child in foster care to promote and sustain that child’s family relationships by keeping the child informed and facilitating contact when appropriate.

¶15 None of these provisions contain any statements broadening a juvenile court’s personal jurisdiction to include the non-dependent siblings of a youth in foster care. Section 19-7-202 contains only legislative declarations of purpose, and though subsection (2) states that “all adults involved in a youth’s life . . . [are

expected] to seek opportunities to foster . . . sibling relationships,” it does not purport to *create new* opportunities by granting juvenile courts jurisdiction over siblings beyond that which is granted in the Jurisdictional Statute.

¶16 The Responding Parties argue that because the Foster Youth Siblings Bill of Rights does not limit the enumerated rights in section 19-7-203 to instances when all the siblings are in foster care, every foster youth is entitled to the full panoply of rights contained in section 19-7-203, even if that youth’s siblings are not in foster care. But, it does not necessarily follow that a juvenile court with personal jurisdiction over the foster youth also has personal jurisdiction over the youth’s non-dependent siblings. Most of the enumerated rights apply to the relationship between the sibling youth in foster care and the government actor responsible for caring for them. *See, e.g.*, § 19-7-203(1)(a)-(g), (i)-(n). And a juvenile court does not need personal jurisdiction over a foster youth’s siblings, regardless of their status in the underlying dependency or neglect case, to effectuate these particular rights because any orders enforcing these rights do not involve an exercise of the court’s authority over the siblings. *Id.* A court can thus, for example, order the local department to place a foster child within a “close geographic distance to the youth’s siblings,” § 19-7-203(1)(b); “promptly” notify the child “about changes in sibling placement, catastrophic events, or other circumstances,” § 19-7-203(1)(e); or provide the child “with an explanation if contact with a sibling is restricted or

denied,” § 19-7-203(1)(k), without personal jurisdiction over the siblings themselves.

¶17 To be sure, subsection (h) specifically grants the foster youth siblings the right “[t]o be actively involved in each other’s lives and share celebrations” but qualifies that language with “if the siblings choose to do so.” § 19-7-203(h). Based solely on this language, we cannot read the statute as granting juvenile courts authority over non-dependent siblings. Instead, we read this subsection, based on the qualifying language and the other provisions, to mean only that if all the siblings want to be “actively involved in each other’s lives,” then the local department of human services must facilitate those interactions. Like the other provisions in this section, subsection (h) is a statutorily mandated responsibility of the local department, not a grant of personal jurisdiction to juvenile courts over non-dependent siblings.

¶18 Finally, section 19-7-204, on which the trial court explicitly relied, lists the requirements that local county departments of human services must follow when creating sibling visitation and contact plans. Subsection (3) states that “[i]f a youth in foster care requests an opportunity to visit a sibling, the county department that has legal custody of the youth shall arrange the visit within a reasonable amount of time.” § 19-7-204(3). But this describes the responsibilities of the local county department. Again, as with section 19-7-203(h), it does not purport to expand the

authority of juvenile courts to exercise personal jurisdiction over siblings who are otherwise outside of the juvenile courts' authority, such that the courts can bind them and compel visitation.

¶19 Though the Foster Youth Siblings Bill of Rights, in totality, evinces a strong legislative desire to promote and encourage sibling relationships for foster youth, we do not read any of the provisions, nor the statute in its entirety, as granting juvenile courts personal jurisdiction over non-dependent siblings. And because none of these provisions granted the juvenile court the jurisdiction it attempted to exercise here, the juvenile court erred when it relied on the Foster Youth Siblings Bill of Rights to require S.A.'s siblings to attend therapeutic visitation with him.

2. The Dependency or Neglect Provisions Did Not Grant the Juvenile Court Jurisdiction Over S.A.'s Siblings

¶20 The Responding Parties also allege that the dependency or neglect provisions of the Colorado Children's Code, §§ 19-3-100.5 to -905, provided jurisdiction to the juvenile court here.

¶21 Specifically, they contend that the legislature's intent to grant personal jurisdiction over non-dependent siblings can be seen in: (1) section 19-3-500.2(1)(a), C.R.S. (2021), the legislative declaration, in which the General Assembly stated that "[i]t is beneficial for a child who is removed from his or her home and placed in foster care to be able to continue relationships with his or her" siblings; and (2) sections 19-3-507(3)(b), -505(5), and -402(2)(a), C.R.S.

(2021), which give the court discretion when issuing certain orders. However, again, none of these statutory provisions explicitly grant juvenile courts personal jurisdiction over non-dependent siblings.

¶22 We read section 19-3-500.2(1)(a) in very much the same manner as we read section 19-7-202. A legislative declaration that sibling relationships are beneficial is not also necessarily a grant of personal jurisdiction such that courts can compel non-parties to attend therapeutic visitation. We do not read this section as expanding the authority of juvenile courts beyond what is described in the Jurisdictional Statute.

¶23 The General Assembly also granted juvenile courts some discretionary authority to make “appropriate,” § 19-3-507(3)(b), and “reasonable,” § 19-3-402(2)(a), orders at various stages in the dependency or neglect process. But, again, the plain language does not reveal a legislative intent to expand the jurisdiction of juvenile courts to reach non-dependent siblings. Just because a juvenile court may, in its discretion, issue certain orders, does not also mean that the court’s authority extends to individuals not properly before it.

