

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

IN THE INTEREST OF S.D.

IN THE SUPERIOR COURT OF
PENNSYLVANIA

APPEAL OF: S.D.

No. 2492 EDA 2011

Appeal from the Dispositional Order July 27, 2011
In the Court of Common Pleas of Lehigh County
Criminal Division at No(s): CP-39-JV-0000519-2011

BEFORE: BENDER, P.J., GANTMAN, J., PANELLA, J., DONOHUE, J., SHOGAN, J., LAZARUS, J., MUNDY, J., OTT, J., and WECHT, J.

MEMORANDUM BY PANELLA, J.

Filed July 25, 2014

Section 6341(b.1) of the Juvenile Act provides that upon a finding of delinquency, the juvenile probation department shall provide "to the building principal or his or her designee of any public, private or parochial school in which the child is enrolled," among other things, the name of the child and a description of the delinquent act. 42 PA.CONS.STAT.ANN. § 6341(b.1). Appellant, S.D., appeals from a dispositional order directing the Juvenile Probation Department of Lehigh County to notify Temple University of his adjudication of delinquency for the sexual abuse of children, stemming from his dissemination of child pornography. On appeal, S.D. argues that the adjudication disclosure ordered by the juvenile court is an abuse of the court's discretion because it exceeded its authority under the Juvenile Act to

require such a disclosure to the university. S.D. challenges that the Juvenile Act does not require that juvenile adjudications be disclosed to colleges and universities as part of the statute's meaning. We find that the issue before this Court is now moot and dismiss the appeal.

After receiving a tip from the National Center for Missing and Exploited Children that someone in Whitehall Township was disseminating child pornography through e-mail, investigators later discovered that S.D. was the source of the distributed images. On June 29, 2011, the juvenile court conducted an adjudication hearing during which S.D. admitted to one count of sexual abuse of children.

During the time of the adjudication, S.D. had graduated from high school and was enrolled in Temple University, starting the 2011 fall semester. On July 27, 2011, the juvenile court adjudicated S.D. delinquent and entered its dispositional order, placing S.D. on probation. The juvenile court directed the Juvenile Probation Department to "provide notification to Temple University of this adjudication; that notification shall be limited to the adjudication and disposition without any further details[]." N.T. 7/27/11, at 35. S.D. objected to the notification provision at the original disposition hearing and filed a post-dispositional motion challenging the notification provision on August 4, 2011. The juvenile court stayed the notification to Temple University pending appeal to this Court.

On appeal, S.D. argued that the juvenile court abused its discretion and exceeded its jurisdiction by ordering the disclosure of the juvenile adjudication to Temple University. The panel affirmed the juvenile court's ruling that the juvenile court did not exceed its jurisdiction nor abuse its discretion by ordering the disclosure of the adjudication to Temple University. **See *In re S.D., a minor***, No. 2492 EDA 2011, at 13 (Pa. Super., filed 9/5/12). This Court decided that disclosing the adjudication to a college or university, such as Temple University fell within the statutory meaning of the Juvenile Act's disclosure requirements. **See** 42 PA.CONS.STAT.ANN. § 6341(b.1). On November 13, 2012, this Court granted *en banc* re-argument of the issues in the case and ordered that the panel opinion be withdrawn.

Two days after our grant of *en banc* re-argument, the juvenile court held a review of disposition hearing. Following the hearing, the juvenile court released S.D. from probation and closed the case. Because S.D.'s case was closed, the requirement of disclosing the adjudication to Temple University never occurred. Lehigh County Juvenile Probation Department has not notified Temple University about S.D.'s adjudication and disposition. Because S.D.'s probation has been terminated, Temple University will never be notified of the adjudication.

On appeal, S.D. raises two issues for our review:

1. Did the juvenile court exceed its jurisdiction and authority when it ordered the disclosure of an adjudication and disposition to Temple University?

2. Did the juvenile court abuse its discretion when it ordered the disclosure of the juvenile adjudication and disposition to Temple University?

Appellant's Brief at 2. The Commonwealth argues that the issues presented by S.D. before this Court are moot and no longer reviewable by this Court.

See Appellee's Brief at 6.

