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SJC-13200

NOAH N., a juvenile vs. COMMONWEALTH.

Suffolk. February 4, 2022. - April 11, 2022.

Present: Budd, C.J., Gaziano, Lowy, Cypher, Kafker, Wendlandt,
& Georges, JJ.

Delinquent Child. Practice, Criminal, Juvenile delinquency
proceeding, Continuance, Judicial discretion.

Civil action commenced in the Supreme Judicial Court for the county of Suffolk on September 9, 2021.

The case was reported by Lowy, J.

Caroline I. Alpert for the juvenile.
Brooke Hartley, Assistant District Attorney, for the Commonwealth.
Sarah Spofford, Committee for Public Counsel Services, for youth advocacy division of the Committee for Public Counsel Services & others, amici curiae, submitted a brief.

KAFKER, J. The issue before the court is under what circumstances, if any, a judge presiding over a juvenile delinquency proceeding may grant a continuance sought by the Commonwealth for the express purpose of delaying resolution of

the case past the juvenile's eighteenth birthday. The age of a juvenile on the date of his or her case's disposition is significant: under G. L. c. 119, § 58 (§ 58), a delinquent juvenile who is then seventeen or younger may be committed to the custody of the Department of Youth Services (DYS) only until he or she turns eighteen, but a juvenile whose case is disposed of after his or her eighteenth birthday can be committed until he or she turns nineteen. In the instant case, where the motion judge granted such a continuance, it was potentially the difference between twenty days and twelve months in DYS custody.

We conclude that § 58 and Mass. R. Crim. P. 10 (a) (1), 378 Mass. 861 (1979), tightly constrain the allowance of continuances for the sole purpose of extending the time of commitment. We further conclude that such continuances are authorized only if there is clear and convincing evidence that continued commitment is necessary for the rehabilitation of the juvenile, and express findings are made to that effect after an evidentiary hearing. Absent such findings, allowance of such a continuance is an abuse of discretion. As we have no such findings in the instant case, and the juvenile has now turned eighteen, we reverse the judge's order.¹

¹ We acknowledge the amicus brief submitted by the youth advocacy division of the Committee for Public Counsel Services, Citizens for Juvenile Justice, and the Massachusetts Association of Criminal Defense Lawyers in support of the juvenile.

Background. The facts in this case are undisputed. On March 22, 2021, the juvenile was arraigned in the Juvenile Court on the charge of assault and battery on a family or household member, in violation of G. L. c. 265, § 13M (a). The complainant alleged that the juvenile, who was seventeen at the time, had punched and bit her.

On August 4, 2021, the juvenile filed a tender of plea or admission and waiver of rights form and a written request for a hearing. In an August 11 filing, the Commonwealth requested a continuance of the change of plea hearing for the express purpose of delaying the case's disposition until after the juvenile's eighteenth birthday, which was in September. After a hearing and over the juvenile's objection, the Juvenile Court judge granted the continuance on August 13 without providing her reasons for doing so.²

Accordingly, the juvenile's eighteenth birthday passed without his plea being tendered. He petitioned for relief

² At the time the continuance was granted, the juvenile had pending charges for carrying a firearm without a license, possession of ammunition without a firearm identification card, and possession of a class D substance. He had also recently resolved cases where he was charged with larceny of a motor vehicle, larceny over \$1,200, trespass, possession of a class D substance, receiving a stolen motor vehicle, malicious destruction of property under \$1,200, and assault and battery by means of a dangerous weapon.

pursuant to G. L. c. 211, § 3, and the single justice reserved and reported the petition to the full court.