¶24 The Responding Parties further assert that section 19-3-217(2), C.R.S. (2021), which states that nothing in section 19-3-217 “restricts the court from granting discretionary authority to the department and guardian ad litem to increase opportunities for additional . . . sibling contacts without further court order,”

necessarily implies that a juvenile court has personal jurisdiction over the siblings of children whom the court has adjudicated dependent or neglected. The Responding Parties argue that because a juvenile court can delegate discretionary authority “to increase opportunities” for sibling contacts, it must also have discretionary authority itself. This may be true, but the authority “to increase opportunities for additional . . . sibling contacts” is not the same as the authority to impose binding court orders on non-dependent siblings. And, finding no support for the conclusion that the statute should be read in this way, we decline to do so.

¶25 Accordingly, we conclude that none of the aforementioned dependency or neglect provisions of the Colorado Children’s Code granted the juvenile court jurisdiction to order S.A.’s non-dependent siblings to attend therapeutic visitation.

3. The Juvenile Court Did Not Otherwise Have Jurisdiction to Enter the Order

¶26 Alternatively, the Responding Parties assert that because the juvenile court had personal jurisdiction over S.A.’s parents and subject matter jurisdiction over S.A.’s dependency or neglect case, the juvenile court had the authority to order S.A.’s parents to bring his non-dependent siblings to therapeutic visitation. To be sure, subsection (2) of the Jurisdictional Statute grants juvenile courts personal jurisdiction over the parents of dependent or neglected children, § 19-1-104(2), and subsection (1)(b) gives juvenile courts exclusive, original subject matter

jurisdiction over cases “[c]oncerning any child who is neglected or dependent,” § 19-1-104(1)(b).

¶27 We cannot, however, read a statute that grants a juvenile court personal jurisdiction over the parents of *dependent or neglected* children and subject matter jurisdiction over cases concerning *dependent or neglected* children as also granting that juvenile court power over those parents regarding their *non-dependent* children such that it can order the parents to take the non-dependent siblings to compulsory therapeutic visitation, especially in light of parents’ fundamental constitutional right to make decisions about their children. *See Troxel v. Granville*, 530 U.S. 57, 66 (2000) (plurality opinion) (recognizing “the fundamental right of parents to make decisions concerning the care, custody, and control of their children”).

¶28 As we explained in *People in Interest of J.G.*, 2016 CO 39, ¶ 24, 370 P.3d 1151, 1159, “[t]he purpose of [a dependency or neglect] adjudication is to determine whether State intervention is necessary to serve the best interests of the children.” In order to make this determination while also respecting parents’ fundamental liberty interest in parenting their own children, *id.* at ¶ 20, 370 P.3d at 1158, and *Troxel*’s due process requirements, however, we also recognized that the statutory scheme grants parents “robust due process rights during the adjudicatory stage of dependency or neglect proceedings,” *J.G.*, ¶ 24, 370 P.3d at 1159. Accordingly, the

statute only permits the State to intervene after it has proven by a preponderance of the evidence that the child in question is dependent or neglected and has given each parent: (1) notice of the allegations; (2) the right to challenge the allegations at trial; (3) the opportunity to present evidence in their favor; and (4) the right to an attorney. *Id.* at ¶ 25, 370 P.3d at 1159. Without such a determination, the State has failed to meet its burden justifying its “intervention into the familial relationship.” *C.O.*, ¶ 31, 406 P.3d at 859. Based on this rationale, we have further clarified that a juvenile court has continuing jurisdiction only when a child is dependent or neglected. *Id.* But if the State fails to establish that a child is dependent or neglected, the juvenile court has no jurisdiction and must “vacate all orders with respect to the child.” *Id.* at ¶ 31 n.6, 406 P.3d at 859 n.6.

¶29 Here, the juvenile court had no statutory authority to order Parents to take their non-dependent children to therapeutic visitation with S.A. That is, the juvenile court attempted to exercise authority over Parents and S.A.’s non-dependent siblings even though no party ever alleged and the court never found—by a preponderance of the evidence or otherwise—that S.A.’s siblings were dependent or neglected and that the court’s intervention was warranted. Without such a finding, the juvenile court had no authority to order S.A.’s siblings to attend therapeutic visitation with S.A. In issuing this order, the juvenile court failed to comply with the statutory protections, which we held were necessary to

make the “dependency or neglect procedure fundamentally fair,” *J.G.*, ¶ 25, 370 P.3d at 1159, and acted beyond the jurisdiction granted to it by statute.⁴ The juvenile court’s personal jurisdiction over Parents and subject matter jurisdiction over S.A.’s dependency or neglect case did not, therefore, extend to allow the juvenile court to issue this order requiring S.A.’s non-dependent siblings to attend therapeutic visitation.

III. Conclusion

¶30 Without personal jurisdiction over an individual, a court is powerless and cannot issue legally binding and enforceable orders. Juvenile courts, as statutory creations, have no jurisdiction unless the General Assembly expressly grants it. Because no statute gave the juvenile court personal jurisdiction over S.A.’s siblings and because the juvenile court did not otherwise have subject matter jurisdiction over Parents as it relates to their non-dependent children, the juvenile court had no authority to order the non-dependent children to attend therapeutic visitation

⁴ Our ruling today is based only on the narrow ground that no statute provided the juvenile court with the jurisdiction required to issue the order. Because we hold that the juvenile court lacked jurisdiction, we need not consider Parents’ alternate contention that the order violated their Fourteenth Amendment due process right “to make decisions concerning the care, custody, and control of their children” as articulated in *Troxel*, 530 U.S. at 66.

with S.A. Accordingly, we make absolute the rule to show cause, vacate the trial court's order, and remand for further proceedings consistent with this opinion.