

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES MURRAY,

Defendant-Appellant.

UNPUBLISHED
October 31, 2000

No. 216117
Wayne Circuit Court
Criminal Division
LC No. 98-006963

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from his adult sentence of five to ten years in prison for his conviction of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant (DOB 2-24-82) was charged with assault with intent to commit murder, MCL 750.83; MSA 28.278. The charge arose out of an incident in which defendant, who was then sixteen-years-old, went to a high school where he was not enrolled and stabbed a student during an altercation. Defendant was automatically waived to circuit court. MCL 600.606; MSA 27A.606; MCL 764.1f(2)(a); MSA 28.860(6)(2)(a). The trial court found defendant guilty of assault with intent to commit great bodily harm less than murder. Because defendant was not convicted of a charge enumerated in MCL 769.1(1); MSA 28.1072(1), the trial court was not required to sentence him as an adult. Nevertheless, the trial court imposed an adult sentence of five to ten years, with credit for 124 days.

In determining whether to impose an adult or a juvenile sentence, a trial court must consider the following criteria enumerated in MCL 769.1(3); MSA 28.1072(3):

(a) The seriousness of the alleged offense in terms of community protection, including, but not limited to, the existence of any aggravating factors recognized by the

sentencing guidelines, the use of a firearm or other dangerous weapon, and the impact on any victim.

(b) The juvenile's culpability in committing the alleged offense, including, but not limited to, the level of the juvenile's participation in planning and carrying out the offense and the existence of any aggravating or mitigating factors recognized by the sentencing guidelines.

(c) The juvenile's prior record of delinquency including, but not limited to, any record of detention, any police record, any school record, or any other evidence indicating prior delinquent behavior.

(d) The juvenile's programming history, including, but not limited to, the juvenile's past willingness to participate meaningfully in available programming.

(e) The adequacy of the punishment or programming available in the juvenile justice system.

(f) The dispositional options available to the juvenile.

The trial court must make findings of fact on each factor. *People v Hazzard*, 206 Mich App 658, 660; 522 NW2d 910 (1994). We review the trial court's findings of fact for clear error, and the ultimate decision to sentence a defendant as a juvenile or as an adult for an abuse of discretion. *People v Thenghkam*, 240 Mich App 29, 41-42; 610 NW2d 571 (2000).

Defendant argues he is entitled to resentencing because the trial court did not make the requisite findings of fact. We disagree and affirm defendant's sentence. A reading of the entire sentencing transcript reveals that while the trial court did not specifically state that it was considering and making findings pursuant to the statutory factors, the trial court considered the factors as required and made sufficient findings of fact. The trial court found the offense was extremely serious, and defendant remained a threat to the community for the reasons that he committed the offense in a place where he had no right to be, and used a dangerous weapon. The trial court found defendant was fully culpable for the offense in that he stabbed the victim after another student intervened and attempted to prevent violence. MCL 769.1(3)(a) and (b); MSA 28.1072(3)(a) and (b). The trial court found defendant had a prior record of delinquency and truancy, and that he refused to participate in any meaningful way in any available juvenile programming. MCL 769.1(3)(c) and (d); MSA 28.1072(3)(c) and (d). The trial court recognized that defendant could be served in either the adult or the juvenile system but found the juvenile system would be inadequate given his history of refusal to participate in programming in that system and his demonstrated tendency to act out in a violent manner towards other participants. MCL 769.1(3)(e) and (f); MSA 28.1072(3)(e) and (f). Defendant does not contend the trial court's findings were clearly erroneous. Given that the factors did not weigh heavily in defendant's favor, and given the seriousness of the incident, we cannot conclude the trial court

abused its discretion by imposing an adult sentence in this case. *People v Black*, 203 Mich App 428, 430-431; 513 NW2d 152 (1994).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage