

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
June 27, 2013

In the Matter of C. D. JONES, Minor.

No. 308089
Wayne Circuit Court
Family Division
LC No. 04-428635-DL

Before: K. F. KELLY, P.J., and SHAPIRO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent appeals as of right the lower court's order of disposition extending the lower court's jurisdiction over respondent until he turns 21 years old, pursuant to MCL 712A.18d.¹ We affirm.

This Court reviews a lower court's factual determination for clear error. "A finding is clearly erroneous when, although there is evidence to support it, the reviewing court, on the whole record, is left with the definite and firm conviction that a mistake has been made." *People v Dendel*, 481 Mich 114, 130; 748 NW2d 859 (2008) (internal quotation marks omitted).

MCL 712A.5 provides that "the court does not have jurisdiction over a juvenile after he or she attains the age of 18 years, except as provided in [MCL 712A.2a]." MCL 712A.2a(1) provides that, under certain circumstances, the probate court may retain jurisdiction until the juvenile reaches the age of 19. Finally, MCL 712A.18d provides that the probate court must further extend its jurisdiction if the "juvenile is committed . . . for an offense that, if committed by an adult, would be a violation or attempted violation of . . . [MCL 750.186a]" and the juvenile fails to prove, by a preponderance of the evidence, that he was rehabilitated and does not present a serious risk to public safety. MCL 712A.18d(1) and MCR 3.945(B)(4) lists the factors the lower court must consider when determining whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety:

- (a) The extent and nature of the juvenile's participation in education, counseling, or work programs.

¹ In December of 2009, the lower court adjudicated respondent guilty of escape from a juvenile detention facility, MCL 750.186a, and assault and battery, MCL 750.81a.

- (b) The juvenile's willingness to accept responsibility for prior behavior.
- (c) The juvenile's behavior in his or her current placement.
- (d) The juvenile's prior record and character and his or her physical and mental maturity.
- (e) The juvenile's potential for violent conduct as demonstrated by prior behavior.
- (f) The recommendations of the institution, agency, or facility charged with the child's care for the juvenile's release or continued custody.
- (g) Other information the prosecuting attorney or juvenile may submit.

Similarly, in relevant part, MCR 3.945(B)(4) provides:

The court must extend jurisdiction over the juvenile until the age of 21, unless the juvenile proves by a preponderance of the evidence that the juvenile has been rehabilitated and does not present a serious risk to public safety.

The evidence showed respondent was not rehabilitated and continued to pose a serious risk to public safety. Although respondent participated in vocational skills training at his juvenile detention facility, Maxey Boys Training School, he refused to participate in any other treatment programs.

The trial court found, consistent with the evidence, that respondent demonstrated poor behavior at Maxey, including threatening staff members, assaulting a peer and inciting his peers to misbehave. In addition, he was uncooperative in treatment.

Respondent relies upon the fact that his social worker testified that respondent's propensity for violence was reduced. However, the social worker testified that the risk that respondent would commit a violent act in the community was approximately 50%. Moreover, the social worker's report stated that respondent was "a very violent man and a threat to the community." Finally, the report recommended that the lower court not place respondent back at Maxey because the staff believed that he would not benefit any further from their services, not because respondent was rehabilitated and no longer posed a serious risk to public safety. Given this evidence, the lower court properly found that respondent had not been rehabilitated and continued to pose a serious risk to public safety. Thus, it was not clear error for the lower court to find that respondent still had a high propensity for violence.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Douglas B. Shapiro
/s/ Amy Ronayne Krause