

In re the Matter of N.T.M.
Minor Child/Appellant.
Appeal No. 98-022
FCD-JU Civil Action No. 97-0179
December 14, 1999

Argued and submitted August 16, 1999

Counsel for Appellant: Reynaldo O. Yana, Saipan.

Counsel for Appellee: Barry A. Hirshbein, Assistant Attorney General, Saipan.

BEFORE: DEMAPAN, Chief Justice, CASTRO, Associate Justice, and TAYLOR, Justice *Pro Tem*.

CASTRO, Associate Justice:

¶1 [1] N.T.M. appeals a ruling of the Superior Court, sitting as the juvenile court, denying his motion to dismiss the complaint against him on the grounds that the juvenile court lost jurisdiction over him upon reaching his eighteenth birthday. We have jurisdiction pursuant to Article IV, Section 3 of the Commonwealth Constitution. We affirm.

ISSUE PRESENTED AND STANDARD OF REVIEW

¶2 [2] This appeal presents an issue of first impression in the Commonwealth.¹ We are asked to determine whether the juvenile court erred, as a matter of law, in deciding that it had continuing jurisdiction over a juvenile case where (i) the acts of delinquency were allegedly committed while the offender was under eighteen years of age; (ii) the complaint of delinquency was filed with the juvenile court while the offender was still under eighteen; and (iii) the offender attained his eighteenth birthday before the case was finally adjudicated or disposed of. The issue of jurisdiction is a question of law which we review *de novo*. *Office of the Attorney General v. Rivera*, 3 N.M.I. 436, 441 (1993).

¹ In another decision entered today, we address the issue of whether the adult criminal court has jurisdiction over a person who allegedly committed an offense while under the age of eighteen, but was not charged with a crime until after his eighteenth birthday. *See Nakatsukasa v. Superior Court*, 1999 MP 25.

FACTUAL AND PROCEDURAL BACKGROUND

¶3 On November 28, 1997, twelve days before N.T.M.’s eighteenth birthday,² the Government filed a complaint of delinquency in the juvenile court division of the Superior Court, alleging that a day earlier, N.T.M., along with another person, committed acts which if committed by an adult person would constitute the crimes of armed robbery and auto theft.³

¶4 On December 18, 1997, N.T.M. entered a denial to the complaint of delinquency and on February 18, 1998, he moved to dismiss the complaint against him on the grounds that the juvenile court lost jurisdiction over him on December 10, 1997, the day he turned eighteen. The parties briefed the issue and a hearing on the motion was held on April 3, 1998.

¶5 On June 9, 1998, the juvenile court entered a written order denying the motion to dismiss. *In re N.T.M.*, FCD-JU Civ. No. 97-0179 (N.M.I. Super. Ct. June 9, 1998) (Written Order Following Oral Ruling Denying Juvenile’s Motion to Dismiss for Lack of Jurisdiction) (“Order”). The court held that its jurisdiction was proper because N.T.M. was still under eighteen years of age when the delinquency charges were filed. *Id.* at 5. N.T.M. timely appealed, *in forma pauperis*.

ANALYSIS

¶6 The law of juvenile court jurisdiction is primarily statutory. See, Annotation, *Age of Child At Time of Alleged Offense or Delinquency, or At Time of Legal Proceedings, As Criterion of Jurisdiction of Juvenile Court*, 89 A.L.R.2d 506, 507 (1963) (“Annotation”). Some state constitutions, however, contain provisions addressing special procedures for juveniles. See, e.g., *Louisiana v. Hamilton*, 676 So. 2d 1081 (La. 1996) (noting that Louisiana Constitution provides that juveniles are entitled to special juvenile procedures).

¶7 [3,4,5] The N.M.I. Constitution expressly affords special protection to persons under eighteen years of age who are accused of committing crimes. Article I, Section 4 of the Constitution provides: “[i]n

² N.T.M. was born on December 10, 1979. Both the original Complaint and the First Amended Complaint erroneously stated N.T.M.’s date of birth as December 10, 1980. This error, brought to the trial court’s attention at the arraignment, was corrected by striking out the year “1980” and substituting the year “1979.”

³ A First Amended Complaint of Delinquency, filed on December 5, 1997, later dropped the charge of auto theft against N.T.M.

all criminal prosecutions certain fundamental rights shall obtain. . . (j) Persons who are under eighteen years of age shall be protected in criminal judicial proceedings and in

conditions of imprisonment.” N.M.I.

Const. art I, § 4(j). The ANALYSIS

explains what these protections are:

This section [4(j) of the N.M.I. Constitution] requires that persons who are under 18 years of age be protected in criminal proceedings and in conditions of imprisonment. The term criminal proceedings means the hearings and trials in which juveniles appear on criminal or delinquency charges and the publicity given or records kept with respect to these matters. Conditions of imprisonment mean the housing of juveniles during detention prior to trial and after sentencing to a term of imprisonment.

The requirement that persons under 18 be protected is a flexible standard that looks to the prevention of harm to juveniles beyond the requirement of participation in the hearing or trial or the imposition of sentence. It is intended that the records of criminal proceedings not be used in a way that will have an adverse impact on juveniles after they are found innocent or complete a sentence, unless no less injurious method will serve important law enforcement purposes. It is intended that conditions of imprisonment encourage rehabilitation and minimize contact with adult offenders.

