

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

COMMONWEALTH	:	No. CR-1318-2011
	:	
vs.	:	Opinion and Order regarding Motion
	:	to Decertify and Transfer to Juvenile Court
C.G.,	:	
Defendant	:	

OPINION AND ORDER

Defendant is charged by Information filed on October 7, 2011 with one count of Conspiracy to Commit Robbery, a second count of Conspiracy to Commit Robbery, one count of Firearm not to be carried without a License, one count of Criminal Conspiracy to Commit Theft by Unlawful Taking, another count of Conspiracy to Commit Theft by Unlawful Taking, one count of Possessing Instruments of a Crime (.38 Caliber Revolver) and one count of Prohibited Offensive Weapon (.38 Caliber Revolver). The charges arise out of an incident that occurred at the Best Western Hotel in Loyalsock Township on July 19, 2011. The Defendant and a female friend made an acquaintance with two adult males. The two males were staying at the hotel and all four of the individuals went to Room No. 292 for the purpose of “partying.” Following a short period of time, the Defendant left for the purpose of getting more ice. When she returned, three or four males wearing masks and gloves brandishing pistols entered the room and robbed the two males.

On February 3, 2012, Defendant filed a Motion to Decertify the case to Juvenile Court. Because the Defendant, who is presently seventeen (17) years old, was charged with conspiracy to commit robbery and a deadly weapon was used during the

commission of the offenses, such offenses are not considered delinquent acts under the Juvenile Act and the Criminal Division of the Court of Common Pleas has jurisdiction. 42 Pa. C.S.A. § 6302, definition of delinquent act, para. (2)(ii)(I); 42 Pa.C.S.A. §6322 (transfer from criminal proceedings); Commonwealth v. Ramos, 920 A.2d 1253, 1258 (Pa. Super. 2007).

“When a case involving a juvenile goes directly to the criminal division, the juvenile can request treatment within the juvenile system through a transfer process called ‘decertification.’ To obtain decertification, it is the juvenile’s burden to prove, by a preponderance of the evidence, that transfer to the juvenile court system best serves the public interests.” Commonwealth v. Brown, 26 A.3d 485, 492 (Pa. Super. 2011)(citations omitted).

In determining whether transfer to the juvenile court system best serves the public interests, the Court must consider numerous factors including: (A) the impact of the offense on the victim or victims; (B) the impact of the offense on the community; (C) the threat to the safety of the public or any individual posed by the child; (D) the nature and circumstances of the offense allegedly committed by the child; (E) the degree of the child’s culpability; (F) the adequacy and duration of dispositional alternatives available under the Juvenile Act, and in the adult criminal justice system; and (G) whether the child is amenable to treatment, supervision or rehabilitation as a juvenile considering factors such as: (1) age; (2) mental capacity; (3) maturity; (4) the degree of criminal sophistication exhibited by the child; (5) previous records, if any; (6) the nature and extent of any prior delinquent history,

including the success or failure of any previous attempts of the juvenile court to rehabilitate the child; (7) whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction; (8) probation or institutional reports, if any; and (9) any other relevant factors. Brown, 26 A.3d at 492; 42 Pa. C.S.A. § 6355 (a) (4) (iii).

While the Juvenile Act is silent as to what weight to accord the different factors, case law makes it abundantly clear that in order for a matter to be transferred to Juvenile Court the Defendant bears the burden of proving that he or she is amenable to treatment, supervision or rehabilitation in the juvenile system. Brown, supra., citing Commonwealth v. Johnson, 542 Pa. 568, 669 A.2d 315, 320-321 (Pa. 1995).

The Defendant testified at the decertification hearing. She is presently seventeen (17) years old having been born on August 8, 1994. She is senior at East Orange High School. She has participated in varsity softball and talent shows. She is presently an A student. She has been accepted to college beginning in the fall of 2012. She plans to study Forensics Psychiatry at Essex County College.

She has lived with her aunt for the last two years. Her father is incarcerated. Her mother lives nearby in West Orange and has frequent contact with her.

She has no prior criminal or delinquent history, she has never been declared dependent, she has never been under Juvenile Court supervision, she has never been institutionalized and she has never been on supervision. She has one brother and three sisters all who live near her. She is not a behavioral problem at school and there are no reports verifying any suspensions or expulsions.

She presents herself as an articulate, somewhat mature young woman who has excelled in the classroom and has plans for a successful future.

Prior to the incident in question, she and her adult friend Veronica decided to travel to Williamsport in order that they could visit with some of Veronica's friends. Upon reaching Williamsport, they eventually met up with three males who knew Veronica. All five of the individuals hung out together and started "partying." They consumed alcoholic beverages and smoked marijuana.

The males devised a plan whereby they would go to a hotel and rob some patrons. The Defendant was not an active participant in the origination of or planning of the crime.

Veronica insisted that the Defendant participate. Defendant became aware that at least one if not two of the male cohorts possessed firearms. The Defendant was extremely frightened and hesitant not to participate as directed.

