

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of J.L.E., Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellant,

v

JONATHAN L. ELLIOTT,

Respondent-Appellee.

UNPUBLISHED

February 8, 2005

No. 250363

Wayne Circuit Court

Family Division

LC No. 02-412873

Before: Hoekstra, P.J., and Cavanagh and Borrello, JJ.

PER CURIAM.

Respondent was charged as a juvenile with assault with intent to commit murder, MCL 750.83, and possession of a weapon in a weapon-free school zone, MCL 750.237a(4). He asserted an insanity defense and the trial court found him “not criminally responsible” because “he could not conform his actions to the requirements of society.” The parties subsequently discussed treatment options and, over petitioner’s objection, the trial court dismissed the petition and released respondent to his father for transport to an inpatient mental health treatment facility in another state. Petitioner appeals as of right, arguing that the trial court, having found respondent not guilty by reason of insanity, was required by MCL 330.2050 to commit respondent to the center for forensic psychiatry for evaluation. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, we are only asked to decide the very narrow issue of whether MCL 330.2050 applies to juvenile proceedings. Assuming *arguendo* that the insanity defense applies to juvenile proceedings, see *In re Ricks*, 167 Mich App 285, 289-293; 421 NW2d 667 (1988), we are not persuaded that MCL 330.2050 also applies.

MCL 330.2050(1) provides:

The court shall immediately commit any person who is acquitted of a criminal charge by reason of insanity to the custody of the center for forensic psychiatry, for a period not to exceed 60 days. The court shall forward to the center a full report, in the form of a settled record, of the facts concerning the crime which the patient was found to have committed but of which he was

acquitted by reason of insanity. The center shall thoroughly examine and evaluate the present mental condition of the person in order to reach an opinion on whether the person meets the criteria of a person requiring treatment or for judicial admission set forth in section 401 [MCL 330.1401] or 515 [MCL 330.1515].

Following the evaluation, the center must file a report stating whether the person meets the criteria for a “person requiring treatment,” defined in MCL 330.1401, or for judicial admission as an individual eighteen years of age or older and diagnosed with mental retardation pursuant to MCL 330.1515. MCL 330.2050(2). After receipt of the report, the court may direct the prosecuting attorney to file a petition for an order of hospitalization or order of admission to “a facility” pursuant to MCL 330.1434 (asserting that an individual is a person requiring treatment) or MCL 330.1516 (asserting that the person meets the criteria for judicial admission). MCL 330.2050(3).

Petitioner argues that MCL 330.2050’s reference to a person “acquitted of a criminal charge” includes respondent because he was charged with a crime, even though the proceedings were not criminal proceedings. This Court examined and rejected a similar argument in *In re Carey*, 241 Mich App 222, 230; 615 NW2d 742 (2000). In that case, the issue was whether provisions of the Mental Health Code governing competency examinations applied in juvenile cases. The Court noted that those provisions applied “to a defendant to a criminal charge.” *Id.* at 232, quoting MCL 330.2020(1), and citing MCL 330.2026; MCL 330.2044. The Court emphasized that “juvenile proceedings are not considered criminal.” *In re Carey, supra*, citing MCL 712A.1(2). Therefore, the Court concluded, the Legislature intended those competency provisions to apply in criminal, not juvenile, cases. *In re Carey, supra* at 232-233. The Court further concluded that although the provisions did not establish the procedure for juvenile cases, trial courts should use the provisions “as a guide.” *Id.* at 233. The Court recognized that the express language of some provisions may limit the specific procedures used, but held that trial courts should apply the provisions “to the extent possible, recognizing that its provisions may sometimes need to be liberally construed or modified for application in this context.” *Id.* at 233 n 3.

Just as the Court in *In re Carey* held that the Mental Health Code provisions concerning competency evaluations for “a defendant to a criminal charge” were not binding with respect to juvenile cases, we conclude here that the Mental Health Code provision regarding a person “who is acquitted of a criminal charge” by reason of insanity does not apply to juvenile proceedings. Although one could argue that the trial court should have looked to MCL 330.2050 as “a guide,” its usefulness for that purpose is doubtful. The Court in *In re Carey* found that the competency provisions were useful as a guide, given the absence of other applicable rules or statutes. *In re Carey, supra* at 231, 234. But there are specific provisions governing the hospitalization of “emotionally disturbed minors.” MCL 330.1498a – MCL 330.1498t. Significantly, MCL 330.1498a provides that “[a] minor shall be hospitalized only pursuant to the provisions of this chapter.” See, also, MCL 330.1498q.

Moreover, the evaluation required by MCL 330.2050 would be meaningless in the case of a juvenile. The evaluation is to determine if that person meets the criteria for admission as a “person requiring treatment” or by way of “judicial admission.” Neither of these options applies to juveniles. “Judicial admission” is only available where the person is eighteen years of age or older and has been diagnosed with “mental retardation.” MCL 330.1515. Judicial admission of

an individual under eighteen years of age is expressly prohibited by MCL 330.1503(1). *In re Blackshear*, 262 Mich App 101, 110; 686 NW2d 280 (2004). The provisions referenced in MCL 330.2050 concerning a “person in need of treatment” do not apply to emotionally disturbed minors. Rather, those provisions appear in chapter 4, and MCL 330.1498q states, “Notwithstanding the provisions of chapter 4, the civil admission and discharge procedures for emotionally disturbed minors shall be governed by this chapter [Chapter 4A, MCL 330.1498a-MCL 330.498t.]” Because the purpose of the evaluation in MCL 330.2050 is to determine whether an individual meets the requirements for judicial admission or the criteria of a person requiring treatment, and juveniles necessarily cannot satisfy either objective, the evaluation would be pointless.

For these reasons, we are not persuaded that MCL 330.2050 is applicable to juveniles and, accordingly, we affirm the trial court’s order.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Mark J. Cavanagh

/s/ Stephen L. Borrello