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In re D.T., 133 Nev. Adv. Op. 23 (May 25, 2017)

Karson Bright

University of Nevada, Las Vegas -- William S. Boyd School of Law

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CONSTITUTIONAL LAW: DUE PROCESS FOR JUVENILE DEFENDANTS IN ADULT PROCEEDINGS

Summary:

The Nevada Supreme Court held that the juvenile court properly certified a juvenile as an adult because the seriousness of his offense and his prior adjudications outweighed the subjective factors in *Seven Minors*. Additionally, the Court held that a court's certification of cognitively impaired juveniles for adult proceedings does not offend the Eighth Amendment.

Background:

This matter involves a juvenile, D.T., who snuck into S.B.'s room, a minor and D.T.'s ex-girlfriend, through a back window to retrieve his cellphone twenty days after they ended the relationship. Once in the room, D.T. found S.B. and her two brothers sleeping. D.T. then woke S.B., asked for his phone, removed her clothing and had sex with her against her will. After being booked and transferred to Las Vegas Juvenile Hall, the State filed a certification petition against D.T. and charged him with sexual assault, battery with intent to commit a crime, burglary, kidnapping, and battery constituting domestic violence. D.T.'s counsel argued that D.T. was cognitively impaired and requested a competency evaluation. Following two evaluations, D.T. was deemed competent. The juvenile court stated that the nature and seriousness of D.T.'s offenses, including prior adjudicated offenses, outweighed the subjective factors in *Seven Minors*. Accordingly, the juvenile court certified D.T. as an adult. This appeal followed.

Discussion:

Appellant contended the juvenile courts' decision on three main premises. First, Appellant contended that the juvenile courts' ruling was not sufficiently specific to satisfy procedural due process because the juvenile court merely listed the subjective factors in *Seven Minors* without explaining how each factor impacted public safety. As such, Appellant argued that the juvenile court failed to ensure that a full investigation was performed prior to the certification hearing.² The Court noted that while the juvenile court's order lacked detail, the order satisfied the minimum requirements of due process because the juvenile court's review of the appellant's psychological evaluation and opposition to the certification qualified as a full investigation.³ Moreover, the Court noted that there is no requirement for the juvenile court to explain how each subjective factor impacts public safety.⁴

¹ By Karson Bright

² See *Kent v. United States*, 383 U.S. 541 (1966) (the court requires, when making a decision to transfer a child to adult status, to make a statement of reasons for the transfer).

³ See *Lewis v. State*, 478 P.2d 168, 171 (1970) (looking to court's oral decision to determine compliance with *Kent*).

⁴ *But cf.* *In re Glenda Kay S.*, 103 Nev. 53, 59 (1987) (requiring the juvenile court to state the reasons for selecting a disposition of commitment in delinquency proceedings and why that disposition serves the interests of the child and/or State).

Next, the Appellant argued that even if the juvenile court conducted an investigation, the inquiry was not a “meaningful review” because it was unclear what the juvenile court relied on to determine that the Appellant warranted adult certification. The Appellant argued that a certification hearing is akin to a sentencing hearing and the juvenile court’s failure to consider D.T.’s subjective factors violated his due process right to an individualized certification determination.⁵ The Court rejected Appellant’s argument because the record showed that the juvenile court considered the seriousness of D.T.’s offenses, his prior adjudications, and his subjective factors, indicating that there was no error in the juvenile court’s certification determination.⁶

Finally, appellant contended that certification of cognitively impaired juveniles for adult proceedings is cruel and unusual punishment as proscribed by the Eighth Amendment.⁷ The Court stated that it considers statutory constitutional claims de novo and the challenger had the burden to demonstrate the unconstitutionality of the presumptively valid statute.⁸ While the United States Supreme Court has compared the significance of the certification decision with a sentencing hearing,⁹ it resolved that adult certification is not punishment.¹⁰ Therefore, appellant failed to demonstrate that the statute violated the Eighth Amendment.¹¹

Conclusion:

The Court found that the juvenile court reviewed all the necessary factors and properly certified D.T. to adult proceedings without violating his Eighth Amendment rights.

⁵ See *Miller v. Alabama*, 567 U.S. 460, 479 (2012) (mandatory life sentences without the possibility of parole for juvenile offenders convicted of homicide violates the Eighth Amendment).

⁶ See *In re Eric A.L.*, 123 Nev. 26, 33 (2007) (the juvenile court may consider the subjective factors in close cases where neither of the first two factors compels certification).

⁷ See *Graham v. Florida*, 560 U.S. 48 (2010); see also *Roper v. Simmons*, 543 U.S. 551 (2005); *Atkins v. Virginia*, 536 U.S. 304 (2002).

⁸ See *In re William M.*, 124 Nev. 1150, 1157 (2008).

⁹ See *Kent*, 383 U.S. at 557.

¹⁰ See *People v. Salas*, 961 N.E.2d 831, 846 (Ill. App. Ct. 2011) (rejecting claim that mandatory certification of certain juvenile offenders constituted cruel and unusual punishment); cf. *State v. Rice*, 737 S.E.2d 485, 487 (S.C. 2013) (rejecting claim that *Apprendi v. New Jersey*, 530 U.S. 466 (2000), applies to transfer proceedings because those proceedings do not determine punishment); but see *William M.*, 124 Nev. at 1161 (noting that the California Supreme Court recognized certification “as the worst punishment the juvenile system is empowered to inflict” (internal quotation marks omitted)).

¹¹ See e.g., *People ex rel. Birkett v. Konetski*, 909 N.E.2d 783, 799 (Ill. 2009) (rejecting cruel and unusual punishment claim where statutory scheme did not impose a punishment).