

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-000156-MR

RAY STIDHAM

APPELLANT

APPEAL FROM TRIGG CIRCUIT COURT
v. HONORABLE C.A. WOODALL, III, JUDGE
ACTION NOS. 15-CR-00090, 15-CR-00091, 15-CR-00092, 15-CR-00093, 15-
CR-00094, 15-CR-00095, 15-CR-00096, AND 15-CR-00097

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DIXON, D. LAMBERT, AND SMALLWOOD,¹ JUDGES.

LAMBERT, D., JUDGE: The Trigg District Court transferred Ray Stidham's juvenile case to the Trigg Circuit Court for prosecution as a youthful offender. He challenges the transfer in this appeal. After review, we affirm.

¹ Judge Gene Smallwood concurred in this opinion prior to the expiration of his term of office. Release of the opinion was delayed by administrative handling.

I. BACKGROUND

In the fall of 2015, Stidham, age 16, and two other juveniles confessed to breaking into several homes in the Cumberland Shores subdivision in Trigg County, Kentucky. The trio removed some property from the homes. They also set fires in two of them. One fire burned a pillow at 78 Redbird Street. The other fire led to an explosion that destroyed the entire home at 42 Indiana Street.

According to Trigg County Sheriff's Deputy Craig Young, the youths confessed to placing aerosol cans in the oven at 42 Indiana Street and turning it on. The co-defendants evidently sought to destroy fingerprint evidence through this process. Regardless, they were charged with eight second-degree burglary counts and two second-degree arson counts.

Initially, Stidham was prosecuted in the district court's juvenile division. The Commonwealth later filed to transfer the case to circuit court pursuant to Kentucky Revised Statute (KRS) 635.020 and KRS 640.010. The district court held a hearing on the transfer motion on November 10, 2015.

At the hearing's outset, the district court explained that it would engage in the two-step process required under KRS 640.010(2). It would first hold a probable cause hearing to determine if there was sufficient evidence that an offense had been committed and Stidham committed it. If probable cause was

found, the district court would then determine the transfer issue. The only testifying witness during the hearing was Deputy Young.

In addition to providing the foregoing information relating to the explosion at 42 Indiana Street and the general location of the alleged burglaries, Deputy Young also testified that the co-defendants admitted breaking windows to enter the homes and that they abandoned some stolen property in a nearby sinkhole. He further added that one of the burglarized homes was where Stidham lived with his grandfather.

Based on Deputy Young's testimony, the district court found probable cause that Stidham committed the offenses. It then proceeded to address the transfer issue. The district court applied the eight factors set forth in KRS 640.010(2)(b)² to the evidence and found that factors (1), (5), and (6) favored transfer. In its order transferring Stidham as a youthful offender, the district court succinctly stated the following reasons for the transfer: "This is an alleged arson

² The statute requires the district court to consider the following eight factors in determining whether a child's case should be transferred to circuit court: "(1) the seriousness of the alleged offense; (2) whether the offense was against persons or property, with greater weight being given to offenses against persons; (3) the maturity of the child as determined by his environment; (4) the child's prior record; (5) the best interest of the child and community; (6) the prospects of adequate protection of the public; (7) the likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system; and (8) evidence of a child's participation in a gang."

of a home along with numerous burglaries. The seriousness of the offense and the need for protection of the public require transfer.” (T.R., Vol. 1 at 33). Stidham’s case was consequently transferred to the circuit court.

After his case was transferred, Stidham filed a motion challenging the transfer motion. Stidham claimed the district court improperly decided the transfer issue because it found more KRS 640.010(2)(b) factors weighed in favor of keeping the case in the juvenile division. The circuit court denied Stidham’s motion upon concluding that the district court’s findings were supported by substantial evidence from the record and that KRS 640.010(2) does not provide a balancing test. Instead, the circuit court cited KRS 640.010(2)(c) in support of its conclusion that transfer is appropriate when the district court finds two or more of the eight statutory factors favor transfer.

Soon thereafter, Stidham entered a guilty plea conditioned on the right to appeal the propriety of the transfer. The circuit court sentenced him to 17 years, consistent with the plea. This appeal ensued.

II. STANDARD OF REVIEW

Under KRS 635.020(2), a child charged with a capital offense, a Class A felony, or a Class B felony, who was older than 14 at the time he allegedly committed the offense, may be prosecuted as a youthful offender in accordance with KRS 640.010. The decision to transfer pursuant to KRS 640.010 is reviewed

for an abuse of discretion. *Stout v. Commonwealth*, 44 S.W.3d 781, 786 (Ky. App. 2000).

III. DISCUSSION

On appeal, Stidham maintains the district court erroneously transferred his case. He claims the district court generally overlooked his individual circumstances and rehabilitative potential, and instead, “focused solely on the interests of the Commonwealth[,]” without balancing them against his interests. Essentially, Stidham’s position is that the district court failed to address each of the eight statutory factors and failed to support its overall decision with substantial evidence from the record. For the following reasons, we disagree.

As outlined by the circuit court, KRS 640.010(2)(c) provides that a juvenile offender may be transferred to circuit court if the district court finds, after considering all eight factors provided in KRS 640.010(2)(b), “that two (2) or more of the factors . . . favor transfer[.]” From there, all that is required is a written transfer order providing sufficient reasons why the transfer is appropriate. *See Harden v. Commonwealth*, 885 S.W.2d 323, 325 (Ky. App. 1994) (holding that the reasons for transfer must be specific enough to accord meaningful review).

Here, despite Stidham’s allegations to the contrary, the district court considered each of the eight factors listed in KRS 640.010(2)(b) and entered a written order to that effect. The district court also found three of the eight factors

avored transfer and supported its reasoning with substantial record evidence. In the written transfer order, the district court explained that Stidham was charged with arson of a home (a Class B felony) and numerous burglaries (one of which was committed against his grandfather). These facts were in the record and presented during the hearing by Deputy Young. From these facts, the district court concluded that the alleged offenses were serious, and that transfer was necessary to protect the public. The district court also explained from the bench that the arson of a home, although a property crime, carried potentially lethal consequences for the occupants and first responders. Notwithstanding the findings in Stidham's favor regarding his maturity, lack of criminal history, likelihood of rehabilitation, and lack of any gang affiliation, the district court did not believe the community and the interests of public protection would be served if Stidham were to remain in the juvenile system. Our law leaves such a decision to the trial court's sound judgment, and based on the foregoing, transfer was reasonable. The final judgment of the Trigg Circuit Court entered October 17, 2016, is hereby affirmed.

ALL CONCUR.

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