

# 15-year-old girl institutionalized for contempt of court

An Anchorage Superior Court order institutionalizing a 15-year-old girl for contempt of court was affirmed by the Alaska Supreme Court with the note that there is a need for further legislation regarding the treatment of juveniles.

The Superior Court had found the girl to be a child in need of supervision following lengthy history of running away from home in spite of efforts by her parents to provide counseling and other aid.

The Superior Court ordered the girl placed in a foster home where she could continue to receive psychiatric counseling and was advised if she ran away she could be found in contempt of court.

She ran away two days later, and several times again during the proceedings that followed. A petition alleging delinquency based upon contempt of court was filed against her. She ultimately pleaded guilty to the allegations contained in the petition and through her attorney requested a disposition hearing.

Following an extensive hearing, Judge James K. Singleton ordered the girl institutionalized, but deferred execution of the order for 60 days to give the girl one more opportunity to prove that she could be rehabilitated within the community and placed the girl on probation.

But she began running away again and probation was revoked.

The girl appealed, arguing that having been designated a child in need of supervision she could not be prosecuted for criminal contempt, nor incarcerated.

She also argued that her right

to liberty cannot be infringed by preventing her from doing anything that does not injure anyone else and that there is no compelling state interest to justify such an interference.

But the Supreme Court in an opinion written by Justice Robert Erwin said that "to assert that the state has no interest in this child is to deny the function of the government to protect its citizens."

"The state has a legitimate interest in protecting children from venereal disease, from exposure to the use of dangerous and illicit drugs, from attempted rape," Justice Erwin wrote.

"Doubtless the state will never be entirely successful in its effort. It does, however, have the right and obligation to try to protect its young people from such conditions."

Justice Erwin listed the resources which were expended on the girl in this case: 1) the continuing aid and support of her parents, 2) a private psychiatrist hired by her mother, 3) counseling with social workers in the Division of Family and Children's Services, 4) probation officers in the Division of Corrections, 5) school counselors, 6) psychologists and psychiatrists from Langdon Clinic, 7) Alaska Youth Advocates, 8) group home counselors, 9) her court-appointed attorney, and 10) the court.

Justice Erwin wrote, "The lower court determined that the girl would not abide by any orders entered regarding her supervision. This behavior constitutes willful criminal contempt of the court's authority; were she an adult, her actions would be characterized

as a crime under Alaska statutes.

"She was, therefore, properly declared a delinquent and subject to those sanctions available for the correction of the delinquent minor's behavior."

"Certainly, conciliation should precede coercion; and if coercion is necessary, mild sanctions should first be tried before more severe sanctions are imposed. However, where mild sanctions fail, the court's orders must be enforced and severe sanctions should be imposed if necessary."

"In this case all available sanctions save institutionalization were tried and found unsuccessful. Thus, the lower court determined that it had no choice but order the girl institutionalized."

"In affirming this decision, we note that the trial judge was most innovative in fashioning a necessary remedy for a situation not covered by statute."

"The very nature of the problem, however, calls for legislative overhaul of the statutes in this area, for the trial court's remedy is not easily modified to cover other situations where there is no statutory guidance."

In separate concurring opinions, Chief Justice Robert Boochever said he did not fully agree with some of the conclusions reached by the majority, but that he would still affirm the actions of the Superior Court.

Justice Jay A. Rabinowitz joined Chief Justice Boochever in his concurring opinion and

also wrote another concurring opinion addressing the girl's arguments that a prior Supreme Court opinion, "In re E.M.D.," prevented the Superior Court from institutionalizing her.

Justice Rabinowitz explained that the legislature has authorized institutionalization only when the child is found to be a delinquent minor and if the Superior Court in this had institutionalized the girl because she had been adjudicated a child in need of supervision, the court would have been in error as was

found in the previous case.

But here the girl had violated her conditions of probation and consequently the prior decision of the Supreme Court did not prevent the Superior Court order institutionalization in the circumstances of this case.

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