

SUPREME COURT OF ILLINOIS

In re S.B., a Minor (The People of the State of Illinois v. S.B.)

In re S.B., 2012 IL 112204 (Ill. 2012) · No. 112204 · Decided October 4, 2012

SUMMARY

The Illinois Supreme Court held that a juvenile found “not not guilty” of aggravated criminal sexual abuse after a discharge hearing under section 104-25(a) of the Code of Criminal Procedure must register as a sex offender under the Sex Offender Registration Act. The court further held that the juvenile may petition for removal from the registry under section 3-5 of the Act and that corresponding community-notification provisions apply. The court reversed the appellate court’s judgment and remanded the case.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Burke; Chief Justice Kilbride; Justice Freeman; Justice Thomas; Justice Karmeier; Justice Theis; Justice Garman
JURISDICTION	Illinois
DECIDED	October 4, 2012
DOCKET	112204
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed the appellate court's decision reversing the circuit court's order requiring S.B. to register as a sex offender. The Illinois Supreme Court granted leave to appeal.
STANDARD OF REVIEW	De novo review of statutory interpretation
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; binding statewide precedent.
PARTIES	The People of the State of Illinois v. S.B.

TOPICS

- statutory interpretation
- absurdity doctrine
- criminal procedure
- sentencing

PRACTICE AREAS

- juvenile law
- criminal procedure
- sex offender registration
- statutory interpretation

QUESTIONS PRESENTED

1. Whether section 104-25(a) of the Code of Criminal Procedure of 1963 authorizes a discharge hearing in a juvenile proceeding when the minor is found unfit to stand trial.
2. Whether a juvenile found 'not not guilty' of a qualifying sex offense at a discharge hearing is a sex offender required to register under section 2(A)(1)(d) of the Sex Offender Registration Act.
3. Whether a juvenile found 'not not guilty' may petition for termination of sex-offender registration under section 3-5 of the Sex Offender Registration Act.
4. Whether section 121 of the Sex Offender Community Notification Act applies to juveniles found 'not not guilty' following a discharge hearing.

HOLDINGS

1. Section 104-25(a) of the Code of Criminal Procedure is incorporated into the Juvenile Court Act through the provision granting juveniles the procedural rights of adults, so a discharge hearing may be conducted when a juvenile is found unfit to stand trial.
2. A juvenile charged with a qualifying sex offense who is the subject of a finding not resulting in an acquittal at a section 104-25(a) discharge hearing is a sex offender under section 2(A)(1)(d) of the Sex Offender Registration Act and must register.
3. Section 3-5 of the Sex Offender Registration Act must be read to permit juveniles found 'not not guilty' after a discharge hearing to petition for removal from the sex-offender registry under the same statutory terms applicable to qualifying juvenile registrants.
4. Section 121 of the Sex Offender Community Notification Act must likewise be read to include juveniles found 'not not guilty' following a section 104-25 discharge hearing.

KEY QUOTATIONS

“S.B. meets these conditions and, therefore, is a sex offender as defined by SORA.” (¶ 23)

“In order to avoid an absurd result, and to give effect to the purpose of section 3-5 of SORA, we hold that section 3-5 should be read to include juveniles for whom a finding of “not not guilty” has been entered following a discharge hearing.” (¶ 31)

FACTUAL BACKGROUND

S.B., a juvenile with mild intellectual disability, was charged with aggravated criminal sexual assault and aggravated criminal sexual abuse arising from sexual contact with a four-year-old child. He was found unfit to stand trial and was not likely to attain fitness within one year, so the circuit court conducted a discharge hearing. The court acquitted him on the assault count but found him 'not not guilty' of aggravated criminal sexual abuse after determining that the evidence established the offense beyond a reasonable doubt. After further evaluation, the court found that S.B. was not mentally ill and did not pose a threat to public safety, but ordered him to register as a sex offender.

PROCEDURAL HISTORY

The Peoria County circuit court found S.B. unfit to stand trial, conducted a discharge hearing, acquitted him of aggravated criminal sexual assault, and found him 'not not guilty' of aggravated criminal sexual abuse. The circuit court ordered him to register as a sex offender under the Sex Offender Registration Act. The appellate court reversed, concluding that registration was not required. The Illinois Supreme Court reversed the appellate court and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the circuit court for further proceedings consistent with the opinion, including allowing S.B. to petition for removal from the sex-offender registry under section 3-5.

CASES CITED

- People v. Lavold, 262 Ill. App. 3d 984 (1994)
- People v. Waid, 221 Ill. 2d 464, 469-70 (2006)
- In re T.D.W., 109 Ill. App. 3d 852, 854-55 (1982)
- People v. Gentry, 351 Ill. App. 3d 872 (2004)
- People v. Hanna, 207 Ill. 2d 486 (2003)
- Carey v. Elrod, 49 Ill. 2d 464, 470 (1971)
- People v. Hudson, 46 Ill. 2d 177, 181 (1970)
- People ex rel. Cason v. Ring, 41 Ill. 2d 305, 310-16 (1968)
- People ex rel. Barrett v. Anderson, 398 Ill. 480, 485 (1947)

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