

Drug abuse treatment can't be forced, mother learns

By MILO GEYELIN
St. Petersburg Times Staff Writer

10-3-83

He is the privileged son of a successful physician in New Mexico, but he has had a troubled and difficult past.

Drugs, according to legal papers filed by his mother in Pinellas-Pasco Circuit Court, have been a part of his life since the eighth grade. So have psychiatrists, physicians and, finally, the courts. Last week, it was the Pinellas-Pasco Circuit Court.

The case pitted a 16-year-old-boy named Charles against his mother Ann. The issue, quite simply, was whether parents have the right to force their children to accept treatment for drug abuse.

And the answer, under Florida law, is no.

It was the bitter culmination of events that began last month at a bus stop in Albuquerque, N.M.

Two private detectives hired by Ann abducted her son on his way to work Sept. 1. Together with a third man, they shackled his ankles in leg irons and drove him more than 1,700 miles to Straight Inc., a St. Petersburg-based drug treatment program.

"AT NO TIME did I consent to being taken against my will, and (in) this particularly horrifying manner . . ." Charles said in a sworn statement last week. "I do not consent to . . . treatment (at Straight) and wish to return home to New Mexico to resume my life."

But in sworn statements of her own, Ann recounted her son's history of drug use.

"He admitted to me that he was a frequent user to excess of alcohol, marijuana, uppers (amphetamines), downers (barbiturates) and other controlled substances . . ." she said. "I have found partially consumed bottles of hard liquor in his luggage when he returned from vacation with his aunt at Christmastime . . . when he was not yet 15 years old."

And in his statements before the judge, Ann's attorney Robert E. Wharrie got straight to the point.

"The parent has a right to bring a child into a drug program," Wharrie argued. "I would submit that the manner in which (Charles) was brought here was merely the exercise of a right by a natural custodian."

But Florida law regulating mental health and drug abuse treatment centers says differently. Unless ordered to accept treatment by a judge, children, like adults, must agree voluntarily to enter drug treatment programs. And if they enroll voluntarily, children, like adults, must be allowed to leave when they choose.

"NO PERSON WHO voluntarily enters any . . . program for the treatment of drug dependency shall be retained . . . against his will . . ." the law states.

See DRUG ABUSE, 10-B

Drug abuse

from 1-B

"The statute is what we go by," says Barbara McPherson, an attorney for the Florida Department of Health and Rehabilitative Services (HRS), the state agency responsible for licensing drug treatment programs such as Straight.

"The person has to consent (to treatment) or be involuntarily committed (by a court order). You simply can't throw a kid into a mental hospital."

But at Straight, which has been the focus of allegations that it illegally detains clients for much of its seven-year history in Pinellas, officials think the law is wrong.

"HRS licenses Straight," says Wharrie, attorney for Charles' mother. "But the parents do have rights." And the most basic of them, Wharrie and Straight officials agree, is the right to look out for the welfare of their children.

"How can a parent *abduct* their own child?" says William D. Oliver, Straight's executive director. "A parent has a right to place, detain and restrain a child short of abuse. . . . I think that's a principle in the law of this country. . . ."

"PARENTS HAVE the right to take an unwilling child to a dentist or a barbershop or a school or anywhere else that the parent feels is in the best interest of the child.

"The right of a parent to control the actions of a child is very clearly vested in the parent, with the exception of when the parent oversteps that authority," says Oliver. "That would be in the case of abuse, neglect or abandonment."

Committing a child to a drug treatment program such as Straight, says Oliver, ought to be part of that right.

But increasingly, says Mrs.

McPherson, legislators and judges have come to recognize the rights of children as adults. Last February, for example, a federal judge in New York stopped the Reagan administration from carrying out a plan then known as the "squeal rule" — a requirement that federally financed family planning clinics inform the parents of children who request contraceptives.

When it comes to confining children in mental health and drug abuse programs, Florida law very clearly gives children the same rights as adults. The State Legislature could have changed the law last year, when it considered a bill, sponsored by former State Rep. Bob Melby, that would have given parents the right to commit their children to drug programs. The bill passed in the House but failed in the Senate.

"THE LAW recognizes that in mental health facilities . . . even kids are entitled to due process rights," says Mrs. McPherson. "The law, as it has changed and evolved, allows fundamental due process for children."

Parents with children who abuse drugs, says McPherson, are still protected by a provision in the Florida law that give judges the power to decide whether to commit a child to a drug treatment program.

"If you have a person who is addicted (to drugs), who is really a habitual user, you can get a court order," says Mrs. McPherson. "And that person does not have the right to come and go. . . . So if a person is really a habitual user and in danger, there is a mechanism for involuntary treatment."

The law, says Mrs. McPherson, tries both to help troubled families and protect the civil rights of children.

But the law, counters Oliver, requires an unfair burden from the parents.

"There's still the issue of having to go to court every time a parent wants to do something the child doesn't want

done," says Oliver. "The burden of proof ought to be on HRS to show that they have the authority to intervene."

The central issue, says Oliver, is whether children with possible drug problems should be treated by the courts as legal adults.

"Is a child a legal person?" Oliver says. "A child can't sign a contract. A child can't join the service. A child can't be married."

WHY, HE ASKS, does a child have to give his consent before getting treatment for drug abuse?

"I feel very sorry for people with children with drug problems," answers Sara Rahdert, the attorney who represented Charles during last week's court fight. "But let's get our focus right. Who's the one being put away?" Charles, she says later, may have taken drugs in his past, but he is far from being drug dependent.

"He will agree that in the past he used a lot of drugs," says Mrs. Rahdert. "He is not a habitual user. He is not (drug) dependent."

Charles arrived at Straight on Sept. 3. His mother was there to meet him, but Charles refused to enroll himself in the program. Straight, nevertheless, held him there for three weeks, according to Mrs. Rahdert. His mother, meanwhile, filed a petition to have Charles committed into the program by court order.

Last week the petition was dismissed. Pinellas-Pasco Circuit Judge Robert Michael ruled that he lacked jurisdiction in the case because Charles had been brought to St. Petersburg against his will and because the legal papers had not been filed correctly.

The central issue — whether children should have the same legal rights as adults — was never addressed.

Charles flew back to Albuquerque Wednesday night on a flight arranged by a family he had been living with, Mrs. Rahdert says. Today, she says, he plans to go back to school.