

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN THE INTEREST OF: : NO. JV – 224 - 2010
: :
JORDAN LEE KLOBCHAR : JUVENILE
: :
: Motion for Transfer

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IN THE INTEREST OF: : NO. JV – 221 - 2010
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PATRICK JOSEPH MALONE : JUVENILE
: :
: Motion for Transfer

OPINION AND ORDER

Before the Court are Motions to Transfer the above-captioned juvenile matters to the criminal system, filed by the Commonwealth on September 20, 2010. A hearing on the motions was held October 21, 2010.

Both juveniles have been charged with burglary, theft and related charges in connection with an incident which occurred on October 17, 2008. At that time, both juveniles were 17 years of age. An investigation led to the filing of the charges on August 20, 2010, and both juveniles are now 19 years of age. The Commonwealth seeks to have both juveniles transferred to adult court as insufficient time remains, it is argued, for adequate juvenile dispositional alternatives in comparison with criminal sentencing options. After consideration of the factors enumerated in 42 Pa.C.S. Section 6355, the Court believes transfer is appropriate.

There is no dispute regarding the first four factors: the juveniles were at least 14 at the time of the alleged offense, the offense would be considered a felony if committed by an adult, the juveniles are not committable to an institution for the mentally retarded or mentally ill, and that there is a prima facie case that the juveniles committed the alleged offense was stipulated by counsel.¹ Regarding whether the public interest is served by the transfer, the Commonwealth presented the testimony of the Chief Deputy Juvenile Probation Officer that he

does not believe there are any residential programs which would accept 19-year-olds. Any rehabilitation would thus be limited to having Jordan obtain his GED² and providing both juveniles with job skills training. No options for accountability are apparently available, and any period of supervision is limited as both will attain the age of 21 within less than twenty months. Thus, available juvenile dispositional alternatives appear inadequate in comparison with criminal sentencing options.

Many of the other factors also support transfer to adult court. The burglary and theft charges are based on allegations that the juveniles broke into a private residence when the family was not at home and removed a safe which contained many items of personal property, including jewelry belonging to the wife and at least \$5300 in cash. The impact of such a violation of personal security on the victims and the community cannot be disputed. Further, when viewed in light of the juveniles' prior records, discussed *infra*, the Court finds that these two boys pose a threat to the safety of the community. They both are primarily culpable as they both are alleged to have participated in the burglary and theft, and the offenses are very serious. Finally, as will be explained, the Court finds the juveniles are not amenable to treatment, supervision or rehabilitation as a juvenile.

Both of these boys have a history of criminal activity. Jordan has been adjudicated delinquent on drug charges and theft charges, and has participated in the AEP program at the Bethesda Prep School, Bethesda weekends, multisystemic therapy, and counseling, and has been supervised by the Juvenile Probation Office. He was released from supervision in January 2009, but while on supervision, committed the instant offense and also violated probation by using marijuana. He had an underage drinking offense this past summer, and although he twice attended alcohol abuse rehabilitation at Clearbrook, he has continued to abuse alcohol. Patrick has been adjudicated delinquent on theft and criminal conspiracy charges, as well as separate charges of criminal conspiracy to commit theft, and has also participated in the Bethesda weekends, multisystemic therapy, and counseling, and was supervised by the Juvenile Probation Office until August 12, 2008. While on supervision he used marijuana, and was charged just six months ago with possession of marijuana. He also earned two underage

1 Indeed, counsel indicate both juveniles plan to plead guilty.

2 Patrick did obtain his GED this past year.

drinking citations this past summer, and admits to having used marijuana just last week.

It is obvious that past attempts at rehabilitation through the juvenile system have failed, and the Court does not believe the limited resources still available to these boys will have any greater chance of success. Most telling is their complete failure to attempt to improve their lives in the two years since the date of the instant offenses, showing a total lack of motivation to change. Accordingly, the requested transfer is found to be appropriate in both cases, and the Court will enter the following:

ORDER

And now, this day of October 2010, for the foregoing reasons, the Commonwealth's motions to transfer to criminal court are hereby GRANTED.

By The Court,

Dudley N. Anderson, Judge

cc: JPO
 DA
 Jeffrey Yates, Esq.
 Robin Buzas, Esq.
 Ryan Gardner, Esq.
 Gary Weber, Esq.
 Hon. Dudley Anderson