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Judge dodges ruling on teen "kidnapping'

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OAKLAND - The parents in the crowded courtroom here gave the judge a standing ovation.

But it was an odd victory for supporters of the "tough love" schools that were as much in question in the case as the parents' right to send a teenager there against his will.

In turning down the prosecutor's request to have 16-year-old David Van Blarigan brought home from a behavior-modification school in Jamaica, the judge Tuesday cited in support none of the compelling issues that were debated in the courtroom and in the national press.

Alameda County Superior Court Judge Ken M. Kawaichi was mute on the messy debate of parents' vs. minors' rights. He sidestepped due process and privacy issues, and myriad other legal and emotional concerns that earmarked the unprecedented case.

Instead, it was a technicality, his perceived misuse of proper procedure, that the judge found most objectionable.

In turning down the prosecutor's petition for a writ of habeas corpus, the judge said he doubted that the writ was the proper channel to bring the civil suit. A writ is usually filed by prisoners claiming unlawful imprisonment.

The judge also said that the prosecutor, Deputy District Attorney Robert Hutchins, had failed to show adequate proof that David was being physically abused.

Hutchins said that he was confused by the ruling. His higher-ups in the Alameda County district attorney's office told him that there would be no appeal. Hutchins did not cite the reason.

The judge didn't say how Hutchins could prove abuse since no outsider had been able to question David at the locked facility, Tranquility Bay, since his arrival in November. Even David's parents are not permitted to call him.

Hutchins had sought David's return, in part, to question him about his treatment since he was whisked away from his Oakland home by "escorts" hired by his parents. The escorts drove him to Brightway Adolescent Hospital, a Utah psychiatric facility. From there, David was sent to the Jamaica school designed to change youths' behavior.

"It's a Catch-22," said Loren Warboys, head of the Youth Law Center in San Francisco, an advocacy group. "These institutions are totally closed. . . . To say you have to have clear evidence of abuse means they can never be challenged."

The judge's ruling was met with wild applause by scores of parents who support these programs.

Daniel Koller, the attorney for David's parents, Sue and Jim Van Blarigan, repeatedly referred to Tranquility Bay as a "boarding school."

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