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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re IVAN C., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

IVAN C.,

Defendant and Appellant.

D050831

(Super. Ct. No. JJL23682)

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

Seventeen-year-old Ivan C. entered a negotiated admission to one count of
transporting illegal aliens in the United States (8 U.S.C. § 1324(a)(1)(A)(ii)). The
juvenile court declared Ivan a ward (Welf. & Inst. Code, § 602), and placed him on
probation, conditioned on him spending 69 days in juvenile hall.

FACTS

On February 17, 2006, a border patrol agent observed Ivan sitting alone on the trunk of an older sedan in a rest area near the Gray's Well exit of Interstate 8; the area is known as a "staging area" for illegal alien smuggling. The agent did not see anyone inside the car. The agent left and later returned to the rest area as Ivan was driving the automobile away. The agent followed Ivan's automobile along Interstate 8. At one point, the agent passed Ivan's car and saw a passenger in the vehicle. The agent activated the lights and sirens on his patrol car and alerted other officers of the situation. After Ivan did not pull the car to the side of the road, agents used a Controlled Tire Deflation Device to flatten the tires of Ivan's vehicle and force it to stop. The agents found four illegal aliens in Ivan's car. Ivan said he was paid a fee of \$100 per person for transporting these individuals.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as a possible, but not arguable, issue: whether the juvenile court lacked jurisdiction to adjudicate Ivan as a delinquent where the delinquency petition was based solely on a violation of federal law.

Because this issue is before our Supreme Court,¹ we find the following discussion is in order. 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 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.*)

¹ The issue of juvenile court jurisdiction in such cases is currently pending in our Supreme Court in *In re Jose C.* (2007) 155 Cal.App.4th 1115, review granted January 16, 2008, S158043. Appellant's counsel filed her brief before the Supreme Court granted review on this issue.

We acknowledge that title 18 United States Code² section 3231 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 the 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*

² All further statutory references are to title 18 of the United States Code, unless otherwise specified.

(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 Ivan'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 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

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"

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.

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.) Further, under California law, juvenile courts have jurisdiction over a minor who violates federal law. Welfare and Institutions Code section 602, subdivision (a) 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.)

We granted Ivan permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issue referred to by appellant's counsel, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Ivan on this appeal.

DISPOSITION

The order of wardship is affirmed.

HALLER, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.