

SUPREME COURT OF NEW HAMPSHIRE

In re Juvenile 2003-248

150 N.H. 751 (2004) · No. 2003-248 · Decided April 19, 2004

SUMMARY

The New Hampshire Supreme Court held that when a juvenile has consented to extended jurisdiction and validly revokes that consent, the court must close the case under RSA 169-B:4, IV. The court concluded that RSA 169-B:4, V, which permits retention of jurisdiction in certain circumstances, applies only in the circumstances governed by paragraph III and does not authorize continued jurisdiction after a valid revocation under paragraph IV.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Broderick, C.J.; Nadeau, J.; Dalianis, J.; Duggan, J.
JURISDICTION	New Hampshire
DECIDED	April 19, 2004
DOCKET	2003-248
DISPOSITION	reversed
PROCEDURAL POSTURE	The juvenile appealed the Littleton Family Division's order retaining jurisdiction over her after she revoked her consent to extended juvenile jurisdiction.
STANDARD OF REVIEW	The court independently interpreted the statute, treating statutory interpretation as a matter governed by the legislature's intent as expressed in the statutory text read as a whole.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Hampshire
PARTIES	Juvenile v. State

TOPICS

- statutory interpretation
- plain meaning rule
- legislative intent
- family law procedure
- appellate procedure

PRACTICE AREAS

- juvenile law
- family law
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether RSA 169-B:4 permits a court that obtained extended jurisdiction through a juvenile's consent under paragraph II to retain jurisdiction under paragraph V after the juvenile validly revokes consent under paragraph IV.

HOLDINGS

1. When a court's extended jurisdiction rests on the juvenile's consent under RSA 169-B:4, II, closure of the case after a valid revocation of consent is controlled exclusively by RSA 169-B:4, IV. Because paragraph IV requires the court to close the case when the juvenile validly revokes consent, paragraph V does not authorize continued jurisdiction in that circumstance.

KEY QUOTATIONS

“The plain language of paragraph IV indicates that if a court retains jurisdiction over a case pursuant to a juvenile’s consent under paragraph II, closure of the case is controlled exclusively by paragraph IV.” (752)

“Therefore, in this case, the statute required the court to close the case once the juvenile validly revoked her consent.” (753)

FACTUAL BACKGROUND

On March 22, 2002, the juvenile entered true pleas to delinquency petitions alleging aggravated felonious sexual assault and simple assault. Two days before turning seventeen, she consented to the court's extended jurisdiction. At a March 17, 2003, review hearing, she revoked that consent, but the Family Division retained jurisdiction after finding that continued jurisdiction was necessary because she lacked employment and housing, needed continued services, and had admitted committing a violent crime.

PROCEDURAL HISTORY

The juvenile entered true pleas to delinquency petitions alleging aggravated felonious sexual assault and simple assault. After consenting to extended jurisdiction, she revoked that consent at a juvenile review hearing. The Littleton Family Division nevertheless retained jurisdiction under RSA 169-B:4, V, and the Supreme Court of New Hampshire reversed.

DISPOSITION

reversed

CASES CITED

- Comeau v. Vergato, 149 N.H. 508, 510 (2003)
- In re Eric C., 124 N.H. 222, 224 (1983)
- In re Russell C., 120 N.H. 260, 264 (1980)
- In re Russell C., 120 N.H. 260, 268 (1980)

OPINION

BRODERICK, J.

Broderick, C.J. The juvenile in this case appeals the order of the Littleton Family Division (Cyr, J.) retaining jurisdiction over her despite her revocation of consent to its extended jurisdiction. See RSA 169-B:4, V (Supp. 2003).

We reverse. The record supports the following facts. On March 22, 2002, the juvenile entered true pleas to delinquency petitions alleging aggravated felonious sexual assault and simple assault. On May 10, 2002, two days before turning seventeen, she consented to the court's extended jurisdiction, see RSA 169-B:4,11(b) (2002).

