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In re Alonzo J.; 320 P.3d 1127 (Cal. 2014)

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In Re Alonzo J.

320 P.3d 1127 (Cal. 2014)

Opinion by Kennard, J.

OVERARCHING ISSUE

Under rule 5.778(e) of the California Rules of Court, which states that in a juvenile delinquency proceeding “[t]he child may enter a plea of no contest to the allegations, subject to the approval of the court,”¹ does the child have the right to enter a plea of no contest without the consent of his counsel?²

STATEMENT OF FACTS

On the evening of November 1, 2010, the Sacramento Police Department received a dispatch of a domestic disturbance between thirteen-year old Alonzo and his mother.³ When the police arrived, Alonzo’s mother explained that an argument with Alonzo had driven him to kick a hole in her bedroom door, throw a skateboard at her, and hit her in the face with a portable electric heater.⁴

Not his first violent outburst against his mother,⁵ Alonzo faced two counts of felony assault with a deadly weapon and one misdemeanor count of vandalism.⁶ The prosecution offered Alonzo two alternative plea bargains,⁷ one of which he wanted to accept.⁸ Disagreeing with Alonzo’s request, his counsel expressed to the court that she thought Alonzo was factually not guilty and simply desperate to get out of custody and go home.⁹ Subsequently, the juvenile court found Alonzo guilty of all three counts.¹⁰

The court of appeal reversed and explained that while rule 5.778(d) expressly required the consent of a child’s counsel for an admission of charges, rule 5.778(e) had no such requirement and needed only approval of the juvenile court for a no contest plea.¹¹

Not persuaded by the court of appeal, the Supreme Court of California reversed that judgment and declared that consent of Alonzo’s counsel was necessary.¹²

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1. CA. CT. R. 5.778(e).
 2. In re Alonzo J., 320 P.3d 1127, 1128 (Cal. 2014).
 3. *Id.*
 4. *Id.* at 1129.
 5. *Id.* at 1128 (explaining that Alonzo had previously broken his mother’s thumb with a baseball bat and on a separate occasion, attempted to stab her with a steak knife).
 6. *Id.*
 7. *Id.* at 1129 (stating that the prosecution offered Alonzo to admit one of the felony assault charges and be able to return home on probation with an ankle monitor, or admit the misdemeanor vandalism charge and be placed in a group or foster home and have his felony charges dismissed).
 8. *Id.* (quoting Alonzo as saying he would “take the felony and get the ankle monitor and go home”).
 9. *Id.* at 1130.
 10. *Id.*
 11. *Id.* (citing CA. CT. R. 5.778(d-e)).
 12. *Id.* at 1136.

ANALYSIS

The Supreme Court of California determined that the language of rule 5.778(e) was ambiguous.¹³ This conclusion opened the door to the court's interpretation of the drafters' intent and also allowed its reference to extrinsic sources for clarification.¹⁴

Beginning by criticizing Alonzo's argument¹⁵ as neglecting the context of the rule,¹⁶ the court continued its discussion by inferring from the applicability of rule 5.778(f)¹⁷ to both admissions and no contest pleas, that 5.778(e) must also apply to both pleas.¹⁸ Next, the court referenced miscellaneous publications in support of its interpretation, as well as the history of rule 5.778, highlighting that it once expressly mandated that the procedure of an entry of no contest shall be the same as that of an admission.¹⁹ After briefly mentioning the rule's revision to omit such provision, the court quickly dismissed the notion that deletion of a provision in a rule tends to reflect a legislative intent to change the meaning of the rule.²⁰

As justification, the court pointed to the Judicial Council advisory committee's report, stating that the purpose of the revision was " 'to conform them to statutory and case law changes and to clarify procedures.' " ²¹ From this, the court again inferred that a no contest plea by a child requires consent from counsel.²² Finally, the court's discussion concluded by emphasizing the legislative intent behind rule 5.778: to protect the accused child's rights.²³

LEGAL SIGNIFICANCE

The flaws behind the reasoning of the *Alonzo* court begin at the court's determination that the language of rule 5.778(e) was ambiguous. The plain meaning of the language in the rule is clear: "The child may enter a plea of no contest to the allegations, subject to the approval of the court."²⁴ Issues of ambiguity raised by any omissions render not only this rule, but also every rule ambiguous.

As the court appropriately recognized, the legislative intent behind rule 5.778 aims to protect the accused child's rights. This objective, however, is not inconsistent with the plain meaning of the language in rule 5.778(e). In fact, the rights of the

13. *Id.* at 1132.

14. *Id.* (stating that " '[i]f the rule's language,' when so viewed in context, 'is clear and unambiguous, it governs'" (quoting *Alan v. Am. Honda Motor Co.*, 152 P.3d 1109 (Cal. 2007))).

15. *Id.* at 1133 (acknowledging Alonzo's argument that "if a statute contains a certain provision regarding one subject, that provision's omission in the same or another statute regarding a related subject is evidence of a different intent").

16. *Id.* (finding Alonzo's argument "unpersuasive because it ignores. . . context").

17. *Id.* (citing CA. CT. R. §§ 5.778(f)).

18. *Id.* (citing CA. CT. R. §§ 5.778(e)).

19. *Id.*

20. *Id.* at 1134.

21. *Id.* at 1135 (quoting Judicial Council of Cal., Rep. and Recommendations from the Advisory Com. on Juvenile Court Law (Oct. 28, 1990)).

22. *Id.*

23. *Id.*

24. CA. CT. R. 5.778(e).

accused child are expressly safeguarded at the court's discretion. Therefore, because a court, after inquiring whether the child understands the nature of the allegations and consequences, is given the authority to conclude whether a child may enter a no contest plea, its allowing the child to "circumvent the counsel-consent requirement"²⁵ as expressly required in rule 5.778(d) would not necessarily thwart the underlying legislative intent. If the court is displeased by the child's responses, it may choose to protect the child's rights against his wishes and refuse his plea.

Because a child lacks the life experience that is necessary to balance risk and reward,²⁶ it seems reasonable under certain circumstances that an adult make a decision for him. This is reality, as an accused child receives fewer constitutional protections that are generally accorded to adults.²⁷ But construing the law to further limit a child's rights in an attempt to protect them only highlights the irony in a tragically complicated justice system. Ultimately, this limitation contributes to a growing distrust of this system and points to the arbitrariness and failure of the law.²⁸

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25. *Id.* at 1136 (suggesting that allowing the child to enter a no contest plea without counsel-content would be inconsistent with legislative intent).
 26. See Matthew Razo, *Fair and Firm Sentencing for California's Youth: Rethinking Penal Code Section 190.5*, 41 W. ST. U. L. REV. 429 (2014).
 27. *Alonzo*, 58 Cal. 4th at 1136 (realizing that "a child no doubt has a 'constitutionally protected right to participate in the making of certain decisions. . . [but] a child does not have the absolute right to accept a plea offer over the objection of the attorney appointed to protect the child's interests'").
 28. The author of this summary, Daniel Seu, a Juris Doctor candidate, May 2015, at Western State College of Law.

