

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of TERRENCE HARRIS Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

TERRENCE HARRIS,

Respondent-Appellant.

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UNPUBLISHED

October 26, 2010

Nos. 292455; 293890

Wayne Circuit Court

Juvenile Division

LC No. 03-415110

Before: ZAHRA, P.J., and TALBOT and METER, JJ.

PER CURIAM.

In these consolidated appeals, respondent challenges (1) the trial court's April 2009 supplemental order of disposition extending the court's jurisdiction over respondent until the age of 21, and (2) the trial court's August 2009 dispositional order and judgment of conviction revoking respondent's juvenile probation and sentencing him to concurrent prison terms of 20 months to 10 years each for three counts of assault with intent to do great bodily harm less than murder, MCL 750.84, and a consecutive two-year term of imprisonment for possession of a firearm during the commission of a felony, MCL 750.227b, with credit for 894 days served. The court also ordered that respondent's sentences be served consecutive to a felony-firearm sentence that he was serving in LC No. 08-008555-01. We affirm.

**I. BASIC FACTS AND PROCEEDINGS**

Respondent was charged with three counts of assault with intent to commit murder, MCL 750.83, and felony-firearm for offenses committed on June 7, 2005, when he was a 16-year-old juvenile. The prosecutor designated the case as one where respondent would be tried as an adult. MCL 712A.2d. Following a jury trial, respondent was found guilty of three counts of assault with intent to do great bodily harm less than murder and felony-firearm. The trial court imposed a blended sentence pursuant to MCL 712A.18(1)(m), in which respondent was committed to a juvenile treatment facility, subject to the court's authority to impose an adult sentence if respondent failed to comply with the terms of his juvenile sentence.

Respondent was AWOL from December 2007 until he was apprehended on a writ in June 2008. He tested positive for marijuana and was placed in a juvenile facility. By July 2008,

respondent was in the county jail awaiting trial on charges of first-degree murder and felony-firearm stemming from his involvement in criminal activity in January 2008. Following a required commitment review hearing in March 2009, the trial court determined that respondent had not been rehabilitated and, therefore, it would extend its jurisdiction over him until the age of 21.<sup>1</sup> In connection with the new charges, respondent was convicted by a jury of felony-firearm; he also pleaded guilty to carrying a concealed weapon. Respondent subsequently admitted the allegations in a supplemental petition that his new convictions violated his juvenile probation and the terms of his delayed sentence. The trial court thereafter revoked respondent's juvenile probation and imposed the sentences that form the basis of this appeal.

## II. TRIAL COURT'S JURISDICTION

Respondent first argues that the trial court lacked jurisdiction to impose an adult sentence when it did, because the court's jurisdiction should have expired when he turned 19. Respondent contends that he "aged out" of the juvenile system at the age of 19, was no longer in need of a parent surrogate, and that the extension of jurisdiction is nothing more than a waste of resources.<sup>2</sup> We disagree.

This Court reviews questions involving the interpretation or application of a statute de novo as questions of law. *Mason v City of Menominee*, 282 Mich App 525, 527-528; 766 NW2d 888 (2009). Our primary goal in interpreting statutes is to ascertain and give effect to the intent of the Legislature. *Id.* at 528. To that end, this Court begins by examining the plain language of the statute and, "where that language is unambiguous, [this Court] presume[s] that the Legislature intended the meaning clearly expressed and enforce[s] that statute as written." *People v Holder*, 483 Mich 168, 172; 767 NW2d 423 (2009).

The family division of circuit court has "[e]xclusive original jurisdiction superior to and regardless of the jurisdiction of another court in proceedings concerning a juvenile under 17 years of age who is found within the county if 1 or more of the following applies":

Except as otherwise provided in this sub-subdivision, the juvenile has violated any municipal ordinance or law of the state or of the United States. . . . The court has jurisdiction over a juvenile 14 years of age or older who is charged with a specified juvenile violation only if the prosecuting attorney files a petition in the court instead of authorizing a complaint and warrant. . . . [MCL 712A.2(a)(1).]

A "specified juvenile violation" includes assault with intent to commit murder, MCL 750.83. MCL 712A.2(a)(1)(A).

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<sup>1</sup> Respondent was AWOL when he turned 19 in May 2008. The requirement commitment review hearing was adjourned several times because of respondent's status.

<sup>2</sup> Although there are statutory provisions that address the trial court's jurisdiction in this situation, respondent does not address those statutes or provide any legal support for his argument that the trial court's jurisdiction expired when he turned 19.

As previously noted, the prosecutor designated this case as one where respondent would be tried as an adult. MCL 712A.2d. Under MCL 712A.2a(1), a trial court's jurisdiction over a respondent in a juvenile case generally terminates on the respondent's 19th birthday. See *In re Reiswitz*, 236 Mich App 158, 164; 600 NW2d 135 (1999). But MCL 712A.2a(2) authorizes a court to retain jurisdiction "until the juvenile is 21 years of age" for designated offenses, i.e., offenses that, if committed by an adult, would constitute violations or attempted violations of certain enumerated statutory sections. Accordingly, respondent's assertion that the trial court's jurisdiction expired on his 19th birthday is contrary to MCL 712A.2a(2).

Further, following a judgment of conviction in a designated case for a specified juvenile violation, the trial court shall enter a dispositional order or impose a sentence authorized under MCL 712A.18(1)(m). MCL 712A.2d(8). As previously indicated, the trial court imposed a delayed sentence under MCL 712A.18(1)(m), which provides, in relevant part:

The court may delay imposing a sentence of imprisonment under this subdivision for a period not longer than the period during which the court has jurisdiction over the juvenile under this chapter by entering an order of disposition delaying imposition of sentence and placing the juvenile on probation upon the terms and conditions it considers appropriate, including any disposition under this section. If the court delays imposing sentence under this section, section 18i of this chapter applies.

MCL 712A.18i, which is referenced in MCL 712A.18(1)(m), provides in relevant part:

(1) A delay in sentencing does not deprive the court of jurisdiction to sentence the juvenile under section 18(1)(n) of this chapter [] any time during the delay.

\* \* \*

(3) If the court entered an order of disposition under section 18(1)[(m)] of this chapter delaying imposition of sentence, the court shall conduct a review hearing to determine whether the juvenile has been rehabilitated and whether the juvenile presents a serious risk to public safety. If the court determines that the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction over the juvenile shall be continued or the court may impose sentence.

In making this determination, the trial court is directed to consider many factors, including the juvenile's behavior in placement, prior record and character, potential for violent conduct as demonstrated by prior behavior, the recommendations of any agency charged with the juvenile's care for the juvenile's release or continued custody, and other information submitted. See MCL 712A.18i(3)(c) – (g). Here, the record contains ample support for the trial court's continued jurisdiction as a result of respondent's lack of rehabilitation. As the trial court noted, respondent went AWOL from his juvenile placement, was involved in serious criminal activity while AWOL and before he turned 19, was charged with first-degree murder and felony-firearm as a result of that criminal activity, was convicted of felony-firearm, tested positive for drug use when he was apprehended on a writ, and made admissions on the record that demonstrated that

he had not been rehabilitated. Accordingly, we find no merit to respondent's argument that there was no basis for the trial court to continue to exercise its jurisdiction beyond the age of 19. The trial court did not lose its jurisdiction over respondent and appropriately imposed sentence upon him under the delayed sentence.

## II. CONSECUTIVE SENTENCING

Respondent next argues that the trial court erred when it ordered his sentences to be served consecutive to the felony-firearm sentence that he was serving in LC No. 08-008555-01. We disagree. A consecutive sentence may be imposed only when specifically authorized by statute. *People v Brown*, 220 Mich App 680, 682; 560 NW2d 80 (1996). Whether consecutive sentencing is authorized is a question of law, which we review de novo. *People v Lee*, 233 Mich App 403, 405; 592 NW2d 779 (1999).

Petitioner argues that consecutive sentencing is authorized by MCL 768.7a(1), because respondent committed the subsequent crimes while AWOL from his juvenile placement, which petitioner claims qualifies as a "reformatory institution" within the meaning of the statute. MCL 768.7a(1) provides:

A person who is incarcerated in a penal or reformatory institution in this state, or who escapes from such an institution, and who commits a crime during that incarceration or escape which is punishable by imprisonment in a penal or reformatory institution in this state shall, upon conviction of that crime, be sentenced as provided by law. The term of imprisonment imposed for the crime shall begin to run at the expiration of the term or terms of imprisonment which the person is serving or has become liable to serve in a penal or reformatory institution in this state.

MCL 768.7a(1) is expressly applicable to a "person who is incarcerated in a penal or reformatory institution." Although not defined, the phrase "penal or reformatory institution" has been given a broad meaning to include a county jail *People v Sheridan*, 141 Mich App 770, 367 NW2d 450 (1985), a halfway house, *People v Jennings*, 121 Mich App 318, 319; 329 NW2d 25 (1982); *People v Mayes*, 95 Mich App 188; 290 NW2d 119 (1980), and a community corrections program, *People v Shirley Johnson*, 96 Mich App 84, 292 NW2d 489 (1980). Further, a reformatory commonly refers to "a penal institution for reforming young offenders, esp. minors." *Random House Webster's College Dictionary*, (1997); See also *Black's Law Dictionary*, 6<sup>th</sup> ed. ("A penal institution for youthful offenders where the emphasis is on the reformation for the juvenile's behavior."). We conclude that that a juvenile detention center is a facility within the common and broad meaning of the term reformatory institution.

Affirmed.

/s/ Brian K. Zahra  
/s/ Michael J. Talbot  
/s/ Patrick M. Meter