

IN THE COURT OF APPEALS OF IOWA

No. 0-414 / 90-111

FILED

AUG 30 1990

CLERK SUPREME COURT

IN THE INTEREST OF S.L.A., A Minor,

Appellant.

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Appeal from the Iowa (Juvenile) District Court for Black Hawk County, Alan D. Allbee, Juvenile Referee, and Robert E. Mahan, District Court Judge.

S.L.A. was adjudicated to be delinquent due to the commission of second-degree burglary. He has appealed from the adjudication of delinquency and from the resulting dispositional order. **REVERSED AND REMANDED WITH DIRECTION.**

John S. Pieters, Waterloo, for appellant.

Thomas J. Miller, Attorney General; Gordon E. Allen, Deputy Attorney General; and Judy Sheirbon, Assistant Attorney General; for appellee.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ.

HAYDEN, J.

The child in question, S.L.A., is a boy born² in September 1972. In June 1989, he was accused of breaking into a car and stealing a car radio. The juvenile referee adjudicated S.L.A. delinquent of second-degree burglary. He has appealed from the adjudication of delinquency and from the resulting dispositional order.

S.L.A. challenges the sufficiency of the evidence to prove him guilty of second-degree burglary.

S.L.A. also contends prejudicial error occurred because the district court judge refused to review a referee's adjudication of delinquency. The motion for review was made pursuant to Iowa Code section 602.7103(3). The district court judge concluded the referee's delinquency adjudication was not yet reviewable because Iowa Code § 232.133(1) requires a dispositional order before a juvenile case may be appealed.

This case presents a question of first impression. Because of the importance and urgency of the matter, we address it clearly, to provide direction for the district courts.

Juvenile cases involve young people in their most impressionable years. Time is critical. These cases must be resolved as quickly as possible so the child can be assured of a stable environment.

The courts take cognizance of this by expediting judicial review of all cases involving children, including juvenile, termination of parental rights, and custody.

The legislature also recognizes the urgency and delicacy of juvenile matters. It enacted Iowa Code § 602.7103(3) to further expedite the movement of juveniles through the judicial system, while at the same time ensuring the young people adequate due process.

The parties to a proceeding heard by the referee are entitled to a review by the judge of the juvenile court of the referee's order, finding, or decision, if the review is requested within ten days after the entry of the referee's order, finding, or decision. A request for review does not automatically stay the referee's order, finding or decision. The review is on the record only.

Iowa Code § 603.7103(3)

The statute clearly mandates a review on the record by the juvenile court judge, if requested within ten days, of any order, finding, or decision by the juvenile referee. The statute is nondiscretionary. The parties are entitled to juvenile court review of the referee's holding.

The state and the juvenile court judge relied on Iowa Code § 232.133(1) in denying S.L.A. his right to juvenile court review. Section 232.133(1) reads:

An interested party aggrieved by an order or decree of the juvenile court may appeal from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed until the court enters a corresponding dispositional order pursuant to section 232.52.

Iowa Code § 232.133(1)

The juvenile court judge reasoned the dispositional order mentioned in section 232.133(1) must be entered before he could review the case. However, this goes

against the clear language of the two statutes. Section 603.7103(3) is separate and distinct from section 232.133(1). Section 232.133(1) applies to appeals from the juvenile court. Section 602.7103(3) applies to review of the referee's holding by the juvenile court. In so far as there may be any conflict between the two, section 602.7103(3) takes precedence and is controlling in this scenario.

Section 602.7103(3) provides for juvenile court review to ensure the child receives adequate due process. Juvenile proceedings are conducted without many of the usual safeguards of the criminal process afforded adults. This expedited review by the juvenile court judge of the referee's decision helps ensure the juvenile receives adequate due process protection and sufficient evidence is present on the record to support it.

To hold otherwise would render 602.7103(3) a nullity. The ten day limitation is meant to give the juvenile an opportunity for immediate review.

The juvenile referee's jurisdiction continues during the review, and any necessary juvenile proceedings go forward. Review of an order adjudicating a juvenile to be delinquent is de novo. In re Thompson, 241 N.W.2d 2 (Iowa 1976); In re Meek, 236 N.W.2d 284 (Iowa 1975).

Section 232.133(1), on the other hand, provides for review from the juvenile court to the appellate courts of the state. This is only allowed after a dispositional

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order has been entered by the juvenile court. This allows the young person to be appropriately placed while the case winds its way through the appellate process. The juvenile court review outlined by section 602.7103(3) is intended to avoid this potentially serious and lengthy loss of time in a child's formative years. The legislature has mandated the courts to allow this expedited review to avoid placing the child in legal, and possibly physical, limbo while his or her case is reviewed.

A party does not have to seek review of a referee's holding by the juvenile court for the holding to become final. If the parties choose not to seek juvenile court review, the referee's holding becomes final and is appealable. In re D.W.K., 365 N.W.2d 32, 34 (Iowa 1985), overruling In re T.J.K., 357 N.W.2d 641 (Iowa App. 1984).

Because our ruling on this issue is dispositive of this appeal at this time, we do not reach the issue of sufficiency of the evidence. That is for the district court to decide expeditiously as mandated by Iowa Code section 602.7103.

We reverse and remand with direction. We do not retain jurisdiction.

REVERSED AND REMANDED WITH DIRECTION.