UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1420

September Term, 2013

IN RE: CATHERINE F.

Eyler, Deborah S.,
Hotten,
Nazarian,

JJ.

Opinion by Hotten J.

Filed: July 28, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a court trial in the Circuit Court for Prince George's County, sitting as a juvenile court, appellant, Catherine F. ("Catherine"), was found to have violated the compulsory school attendance law.[1] *See* Md. Code (Repl. Vol. 2008), § 7-301 of the Education Article. The court sentenced appellant to ten days with all but four days suspended. Appellant presents two questions on appeal, as follows:

> [I]. Was the evidence insufficient to support the determination by the trial judge that Catherine F. violated the compulsory public school attendance law?
>
> [II]. Were the trial judge's findings based on a misapplication of the law?

For the foregoing reasons, we shall affirm the judgment of the juvenile court.

FACTUAL AND PROCEDURAL HISTORY

On December 10, 2012, Catherine met with Wilanda Jeter (Ms. Jeter"), the pupil personnel worker at Oxon Hill Middle School ("Oxon Hill"), to register her son, Daysean (DOB: 5/14/99), for classes. Ms. Jeter was responsible for facilitating Daysean's transfer from Isaac Gourdine Middle School ("Isaac Gourdine") to Oxon Hill. During the meeting, Ms. Jeter and the attendance secretary at Oxon Hill had a discussion with Catherine regarding Daysean's poor school attendance at Issac Gourdine.[2]

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[1] Both appellant and appellees' briefs are captioned *In Re: Christine F*. Upon review of the record and trial transcript, the case caption should be *In Re: Catherine F.*, therefore we will refer to the respondent as Catherine F.

[2] Daysean's school records from Isaac Gourdine indicated that he had missed forty-four days of school between the start of the school year on August 20, 2012 and when he was withdrawn on November 16, 2012. Ms. Jeter also testified that Daysean was not enrolled in

(continued...)

After Daysean was enrolled at Oxon Hill, he did not report to school as expected, so Ms. Jeter called Catherine to discuss his absence. Catherine stated that Daysean was sick, but would return to school after the holiday break. Classes resumed on January 3, 2013, but Daysean did not report to school until January 7, 2013. Daysean attended four days of school and then was absent for the remainder of the school year.

Ms. Jeter spoke to Catherine on the phone several times and sent two letters to the permanent address Catherine provided regarding Daysean's absences from school. Catherine stated on several occasions that Daysean "had either left the house and she wasn't sure where he was." Catherine explained that Daysean's truancy was affected by homelessness and issues in the community that caused him to be afraid to walk to the school bus stop.

On March 22, 2013, the School Improvement Team organized a meeting with Catherine, Ms. Jeter, the principal, a social worker, and several other staff members to discuss Daysean's truancy. Based on the conversation at the meeting, Ms. Jeter was hopeful that Daysean would return to school, but he did not return.

Ms. Jeter reported that between August of 2012 and January of 2013, Daysean missed 73 days of school, 44 days from Isaac Gourdine and 29 days from Oxon Hill. Daysean did

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[2](...continued)
any Prince George's County Public School between November 16, 2012 and December 10, 2012.

not attend school the remainder of the school year and at some point, was withdrawn from Oxon Hill.

At the conclusion of the hearing, the court found Catherine involved and explained:

> Court will find the State has proved beyond a reasonable doubt that the [r]espondent did fail. She met with the staff at the school. She was told that her child was not attending school. She then failed to make certain that her minor child attended school as required by the State statute. Court finds the State has proven beyond a reasonable doubt.

Additional facts shall be provided, *infra*, to the extent they prove relevant in addressing the issues presented.

DISCUSSION

I.

Catherine concedes that Daysean was absent from school on "numerous days" during the 2012-2013 school year, but argues that the evidence was insufficient to support a finding of involved because the State failed to establish that she had "control" over Daysean. The State responds that based on the testimony presented, "it was rational for the court to determine that [Catherine] F. had 'control' over Daysean, at least for school attendance purposes."

To determine sufficiency of the evidence on appeal, we consider "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Tracy v. State*, 423 Md. 1, 11 (2011) (internal citations omitted). Thus, "[t]he question is not whether

we might have reached a different conclusion from that of the trial court, but whether the trial court had before it sufficient evidence upon which it could fairly be convinced beyond a reasonable doubt of the defendant's guilt of the offense charged[.]" *Id.* at 12. (Emphasis omitted).

Maryland Code (2008 Repl. Vol.), Education Article ("Educ."), § 7-301 provides in pertinent part:

> (c) *Duty of parent or guardian.* – Each person who has legal custody or care and control of a child who is 5 years old or older and under 16 shall see that the child attends school or receives instruction as required by this section.
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> * * *
>
> (e) *Penalties* –
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> * * *
>
> (2) Any person who has legal custody or care and control of a child who is 5 years old or older and under 16 who fails to see that the child attends school or receives instruction under this section is guilty of a misdemeanor and:
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>> (i) For a first conviction is subject to a fine not to exceed $50 per day of unlawful absence or imprisonment not to exceed 10 days, or both[.]

