

No. 1-14-3834

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

<i>In re</i> S.F., a Minor	)	Appeal from the Circuit Court
	)	of Cook County.
	)	
	)	
	)	No. 13-JD-04920
	)	
	)	Honorable
(The People of the State of Illinois, Petitioner-	)	Marianne Jackson,
Appellee v. S.F., Respondent-Appellant).	)	Judge, Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.  
Justices Lampkin and Rochford concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appeal was dismissed for lack of jurisdiction.

¶ 2 After a bench trial, the respondent, S.F., was found guilty of one count of misdemeanor possession of cannabis (720 ILCS 550/4(b) (West 2012)). Later, the circuit court vacated its finding of guilt and placed S.F. on one-year supervision pursuant to its authority under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/5 *et seq.* (West 2012)). The respondent appeals from this order, arguing that the finding of guilty should be reversed where the circuit court erroneously denied her motion to suppress an inculpatory statement that she made to the police.

The State argues that we lack jurisdiction over the respondent's appeal where the circuit court vacated its finding of guilty and continued the matter under supervision. For the reasons that follow, we agree with the State and dismiss the respondent's appeal.

¶ 3 The State's petition for adjudication of wardship, filed on December 10, 2013, alleged that the respondent possessed cannabis on December 3, 2013. The petition charged the respondent with one misdemeanor count and one felony count of possession of cannabis. Prior to trial, the respondent filed a motion to suppress the admission that she made to the police, arguing that the police failed to provide her with *Miranda* warnings and obtained her statements in violation of her constitutional rights. The trial court conducted an evidentiary hearing on the motion on October, 15, 2014, at which the arresting police officer and the respondent testified to the events of December 3, 2013.

¶ 4 Chicago Police Officer Ryan testified that he received a call around 12:30 p.m. regarding a possible burglary in progress at 5118 West Henderson Street in Chicago. When he and his partner, Officer Fligelman, arrived, they observed six to seven teenagers, some wearing Foreman High School shirts. Officer Ryan noted that it was a school day and that he knew that school was in session at the time. The minors were all handcuffed while Officer Ryan looked around the garage, finding several backpacks and two small prescription bottles that had no labels. Officer Ryan discovered a green, leafy substance, which he suspected was cannabis, inside the prescription bottles. He testified that he asked the minors if the prescription bottles belonged to anyone and that the respondent admitted that the bottles belonged to her. At that point, Officer Ryan arrested the respondent for possession of cannabis. According to Officer Ryan, he arrived at the scene at 12:25 p.m., and he arrested the respondent at 12:32 p.m. He did not recall that the respondent was ever given *Miranda* warnings on that day.

¶ 5 The respondent testified that she was 16 years old and was present in the garage when the police arrived. She stated that the police "were checking us, our book bags, asking what happened" and that they handcuffed everyone. According to the respondent, she was not given her *Miranda* warnings before she was asked about the prescription bottles. She admitted that she told the police that the cannabis belonged to her. The respondent testified that she was then taken to the police station but that she was not advised of any of her constitutional rights.

¶ 6 The trial court denied the motion to suppress, finding that, based on the circumstances, the police had a reasonable suspicion to detain and question the minors and that the encounter was so brief, the court did not believe that the respondent's admission was involuntary or the product of coercion.

¶ 7 The matter immediately proceeded to a bench trial at which Officer Ryan testified in more elaborate detail regarding the events of December 3, 2013, including details to establish the chain of custody for the cannabis taken into evidence. The respondent testified that she did not feel free to leave the garage when the police arrived. She also denied that the cannabis belonged to her, explaining that she "took the blame" for a friend who was 18 years old and would have been sent to jail. The parties stipulated to the fact that the substance in the prescription bottles tested positive for cannabis and weighed 3.2 grams.

¶ 8 The trial court found the respondent guilty of the misdemeanor count of possession of cannabis and not guilty of the felony count. The case was then set for a dispositional hearing. Prior to that hearing, the respondent filed a motion for reconsideration of the denial of her suppression motion. On December 4, 2014, the court denied the motion for reconsideration and commenced the dispositional hearing. The social investigation report by the respondent's probation officer was admitted and made part of the record. In her report, the probation officer

recommended that the respondent be sentenced to nine months of probation due to her lack of criminal background and police contact. The State agreed with that recommendation, but the respondent asked the court to continue the case under supervision.

