

SUPREME COURT OF KENTUCKY

Brandi Chipman v. Commonwealth of Kentucky

2008-SC-000895-DG · No. 2008-SC-000895-DG · Decided May 19, 2010

SUMMARY

The Kentucky Supreme Court held that a juvenile transferred to circuit court under the firearm-use provision of KRS 635.020(4) could be sentenced as a youthful offender only if the conviction and record established that the juvenile used or was complicit in the use of a firearm. Because Brandi Chipman's guilty plea to second-degree robbery established only that an accomplice possessed a firearm and did not establish her use or complicity in its use, the Court held that she was exempt from youthful-offender sentencing under KRS 640.040(4). The Court reversed the Court of Appeals, vacated the sentence, and remanded for juvenile sentencing.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Noble; Chief Justice Minton; Justice Abramson; Justice Cunningham; Justice Scott; Justice Venters; Justice Schroder
JURISDICTION	Kentucky
DECIDED	May 19, 2010
DOCKET	2008-SC-000895-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Chipman, a juvenile transferred to circuit court and prosecuted as a youthful offender, pleaded guilty to second-degree robbery. The circuit court sentenced her as a youthful offender to sixty-one months' imprisonment, and the Court of Appeals affirmed. The Supreme Court of Kentucky granted discretionary review.
STANDARD OF REVIEW	De novo review of the legal question whether Chipman should have been sentenced as a juvenile or as an adult.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Brandi Chipman v. Commonwealth of Kentucky

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether KRS 640.040(4) required juvenile sentencing when a youthful offender transferred to circuit court under the firearm-use provision of KRS 635.020(4) pleaded guilty to a lesser-included offense whose elements did not include firearm use.
2. What evidence or sources a sentencing court may consider in determining whether the juvenile continued to qualify for youthful-offender sentencing under KRS 635.020(4).

HOLDINGS

1. A juvenile may be sentenced as a youthful offender only if the ultimate conviction continues to qualify under one of the youthful-offender provisions in KRS 635.020(2)-(7); the original charges or the prior basis for transfer do not by themselves support adult sentencing.
2. The record did not establish that Chipman used a firearm or was complicit in another person's use of a firearm in committing the felony; therefore, she was exempt from youthful-offender sentencing and had to be sentenced as a juvenile.
3. A defendant may stipulate to firearm use or complicity, or knowingly and voluntarily waive the right to juvenile sentencing, but no such stipulation, agreement, or waiver occurred here.

KEY QUOTATIONS

"To be properly sentenced as an adult, a child must qualify as a youthful offender both for prosecution and for sentencing." (at 3)

"This is not enough to conclude 'that [Appellant] committed a felony[and] that a firearm was used in the commission of that felony.'" (at 10)

FACTUAL BACKGROUND

Seventeen-year-old Brandi Chipman, who had no prior criminal history, went with three adult males to retrieve a video camera from a marijuana seller who had retained it as collateral. One of the adults brought a pistol, pistol-whipped the victim, and took property from the apartment. Chipman maintained that she did not know about the firearm or the adults' intent to rob or injure anyone. She pleaded guilty to second-degree robbery, but neither the plea nor the record established that she used a firearm or was complicit in another person's use of one.

PROCEDURAL HISTORY

Chipman was transferred from district court to circuit court after a preliminary hearing and was indicted for first-degree burglary, first-degree robbery, and second-degree assault. Pursuant to a plea agreement, she pleaded guilty to second-degree robbery in exchange for an eight-year sentencing recommendation and dismissal of the other charges. Although the parties agreed she should be sentenced as a juvenile, the circuit court sentenced her

as a youthful offender. The Court of Appeals affirmed; the Supreme Court reversed, vacated the sentence, and remanded for juvenile sentencing.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The sentence is vacated, and the case is remanded for sentencing as a juvenile under KRS 635.060.

CASES CITED

- Richardson v. Louisville/Jefferson County Metro Government, 260 S.W.3d 777, 778 (Ky. 2008)
- Canter v. Commonwealth, 843 S.W.2d 330, 331-32 (Ky. 1992)
- Kozak v. Commonwealth, 279 S.W.3d 129 (Ky. 2009)
- Darden v. Commonwealth, 52 S.W.3d 574, 577 (Ky. 2001)
- Haymon v. Commonwealth, 657 S.W.2d 239, 240 (Ky. 1983)
- Miller v. Commonwealth, 283 S.W.3d 690, 695 (Ky. 2009)