

Circuit Court for Worcester County
Case No. C-23-CR-23-000014

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2195

September Term, 2023

DAVARN LEACH

v.

STATE OF MARYLAND

Shaw,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Eyler, J.

Filed: April 18, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Davarn Leach, appellant, was charged, in the Circuit Court for Worcester County, with armed robbery and related offenses. Mr. Leach, who was a juvenile at the time the crimes were allegedly committed, filed a motion to have his case transferred to the juvenile court. That motion was denied. He subsequently waived his right to a jury trial and proceeded by way of a bench trial, where he pleaded not guilty pursuant to an agreed statement of facts. The court found Mr. Leach guilty of armed robbery and sentenced him to a term of 20 years' imprisonment, with all but 12 years suspended. Mr. Leach thereafter noted an appeal, raising a single question for our review:

Did the circuit court err or abuse its discretion in denying Mr. Leach's motion to transfer his case to the juvenile court?

Finding no error, we affirm.

BACKGROUND

On November 18, 2022, Mr. Leach, then 17 years old, approached a man who was standing in the 300 block of Dorchester Street in Ocean City. Mr. Leach produced a silver handgun, pointed it at the man, and demanded the man's car keys, money, debit card, and cell phone. Mr. Leach then struck the man in the head with the gun, took the man's car keys, and drove away in the man's vehicle. He was arrested, and a silver handgun, along with several other stolen items, was found on his person.

Mr. Leach was subsequently charged, in the circuit court, with armed robbery and related offenses. After being charged, he filed a motion to have his case transferred from the circuit court to the juvenile court.

Relevant Law

When a juvenile, i.e., an individual under the age of 18, is alleged to have committed a crime, the juvenile court ordinarily has exclusive jurisdiction. Md. Code, Courts & Judicial Proceedings (“CJP”) Article § 3-8A-03(a). “Where, however, [the] juvenile is at least 16 years old and is alleged to have committed certain enumerated crimes, the juvenile court is deprived of jurisdiction, and original jurisdiction over the juvenile lies in the adult court.” *Rohrbaugh v. State*, 257 Md. App. 638, 654 (2023) (citing CJP § 3-8A-03(d)). It is undisputed that Mr. Leach’s charges were properly brought in the circuit court.

When charged with a crime in the circuit court, a juvenile may move to have his or her case transferred to the juvenile court pursuant to § 4-202 of the Criminal Procedure (“CP”) Article of the Maryland Code. That statute permits the circuit court to transfer a case to the juvenile court if, among other things, “the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.”¹ CP § 4-202(b)(3). “Such a transfer is sometimes referred to as a ‘reverse transfer’ or ‘reverse waiver.’” *Rohrbaugh*, 257 Md. App. at 654. In evaluating a reverse transfer request, the court must consider: “(1) the age of the child; (2) the mental and physical condition of the child; (3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children; (4) the nature of the alleged crime; and (5) the public safety.” CP § 4-202(d).

¹ The statute includes additional criteria not relevant to the instant appeal. CP § 4-202(b).

In *Davis v. State*, 474 Md. 439, 462-66 (2021), the Supreme Court of Maryland made clear that, although a court must consider the statutory factors in evaluating a reverse transfer request, the court’s primary concern should be the juvenile’s amenability to treatment. The Court explained that the five factors “are not in competition with one another[,]” but instead “are necessarily interrelated” and “all converge on amenability to treatment.” *Id.* at 464. The Court concluded that the overarching question is “whether it is likely that the child would benefit from an available DJS program better than he or she would from anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make the child a more productive law-abiding person.” *Id.* We later applied those principles in *Rohrbaugh v. State*, holding that the circuit court in that case did not abuse its discretion in denying a juvenile’s reverse transfer motion because, under the facts of that case, “there were no programs in the juvenile system that were ‘competent to address the issues defined’ and ‘from which the child likely [could] benefit in a way that [would] produce better results than anything in the adult system and significantly lessen his danger to the public[.]’” *Rohrbaugh*, 257 Md. App. at 666 (quoting *Davis*, 474 Md. at 465-66).

Reverse Transfer Hearing

At the hearing on Mr. Leach’s reverse transfer motion, the circuit court heard testimony from Utz Valcin and David King, both of whom were case managers with the Department of Juvenile Services (“DJS”). The court also admitted into evidence a statement of facts that outlined the allegations pertaining to the armed robbery that allegedly took place on November 18, 2022. In addition, the court took judicial notice of

the contents of the court file, which included a “Transfer Waiver Report” prepared by DJS, Mr. Leach’s education records, staffing recommendations from DJS, and a psychological assessment.

