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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re RAYMUNDO S., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMUNDO S.,

Defendant and Appellant.

D050830

(Super. Ct. No. JJL23662)

APPEAL from an order of the Superior Court of Imperial County, Poli Flores, Jr.,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Raymundo S. entered a negotiated admission to one count of illegally transporting
aliens (8 U.S.C § 1324(a)(1)(A)(ii)). The juvenile court declared Raymundo a ward
(Welf. & Inst. Code, § 602), and placed him on probation, conditioned on him spending
85 days in juvenile hall. Raymundo appeals, contending the juvenile court did not have

jurisdiction because the petition filed against him alleged he violated a federal statute. We affirm.

FACTS

On February 1, 2007, border patrol agents observed a truck dropping off 20 suspected illegal aliens in the desert east of the Calexico Port of Entry. A minivan driven by Raymundo, a resident of Mexico who was then 14 years old, appeared. The suspected illegal aliens ran toward the minivan and entered it. As the minivan headed onto Interstate 8 traveling east, the border patrol agents followed it. Raymundo did not stop when the agents attempted to make an enforcement stop by activating the vehicle's red lights and siren. A short time later, the minivan came to a complete stop on the center median. Raymundo was aware that neither he nor the passengers had documentation to enter the United States legally. Raymundo told the agents he had worked with "these smugglers for the past three months." Raymundo also said he has been arrested five times for guiding illegal aliens, but this was the first time he was the driver.

Raymundo's attorney filed a motion to dismiss the petition on the ground that the juvenile court lacked jurisdiction. The court denied the motion. Subsequently, Raymundo entered a negotiated admission that he knowingly transported aliens without documentation within the United States in violation of title 8 United States Code section

1324(a)(1)(A)(ii). The prosecutor agreed to dismiss a second allegation that Raymundo had resisted a federal officer. (18 U.S.C. § 111.)¹

On April 26 the court declared Raymundo a ward of the court and placed him on probation until his 18th birthday. The court ordered Raymundo to spend 85 days in juvenile hall, with credit for 85 days served.

DISCUSSION

Raymundo contends the federal courts have exclusive jurisdiction to hear violations of federal immigration law and therefore the juvenile court erred by denying his motion to dismiss, which was based on the court's lack of jurisdiction.² The contention is without merit.

Generally, state courts may assume subject matter jurisdiction over a federal cause of action absent a provision by Congress to the contrary or "disabling incompatibility between the federal claim and state[]court." (*Gulf Offshore Co. v. Mobil Oil Corp.* (1981) 453 U.S. 473, 477.) In considering the propriety of state court jurisdiction over any particular federal claim, we begin with the strong presumption that state courts enjoy concurrent jurisdiction. (*Id.* at p. 478.) It is presumed Congress ordinarily does not intend to displace existing state authority. (*Tafflin v. Levitt* (1990) 493 U.S. 455, 466.) "To give federal courts exclusive jurisdiction over a federal cause of action, Congress

¹ All further statutory references are to title 18 of the United States Code, unless otherwise specified.

² We note the issue is currently pending in our Supreme Court in *In re Jose C.* (2007) 155 Cal.App.4th 1115, review granted January 16, 2008 (S158043).

must, in an exercise of its powers under the Supremacy Clause, affirmatively divest state courts of their presumptively concurrent jurisdiction." (*Yellow Freight System, Inc. v. Donnelly* (1990) 494 U.S. 820, 823.) Congress may confine jurisdiction to the federal courts either explicitly or impliedly; the presumption can be rebutted by an explicit statutory directive or an "unmistakable implication from legislative history." (*Gulf Offshore Co. v. Mobil Oil Corp., supra*, 453 U.S. at p. 478.) It can also be rebutted "by a clear incompatibility between state-court jurisdiction and federal interests." (*Ibid.*)

Raymundo's argument is based on section 3231, which provides: "The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States." It is well settled that section 3231 provides federal courts with exclusive jurisdiction over federal criminal law claims. (See *Tennessee v. Davis* (1879) 100 U.S. 257, 262.)

However, the Juvenile Justice and Delinquency Prevention Act of 1974, section 5031 et seq. (the Act), provides that a juvenile:

"shall not be proceeded against in any court of the United States unless the Attorney General, after investigation, certifies to the appropriate district court of the United States that (1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles or (3) the offense charged is a crime of violence that is a felony . . . and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction."
(§ 5032.)

Under the Act, Congress "revoked the district courts' preexisting, largely unrestricted subject-matter jurisdiction over criminal prosecutions against juveniles," by

declaring that acts otherwise criminal, when committed by juveniles, generally become noncriminal and merely "juvenile delinquen[t]" conduct. (*United States v. Chambers* (6th Cir. 1991) 944 F.2d 1253, 1258 (*Chambers*).)³ "Thus, a juvenile who has committed what otherwise 'would have been a crime if committed by an adult,' [citation], has not committed a criminal offense against the United States and is therefore not within the criminal jurisdiction of the federal courts." (*In re Sealed Case* (D.C. Cir. 1997) 131 F.3d 208, 211, italics omitted.) In section 5032, Congress "partially restored" to federal courts jurisdiction to hear criminal matters against juveniles if, and only if, the certification requirement is met. (*Chambers, supra*, 944 F.2d at p. 1259; *In re Sealed Case, supra*, 131 F.3d at p. 211.)