¶ 9 Based on the facts and circumstances of the case, including the probation officer's recommendation and the respondent's assurance that she would continue with drug treatment, the trial court stated that it was vacating its earlier finding of guilty and placing the respondent on one year supervision with a number of conditions, including community service and participation in a drug treatment program. The written sentencing order reflects the trial court's oral orders as stated during the hearing, and this is the order from which the respondent now appeals.

¶ 10 Delinquency proceedings are separated into three phases—a findings phase, an adjudicatory phase and a dispositional phase. *People ex rel. Devine v. Stralka*, 226 Ill. 2d 445, 451 (2007). The findings phase involves a trial and a determination of guilt, whereas the later phases occur at a sentencing hearing and involve a determination of wardship and a sentencing disposition. *Id.* The finding of guilt coupled with the disposition is a final and appealable judgment. *Stralka*, 226 Ill. 2d at 456; see also Ill. Sup. Ct. R. 660 (eff. Oct. 1, 2001).

¶ 11 In *In re Henry B.*, 2015 IL App (1st) 142416, ¶ 17, the trial court found the minor-respondent guilty of battery. However, at the sentencing hearing, the trial court "did *not* enter either a finding of guilty or any judgment." *Id.*, ¶ 18. Instead, the court continued the case, ordering the minor-respondent to remain under supervision pursuant to section 5-615(1)(b) of the Act (705 ILCS 405/5-615(1)(b) (West 2012)) for a period of six months with certain conditions. *Id.* The minor-respondent appealed from that order (*id.*, ¶ 19), and the appellate court dismissed the appeal for lack of jurisdiction (*id.*, ¶ 42). The court explained that the trial court's order was not appealable under Rule 660 because the order was not a final judgment where it contained no

finding of guilty and no judgment entered. *Id.*, ¶ 27. The appellate court also found that the trial court order did not fall under the gambit of appealable interlocutory orders described in Illinois Supreme Court Rule 662 (eff. Oct. 1, 1975) (applies to limited circumstances when a dispositional order is not entered within 90 days from either an adjudication of wardship or a revocation of probation or conditional discharge). *Id.*, ¶ 24. Further, the court determined that the trial court order was not appealable under Illinois Supreme Court Rule 604(b) (eff. Feb. 6, 2013) because that rule does not apply to juvenile delinquency proceedings (*id.*, ¶ 31), and regardless, Rule 604(b) allows for the appeal of a sentence of probation where there is a finding of guilty and judgment entered (*id.*, ¶ 33).

¶ 12 Likewise, in this case, the order from which the respondent appeals does not contain a finding of guilty or a judgment. The trial court's order clearly states that it vacated its earlier guilty finding and placed the respondent on supervision for a period of one year. Therefore, it is not a final and appealable order under Rule 660. We also do not find Rule 662 or Rule 604 to be applicable to the facts of this case. Accordingly, we must dismiss the appeal for lack of jurisdiction.

¶ 13 In so holding, we note that the respondent correctly points out that the current version of the Act allows a trial court to enter an order of continuance under supervision even after a finding of delinquency (705 ILCS 405/5-615(1) (West 2014), whereas previously, a trial court could enter a supervision order only before a finding of delinquency. See *In re Michael D.*, 2015 IL App (1st) 143181, ¶ 2 (citing to Public Act 98-62 § 5 which amended the Act effective January 1, 2014). However, this issue was recently discussed in *Michael D.*, and this court concluded that the 2014 amendment "augmented the interlocutory nature of the juvenile supervision order, by providing the trial court with the power to vacate it at any time." *Id.*, ¶ 54;

see 705 ILCS 405/5-615(4) (West 2014)). Indeed, section 5-615(4) of the Act now provides that the trial court "may terminate a continuance under supervision at any time if warranted by the conduct of the minor and the ends of justice or vacate the finding of delinquency or both." 705 ILCS 405/5-615(4) (West 2014). Based on the trial court's ability to modify or vacate the order under the 2014 version of the Act, the appellate court in *Michael D.* determined that an order of supervision entered after a finding of guilty is also not a final and appealable order. *Id.*, 53-6. Accordingly, even if the respondent's order of supervision was entered after a finding of guilty, it is not a final and appealable order.

¶ 14 Appeal dismissed.