

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

January 31, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 95-2427

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

**In the Interest of Joshua F.D.,
A Child Under the Age of 18:**

STATE OF WISCONSIN,

Petitioner-Respondent,

v.

JOSHUA F.D.,

Respondent-Appellant.

APPEAL from an order of the circuit court for Winnebago County:
THOMAS S. WILLIAMS, Judge. *Affirmed.*

SNYDER, J. Joshua F.D. appeals from a juvenile court order finding him delinquent on an aggravated battery charge contrary to §§ 940.19(3) and 48.12, STATS. Pursuant to § 48.34(7), STATS., the court suspended Joshua's privilege to apply for a driver's license until restitution was paid in full, or for a period of one year, whichever came first. Joshua appeals that

suspension, arguing that the discretionary suspension is not available because the charged crime, aggravated battery, does not include as an element the use of a motor vehicle. Because we conclude that suspending his driving privilege was appropriate under the facts of this case, we affirm.

The underlying incident occurred after Joshua had an angry discussion with another juvenile, Christopher P., outside a bowling alley. Following an exchange of words, Christopher got into his car and drove off. When he noticed that he was being followed by a car containing Joshua and two other youths, Christopher stopped his car and got out. The car containing Joshua also stopped and a fight ensued. Christopher was punched and kicked before the fight was broken up by a passing motorist.

Joshua admitted to the information in the delinquency petition, and disposition followed. The court ordered that Joshua's name be released to the victim, enabling Christopher to seek civil restitution, and the court suspended Joshua's right to apply for a driver's license.¹ Joshua now appeals that part of the order suspending his right to obtain a driver's license.

The disposition of a child's juvenile adjudication lies within the sound discretion of the court. *State v. James P.*, 180 Wis.2d 677, 682, 510

¹ Joshua did not have a driver's license at the time of the incident.

N.W.2d 730, 732 (Ct. App. 1993). The court's disposition is premised upon a presumption of reasonableness. *Id.* The exercise of discretion requires the application of relevant law to the facts to reach a rational conclusion. *Id.* at 683, 510 N.W.2d at 732.

The juvenile court based its decision to suspend Joshua's ability to obtain a driver's license on § 48.34(7), STATS. It states in relevant part:
The judge may restrict, suspend or revoke the operating privilege,
as defined in s. 340.01(40), of a child who is
adjudicated delinquent under a violation of any law
in which a motor vehicle is involved.

Joshua reads this statute as requiring the violated law to include the use of a motor vehicle as one of its essential elements. Because the elements of aggravated battery do not include the use of a motor vehicle, Joshua argues that the court misused its discretion.

The interpretation of a statute is a question of law which we review independently. *Rhonda R.D. v. Franklin R.D.*, 191 Wis.2d 680, 703, 530 N.W.2d 34, 43 (Ct. App. 1995). The first step in statutory construction is to look at the language; if it is unambiguous, the reviewing court's inquiry ends. *Id.* However, if reasonably well-informed persons could differ as to a statute's meaning, it is ambiguous. In that case, we look to the scope, history, context and subject matter in order to ascertain the intent of the legislature. *Id.* at 703-04, 530 N.W.2d at 43.

We conclude that the statute is ambiguous. On its face it is not clear whether the legislature intended it to be applied only when a juvenile

violated a law *requiring* a motor vehicle as an element, or when the violation merely included the use of a motor vehicle.

Section 48.01(2), STATS., mandates a liberal construction of the juvenile code in order to effect its objectives. Those objectives include instituting programs of supervision, care and rehabilitation for juveniles committing delinquent acts. *See* § 48.01(1)(c). In general, the Children's Code does not explicitly or implicitly require a juvenile's disposition to be related to the violation that resulted in the delinquency. *James P.*, 180 Wis.2d at 683, 510 N.W.2d at 732.

In § 48.34(7), STATS., however, the legislature has mandated that suspension or revocation of driving privileges can only be imposed if the law violated *involves* the use of a motor vehicle. The statute does not specify particular types of offenses which have a motor vehicle as an element, or even examples of such offenses, only that the violation must involve the use of a vehicle.

When a word is not defined in a statute, the word must be construed according to its accepted and ordinary meaning. *Rhonda R.D.*, 191 Wis.2d at 704, 530 N.W.2d at 43. It is proper to consult a dictionary for that purpose. *Id.* WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1191 (1976)

lists the following definition for "involve:"

5a: to have within or as part of itself: CONTAIN, INCLUDE

Joshua argues in his brief that a similar definition for involve "means just that, that a motor vehicle was an element or a part of the law that was violated, that

the motor vehicle was a necessary feature or consequence of the crime.” We disagree with this interpretation. Neither the wording of the statute nor the dictionary definition provides unambiguous proof that a motor vehicle must be an essential element of the crime, only that a vehicle must have been included in the commission of the delinquent act.

Recognizing the liberal construction afforded the Children's Code and the fact that the legislature did not specify the types of violations for which this disposition would be appropriate, we conclude that the trial court did not misuse its discretion.²

The motor vehicle, while not an element of aggravated battery, clearly provided the means for Joshua to engage in this delinquent behavior. Had it not been for the availability of a car, enabling Joshua to pursue Christopher, this incident would never have occurred. The trial court's disposition applied an appropriate consequence to Joshua's behavior.

By the Court. – Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

² The court noted at the disposition hearing that under the facts of the battery, the viability of a community service requirement was questionable. The court then rationalized that the suspension of Joshua's ability to apply for a driver's license “might get his attention here.”