

State v. Posey (Daniel Alfred, Jr.)

No. 82957-8

MADSEN, C.J. (dissenting)—Although I agree with the majority that the superior court has residual jurisdiction to sentence Daniel Alfred Posey Jr., I cannot endorse the trial court’s decision to apply the juvenile sentencing range. Because Posey has reached the age of majority, the underlying goals and purpose of the Juvenile Justice Act of 1977 are no longer served and he should be sentenced to the adult range.

Analysis

Article IV, section 6 of the Washington State Constitution grants superior courts residual jurisdiction in “all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court.” Although the legislature may govern which “sessions” of the superior court may hear which types of cases, and the juvenile court is one such session, the juvenile court is a division of the superior court. Const. art. IV, § 5; Laws of 1905, ch. 18, § 3; *State v. Werner*, 129 Wn.2d 485, 492, 918 P.2d 916 (1996). Therefore, even though by statute only the juvenile session has the power to hear and determine certain juvenile matters, its ultimate authority originates in the superior court’s article IV, section 6 jurisdiction over felony offenses. The majority is

correct to conclude that the superior court has residual jurisdiction in this case.

However, because the unique purposes of the juvenile system could no longer be served after Posey reached the age of majority, the superior court should have imposed a sentence using the adult sentencing guidelines. *See In re Pers. Restraint of Smiley*, 96 Wn.2d 950, 953-54, 640 P.2d 7 (1982) (extended jurisdiction of juvenile court has the purpose of “provid[ing] juvenile courts with a rehabilitative post-majority dispositional alternative” (quoting *State v. Binford*, 90 Wn.2d 370, 374, 582 P.2d 863 (1978))).

The Juvenile Justice Act provides for “necessary treatment, supervision, and custody for juvenile offenders” while still holding juveniles responsible for their actions. RCW 13.40.010(2)(c), (f). The system is specifically designed to respond to the needs of youthful offenders and their victims. RCW 13.40.010(2). The act ensures that punishment takes into consideration the age, crime, and criminal history of the juvenile offender. RCW 13.40.010(2)(d). Although both the juvenile and adult justice systems serve the purpose of punishing wrongdoers, the juvenile system alone makes rehabilitation an equally important goal and also seeks to keep children out of adult facilities. *See Smiley*, 96 Wn.2d at 953-54. There is, however, no constitutional right to be tried in a juvenile court. *In re Pers. Restraint of Dalluge*, 152 Wn.2d 772, 784 n.8, 100 P.3d 279 (2004).

Because Posey has reached the age of majority, he may no longer benefit from juvenile rehabilitation, would not be a child out of place in an adult facility, and is not of an age requiring any other sort of special treatment. *See id.* As Posey himself argues,

through operation of the extended jurisdiction statute, juvenile jurisdiction may extend beyond when a defendant reaches age 18 but not past age 21. RCW 13.40.300(3). When Posey was sentenced in Yakima County Superior Court, he was over the age of 21. Once Posey turned 21, the juvenile court, specifically empowered to carry out the goals of the Juvenile Justice Act, lacked jurisdiction to impose a juvenile sentence and was required to dismiss for lack of jurisdiction without imposing sentence. RCW 13.40.300(3) (“In no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender’s twenty-first birthday except for the purpose of enforcing an order of restitution or penalty assessment.”); *see also Young v. Clark*, 149 Wn.2d 130, 133, 65 P.3d 1192 (2003). In these circumstances, the juvenile court could not exercise extended jurisdiction because it lacked any jurisdiction at all.

Although the purposes of accountability and punishment are tempered by and at times must give way to the purposes of responding to the needs of the juvenile, the termination of juvenile jurisdiction marks an end to the juvenile system’s emphasis on rehabilitation as well as its special sentencing provisions. *See State v. J.A.*, 105 Wn. App. 879, 886, 20 P.3d 487 (2001); RCW 13.40.300, .0357. Accordingly, there is no basis for applying a juvenile sentence to serve rehabilitative purposes.

In addition, there is no due process bar to sentencing Posey to an adult sentence. When an individual commits a crime as a juvenile and comes of majority age while her case is still making its way through the criminal justice system, that individual is thereafter treated as an adult, unless she can show the State violated her due process

rights by negligently or intentionally causing delay. *State v. Lidge*, 111 Wn.2d 845, 848, 765 P.2d 1292 (1989) (finding constitutional the decision to refer defendant to the adult division when insufficient time remained to bring charges in juvenile court before he turned 18); *State v. Brewster*, 75 Wn.2d 137, 449 P.2d 685 (1969) (concluding that no due process violation resulted when defendant was charged as a minor but subsequently reached the age of majority and was tried and sentenced as an adult).

Here, Posey makes no argument that the State caused any undue delay, either intentionally or negligently, and accordingly has failed to show a due process violation that would necessitate a juvenile sentence. Because the juvenile court lost jurisdiction and sentencing Posey as an adult would not pose a due process problem, Posey should have been sentenced as an adult.

The majority provides no explanation for how the interests of justice would be furthered by sentencing an adult to a juvenile sentence or why it would make sense to sentence Posey under the Juvenile Justice Act after determining that the act's jurisdictional requirement was not satisfied. The majority also fails to provide any precedent for imposing a juvenile sentence after a defendant has reached the age of majority. Instead, the majority decouples a juvenile sentence from both the jurisdictional requirement that a defendant be a juvenile and the underlying principles that justify a juvenile sentence. Because the juvenile court has lost jurisdiction, and the special purposes of the Juvenile Justice Act can no longer be advanced, I would sentence Posey according to the adult sentencing guidelines.

AUTHOR:

Chief Justice Barbara A. Madsen

WE CONCUR:
