

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 1, 1998

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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.

No. 98-1725-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

JESSE L. HALVERSON,

DEFENDANT-APPELLANT.

APPEAL from an order of the circuit court for Oneida County:
MARK A. MANGERSON, Judge. *Affirmed.*

Before Cane, C.J., Myse, P.J., and Hoover, J

PER CURIAM. Jesse Halverson appeals a nonfinal order¹ denying his motion to be tried in juvenile court for first-degree intentional homicide. The trial court denied the “reverse waiver request,” concluding that Halverson failed to

¹ This court granted leave to appeal the nonfinal order pursuant to § 808.03(2), STATS.

meet his burden of proving that he could not receive adequate treatment in the criminal justice system or that transferring jurisdiction to the juvenile court would not depreciate the seriousness of the offense. *See* § 970.032(2), STATS. Because we conclude that the trial court properly exercised its discretion based on its conclusion that waiver to the juvenile court would depreciate the seriousness of the offense, we decline to review issues relating to the other ground and affirm the order.

Whether to transfer jurisdiction to the juvenile court is discretionary. *See State v. Dominic E.W.*, 218 Wis.2d 52, 56, 579 N.W.2d 282, 284 (Ct. App. 1998). This court will uphold a discretionary ruling when the record shows that the court considered the facts of the case and reached a reasonable conclusion that is consistent with applicable law. *Id.* This court looks for reasons to sustain a circuit court's discretionary decision. *Id.*

The trial court reasonably exercised its discretion because waiver to the juvenile court would depreciate the seriousness of the offense. Halverson argues that the court applied a “blanket rule” to first-degree intentional homicide cases by considering the seriousness of the offense and the intentional nature of the crime. While the trial court considered “traditional factors” when reviewing the seriousness of the offense, it did not create a blanket rule that all first-degree intentional homicides should be tried in the adult court. This crime involved more than the death of a person with intent to kill at the time of the shooting. The facts as alleged by the prosecution depict a cold-blooded killing of a child, premeditated long before the shooting and followed by an attempt to make it appear a suicide. Under these aggravating circumstances, transferring jurisdiction to the juvenile court would significantly depreciate the seriousness of the offense.

Halverson also argues that the trial court improperly characterized the nature of incarceration in the juvenile system when it found that the primary focus of the juvenile system was rehabilitation and punishment is only secondary. He argues that changes in the juvenile code have replaced emphasis on the best interest of the child with emphasis on protection of the public. The trial court's conclusion that transfer to the juvenile court would depreciate the seriousness of the offense does not turn on whether the legislature has changed the focus of the juvenile code. The trial court's observation that prisons are more punitive than juvenile facilities, coupled with its conclusion that Halverson might require a longer period of rehabilitative control than is available in the juvenile system, reasonably relate the serious nature of the alleged offense to the nature and duration of Halverson's potential punishment.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

