

In the Supreme Court of the State of California

**In re A.N., a Person Coming Under the
Juvenile Court Law**

Case No. S242494

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

A.N.,

Defendant and Appellant.

**SUPREME COURT
FILED**

APR 04 2018

Jorge Navarrete Clerk

Deputy

Second Appellate District, Case No. B275914
Ventura County Superior Court, Case No. 2015040294
The Honorable William R. Redmond, Commissioner

RESPONDENT'S ANSWER TO AMICUS BRIEF

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INTRODUCTION

Amicus California Rural Legal Assistance aptly explains the value of School Attendance Review Boards (SARBs) to address the root causes of truancy and help students avoid juvenile court. The People agree with amicus that disadvantaged populations are more likely to be truant, and that SARBs are an important tool to address their needs. In most cases, meeting with a SARB happens before the juvenile court ever gets involved, and the SARB's work may obviate the need for court intervention. In all cases, any SARB meeting must occur before a juvenile hearing commences. Thus, as amicus points out, SARBs are an intermediate step between a school's efforts to improve attendance and prosecution in juvenile court.

But there is no statutory support for amicus's contention that a SARB or truancy process must be completed, and the parent must receive four notices of truancy, before the juvenile court may assume jurisdiction. Rather, the Welfare and Institutions Code expressly provides three independent bases for juvenile court jurisdiction: the student has four or more trancies in a year; *or* the SARB is unable to meet the student's needs; *or* the student fails to respond to the SARB's directives. Because the Court of Appeal properly held that the juvenile court had jurisdiction because A.N. had more than four trancies, this Court should affirm.

ARGUMENT

I. REFERRAL TO A SARB, TRUANCY MEDIATION, OR A COMPARABLE PROGRAM IS NOT A CONDITION PRECEDENT TO JUVENILE COURT JURISDICTION

Asking the Court to draw inferences from various sections of the Education Code, amicus contends that before the juvenile court may assert jurisdiction, a student must be referred to a mediation program, a SARB, or a similar program. (Amicus Brief 13-19.) While the People agree that

SARBs and mediation programs are important tools to address truancy which can be used to avoid juvenile court, there is no requirement that they be exhausted before the juvenile court can accept jurisdiction. (See Answering Brief on the Merits (ABM) 17-22.)

Amicus relies upon Education Code sections 48263 and 48264.5, which describe situations in which a mediation program or a SARB meeting would precede a juvenile court action. (Amicus Brief 13-15.) Section 48263 explains that a habitually truant student may be referred to a SARB or to the services of a probation officer. If those services are ineffective to increase attendance, the SARB or probation officer may refer the student to the district attorney for mediation and, if necessary, juvenile court intervention. Section 48263 describes a scenario in which a student might be referred to juvenile court, but it does not define juvenile court jurisdiction or limit it to this particular scenario.

Section 48264.5 provides for escalating discretionary consequences of absences, and states that “[i]f the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).” Subdivision (d) is a referral to juvenile court. This statute defines one time in which a student *must* be referred to juvenile court. It does not define when a student *may* be referred to the juvenile court. In other words, just because the student must go to the juvenile court after the mediation program is ineffective, does not mean that the juvenile court jurisdiction cannot be assumed earlier.

A SARB meeting, a truancy mediation, or a similar process will generally proceed before juvenile court jurisdiction, and those are useful and appropriate tools. But they are not required prerequisites. The scope of the juvenile court’s jurisdiction over truancy is defined by Welfare and Institutions Code section 601, which provides three alternate paths to juvenile court, including four or more trancies within one school year.

The Education Code sections that amicus cites explain the strategies available to the school to address truancy, but they do not define the juvenile court's jurisdiction.

II. THERE IS NO REQUIREMENT TO GIVE FOUR PARENTAL NOTIFICATIONS BEFORE THE JUVENILE COURT CAN TAKE JURISDICTION

Amicus argues that parents' right to notification when their children fail to attend school, and more generally their due process rights, require that they be provided with four truancy reports before the juvenile court assumes jurisdiction so that the parents have an opportunity to "correct, excuse, or verify" the absence. (Amicus Brief 20.)