According to that evidence, Mr. Leach was approximately 17 years and 11 months old when the crimes were allegedly committed, and he was approximately 18 years and nine months old at the time of the transfer hearing. Mr. Leach had an I.Q. of 54, which DJS described as “very low,” and he was determined to be in need of specialized educational services. Mr. Leach was last enrolled in school in eighth grade, and his scholastic performance was “very poor.” He had a history of receiving special education services while in school. He was diagnosed as having “[a] mood disorder, ADHD, [and] antisocial behavior.” Mr. Leach had previously been prescribed medication for his ADHD.

At the time of the hearing, Mr. Leach had approximately 26 prior contacts with DJS and two formal adjudications. His prior contacts and adjudications had led to some “community-based” services and probation. On one occasion, Mr. Leach was referred to the “Choice Program,” and on two occasions he was referred to the “Youth Advocacy Program.” Mr. Leach’s participation in those programs was “[n]ot so great” because he went “AWOL” or was arrested. In 2022, after being arrested on motor vehicle theft and found incompetent to proceed, Mr. Leach was “ordered attainment services through [the] Developmental Disabilities Administration” (“DDA”), but he “did not make himself available for said services.” Mr. Leach later reported that he had “a history of community[-]based services” but that “he could not remember what type of services.” He also reported that “he doesn’t need any services.”

Mr. Leach had a history of “assaultive behavior” while in detention with DJS, and DJS reported that, if such behavior continued, any alternative resources would be “limited.” DJS reported that, in April 2021, following a six-month detention at the Baltimore City Juvenile Justice Center, Mr. Leach had been placed at the Facility for Children (“FFC”), a “staff secure,” community-based placement facility in Rockville. While at FFC, Mr. Leach “had been verbally abusive and threatening to all staff and students” and had “been uncooperative with the attainment services being provided.”

As a result of Mr. Leach’s age, the options available to him through DJS were “very narrow,” with “maybe one or two programs that he can join into[.]” Mr. Leach’s low I.Q. also would “hinder him from some other programs that he can go into.” DJS recommended that Mr. Leach be placed in a “hardware secure facility[.]” Due to Mr. Leach’s low I.Q., DJS determined that Victor Cullen, a hardware secure facility, “was probably the only placement right now[.]” DJS determined that Mr. Leach would benefit from a variety of services, including medication management, individual and family therapy, alternative schooling, substance abuse treatment, and a referral to the DDA. DJS reported that, although Mr. Leach would not be able to receive all of those services at Victor Cullen, he would receive “the majority of them[.]” DJS made clear that it was not recommending a transfer to the juvenile court; rather, DJS was simply making a recommendation for services if the case were to be transferred. DJS also reported that, although placement at Victor Cullen normally takes two to three weeks, that time could be longer if there is no available spot at Victor Cullen when Mr. Leach is placed. Mr. King admitted that the issue of the availability of spots arises “often.” DJS reported that the age limit for admission to

Victor Cullen was 20 years old, and Mr. Valcin admitted that he had never seen anyone over the age of 19 be admitted. DJS reported that the Victor Cullen program lasts anywhere from six to nine months, with the potential for probation afterward. Mr. Valcin admitted that, if Mr. Leach were placed on probation after completing the Victor Cullen program and were to violate that probation, “it would be difficult, if not impossible, to place him back at Cullen” due to his age.

Circuit Court’s Findings and Ruling

In the end, the circuit court denied Mr. Leach’s reverse transfer motion, providing a detailed explanation for its decision. At the outset, the court recognized that it was required, pursuant to *Davis* and *Rohrbaugh*, to make an assessment as to whether it was likely that Mr. Leach “would benefit from an available [DJS] program better than [he] would from anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make the child a more productive, law-abiding person.” The court also recognized that it was required to consider “the five factors . . . with the understanding that they all converge on factor three, which is the amenability of treatment in an institution, facility or program available to delinquent children.”

