

Commonwealth of Kentucky

Court of Appeals

NO. 2016-CA-000205-DG

T.Y., A CHILD

APPELLANT

ON DISCRETIONARY REVIEW FROM JEFFERSON CIRCUIT COURT
v. HONORABLE OLU A. STEVENS, JUDGE
ACTION NO. 15-XX-000063

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: MAZE, STUMBO AND TAYLOR, JUDGES.

STUMBO, JUDGE: The issue presented in this case concerns the proper interpretation and application of Kentucky Revised Statute (KRS) 635.060(4)(a)(1), which places limitations on the dispositional options available to the juvenile court. In the case before us, T.Y. argues that the district court violated KRS 635.060(4)(a)(1) by probating him to the Department of Juvenile Justice

(DJJ) with a suspended commitment and imposing a conditionally discharged sentence of 45 days. We find no error and affirm.

KRS 635.060(4)(a)(1) states that in order for a court to commit a child to the custody of the DJJ, the child must have been “adjudicated for an offense that would be a misdemeanor or Class D felony if committed by an adult and the child has at least three (3) prior adjudications[.]”

Juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition, which shall be held on separate days unless the child, after consultation with an attorney, waives the right to a formal predisposition investigation report and moves that the hearings be held the same day. However, if the disposition is to be commitment, the child’s waiver shall not be valid without the consent of the Department of Juvenile Justice or the cabinet.

(1) The adjudication shall determine the truth or falsity of the allegations in the petition and shall be made on the basis of an admission or confession of the child to the court or by the taking of evidence.

KRS 610.080. “The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.” KRS 610.110(1).

On July 2, 2015, an adjudication hearing was held during which T.Y. pled guilty to several offenses charged in two separate petitions.¹ A disposition hearing was held on August 13, 2015. All parties agreed that KRS 635.060(4)(a)(1) applied; however, they disagreed as to how the “three (3) prior

¹ “‘Petition’ means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child’s case[.]” KRS 600.020(47).

adjudications” requirement should be interpreted. The Commonwealth claimed that T.Y. had three prior adjudications and counsel for T.Y. argued he only had two prior adjudications.

The difference in opinion revolved around what happens when two adjudications occurred on the same day, did they count as multiple adjudications or only one? On June 25, 2014, T.Y. pled guilty to two charges contained in one petition. Those charges arose from incidents that occurred on the same day. T.Y. was given a conditionally discharged sentence of 30 days. On October 21, 2014, T.Y. pled guilty to various charges in two separate petitions. The charges in those petitions happened on different days and involved different factual situations. T.Y. was given a conditionally discharged sentence of 45 days. The Commonwealth argued that because T.Y. had pled guilty to three different petitions, this counted as three adjudications. Counsel for T.Y. argued that T.Y. only had two prior adjudications because the two October petitions had been resolved in a single disposition.

The district court found that even though more than one adjudication occurred per court date, T.Y. had three prior adjudications because each petition had its own number designation and the offenses charged occurred on different dates. The court then probated T.Y. to the DJJ with a suspended commitment and imposed a conditionally discharged sentence of 45 days. T.Y. then appealed to the circuit court, which affirmed. This appeal followed.

“Questions involving statutory construction are reviewed *de novo*.” *Little v.*

Kentucky Farm Bureau Mut. Ins. Co., 320 S.W.3d 133, 134 (Ky. App. 2010)

(citation omitted). When engaging in statutory interpretation,

our main goal is “to give effect to the intent of the General Assembly.” The clearest indicator of that intent is the “language the General Assembly chose, either as defined by the General Assembly or as generally understood in the context of the matter under consideration.” And “[w]here the words used in a statute are clear and unambiguous and express the legislative intent, there is no room for construction and the statute must be accepted as written.”

Bell v. Bell, 423 S.W.3d 219, 223 (Ky. 2014) (footnotes and citations omitted).

We believe the district court’s interpretation of the statute at issue was correct.

KRS 635.060(4)(a)(1) states that there must be three prior adjudications, not three different adjudication dates. In addition, an adjudication determines the truth of the allegations in a petition, KRS 610.080(1); therefore, we believe the lower courts were correct to count the resolution of each petition individually as one adjudication, even though two petitions were adjudicated on the same day and resulted in one disposition.

For the foregoing reasons, we affirm the judgment of the circuit court.

ALL CONCUR.

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