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SUPREME COURT
FILED

MAY 12 2014

Frank A. McGuire Clerk

Deputy

In the Supreme Court of the State of California

IN RE ROSARIO V.,

**a Person Coming Under the Juvenile
Court,**

v.

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

Plaintiff and Respondent,

ROSARIO V.,

Defendant and Appellant.

Case No. S212346

Appellate District
Division Three, Case
No. G046961

Orange County
Superior Court, Case
No. DL034139

RESPONDENT'S MOTION FOR JUDICIAL NOTICE

TO THE HONORABLE CHIEF JUSTICE CANTIL-SAKAUYE
AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF
CALIFORNIA:

Respondent respectfully moves this court, pursuant to Evidence Code sections 452 and 459 and California Rules of Court, rule 8.252, to take judicial notice of the attached legislative history, which is relevant to the court's evaluation of Welfare and Institutions Code section 709: Assembly Committee on Appropriations, comments on AB 2212, as amended April 22, 2010 (Exh. A).

Exhibit A was printed from the Legislative Counsel's website: leginfo.ca.gov. The matter to be noticed was not presented to the trial court and does not relate to proceedings occurring after the judgment that is the subject of the appeal.

Exhibit A is both a proper subject of judicial notice under Evidence Code section 452 and relevant to the issues in this appeal. First, Evidence Code section 452, subdivision (c) states that judicial notice may be taken of "Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States." Evidence Code section 459 allows the reviewing court to take judicial notice of any matter specified in Evidence Code section 452. It is appropriate to take judicial notice of committee analyses and reports. (*People v. Ledesma* (1997) 16 Cal.4th 90, 98 [judicial notice of assembly bill analysis].) Second, this matter is relevant to the court's determination as to whether a juvenile is presumed competent and bears the burden of proof as to alleged incompetence because Exhibit A references a legislative intent to codify procedures for juvenile competency similar to those afforded adults.

Accordingly, respondent respectfully requests that this court take judicial notice of the attached documents.

Dated: May 8, 2014

Respectfully submitted,

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EXHIBIT A

BILL ANALYSIS

AB 2212
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Date of Hearing: April 28, 2010

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Felipe Fuentes, Chair

AB 2212 (Fuentes) - As Amended: April 22, 2010

Policy Committee: Public
SafetyVote: 7-0

Urgency: No State Mandated Local Program:
No Reimbursable:

SUMMARY

This bill codifies certain constitutional requirements for determining juvenile competency. Specifically, this bill:

- 1) Requires a juvenile court to suspend criminal proceedings if doubt is present as to the minor's present ability to cooperate with his or her lawyer with a reasonable degree of rational understanding.
- 2) Requires the court, upon declaration of a doubt as to the minor's competency, to order the competence to be determined at a hearing.
- 3) Requires the court to appoint an expert in the field of juvenile competency to evaluate whether the minor suffers from a mental disorder, developmental disability, or developmental immaturity.
- 4) Specifies that if the minor is found incompetent by a preponderance of evidence, all proceedings shall remain suspended for a sufficient period of time to determine whether there is a substantial probability the minor will attain the necessary capacity in the foreseeable future. The period of time during which proceedings are suspended shall not exceed six months, during which time the court may consider a motion to dismiss, a motion by the defense regarding a change in the placement of the minor, a detention hearing, or a demurrer.

AB 2212

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FISCAL EFFECT

1) Minor annual state and local costs for hearings and increased mental health services, depending on how many wards are affected by this bill. This bill essentially codifies current practice, so costs should be minimal.

By creating this procedure, however, judges could arguably widen the net and make broader than anticipated use of the proposed procedure, which could result in additional hearings.

2) Minor absorbable costs to the Judicial Council to develop rules to implement the proposed processes.

COMMENTS

1) Rationale . The author's intent is codify competency processes for juveniles, similar to those afforded adults. According to the author, "Despite the Penal Code procedures for determining competency in adult proceedings, a determination of juvenile competency lives only in case law and the Rules of Court. The absence of statutory authority for deciding juvenile competency creates lack of certainty and disparate application of existing case law.

"Juvenile adjudicative competency is governed by a combination of California statute as it relates to adults, juvenile rules of court, and controlling case law related to both minors and adults. Legislative action is necessary to articulate the law in a manner that provides the juvenile court with the appropriate guidance, mandate and uniformity to ensure due process of law.

"While case law suggest that courts may rely on adult competency provisions in the absence of a juvenile statute on competency to stand trial, adult competency statutes do not address the nuanced application of 'developmental immaturity' outlined in case law relevant to determination of competency.

AB 2212

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in juveniles. Developmental immaturity simply means the minor

is too young to understand the proceedings or effectively assist counsel.

"Moreover, evaluation of children requires a professional expertise on child development, use of assessment instruments unique to evaluations of children in order to identify a mental disorder or developmental disability. For obvious reasons, the adult statutes fail to address such standard of practice for juveniles. Codification of a juvenile statute for competency to stand trial is necessary to address a void in the statute that unambiguously provides guidance on the rule of law for competency in delinquency proceedings."

2) Support. The Youth Law Center, the CA Public Defenders Association, and the Sacramento County Public Defender reference confusion in this area of law and agree upon the need to codifying juvenile competency processes.

According to the Sacramento County Public Defender, "With the passage of AB 2212, the state could save countless resources in avoiding further unnecessary litigation in this area. Countless contested competency cases are being litigated in juvenile court everyday, draining valuable resources. Cases are being litigated up and down the appellate court ladder attempting to get guidance in this vague area of the law. AB 2212 would give juvenile delinquency courts, minors' attorneys, prosecutors, and other juvenile justice partners clear standards, direction and guidance in this area of law, as is the case regarding competency to stand trial in the criminal court."

3) Prior legislation , AB 2019 (Steinberg), 2004, was similar to AB 2212, but considerably more expansive and prescriptive regarding the outcome should a juvenile be found incompetent. AB 2212, expired on the Senate floor after passing off of the Suspense File in both houses.

Analysis Prepared by : Geoff Long / APPR. / (916) 319-2081

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

Case Name: **People v. Rosario V.**
Case No.: **S212346**

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 collection and processing of correspondence for mailing with the United States Postal Service. 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 that same day in the ordinary course of business.

On May 9, 2014, I served the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

The Honorable Judge Deborah Chuang
Orange County Superior Court
Lamoreaux Justice Center
341 City Drive South
Department L34
Orange, CA 92868-3205

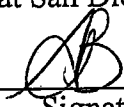
Clerk of the Court
Court of Appeal of the State of California
Fourth Appellate District, Division Three
601 W. Santa Ana Blvd.
Santa Ana, CA 92701

The Honorable Tony J. Rackauckas
Orange County District Attorney's Office
401 Civic Center Drive West
Santa Ana, CA 92701

and, furthermore I declare, in compliance with California Rules of Court, rules 2.25(i)(1)(A)-(D) and 8.71 (f)(1)(A)-(D), I electronically served a copy of the above document from Office of the Attorney General's electronic service address ADIEService@doj.ca.gov on May 9, 2014, to Appellate Defenders, Inc.'s electronic service address eservice-criminal@adi-sandiego.com and to Appellant's attorney's electronic service address by 5:00 p.m. on the close of business day at cindybrines@sbcglobal.net.

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 May 9, 2014, at San Diego, California.

A. Brooks
Declarant


Signature