Before discussing the five factors, the court stated that Mr. Leach’s case was “profoundly sad” because it appeared to be “just a series of missed opportunities and fundamental failures of the family[.]” The court also stated that Mr. Leach’s intellectual and developmental impediments placed the court “in a difficult spot as it relates to evaluating this case” because the treatment available in the juvenile system “can’t be treatment for treatment’s sake.” The court explained, by way of example, that impediments

such as depression or trauma were more readily treatable and were therefore easier to assess in terms of whether treatment would reduce the likelihood of recidivism. The court found that, in Mr. Leach’s case, it was difficult to “draw that line” and identify services to tackle his intellectual disability and make him “become a productive member of society[.]” The court also found that, although there were options in the juvenile system for someone of Mr. Leach’s description, the services provided would be short-term, and those options would lack the “umbrella of compulsion.”

The court then discussed the five factors. As to Mr. Leach’s age, the court noted that he was “weeks away from being 18” when the crime occurred and “three months shy of being 19” at the time of the hearing. The court noted that Mr. Leach’s advanced age “limits the amount of available and effective services that [DJS] can offer.” The court also noted that “juvenile probation can only go to the age of 21” and “placements at [Victor] Cullen can only be . . . prior to the age of 19.”²

As to Mr. Leach’s mental and physical condition, the court noted that he was “well developed” and “very mature physically.” The court also noted that Mr. Leach appeared to have “the ability to engage and converse” and “to engage and function and carry on in

² Mr. Leach contends that the court’s finding regarding the age limit at Victor Cullen was erroneous and that “this misunderstanding could very well have shaped the [c]ourt’s opinion on the propriety of transferring the case to [j]uvenile [c]ourt[.]” To be sure, Mr. Valcin did testify that the age limit at Victor Cullen was 20 (and not 19 as stated by the court); however, Mr. Valcin also testified that he had never seen anyone older than 19 admitted to Victor Cullen. Thus, the court’s statement regarding the age limit at Victor Cullen, though not technically correct, had some evidentiary basis. Nevertheless, even if the court’s finding was erroneous, there is nothing in the record to suggest that that finding had any meaningful impact on the court’s decision.

many of our aspects of day-to-day life.” The court found Mr. Leach’s I.Q. level “striking” and noted that he had “intellectual deficiencies.” The court found that it was “difficult to posit that there’s any type of treatment that’s been discussed in the juvenile setting that would address []his intellectual deficiency such that there would be . . . a decrease in the likelihood of recidivism.”

As to the nature of the alleged crime, the court found the crime “very, very serious” and noted that the crime was “consistent with the nature of the offenses that Mr. Leach had previously been involved in[.]” The court also noted that the crime was “accompanied by a level of violence” even though “you had a compliant victim, who basically turned everything over[.]”

As to public safety, the court found that the nature of the crime “gives rise to a very serious concern about public safety.” The court found that “the best way to preserve public safety is to treat and address the underlying problems that gave rise to this issue and whether or not those can be treated better in juvenile or in the adult [system].”

Finally, as to Mr. Leach’s amenability to treatment, the court noted that, in assessing that factor, it “need[ed] to know what treatment is available to meet the child’s needs.” The court found that Victor Cullen appeared to be the only option available in the juvenile system. The court found that, although that facility did provide some of the recommended services, Mr. Leach would only be at that facility for a short time, which meant that, to be effective, the services would need to continue after he is released from that facility. The court noted that, if Mr. Leach failed to comply with the services following his release from Victor Cullen, there was “very little, if anything, the department can do about it[.]” The

court also noted that there was no guarantee that a spot at Victor Cullen would even be available if Mr. Leach’s case were transferred to the juvenile court.

The court found that Mr. Leach could receive many of the recommended services in the adult system, which has specific programs for youthful offenders like him. The court found that, in the adult system, Mr. Leach could be placed on a five-year probationary term “that has compulsion” and would make it more likely that he would comply with the recommended services. The court highlighted “the importance of the probationary period[.]” The court found that, because Mr. Leach was “pushing 20 years of age[.]” DJS had few options for ensuring that he would be compliant in obtaining the recommended services.

The court also highlighted Mr. Leach’s “track record” in the juvenile system, where “services were provided” and yet there was “a continuation, if not an escalation, of [alleged] criminal involvement[.]” The court noted that Mr. Leach had 26 prior contacts and two formal adjudications, the latter of which “were disrupted by [Mr. Leach] going AWOL, which clearly speaks to his amenability to treatment[.]” The court further noted that Mr. Leach “does not believe he needs intervention” and “exhibits poor motivation to comply with services and interventions.” The court found that there was very little evidence to suggest that Mr. Leach was amenable to treatment or that placing him at Victor Cullen would reduce the likelihood of recidivism.