Discussion. In general, we review the decision to grant a continuance for abuse of discretion. See Vazquez Diaz v. Commonwealth, 487 Mass. 336, 344 (2021). In deciding whether a continuance was properly allowed here to extend the time of commitment for a juvenile beyond his eighteenth birthday, we must, however, consider both the statutory requirements of G. L. c. 119, § 58, and Mass. R. Crim. P. 10 (a) (1). Further informing our analysis, in interpreting the juvenile justice statutes and rules of procedure, we have also long recognized that rehabilitation, not punishment, is the overriding purpose of the juvenile justice system. Commonwealth v. Ulani U., 487 Mass. 203, 207 (2021), quoting Commonwealth v. Humberto H., 466 Mass. 562, 576 (2013) ("the juvenile justice system 'is primarily rehabilitative, cognizant of the inherent differences between juvenile and adult offenders, and geared toward "the correction and redemption to society of delinquent children"'"). See generally R.L. Ireland, *Juvenile Law* § 1.3 (2d ed. 2006). Children brought before the court are to "be treated, not as criminals, but as children in need of aid, encouragement and guidance." G. L. c. 119, § 53. Finally, where the rehabilitative goals of the juvenile system are served, we have been particularly receptive to the exercise of judicial

discretion. See, e.g., Humberto H., supra at 575-576 (allowing motion to dismiss delinquency complaint before arraignment to avoid creation of criminal record); Commonwealth v. Magnus M., 461 Mass. 459, 467 (2012) (allowing judge to continue delinquency case without finding after jury trial). With these guiding principles in mind, we turn to the relevant specific statutory language and the rule of criminal procedure governing continuances.

1. G. L. c. 119, § 58. Section 58 states, in pertinent part:

"If a child is adjudicated a delinquent child on a complaint, the court . . . may commit him [or her] to the custody of the department of youth services, but the . . . commitment period shall not be for a period longer than until such child attains the age of eighteen, or nineteen in the case of a child whose case is disposed of after he [or she] has attained his [or her] eighteenth birthday or age [twenty] in the case of a child whose case is disposed of after he [or she] has attained his [or her] nineteenth birthday."

In the juvenile's view, because he sought to tender a plea when he was seventeen, he should benefit from the statute's limit that any commitment to DYS end by age eighteen. Thus, he contends, the grant of a continuance sought for the purpose of committing him until age nineteen was contrary to law.

By its express terms, the statute reflects the Legislature's intention that commitment of a juvenile to the custody of DYS will end when the juvenile attains the age of

eighteen. The exception is when the delinquency proceeding is not disposed of until after the juvenile's eighteenth birthday. In these circumstances, apparently recognizing the requirements of an orderly judicial process and the possibility of the need for continuing commitment and rehabilitation, the Legislature allowed commitment, and thus rehabilitation, to continue until the juvenile's nineteenth birthday.³ This provision for the extension of the time of commitment was both mindful and respectful of the judicial process and the statute's rehabilitative purposes.

The Legislature did not, however, expressly address continuances in § 58. This is understandable, as continuances are an ordinary aspect of an orderly judicial process. If a case is continued for reasons related to the judicial process and unrelated to extending the time of commitment, then the statutory requirements for extending such time of commitment are clearly met. Allowing continuances for the sole purpose of extending the commitment period are, however, different. Such continuances, if they do not otherwise serve the purposes of the

³ Section 58 also permits commitment until age twenty in cases where a delinquency case is disposed of after a juvenile turns nineteen. See G. L. c. 119, § 58. Our decision today applies with equal force to instances where the Commonwealth requests a continuance in delinquency proceedings with a nineteen year old, seeking to extend the juvenile's commitment until he or she turns twenty.

judicial process, intrude on the Legislature's authority to set limits on the time of commitment. Allowing continuances for this reason alone raises the question whether the statutory language regarding disposal of cases is being manipulated to extend the time of commitment beyond what the Legislature intended. Cf. Ulla U. v. Commonwealth, 485 Mass. 219, 224-225 (2020) (cautioning that intentionally delaying transfer hearing proceedings against juvenile so as to proceed against him or her as adult would be improper). Further complicating matters is the difficulty of discerning what the Legislature intended regarding continuances when a juvenile's case would ordinarily be disposed of shortly before his or her eighteenth birthday, but the juvenile's rehabilitation could not be accomplished without further need of services requiring an extended commitment.

