

SUPREME COURT OF OHIO

State v. D.W.

133 Ohio St. 3d 434 (Ohio 2012) · No. 2011-Ohio-6556 · Decided October 4, 2012

SUMMARY

The Ohio Supreme Court held that a juvenile’s statutory and constitutional right to an amenability hearing before discretionary transfer to adult court may be waived under Juv.R. 3. A valid waiver requires the juvenile, through counsel, to expressly state the waiver on the record, followed by an on-the-record colloquy in which the juvenile court determines that the waiver is knowing, voluntary, and intelligent. Because those requirements were not met, the court reversed and remanded for an amenability hearing or proper waiver.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; Evelyn Lundberg Stratton, Justice; Lanzinger, Justice; Terrence O'Donnell, Justice; William M. O'Neill, Justice; Pfeifer, Justice; Cupp, Justice; McGee Brown, Justice
JURISDICTION	Ohio
DECIDED	October 4, 2012
DOCKET	2011-Ohio-6556
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	D.W. appealed from the Eighth District Court of Appeals' affirmance of his convictions and adult-court transfer. The Supreme Court of Ohio accepted the discretionary appeal to determine whether the juvenile court could waive the discretionary-transfer amenability hearing and what procedures are required for a valid waiver.
STANDARD OF REVIEW	The court reviewed the legal validity of the purported waiver and the juvenile court's compliance with statutory, rule-based, and due-process requirements. The opinion also applied de novo legal analysis to whether the record established waiver.
PRECEDENTIAL VALUE	published and precedential
PARTIES	D.W. v. State of Ohio

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QUESTIONS PRESENTED

1. Whether a juvenile's right to an amenability hearing under R.C. 2152.12(B)(3) and Juv.R. 30 may be waived.
2. What procedures are required for a juvenile to validly waive the right to an amenability hearing.
3. Whether D.W.'s record established a valid waiver of the amenability hearing.
4. Whether a prior bindover permits a juvenile court to transfer a juvenile in a later case without conducting the required amenability determination.

HOLDINGS

1. A juvenile's right to an amenability hearing under R.C. 2152.12(B)(3) may be waived pursuant to Juv.R. 3, because it is one of the child's other rights that may be waived with the court's permission.
2. A valid waiver requires two steps: the juvenile, through counsel, must expressly state the waiver on the record, and the juvenile court must conduct an on-the-record colloquy with the juvenile to determine that the waiver is knowing, voluntary, and intelligent.
3. D.W. did not validly waive the amenability hearing because the record contained neither an express waiver by D.W. or his counsel nor an on-the-record colloquy establishing a knowing, voluntary, and intelligent waiver.
4. A juvenile court may not transfer a juvenile in a later felony proceeding solely because the juvenile was previously bound over to adult court; each case must be assessed on its own merits under the governing statute.

KEY QUOTATIONS

"We have no doubt that a juvenile's right to an amenability hearing, like a juvenile's right to counsel, is compelled by federal due process protections, Kent at 557, our statutory framework, R.C. 2152.12(B), and our rules, Juv.R. 30." (441)

"First, before being transferred, the juvenile may waive the right to an amenability hearing only if the waiver is expressly stated on the record and through counsel." (443-444)

"Second, the juvenile court must determine that the waiver is offered knowingly, voluntarily, and intelligently." (444)

"According to statute then, a juvenile court cannot bind over a juvenile on the sole basis that the juvenile has been previously bound over." (446)

FACTUAL BACKGROUND

D.W. was 17 years old when he allegedly committed burglary and other offenses. The juvenile court held a probable-cause hearing, found probable cause, and then transferred the case to adult court without conducting an amenability hearing because D.W. had previously been found not amenable and bound over. The record contained no express waiver by D.W. or his counsel and no colloquy with D.W. concerning a knowing, voluntary, and intelligent waiver. In adult court, a jury acquitted D.W. of two bribery counts but convicted him of burglary, theft, vandalism, and criminal damaging.

PROCEDURAL HISTORY

D.W., who was 17 when the offenses occurred, was charged in the Cuyahoga County Court of Common Pleas, Juvenile Division. After finding probable cause, the juvenile court transferred the case to adult court without conducting a new amenability hearing, relying on D.W.'s prior bindover. D.W. was convicted of burglary, theft, vandalism, and criminal damaging and sentenced to six years in prison; the Eighth District affirmed. The Supreme Court of Ohio reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded to the juvenile court for an amenability hearing or a proper waiver of that hearing consistent with the opinion.

CASES CITED

- Kent v. United States, 383 U.S. 541 (1966)
- In re C.S., 115 Ohio St. 3d 267, 2007-Ohio-4919, 874 N.E.2d 1177
- State v. Hanning, 89 Ohio St. 3d 86, 728 N.E.2d 1059 (2000)
- In re M.P., 124 Ohio St. 3d 445, 2010-Ohio-599, 923 N.E.2d 584
- In re Gault, 387 U.S. 1 (1967)
- State v. Walls, 96 Ohio St. 3d 437, 2002-Ohio-5059, 775 N.E.2d 829
- State v. Foster, 109 Ohio St. 3d 1, 2006-Ohio-856, 845 N.E.2d 470
- Brookhart v. Janis, 384 U.S. 1 (1966)
- United States v. Olano, 507 U.S. 725 (1993)
- Johnson v. Zerbst, 304 U.S. 458 (1938)
- State v. Adams, 69 Ohio St. 2d 120, 431 N.E.2d 326 (1982)
- State v. Elam, 68 Ohio St. 3d 585, 629 N.E.2d 442 (1994)
- State v. Chinn, 85 Ohio St. 3d 548, 709 N.E.2d 1166 (1999)
- State v. Scudder, 71 Ohio St. 3d 263, 643 N.E.2d 524 (1994)
- State v. Douglas, 20 Ohio St. 3d 34, 485 N.E.2d 711 (1985)
- Miller v. Alabama, Miller v. Alabama, 567 U.S. 460 (2012)

- *Graham v. Florida*, *Graham v. Florida*, 560 U.S. 48 (2010)
- *Roper v. Simmons*, 543 U.S. 551 (2005)
- *Johnson v. Texas*, 509 U.S. 350 (1993)
- *Iowa v. Tovar*, 541 U.S. 77 (2004)
- *In re Manuel R.*, 207 Conn. 725, 543 A.2d 719 (1988)
- *Haley v. Ohio*, 332 U.S. 596 (1948)
- *In re Agler*, 19 Ohio St. 2d 70, 249 N.E.2d 808 (1969)
- *In re Williams*, 101 Ohio St. 3d 398, 2004-Ohio-1500, 805 N.E.2d 1110

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