We first consider the Commonwealth's argument that the issue presented before this Court is moot. It is well established that an actual case or controversy must exist at all stages of appellate review. **See** *Commonwealth v. Ahlborn*, 683 A.2d 632, 639 (Pa. Super. 1996); *In re Gross*, 382 A.2d 116, 119 (Pa. 1978). In *Gross*, the Pennsylvania Supreme Court fully articulated the mootness doctrine:

The cases presenting mootness problems involve litigants who clearly had standing to sue at the outset of the litigation. The problems arise from events occurring after the lawsuit has gotten under way changes in the facts or in the law which allegedly deprive the litigant of the necessary stake in the outcome. The mootness doctrine requires that an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.

Id. (internal quotation marks and citation omitted).

The appellate courts of this Commonwealth will not decide moot or abstract questions. **See** *Commonwealth v. Smith*, 486 A.2d 445, 447 (Pa. Super. 1984). If an event occurs that renders it impossible for the appellate court to grant any relief, the appeal will be dismissed. **See id.** Stated differently, a case is moot when a "determination is sought on a matter which, rendered, cannot have any practical effect on the existing

controversy." **In re T.J.**, 699 A.2d 1311, 1313 (Pa. Super. 1997), **rev'd on other grounds**, 739 A.2d 478 (Pa. 1999).

There are noted exceptions to the mootness doctrine. This Court will decide questions that are otherwise moot when the case involves a question of great public importance. **See Commonwealth v. Nava**, 966 A.2d 630, 633 (Pa. Super. 2009); **Rivera v. Pennsylvania Dep't of Corrs.**, 837 A.2d 525, 527 (Pa. Super. 2003). Another exception to the mootness doctrine applies when the question is capable of repetition and apt to elude appellate review. **See Commonwealth ex rel. Kearney v. Rambler**, 32 A.3d 658, 663 (Pa. 2011); **Smith**, 486 A.2d at 447.

The last exception to the mootness doctrine arises in situations where a party to the controversy will suffer some detriment due to the decision of the trial court. **See Nava**, 966 A.2d at 633. A collateral attack upon the *underlying conviction* is not moot if the appellant could show criminal or civil collateral consequences as a result of the conviction. **See Commonwealth v. King**, 786 A.2d 993, 996 (Pa. Super. 2001); **Commonwealth v. Rohde**, 402 A.2d 1025, 1027 (Pa. 1979). In **King**, the appellant challenged the legality of sentence after it had already been served and this Court declared the case moot. **See** 786 A.2d at 996.

We agree with the Commonwealth and conclude that the issues presented in this case concerning the disclosure of S.D.'s adjudication to Temple University are now moot. S.D. is challenging the juvenile court's

order to require disclosure of the juvenile's adjudication to Temple University. Because the juvenile court closed the case, the disclosure of the adjudication to Temple University will never occur. Like in ***King***, when the appellant challenged his completed sentence, S.D. has already been released from the probation's terms and is now trying to challenge them. As such, the issue is now moot because any ruling of this Court will have no effect on the existing controversy.

Furthermore, none of the mootness doctrine exceptions apply to the matter before us. S.D. has only objected to the requirement of the disclosure. **See** N.T. 7/27/2011, 15-36. S.D. has not identified any legitimate possibility of any civil or criminal collateral consequences as a result of this condition, and such are not going to occur because Temple University did not receive the adjudication disclosure from Lehigh County. S.D. only asserted that there would be future harm only if Temple University *had been notified* about S.D. adjudication. Furthermore, the matter before us is not of such great public importance to warrant proceeding in spite of our conclusion that the issue is moot.

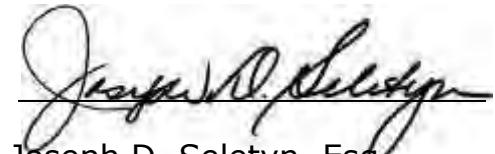
Additionally, the issue before this Court is not one that is apt to elude appellate review. We concede the possibility that this same issue might occur in the future. However, this does not mean that it is apt to elude appellate review. This issue would have been ripe for review had the juvenile court not closed the case. Therefore, there are scenarios in which there is

enough time for a juvenile to appeal the adjudication disclosure requirement to his or her college or university before the issue becomes moot. Since S.D. no longer suffers from this required disclosure, we find that the matter before this Court moot and we dismiss the appeal.

Appeal dismissed as moot.

Mundy, J., files a concurring memorandum and Wecht, J., files a dissenting memorandum.

Judgment Entered.



Joseph D. Seletyn, Esq.
Prothonotary

Date: 7/25/2014