ANALYSIS OF THE CONSTITUTION OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, (December 6, 1976) (“ANALYSIS”) at 19-20. In addition to these constitutional mandates, the Commonwealth Legislature created a statutory scheme addressing juvenile delinquency. The relevant statutes, contained in Title 6 of the Commonwealth Code, are as follows:

§ 5101. Juvenile Court.

Proceedings brought against a person as a delinquent child shall be brought in the Commonwealth Trial Court, sitting as a juvenile court.

§5102. Juvenile Court: Flexibility of Procedures.

In cases involving offenders under the age of 18 years, the court shall adopt a flexible procedure based on the accepted practices of juvenile courts of the United States, including insofar as possible the following measures:

- (a) Report by a probation officer in advance of trial;
- (b) Detention, where necessary, apart from adult offenders, at least by sight and sound;
- (c) Hearing informally in closed session;
- (d) Interrogation of parents or guardians and release in custody if appropriate.

An offender 16 years of age or over may, however, be treated in all respects as an adult if, in the opinion of the court, his or her physical and mental maturity so justifies.

§ 5103. “Delinquent Child” Defined.

As used in this division, “delinquent child” includes any juvenile:

- (a) Who violates any Commonwealth law, ordinance, or regulation while under the age of 18; provided, that a juvenile 16 years of age or

older, accused of a traffic offense, murder, or rape shall be treated in the same manner as an adult.

....

§ 5104. Juvenile Proceedings: Delinquency Not a Crime.

Proceedings against a person under 18 years of age as a delinquent child shall be conducted in accordance with the provisions of this division, and an adjudication that a person is a delinquent child does not constitute a criminal conviction.

6 CMC §§ 5101, 5102, 5103(a), 5104. Additionally, Chapter 7 of Title 1 of the Commonwealth Code, which creates the Department of Community and Cultural Affairs, Division of Youth Services within the Executive Branch, provides: “[y]outh’ or ‘minor’ or ‘juvenile’ or ‘child’ means any person under the age of 18 years of age.” 1 CMC § 2373(f).

¶8 Relying on cases from various other U.S. jurisdictions, N.T.M. argues that the juvenile court loses any jurisdiction taken, when a person reaches an age that is no longer within the juvenile statute’s grant of jurisdiction. Since, in the Commonwealth, a juvenile is defined as “a person under the age of 18 years of age,” N.T.M. contends that proceedings which must be brought before the juvenile court are only those that are against a person who has not attained the age of majority. N.T.M. therefore urges this Court to hold that the juvenile court loses jurisdiction over a case where a person, who allegedly committed an offense and was charged while still under eighteen, ceases to be under eighteen before the matter is adjudicated. We decline the invitation.

¶9 [6,7] A cursory examination of the juvenile laws in the Commonwealth reveals that the juvenile court has “exclusive” original jurisdiction over all juvenile delinquency proceedings. If, on the one hand, evidence exists that an offender, sixteen years or older, requires that he/she be treated in all respects as an adult person because of his/her physical and mental maturity, then the Government must not only file a complaint of delinquency with the juvenile court but also a motion or petition to certify such person as an adult. The juvenile court has the discretion to either grant or deny such a request. 6 CMC § 5102. Once the juvenile court grants the request, jurisdiction is then “transferred” to the adult criminal court. The juvenile court does not lose jurisdiction - it merely transfers it to the adult criminal court. If, on the other hand, an offender sixteen years of age or older, is charged with murder, rape, or a traffic offense, the juvenile court is automatically divested of jurisdiction since the offender is subject to the original jurisdiction of the adult criminal court. 6 CMC § 5103(a).

¶10 [8] Even though there is no express provision terminating the juvenile court’s jurisdiction once it is obtained,⁴ the juvenile court is not divested of jurisdiction simply because the alleged offender reaches the age of eighteen.

Under the rule that the question of juvenile court jurisdiction is controlled by the age of a child at the time of the commission of an offense or delinquent act, the court of general criminal jurisdiction does not acquire jurisdiction over one who committed an offense while he was within the statutory age limits provided by the juvenile delinquency statute, since the jurisdiction of the juvenile court to proceed against him remains unaffected even after he has attained an age beyond such statutory limits.

Annotation, 89 A.L.R.2d at 524; *see also United States v. Fotto*, 103 F. Supp. 430 (S.D.N.Y.1952) (holding that defendant, under eighteen when offense was committed, but over eighteen when indicted, was entitled to be treated as juvenile under Federal Juvenile Delinquency Act);⁵ *United States v. Jones*, 141 F. Supp. 641 (E.D. Va. 1956) (noting that age at date of commission of alleged offense is determinative age of whether Federal Juvenile Delinquency Act applies); *cf. United States v. Doe*, 631 F.2d 110 (9th Cir. 1980) (holding that juvenile jurisdiction was proper inasmuch as offenses, with which twenty-one year old defendant was charged, occurred while she was under eighteen and informations were filed before her twenty-first birthday).⁶

⁴ We are aware that neither is there an express provision granting continuing jurisdiction to the juvenile court. While we find that such a provision is not necessary to establish continuing jurisdiction in the juvenile court, we encourage the Legislature to consider amending the juvenile delinquency statutes to indicate a cut-off point at which juvenile jurisdiction ends. The 1974 amendment to the Federal Juvenile Delinquency Act, 18 U.S.C. §§ 5301 et seq., is an example of a statute which expressly provides that the juvenile court retains jurisdiction over all alleged acts of juvenile delinquency by a person until he or she has reached age twenty-one. *See infra*. note 5.