Veronica, the Defendant and two of the males drove in one car to the hotel. The other male and perhaps a fourth male drove in a separate vehicle. While outside of the hotel, the males noticed the two hotel patrons and directed the Defendant and Veronica to them. Veronica directed the Defendant to essentially follow Veronica's lead and do what Veronica did.

The Defendant and Veronica approached the males and started flirting with them. They decided that they would party together and went to the males' hotel room. While in the room, Veronica removed her shirt and nudged the Defendant to do the same. While

Veronica removed her pants, the Defendant did not do so.

The Defendant left the room for the purpose of getting more ice. Upon walking down the hallway to return to the room, she noticed the males who had accompanied her to the hotel, behind her. When she entered the room, the males came in, held the hotel patrons at bay with their weapons, took their items and then left. The girls followed behind.

Once in the hotel parking lot, the Defendant, Veronica and one of the males left in their vehicle. One of the males handed the gun to Veronica who then threw it in the trunk of their car. En route from the hotel, the one man asked to get out of the vehicle. The girls left him out as requested. Defendant and Veronica were eventually stopped by the police.

Defendant explained that during the entire incident she did “everything” she was told to do by the males who had accompanied her. She was extremely scared but admitted being under the influence of intoxicants.

She was jailed in the Lycoming County Prison from July of 2011 to December 24 of 2011, approximately five (5) months. She described it as the “worst time in her life.” She explained that she learned a valuable lesson from the entire incident and her very unpleasant and eye-opening stay in jail.

The stated purposes of the Juvenile Act include the supervision, care and rehabilitation of minors who, although having committed delinquent acts, would benefit less from an adult criminal sentence. Commonwealth v. Jackson, 555 Pa. 37, 722 A.2d 1030, 1032 (Pa. 1999); see also 42 Pa. C.S. § 6301 (b) (2).

In reviewing all of the evidence, the Court finds that the Defendant has proven by preponderance of the evidence that transfer to the Juvenile Court System best serves the public interest.

While the Court cannot determine the actual impact of the offense on the victims in that no testimony whatsoever was presented by them, it certainly can be assumed that it was significant. As well, this type of incident has a major impact on this community which relies in large part on tourism. Further, the nature and circumstances of the offense committed by the Defendant are certainly egregious. A strong-armed robbery utilizing weapons exposes all involved to a substantial risk of serious bodily injury and possibly death.

Balanced against it, however, is the fact that the Defendant's culpability was the least of all those involved. It was not her idea or plan; she followed directives of others, who she was in part fearful of; she was slightly under the influence of intoxicants; she was the only juvenile in the entire group; and she possessed no weapon.

No specific evidence was presented regarding the adequacy or duration of dispositional alternatives available under the Juvenile Act but clearly such dispositional alternatives are available. The Defendant could be assessed to determine whether or not there are any drug or alcohol issues to be addressed and then be ordered to undergo appropriate treatment. The Defendant could be ordered to counseling to address perhaps self-esteem or other issues that might have attributed to her acquiescing to the demands of others which caused her to participate in such a disturbing crime. Defendant could be ordered to perform

appropriate community service and perhaps other sanctions to impress upon her the severity of the offense in light of her relative immaturity. The Defendant could be ordered to attend a victim impact program wherein she could be further educated and become aware of the impact that crimes such as these have on specific victims in society in general.

There are a plethora of opportunities available in the Juvenile System, such as in-home multiple systemic therapy, day treatment, leadership development programs, boot camp programs, ACT programs, shelter care and even detention if necessary.

Significantly, there is no doubt in the Court's mind that the Defendant is amenable to treatment, supervision or rehabilitation as a juvenile considering the fact that she is seventeen (17); she appears to have a good mental capacity; she is maturing, although she obviously needs to go a distance given the immaturity she demonstrated in her previous conduct; she demonstrates little, if any criminal sophistication; she has no prior record whatsoever; she has no prior delinquent history; she can certainly be rehabilitated in the next three (3) to four (4) years; she has never been on probation or institutionalized; and she is doing extremely well in high school and plans to continue her education.

Indeed, while the Defendant committed serious offenses, the Court cannot conceive of any purpose being served by this matter proceeding to Adult Criminal Court and the Defendant being sentenced to State prison. Indeed, a transfer to the Juvenile System considering all of the relevant circumstances would clearly best serve the public interests.

Accordingly, the following Order shall be entered:

ORDER

AND NOW, this ____ day of May 2012, following a hearing and argument on Defendant's Motion to Decertify, said Motion is **GRANTED** and this matter shall be transferred to Juvenile Court. Defendant is scheduled to next appear in Juvenile Court before the Honorable Richard Gray on the **14th day of June, 2012 at 1:30 p.m.** for a pretrial conference.

By The Court,

Marc F. Lovecchio, Judge

cc: CA
Suzanne Fedele, Prothonotary
Martin Wade, Esquire (ADA)
Lori Rexroth, Esquire
JPO, Chief Ed Robbins
The Honorable Richard Gray
Gary Weber, Esquire (Lycoming Reporter)
Work File
JV-132-2012