Based on those considerations, the court concluded that “a reverse transfer is unlikely to provide immediate safety to the public and reduce the chances for recidivism.” The court therefore denied Mr. Leach’s transfer motion.

Guilty Finding

Mr. Leach thereafter waived his right to a jury trial and pleaded not guilty pursuant to an agreed statement of facts. Following a bench trial, the court found Mr. Leach guilty of armed robbery. This timely appeal followed. Additional facts will be supplied as needed below.

DISCUSSION

Parties' Contentions

Mr. Leach contends that the circuit court, in denying his reverse transfer motion, abused its discretion in several respects. First, Mr. Leach argues that the court erroneously required him to prove that a transfer of his case to the juvenile court would remedy his intellectual disability. Second, he argues that the court erroneously concluded that placing him at Victor Cullen would neither benefit him nor reduce the likelihood of recidivism. Finally, he argues that the court erroneously relied on *Rohrbaugh v. State* in concluding that placing him at Victor Cullen would not reduce the likelihood of recidivism.

The State contends that the court exercised sound discretion in denying Mr. Leach's reverse transfer motion. The State argues that the court properly applied the relevant law and thoroughly considered all requisite factors before reaching its decision.

As discussed in greater detail below, we find no merit to any of Mr. Leach's claims.

Standard of Review

At a reverse waiver hearing, the burden is on the juvenile to show, by a preponderance of the evidence, that a transfer to the juvenile court is in the interest of the

juvenile or society. *Rohrbaugh*, 257 Md. App. at 654-56. We review a court’s decision to grant or deny a reverse transfer motion for abuse of discretion. *Id.* at 662.

Analysis

As discussed *supra*, when a court considers a reverse transfer motion, the court must weigh the five factors set forth in CP § 4-202(d), and it must do so with an eye toward the juvenile’s amenability to treatment. *Davis*, 474 Md. at 464. The court must then assess “whether it is likely that the child would benefit from an available DJS program better than he or she would from anything likely to be available in the adult system and whether that would reduce the likelihood of recidivism and make the child a more productive law-abiding person.” *Id.*

If DJS does not have a program competent to address the issues defined that is available to the child and from which the child likely can benefit in a way that will produce better results than anything in the adult system and significantly lessen his danger to the public, a reverse waiver request should be denied[.]

Id. at 465-66.

A.

Mr. Leach first argues that the court erroneously required him to prove that transferring his case to the juvenile court would “remedy” his intellectual disability. He contends that the court viewed his intellectual disability as something that could not be remedied, which led the court to conclude that it was unlikely that the juvenile system could address his underlying deficiency and make recidivism less likely. He contends that the court, rather than heightening his burden, should have simply determined whether he

would benefit from the services available in the juvenile system better than the services available in the adult system.

We find no merit to Mr. Leach’s claims. The court did make comments suggesting that his intellectual disability presented a unique and difficult problem in assessing his amenability to treatment in the juvenile system. Nevertheless, none of those comments could be construed as evidence that the court heightened Mr. Leach’s burden or otherwise misapplied the law. In making its comments, the court merely lamented the unfortunate nature of Mr. Leach’s situation and the extent to which his mental condition affected his amenability to treatment. The court noted, by way of example, that other mental conditions were more treatable and thus posed less of a problem in terms of finding an available and effective treatment.

Moreover, the court did not place any undue weight on Mr. Leach’s intellectual disability. The record shows that the court viewed Mr. Leach’s intellectual disability as one of many factors that needed to be considered when determining his amenability to treatment. Upon considering those factors, the court found it unlikely that Mr. Leach would benefit from the services available in the juvenile system better than the services available in the adult system.

When we consider the court’s comments in the context of its overall findings, we are persuaded that the court properly evaluated Mr. Leach’s intellectual disability with an eye toward his amenability to treatment. We see no abuse of discretion.

B.

Mr. Leach next claims that the court erroneously concluded that placing him at Victor Cullen, a DJS facility, would neither benefit him nor reduce the likelihood of recidivism. Mr. Leach notes that a majority of the services recommended by DJS could be obtained at Victor Cullen. He argues that the court undervalued and misunderstood those services. He insists that there was “ample evidence at the transfer hearing of programs that DJS believed would benefit [him] and could reduce recidivism.”

