

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of GREGORY CLAY
RUTHERFORD, JR., Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

GREGORY CLAY RUTHERFORD, JR.,

Respondent-Appellant.

UNPUBLISHED
February 28, 2012

No. 302787
Saginaw Circuit Court
Family Division
LC No. 11-032906-DL

Before: OWENS, P.J., and JANSEN and MARKEY, JJ.

MEMORANDUM.

Respondent, a juvenile, was charged in a delinquency petition with armed robbery, MCL 750.529, conspiracy to commit armed robbery, MCL 750.157a, carrying a dangerous weapon with unlawful intent, MCL 750.226, possession of a firearm during the commission of a felony (felony firearm), MCL 750.227b, and reckless use of a firearm, MCL 752.863a. He appeals by right the decision of the family division of the circuit court to waive its jurisdiction to the criminal division of the circuit court for trial as an adult. We affirm.

Respondent waived a probable cause hearing. At issue is the trial court's decision with respect to the second phase of the waiver hearing, the purpose of which is "to determine if the best interests of the juvenile and the public would be served by granting a waiver of jurisdiction" to the circuit court. MCL 712A.4(4); MCR 3.950(D)(2). In making its determination, the trial court is required to consider the six factors listed in the statute and court rule, giving greater weight to the seriousness of the offense and the offender's prior record of delinquency than to the other factors. MCL 712A.4(4); MCR 3.950(D)(2)(d). The court's factual findings are reviewed for clear error, MCR 3.902(A); MCR 2.613(C), while the court's ultimate decision whether to waive jurisdiction is reviewed for an abuse of discretion. *People v Fultz*, 453 Mich 937; 554 NW2d 725 (1996).

On appeal, respondent does not challenge any of the trial court's factual findings, but argues that the court did not take into account the factors other than the seriousness of the charges. This Court finds that the trial court did not abuse its discretion in finding that the factors weighed in favor of waiver of jurisdiction to the adult criminal court. The trial court very carefully reviewed the evidence that was relevant to the six factors set forth in MCR

3.950(D)(2)(d) and MCL 712A.4, weighed all of the factors, and gave greater weight to both the seriousness of the charges and respondent's lack of criminal history. It was not an abuse of discretion to find that the seriousness of the charges, which involved the armed robbery of a 75-year-old man during which several shots were fired, tipped its decision in favor of waiver of jurisdiction despite respondent's lack of prior criminal history and good detention record. See *In re Le Blank*, 171 Mich App 495, 410-412; 430 NW2d 780 (1988).

We affirm.

/s/ Donald S. Owens

/s/ Kathleen Jansen

/s/ Jane E. Markey