

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA02-47

NORTH CAROLINA COURT OF APPEALS

Filed: 17 December 2002

IN THE MATTER OF:
LAMONT ORLANDO MAYHEW

Mecklenburg County
No. 96-J-623-YME

Appeal by defendant (juvenile) from judgment entered 22 August 2001 by Judge Yvonne Mims Evans in Mecklenburg County District Court. Heard in the Court of Appeals 9 October 2002.

Attorney General Roy Cooper, by Assistant Attorney General Ann Stone, for the State.

David Childers for defendant-appellant.

WALKER, Judge.

On 7 December 1999, District Court Judge Yvonne Mims Evans ordered that the juvenile be committed to the Division of Youth Services for an indefinite period not to exceed 120 days. On 5 April 2000, Judge Evans closed the juvenile's case and released him from "further jurisdiction of the Court" because he had "reached Maximum Release Date."

On 27 December 2000, a juvenile petition alleging simple assault was filed against the juvenile for an event occurring on 11 October 2000, one day before he reached 16 years of age. On 7 March 2001, he was adjudicated delinquent and placed on probation

with conditions. On 22 August 2001, upon a motion to review, the juvenile was committed to the Department of Juvenile Justice for an indefinite period not to exceed six months. The juvenile appeals from this order.

On 14 February 2001, in the intervening period between the time the petition alleging simple assault was filed and the juvenile's adjudication as a delinquent, the juvenile was tried and convicted as an adult of communicating threats made on 17 November 2000. He was sentenced as an adult to supervised probation.

The juvenile contends the juvenile court erred in committing him to the Department of Juvenile Justice. Specifically, he argues the court erred because (1) he had been released from custody of the juvenile court, (2) he had reached 16 years of age and (3) he had been sentenced as an adult in district court before the order of the juvenile court was entered; therefore, the juvenile court lacks jurisdiction over him.

First, the juvenile contends that, because he had reached 16 years of age and had been released from the juvenile court upon reaching Maximum Release Date, the juvenile court could no longer exercise jurisdiction over him. A juvenile court has exclusive, original jurisdiction over a juvenile alleged to be delinquent for acts committed before reaching 16 years of age, and that jurisdiction continues "until terminated by order of the court or until the juvenile reaches the age of 18 years...." N.C. Gen. Stat. §§ 7B-1601(a), (b) (2001). Where a juvenile's case is closed and he is released from further jurisdiction of the juvenile court

because he has reached the Maximum Release Date for that specific matter, the release relates only to that case and does not bar the court's exercise of jurisdiction over him in other actions for acts committed after the date of release but before he reaches 16 years of age.

Concerning the juvenile's second argument, N.C. Gen. Stat. § 7B-1601(a) states that the district court "has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be delinquent. For purposes of determining jurisdiction, the age of the juvenile at the time of the alleged offense governs." N.C. Gen. Stat. § 7B-1601(a) (2001); see *State v. Dellinger*, 343 N.C. 93, 468 S.E.2d 218 (1996). A delinquent juvenile is defined as "any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws." N.C. Gen. Stat. § 7B-1501(7) (2001). Because the offense for which the juvenile was adjudicated delinquent and now appeals occurred on 11 October 2000, when he was 15 years of age, he was properly before the juvenile court.

Lastly, while the juvenile correctly argues that N.C. Gen. Stat. § 7B-1604(a) (2001) provides that a juvenile who reaches 16 years of age before committing the offense charged may be subject to prosecution as an adult, he fails to consider the fact that the juvenile court still has jurisdiction over an offense which occurred before he reached 16 years of age. As the age of the juvenile at the time of the offense governs jurisdiction, he was

not subject to prosecution as an adult for the offense charged but was only subject to the juvenile court's jurisdiction. Therefore, the juvenile court did not err in exercising jurisdiction over the juvenile.

Affirmed.

Judges THOMAS and BIGGS concur.

Report per Rule 30(e).