In *In re Jeannette L.*, 71 Md. App. 70, 82 (1987) we addressed the constitutionality of the penalty provisions in Educ. § 7-301(e)(2). Appellants asserted that the statute failed "to specify what persons are subject to its provisions" and complained that, as written, the statute "might be applied to any school bus driver who permits a child to alight from the bus before it arrives at the school itself." *Id.* Appellants also challenged that the statute was

vague in that it imposed "'strict liability' on the appellants for actions of a third party, their children, who 'may or may not be subject to the control of the accused.'" *Id.* at 84.

This Court explained that "[t]he statute does not subject a parent to prosecution for the actions of his or her children, but it does sanction prosecution for the parent's own acts." *Id.* Thus, we established that "[b]efore a person may be found guilty of violating [Educ.] § 7-301(e)(2), the court must find: 1) the person had control over the child and 2) failed to see that the child attended school regularly." *Id.* We emphasized that "[t]he statute imposes an affirmative duty on persons who have control over a child over age six but under age sixteen. That duty is to assure that the child attends school regularly. Failure to perform that duty is a violation of the statute." *Id.* Accordingly, we clarified that "[p]assive acquiescence in the child's nonattendance of school is no defense." *Id.*

In determining that the evidence was sufficient to support the conviction, this Court explained:

> That Mrs. P.'s daughters did not attend school reglarly [sic] is unmistakable. As is the fact that appellant was made fully aware of the absences as the result of conferences with school officials as well as letters from the school authorities. Mrs. P. testified that she knew her daughters did not go to school and that she allowed them to stay home. The evidence was not only sufficient, it was overwhelming.

Id. at 91.

In the case at bar, we only focus on whether the facts, viewed in the light most favorable to the State, could lead a rational trier of fact to conclude, beyond a reasonable

doubt, that Catherine had control over Daysean. Similar to the facts in *Jeannette L.*, the testimony in the instant case established that Catherine was aware of Daysean's absences as a result of meetings with the school, phone calls, and letters from Ms. Jeter. The testimony also established that there were periods of time when Catherine knew Daysean did not go to school because she reported to Ms. Jeter that he was sick.[3] These facts alone permit this Court to conclude, as did this Court in *Jeannette L.* that "[t]he evidence was not only sufficient, it was overwhelming." 71 Md. App. at 91.

In addition, the record reflects that Catherine enrolled Daysean in school and provided the school with a permanent address. It is undisputed that Catherine is Daysean's mother and that she had authority to make decisions concerning Daysean's schooling. There was nothing in the record to suggest that Daysean lived anywhere other than with his mother. At the very least, when Catherine enrolled Daysean in school and during the times when Catherine had physical custody of Daysean, she necessarily had control over him to satisfy the requirements of the statute. *See Gillespie v. Gillespie*, 206 Md. App. 146, 152 n.1 (2012) (quoting *Taylor v. Taylor*, 306 Md. 290, 296 n.4 (1986)) ("[A] parent exercising physical custody over a child . . . necessarily possesses the authority to control and discipline the child during the period of physical custody.").

[3] No documentation of Daysean's illness was presented to Ms. Jeter or to the court.

Accordingly, the evidence was sufficient to support the court's finding that Catherine was involved in the violation of Educ. § 7-301(c), the mandatory school attendance statute.

II.

Next, Catherine argues a new trial is warranted because the "verdict was based upon an erroneous application of the law to the facts[.]" Catherine contends that the court equated her having knowledge of the attendance problem with her having control over Daysean, which "diluted the nature of the offense so as to eliminate the requirement that the State prove [that she] had 'control over' Daysean, a central element of the offense." The State responds that "[t]he use of the word 'knowledge' by the court does not indicate a lack of awareness of the appropriate standard" and further, that "[t]he standard for review is not what word the court used in announcing its verdict, but whether the verdict was supported by the evidence."

In the case at bar, there is nothing in the record to suggest that the court erroneously applied the statute to the facts of this case. Not only did defense counsel set out the elements of the offense in his motion for judgment of not involved, but we are also well aware that "a trial judge is 'presumed to know the law and to apply it properly.'" *Wood v. State*, 436 Md. 276, 291 (2013) (quoting *State v. Chaney*, 375 Md. 168, 179 (2003)). Further, "'the burden of rebutting that presumption is on the party claiming error first to allege some error and then to persuade us that that error occurred.'" *State v. Chaney*, 375 Md. 168, 183-84 (2003) (quoting *Fisher v. State*, 128 Md. App. 79, 104-05 (1999)). Finally, "'trial judges are not

obliged to spell out in words every thought and step of logic,'" when announcing a decision. *Samie v. State*, 181 Md. App. 59, 66 (2008) (quoting *Beales v. State*, 329 Md. 263, 273 (1993)).

Even though the trial judge focused on the element of knowledge in announcing his findings, there is no indication that the judge did not also implicitly find, based on the established parent-child relationship, that Catherine had control over Daysean during the relevant time frame. As such, Catherine did not meet her burden of proving that the judge misconstrued the applicable law in this case.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.