

MONTANA SUPREME COURT

In re J.D.N.

347 Mont. 368 (2008) · Decided December 16, 2008

SUMMARY

The Montana Supreme Court held that a youth court could not designate J.D.N.'s criminal mischief offense as a felony based on a finding that the vehicle's value was "at least \$1,000." Because Montana law required pecuniary loss in excess of \$1,000, the court reversed the disposition and remanded for a new disposition based on an offense that would be a misdemeanor if committed by an adult.

CASE DETAILS

COURT	Montana Supreme Court
WRITING FOR THE COURT	Justice Warner; Chief Justice Gray; Justice Cotter; Justice Morris; Justice Nelson
JURISDICTION	Montana
DECIDED	December 16, 2008
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	J.D.N. appealed from a Montana Youth Court determination that his conduct constituted felony criminal mischief and from the resulting disposition placing him on juvenile probation.
STANDARD OF REVIEW	De novo review applies to whether the Youth Court correctly interpreted and applied a statute.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	J.D.N. v. State of Montana

TOPICS

- statutory interpretation
- plain meaning rule
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

- juvenile justice
- criminal law
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether a Youth Court finding that damaged property had a value of "at least \$1,000" satisfies Montana Code Annotated section 45-6-101(3), which makes criminal mischief a felony when it causes pecuniary loss "in excess of \$1,000."
2. Whether the appropriate disposition after reversal of the felony designation was dismissal of the delinquency petition or remand for a new disposition.

HOLDINGS

1. It does not. Because section 45-6-101(3), MCA, requires pecuniary loss in excess of \$1,000, a finding that the loss was at least \$1,000 is legally insufficient to establish felony criminal mischief.
2. Dismissal was not warranted on the record presented. The court declined to consider J.D.N.'s unsupported request for dismissal and remanded for entry of a disposition upon a finding that he committed an act that would be a misdemeanor if committed by an adult.

KEY QUOTATIONS

"The Youth Court found that the car's value immediately before the offense was "at least \$1,000." We conclude this finding is insufficient, as a matter of law, to support the Youth Court's legal conclusion that J.D.N. committed felony criminal mischief as defined in § 45-6-101(3), MCA." (371)

"Having concluded the Youth Court erred in determining J.D.N. committed the offense of felony criminal mischief, we reverse the Youth Court's disposition of March 2, 2007, and remand for entry of a disposition upon a finding that J.D.N. committed an act that would be a misdemeanor if he were an adult." (371)

FACTUAL BACKGROUND

After midnight, three young men damaged a 1988 Ford Thunderbird during an ongoing dispute involving the vehicle owner's brother. The vehicle was later sold for \$500, and repair costs were estimated at more than \$8,000, but the Youth Court found only that the vehicle's value at the time of damage was "at least \$1,000." J.D.N. did not contest that factual finding; he challenged its legal sufficiency to establish felony criminal mischief.

PROCEDURAL HISTORY

The Seventh Judicial District Youth Court, Richland County, found J.D.N. responsible for criminal mischief, determined that the offense was a felony under section 45-6-101(3), MCA, declared him a delinquent youth, and placed him on probation until his twenty-first birthday. J.D.N. challenged only the felony designation. The Montana Supreme Court reversed the disposition and remanded for entry of a disposition based on conduct that would constitute a misdemeanor if committed by an adult.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Youth Court's March 2, 2007 disposition and remand for entry of a disposition based on a finding that J.D.N. committed an act that would constitute a misdemeanor if committed by an adult.

CASES CITED

- State v. Triplett, 2008 MT 360, ¶ 13, 346 Mont. 383, 195 P.3d 819
- State v. Farmer, 2008 MT 354, ¶ 13, 346 Mont. 335, 195 P.3d 800
- State v. Torgerson, 2008 MT 303, ¶ 36, 345 Mont. 532, 192 P.3d 695

OPINION

WARNER, J.

JUSTICE WARNER delivered the Opinion of the Court. ¶1 The Seventh Judicial District Youth Court, Richland County, found J.D.N. guilty of felony criminal mischief pursuant to § 45-6-101(3), MCA. It also declared him a delinquent youth, placed him on juvenile probation with conditions, and entered judgment. J.D.N. now *369appeals the Youth Court's determination that the offense was a felony.

We reverse and remand for a new disposition. ¶2 We restate the issue as whether the Youth Court erred in determining J.D.N. committed the offense of felony criminal mischief as set forth in § 45-6-101(3), MCA. BACKGROUND ¶3 Shortly after midnight on February 7, 2006, Alfred Anderson was driving home from work when he saw what he believed to be three young men trying to break into a vehicle belonging to Matthew Loomer.

The young men retreated to another vehicle when they saw Anderson's car and immediately left the scene. Judging by the short time it took for them to flee, Anderson assumed a driver must have been waiting in the car. Anderson called 911 shortly thereafter. ¶4 Sidney Police Officer Steven Reidel was dispatched. During a brief investigation, Reidel determined the vehicle belonged to Matthew Loomer and notified the Loomer family of the damage.

Based on conversation with the Loomers, Reidel's ongoing investigation focused on J.D.N. and three other young men. ¶5 One of the other young men implicated himself, J.D.N., and the others during questioning by the police. He testified at the adjudicatory hearing that the group damaged Loomer's vehicle because of an ongoing dispute with Matthew's brother, who was using the car in Matthew's absence.