Before resolving this issue, we address the additional requirements of Mass. R. Crim. P. 10 (a), which governs continuances.

2. Mass. R. Crim. P. 10 (a). The rules of criminal procedure permit continuances "only when based upon cause and only when necessary to insure that the interests of justice are served."⁴ Mass. R. Crim. P. 10 (a) (1). In most cases, "cause"

⁴ The rules of criminal procedure are applicable to delinquency proceedings. See Mass. R. Crim. P. 1 (b), as

refers to reasons related to the orderly processing of cases. See, e.g., Mass. R. Crim. P. 10 (a) (2), 378 Mass. 861 (1979) (contemplating continuances due to attorney scheduling conflicts, witness unavailability, and need for additional trial preparation). In the instant case, the cause of the continuance does not appear to relate to the orderly disposition of the case. Rather, it relates to delaying the timing of the disposition of the case until after the juvenile's eighteenth birthday, possibly because of the need for additional rehabilitation, although we have no express findings to that effect.

In addition to cause, rule 10 (a) (1) requires us to consider whether the continuance is "necessary to insure that the interests of justice are served." Discerning the interests of justice here requires us to focus on the difference between rehabilitation and punishment. Rehabilitation, as explained above, is the guiding principle of juvenile justice. Any extension of the commitment period beyond what is necessary for rehabilitative purposes would therefore be impermissible.

3. Requirements for granting a commitment extension continuance. Taking into account both the requirements of rule 10 and the statute, we reach the following conclusions. Where a

appearing in 442 Mass. 1501 (2004); Mass. R. Crim. P. 2 (b) (7), as amended, 397 Mass. 1226 (1986).

request for a continuance has nothing to do with the orderly disposition of the case, but rather is directed at the timing of the juvenile's impending eighteenth birthday, and at extending the time of commitment beyond that ordinarily authorized by statute, the ample discretion allowed Juvenile Court judges is tightly constrained. A continuance may only be allowed in such circumstances if it is necessary to ensure the rehabilitation of the juvenile and express findings are made to that effect. See generally Magnus M., 461 Mass. at 466; Jake J. v. Commonwealth, 433 Mass. 70, 75-76 (2000). Cf. G. L. c. 119, § 58 (requiring written findings before juvenile adjudicated youthful offender can be committed to DYS until age twenty-one). An evidentiary hearing must also be held to make such a determination, and the Commonwealth bears the burden of proving by clear and convincing evidence the necessity of continued commitment to ensure the rehabilitation of the juvenile. Cf. Matter of G.P., 473 Mass. 112, 120 (2015) (clear and convincing evidence standard appropriate in various civil commitment proceedings); Care & Protection of Erin, 443 Mass. 567, 570 (2005) (clear and convincing evidence standard applies in proceeding to commit child to custody of predecessor of Department of Children and Families). These strict requirements ensure that rehabilitative purposes necessitate any extension of the commitment period.

In the instant case, we have no such findings and the juvenile has already turned eighteen. Absent such findings, it was an abuse of discretion to allow a continuance for the sole purpose of extending the juvenile's commitment.^{5,6} We therefore conclude that the continuance was improperly allowed.⁷

Conclusion. The order allowing the motion for a continuance is reversed.

So ordered.

⁵ We recognize that the Juvenile Court judge did not have the benefit of our decision explicating the standards for continuances granted for the sole purpose of extending the time of commitment.

⁶ As we conclude that application of § 58 and rule 10 merit reversal, we need not reach the juvenile's argument that the grant of the continuance violated his right to due process under the Massachusetts and United States Constitutions.

⁷ Finally, we note that the juvenile had other pending charges at the time of the continuance. Our decision here of course does not in any way preclude the Commonwealth from proceeding on those charges as it sees fit, should they remain unresolved.