⁵ Prior to 1974, the Federal Juvenile Delinquency Act, 18 U.S.C. §§ 5301 et seq., (“FJDA”) defined juvenile status as follows: “[f]or the purposes of this chapter a ‘juvenile’ is a person who has not attained his eighteenth birthday, and ‘juvenile delinquency’ is the violation of a law of the United States committed by a juvenile and not punishable by death or life imprisonment.” 18 U.S.C. § 5031 (1948). In interpreting this provision, the court in *United States v. Fotto* stated:

It seems to be clearly indicated in Section 5031 that the Act was intended to apply to *one who was a juvenile at the time the offense was committed*, for it says -“. . . ‘juvenile delinquency’ is the violation of a law . . . committed by a juvenile and not punishable by death or life imprisonment.” If this was not the intention of Congress, I think it would not have failed to say what was the determinative data - the arrest, the indictment, or time of trial. If either of the latter dates, the indictment or the trial might be delayed to the prejudice of the offender and the purpose of this Act possibly nullified.

United States v. Fotto, 103 F. Supp. 430, 431 (S.D.N.Y. 1952) (emphases added). Similarly, the definition of a “delinquent child” in the Commonwealth includes any juvenile “[w]ho violates any Commonwealth law, ordinance, or regulation while under the age of 18 . . .” 6 CMC § 5103(a).

⁶ The *Doe* court interpreted the FJDA after it was amended by the Juvenile Justice and Delinquency Prevention Act of 1974, PL 93-415, Title V, Part A, § 501, 88 Stat. 1133 (1974). Section 5031, after amendment, reads: “[f]or the purposes of this chapter, a ‘juvenile’ is a person who has not attained his eighteenth birthday, or for the purpose of proceedings

¶11 In further support of his motion to dismiss, N.T.M. cited *In re Suda*, 3 CR 15 (Trial Ct. 1986). In *Suda*, the juvenile allegedly committed acts while he was under eighteen years of age, which, if committed by an adult, would constitute the crimes of burglary, criminal mischief, and theft. The complaint of delinquency was filed after the juvenile turned eighteen. Upon reviewing the existing statutory scheme, in particular, 6 CMC § 5104, the *Suda* court held:

The implication of [6 CMC § 5104], in conjunction with the other statutory provisions respecting juvenile matters, is that the juvenile court simply has no jurisdiction over persons who are 18 years of age, even if the alleged offenses were committed prior to that age. In other words, the *age of the person at the time of commencement of proceedings governs, so that once a person reaches 18 years of age, the juvenile court loses jurisdiction over that person.*

Suda, 3 CR at 17-18 (emphasis added). We disagree.

¶12 [9,10] Article I, Section 4(j) of the N.M.I. Constitution unequivocally directs that persons who are under eighteen years of age shall be protected in criminal judicial proceedings and in conditions of imprisonment. In addition to 6 CMC § 5104 and other statutory provisions, we must “. . . interpret [Article I, Section 4(j)] on a case by case basis and give it meaningful content over time.” ANALYSIS at 20. If the “age of a person at the time of commencement of proceedings” were to govern the juvenile court’s jurisdiction in this Commonwealth, an offender under eighteen years of age may not receive the full benefits and protections of Article I, Section 4(j). A vacuum would also exist in the law in that if a case, properly filed in the juvenile court, is not adjudicated or transferred before the juvenile turns eighteen, he or she would neither be subject to the jurisdiction of the juvenile court nor the adult criminal court. Clearly, such absurd results cannot be and do not reflect the intent and spirit of the constitutional and statutory protections afforded to alleged offenders under eighteen years of age in this Commonwealth.

¶13 [11,12] The “age at the time of the alleged offense or delinquency” rule is based upon “the theory that juvenile delinquency arises from acts or conduct taking place at an age when the child is meant to be protected from the rigors of the criminal law. . .[because] . . .a delinquent act does not ripen into a crime merely because of the lapse of time. . .” Annotation, 89 A.L.R.2d at 522. The benefits and protections

and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday, and ‘juvenile delinquency’ is the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult. . .” 18 U.S.C. § 5031 (1994).

of Article I, Section 4(j) of the N.M.I. Constitution are maximized under this rule. Hence, the jurisdiction over a delinquent child, of the Commonwealth Superior Court, sitting as a juvenile court, is determined by the age of the child at the time of the alleged offense or delinquency.

CONCLUSION

¶14 For the foregoing reasons, we **AFFIRM** the juvenile court's ruling denying N.T.M.'s motion to dismiss for lack of jurisdiction.