They noticed the Loomer vehicle parked on the street while driving around town and stopped to damage it. ¶6 Dave Loomer, Matthew's father, testified he bought the 1988 Ford Thunderbird for his son a number of years earlier for \$2,000. He had no estimate of its worth when it was damaged. Matthew Loomer testified the car became his when he paid off the loan, and later sold the car after it was damaged for \$500.

Jackie Washechek of 1st Choice Collision Center testified that repairing the vehicle would cost over \$8,000. ¶7 At the conclusion of the adjudicatory hearing, the Youth Court found J.D.N. guilty of felony criminal mischief based, in part, on its determination that “the value of the car at the time it was damaged was at least \$1,000.” The court subsequently declared J.D.N. a delinquent youth and placed him on probation, with conditions, until his twenty-first birthday.

J.D.N. appeals only from the felony designation made by the Youth Court pursuant to § 45-6-101(3), MCA. *370STANDARD OF REVIEW ¶8 As discussed further below, the issue in this case boils down to whether the Youth Court properly interpreted and applied § 45-6-101(3), MCA.

The interpretation and construction of a statute is a matter of law, and we review de novo whether the trial court interpreted and applied a statute correctly. See *State v. Triplett*, 2008 MT 360, ¶ 13, 346 Mont. 383, ¶ 13, 195 P.3d 819, ¶ 13 (citation omitted). DISCUSSION ¶9 Did the Youth Court err in determining that J.D.N. committed the offense of felony criminal mischief pursuant to § 45-6-101(3), MCA? ¶10 Before addressing the issue presented on appeal, we clarify certain matters.

As indicated above, the present case is a Montana Youth Court Act case as provided in Title 41, Chapter 5, of the Montana Code Annotated. No adjudication by a youth court regarding the status of any youth may be deemed a criminal conviction. See § 41-5-106, MCA. Rather, if the evidence supports the commission of the offense contained in the petition alleging the youth to be a delinquent youth, a youth court may adjudicate a youth as a delinquent youth.

See § 41-5-1502, MCA. ¶11 Here, the Youth Court purportedly “convicted” J.D.N. of felony criminal mischief. It then declared J.D.N. a delinquent youth, meaning in this case that he was a youth “who has committed an offense that, if committed by an adult, would constitute a criminal offense.” See § 41-5-103(11)(a), MCA. ¶12 A person commits the offense of criminal mischief if the person knowingly or purposely injures, damages or destroys any property of another without consent.

See § 45-6-101(1)(a), MCA. If the person commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,000, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. Section 45-6-101(3), MCA.

In other words, the offense of criminal mischief is a felony if it results in a “pecuniary loss in excess of \$1,000.” ¶13 As noted above, the Youth Court found at the close of the adjudicatory hearing that the vehicle’s value was “at least \$1,000.” J.D.N. does not contest that finding. His argument is that § 45-6-101(3), MCA, requires a finding of a loss “in excess of \$1,000” to establish a felony criminal mischief offense, and the Youth Court’s *371finding of a loss of “at least \$1,000” is insufficient as a matter of law to meet that statutory requirement.

We agree. ¶14 In construing a statute, our function is “simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted.” Section 1-2-101, MCA; *State v. Farmer*, 2008 MT 354, ¶ 13, 346 Mont. 335, ¶ 13, 195 P.3d 800, ¶ 13. A criminal mischief offense must cause pecuniary loss “in excess of \$1,000” to constitute a felony.

See § 45-6-101(3), MCA. The statute does not state the loss must be “equal to or in excess of \$1,000.” The Youth Court found that the car’s value immediately before the offense was “at least \$1,000.” We conclude this finding is insufficient, as a matter of law, to support the Youth Court’s legal conclusion that J.D.N. committed felony criminal mischief as defined in § 45-6-101(3), MCA. ¶15 The parties present arguments regarding the restitution awarded during the dispositional hearing.

As contemplated in § 41-5-1511, MCA, the dispositional hearing is separate from, but held as soon as practicable after, the adjudicatory hearing. J.D.N. does not challenge the \$1,000 restitution awarded in this case. Nor has either party established that the restitution has any bearing on whether J.D.N. committed a felony or misdemeanor offense.

Thus, we decline to address these arguments. ¶16 Finally, J.D.N. asserts that, if we conclude-as we have-that the Youth Court erred in determining the offense was a felony rather than a misdemeanor, the appropriate disposition is to remand with instructions to dismiss the petition charging him as a delinquent youth. He does not support his request for dismissal with any developed argument or authority, however, as required by M. R. App.

P. 12(1)(f). We are not obligated to conduct legal research or develop legal analysis that might support an appellant’s position. *State v. Torgerson*, 2008 MT 303, ¶ 36, 345 Mont. 532, ¶ 36, 192 P.3d 695, ¶ 36 (citations omitted).

Therefore, we decline to address J.D.N.’s unsupported assertion regarding the appropriate disposition. ¶17 Having concluded the Youth Court erred in determining J.D.N. committed the offense of felony criminal mischief, we reverse the Youth Court’s disposition of March 2, 2007, and remand for entry of a disposition upon a finding that J.D.N. committed an act that would be a misdemeanor if he were an adult.

CHIEF JUSTICE GRAY, JUSTICES COTTER, MORRIS and NELSON concur.