

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

July 29, 1997

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. 97-0377

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE INTEREST OF J.J. B., A PERSON
UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

J.J. B.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Trempealeau County:
JOHN A. DAMON, Judge. *Affirmed.*

LaROCQUE, J. J.J.B. (d.o.b. 1/4/80) appeals an order waiving juvenile court jurisdiction. We reject his challenge to the sufficiency of the evidence to support the order and affirm.

J.J.B. was charged in a delinquency petition with two counts of burglary, criminal damage to property and disorderly conduct. While the petition was pending, he was charged in a separate petition with another incident of disorderly conduct. The State filed a petition to waive J.J.B. and, following a hearing, the circuit court ordered the matter transferred to adult court.

J.J.B. does not challenge the trial court's finding that the cases have prosecutive merit. Section 938.18(5), STATS., provides the criteria for waiver. The standard of review of a trial court's discretionary decision to waiver requires that this court uphold the decision if the record reflects a reasonable basis for the decision. *In re B.B.*, 166 Wis.2d 202, 207, 479 N.W.2d 205, 207 (Ct. App. 1991). There need not be a finding against the juvenile on every criterion before waiver is granted. *Id.* at 209, 479 N.W.2d at 207-08. The weight to be accorded to each of the factors in a waiver decision is discretionary with the trial court. *In re G.B.K.*, 126 Wis.2d 253, 259, 376 N.W.2d 385, 389 (Ct. App. 1985).

The factors upon which the court relied to order waiver were J.J.B.'s age (seventeen), the fact that he had been placed on informal supervision for a prior act of delinquency also involving criminal damage to property, his physical and mental maturity, the absence of any mental illness or developmental disability, the opinion of a county social worker that prior treatment had been unsuccessful in light of the new offenses, the nature and seriousness of the offenses and the fact that they involved both offenses against persons as well as property.

J.J.B. attempts to minimize the seriousness of the offenses, characterizing them as "impulsive juvenile mischief" and "non-violent." In contrast to this description of events, the court noted that J.J.B. had "threatened to bash his mother's head," and broke property in her household. It concluded that

there was a pattern of behavior “such as the juvenile system would not be adequate to respond to it.” The probable cause statement relating to the burglaries alleges J.J.B.’s active assistance in removing personal property from a home and alleges that he drove others to and from a home where property was stolen. The criminal damage to property involved J.J.B.’s participation in painting symbols on the front of a school. One of the disorderly conduct charges arose out of J.J.B.’s striking another youngster in the face with his fist, causing bruises.

J.J.B.’s suggestion that his prior compliance with juvenile supervision and the availability of family counseling negates those factors that weigh in favor of waiver is unpersuasive. The trial court considered the appropriate factors and decided that they weighed in favor of waiver. The court did not erroneously exercise its discretion under the totality of the circumstances.

By the Court.—Order affirmed.

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