It is important to keep parents informed of their children's school attendance and amicus is correct that Education Code section 51101 generally requires parental notification of absences. (Amicus Brief 20-21; Ed. Code, § 51101, subd. (a)(4).) Other sections require specific notifications and communications with parents. (Ed. Code, §§ 48260.5, 48262, 48264.5.) But the Legislature has not linked these communications to the juvenile court's assumption of jurisdiction. The truancy reports, which are the triggers for school action in response to truancy, including referral to a SARB or mediation program, go to relevant education officials, not to parents. (Ed. Code, §§ 48260, 48261.) Therefore, there is no requirement of four parental notifications before the juvenile court can assume jurisdiction. (See ABM 22-24.)

III. THERE IS NO CONFLICT BETWEEN THE TRUANCY STATUTES AND OTHER STATE AND FEDERAL LAWS PROTECTING CHILDREN

Amicus contends that other state and federal statutes protecting the rights of children with disabilities, homeless children, and foster children conflict with a statutory interpretation giving the juvenile court jurisdiction

after four trancies. (Amicus Brief 26-30, citing 42 U.S.C. § 11431 et seq., Ed. Code, § 48850 et seq., 20 U.S.C. § 1400 et seq.) Those statutes ensure that those specific populations of children have the same access to free appropriate education as other children, and they impose duties upon school districts to address barriers to those children’s attendance and success in school. (See, e.g., 42 U.S.C. § 11432(g)(1)(I), (g)(7); Ed. Code, § 49069.5; 20 U.S.C. § 1412(2)(3); Ed. Code, § 56301.)

Amicus contends that if the juvenile court has jurisdiction after four trancies, as Welfare and Institutions Code section 601 provides, it may prosecute those children for truancy before the schools have identified and addresses their special circumstances and needs. This creates a challenge for schools but not a statutory conflict, because there is nothing in those statutes that contradicts the truancy statutes. Ideally, the protections of those statutes should work in tandem with the truancy statutes, by providing the means to identify children that may have special needs that would otherwise lead to attendance problems. To the extent that these statutory structures pose obligations that are challenging for schools to meet, that is best addressed, and funded, by the Legislature. Indeed, as amicus notes, the Legislature has been active in addressing issues surrounding truancy. (See Amicus Brief 7-8, 12, 22-23; see Stats 2012, ch. 432, § 2.)

Amicus also claims that juvenile court jurisdiction poses hardships for families living in poverty because it is particularly burdensome for parents either to pay a fine or to give up working days to transport their child to community service. The juvenile court’s orders must be directed “at improving the minor’s school attendance.” (Welf. & Inst. Code, § 258, subd. (b)(6).) The juvenile court may order a fine, or community service, or a combination of both. (*Ibid.*) It may also restrict the student’s driving privileges. (*Ibid.*) Or, it may do none of these things. (*Ibid.* [the judicial officer “*may* do any of the following”], emphasis added; see e.g., Welf. &

Inst. Code, § 258, subd (a)(1) [when the minor has committed a violation of law, the juvenile court may “[r]eprimand the minor and take no further action”].) To the extent that amicus believes that the juvenile court should have other options to address truancy, this is also best addressed by the Legislature, which is in the best position to consider and balance the complex and serious policy issues surrounding poverty and truancy.

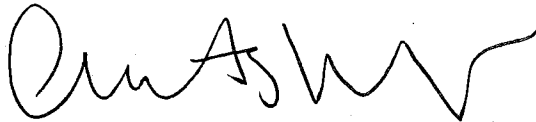
CONCLUSION

The judgment of the Court of Appeal should be affirmed.

Dated: March 28, 2018

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the attached RESPONDENT'S ANSWER TO AMICUS BRIEF uses a 13 point Times New Roman font and contains 1,340 words.

Dated: March 28, 2018

XAVIER BECERRA
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A handwritten signature in black ink, appearing to read 'Christina Bull Arndt', written in a cursive style.

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DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **The People v. A.N.**
No.: **S242494**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On March 28, 2018, I electronically served the attached **RESPONDENT'S ANSWER TO AMICUS BRIEF** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on March 28, 2018, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 28, 2018, at Los Angeles, California.

Alfred Palma
Declarant



Signature