On March 17, 2003, at a juvenile review hearing, she revoked her consent to extended jurisdiction, see RSA 169-B:4, IV(a), (e) (2002). The court, however, retained jurisdiction under RSA 169-B:4, V. Pursuant to that provision, it found, by clear and convincing evidence, that continued jurisdiction was necessary because the juvenile had no job and no place to reside, was in need of continued services and had pled true to a violent crime as defined under RSA 169-B:35-a, 1(c) (2002).

This appeal followed. The juvenile argues that "[t]he plain language of RSA 169-B:4 indicates that if a court retains jurisdiction over a minor pursuant to her consent under paragraph [II], then paragraph [IV] controls the closure of their case." We agree.

In matters of statutory interpretation, this court is the final arbiter of the intent of the legislature as expressed in the words of a statute considered as a whole. Although we look to the plain and ordinary meaning of the statutory language in determining legislative intent, we will not read words or phrases in isolation, but in the context of the entire statute.

Comeau v. Vergato, 149 N.H. 508, 510 (2003) (quotation and citation omitted). RSA chapter 169-B "is part of a comprehensive juvenile justice system that has as its primary concern the welfare of the child." In re Eric C., 124 N.H. 222, 224 (1983). While a juvenile will generally leave the system at age seventeen, RSA 169-B:4 (Supp. 2003) identifies certain circumstances that permit the court to extend its jurisdiction over a juvenile until age twenty-one.

See RSA 169-B:4. In this case, the juvenile initially consented to extended jurisdiction under paragraph II of the statute. See RSA 169-B:4, 11(b). She later revoked her consent under paragraph IV, which provides, in relevant part: The court shall close the case when the minor reaches age 17 or, if jurisdiction is extended pursuant to paragraph II, when: (a) The minor revokes the minor's consent in writing and such revocation has been approved by the court--- RSA 169-B:4, IV (2002).

The court must approve the revocation under subparagraph (a) if it finds that the juvenile, in seeking to do so, is acting intelligently, knowledgeably and in acceptance of the legal consequences. See RSA 169-B:4, IV(e).

The record indicates that the court assumed that the juvenile's revocation met the above standard, but that it retained jurisdiction under paragraph V, which provides, in relevant part: Notwithstanding paragraph III, when the court finds by clear and convincing evidence that closing the case would endanger the safety of the minor, any other person, or the community, or the court finds that there is a high probability that continued provision of treatment services is necessary to rehabilitate the minor, the court may retain jurisdiction over any minor: (a) Who has been found to have committed a violent crime as defined under RSA 169-B:35-a, 1(c)---- RSA 169-B:4, V (Supp.

2003). The plain language of paragraph IV indicates that if a court retains jurisdiction over a case pursuant to a juvenile's consent under paragraph II, closure of the case is controlled exclusively by paragraph IV. *753Paragraph IV uses the mandatory term "shall" in describing the circumstances when a court must close a case.

The term "shall" is generally regarded as a command. See *In re Russell C.*, 120 N.H. 260, 264 (1980). Therefore, in this case, the statute required the court to close the case once the juvenile validly revoked her consent.

Because the court, in retaining jurisdiction pursuant to RSA 169-B:4, V, assumed that the juvenile's revocation met the requirements of RSA 169-B:4, IV, the court erred when it failed to close her case pursuant to the plain language of paragraph IV.

Although paragraph V provides certain circumstances when a court may retain jurisdiction over a minor, its application is limited to circumstances involving paragraph III. If the legislature intended paragraph V to apply when a juvenile revoked consent pursuant to paragraph IV, the prefatory language of paragraph V could have been drafted accordingly. It is not our function, however, to redraft legislation to make it conform to an intention not expressed in the clear language of the statute.

See *Russell C.*, 120 N.H. at 268. Reversed. Nadeau, Dalianis and Duggan, JJ., concurred.