The certification by the Attorney General, as outlined in section 5032, is a jurisdictional requirement for a federal court to hear a criminal case involving a juvenile. (*Chambers, supra*, 944 F.2d at p. 1259; *In re Sealed Case, supra*, 131 F.3d at p. 211.) Without proper certification, a criminal case involving a juvenile cannot be heard by a federal court. No such certification was submitted in this case. Therefore, the juvenile court had subject matter jurisdiction and properly heard Raymundo's case under the federal jurisdictional rules relating to the federal juvenile justice system.

This analysis is also in keeping with the "elementary tenet of statutory construction that 'where there is no clear intention otherwise, a specific statute will not be

³ In section 5031, " 'juvenile delinquency' " is defined as a "violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult"

controlled . . . by a general one' " (*Guidry v. Sheet Metal Workers Nat. Pension Fund* (1990) 493 U.S. 365, 375; see also *Mitchell v. Superior Court* (1989) 49 Cal.3d 1230, 1250). Section 5032, which carves out an exception for federal criminal cases involving juveniles, is the specific statute. For purposes of federal juvenile delinquency claims (see fn. 3, *ante*), section 5032 has replaced section 3231 as the applicable subject matter jurisdictional statute. (*Chambers, supra*, 944 F.2d at pp. 1257-1259.) In other words, section 3231 does not apply to juvenile proceedings absent certification.

Congress's enactment of section 5032 "reflects a legislative perception that accused juvenile offenders generally belong in the hands of state authorities, absent unusual circumstances and/or special procedural protections." (*Chambers, supra*, 944 F.2d at p. 1258.) "In short, Congress 'recognized that the federal court system is at best ill equipped to meet the needs of juvenile offenders. Deference to the state courts should always be observed except in the most severe of cases.' " (*Ibid.*)

The Act's distinction between adult crimes and "juvenile delinquency" (see fn. 3, *ante*) is similar to California's treatment of juvenile offenders. Juvenile delinquency proceedings in this state are largely considered civil in nature (Welf. & Inst. Code, § 203) and principally concerned with the status of the minor. (*In re Kasaundra D.* (2004) 121 Cal.App.4th 533, 539-540.) Raymundo attempts to persuade us that juvenile delinquency proceedings in California are essentially criminal trials because the juvenile delinquent has some of the same rights as a criminal defendant and because some of the procedural practices are the same in both forums. We are not persuaded; juvenile delinquency proceedings are civil in nature. (Welf. & Inst. Code, § 203.)

Further, under California law, juvenile courts have jurisdiction over a minor who violates federal law. Welfare and Institutions Code section 602 states "any person who is under age of 18 years when he or she violates any law of this state *or of the United States . . .* is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court." (Italics added.)

But for three cases, the authority cited by Raymundo to support his argument that section 3231 is controlling in all cases involving only federal crimes predates the enactment of the Act. *People v. Tilehkooh* (2003) 113 Cal.App.4th 1433 is unavailing because the case did not involve a juvenile offender.

The other two post-Act cases upon which Raymundo relies are on *State v. Tidwell* (Wash.Ct.App. 1982) 651 P.2d 228, 230-231, and *Matter of Welfare of J.J.T.* (Minn.Ct.App. 1997) 559 N.W.2d 714, 716, which held that section 3231 precluded a state court's jurisdiction over a juvenile delinquency petition based solely on an alleged violation of federal law. Neither the Washington nor the Minnesota appellate case is availing. In *State v. Tidwell, supra*, 651 P.2d at pages 230 to 231, the Washington appellate court found section 5032 did not overcome the exclusive jurisdiction of federal court over federal crimes (§ 3231); rather, section 5032 was merely "an expression of congressional preference for state court jurisdiction over offenses committed by juveniles." (Accord, *Matter of Welfare of J.J.T., supra*, 559 N.W.2d at pp. 715-716.) We reject that interpretation of section 5032 because of our conclusion that section 3231 is inapplicable to federal juvenile delinquency claims.

We also find unavailing Raymundo's argument that immigration and alienage are the exclusive province of the federal government and therefore the states may not regulate or criminalize matters related to immigration or alienage. (See *Truax v. Raich* (1915) 239 U.S. 33, 42.) At issue in this case is not regulation or criminalization of immigration-related matters. This case is about whether a California juvenile court has jurisdiction to adjudicate violations of federal law by a juvenile. We conclude it does under section 5032 when the Attorney General of the United States does not follow the certification requirement of the statute.

DISPOSITION

The order of wardship is affirmed.

BENKE, Acting P.J.

I CONCUR:

HALLER, J.

I CONCUR IN RESULT:

McDONALD, J.