We again find no merit to Mr. Leach’s claims. The record shows that the court carefully considered the evidence concerning the relevant services available at Victor Cullen. In so doing, the court noted that, although Victor Cullen did provide some of the recommended services, the relatively brief time Mr. Leach would be at the facility (six to nine months) and DJS’s admitted impotence in ensuring his compliance following his release from Victor Cullen would likely dampen the effectiveness of those services. The court found that the adult system, which also provided many of the recommended services, had more “teeth” due to the longer probationary period and the court’s ability to compel compliance. The court also noted that Mr. Leach had a poor track record in the juvenile system, which included 26 prior contacts, two formal adjudications, and various services that had been provided. The court noted that, despite Mr. Leach’s repeated contacts with the juvenile system, his criminal activity had escalated and become more violent. The court found, moreover, that Mr. Leach exhibited an unwillingness to avail himself of the recommended services or even recognize his need for intervention. The court found that there was little evidence to suggest that Mr. Leach was amenable to treatment in the

juvenile system. The court concluded that the treatment options at Victor Cullen were unlikely to reduce his recidivism when compared to the options available in the adult system.

From that, it is evident that the court properly considered the evidence concerning the services available in the juvenile system and made an appropriate determination based on that evidence and the relevant legal standards. Accordingly, the court did not abuse its discretion.

C.

Mr. Leach’s final claim is that the court improperly relied on *Rohrbaugh v. State* in concluding that placing him at Victor Cullen would not reduce the likelihood of recidivism. Mr. Leach contends that *Rohrbaugh* is factually dissimilar because, in that case, the juvenile had already received treatment in the juvenile system prior to the denial of his reverse transfer motion. Mr. Leach contends that, in his case, there was “no evidence of what specific DJS programs had previously been provided to [him], yet alone which programs, if any, had been completed by [him].” He argues that, notwithstanding his numerous prior contacts with DJS, the lack of services and programming provided to him weighs in favor of transfer and distinguishes his case from *Rohrbaugh*. According to Mr. Leach, rather than making a qualitative assessment based on his individual needs, the court concluded that a reverse transfer “was not in the best interest of [Mr. Leach] or society because, in the [c]ourt’s opinion, Victor Cullen could not address [his] needs, and a longer sentence in the adult system would better serve [him].” Mr. Leach argues that those decisions and conclusions constituted an abuse of discretion.

We are not persuaded by any of Mr. Leach’s arguments. The court did not “rely” on *Rohrbaugh* in a manner that would make any factual dissimilarities between that case and Mr. Leach’s case germane to the court’s decision. The court merely cited *Rohrbaugh* when discussing, generally, the required analysis at a reverse transfer hearing.

Even if the alleged factual dissimilarities between *Rohrbaugh* and the instant case were relevant, we do not agree with Mr. Leach’s claim that there was “no evidence” detailing the services that had previously been provided to him. The evidence adduced at the reverse transfer hearing established the following: that Mr. Leach received “community-based” services, including referrals to the “Choice Program” and the “Youth Advocacy Program”; that he was ordered to receive certain services through the DDA; that he had been placed at the Facility for Children (“FFC”), where he received “attainment services”; that he had a history of receiving special education services; and that he had previously been prescribed medication for his ADHD. Although the specifics of those services were admittedly scant, there was at least some evidence that Mr. Leach received services.

More to the point, there was virtually no evidence that Mr. Leach availed himself of the services offered, and there was virtually no evidence that he was willing to avail himself of any future services. To the contrary, the evidence affirmatively established a history of noncompliance and an unwillingness to recognize the need for services going forward. Given that evidence, the court had a sufficient basis on which to conclude that “there were no programs in the juvenile system that were ‘competent to address the issues defined’ and ‘from which the child likely [could] benefit in a way that [would] produce better results

than anything in the adult system and significantly lessen his danger to the public[.]’” *Rohrbaugh*, 257 Md. App. at 666 (quoting *Davis*, 474 Md. at 465-66).

The court carefully and thoroughly considered all five statutory factors in light of Mr. Leach’s individual circumstances and the evidence presented at the hearing. Importantly, the court emphasized his amenability to treatment in the juvenile system when evaluating those factors. Following that evaluation, the court assessed, as it was required to do, whether it was likely that Mr. Leach would benefit from the services available in the juvenile system better than he would from the services available in the adult system, and whether that would reduce the likelihood of his recidivism and make him a more productive, law-abiding person. The court concluded, in a sound exercise of its discretion, that Mr. Leach was unlikely to benefit from the services available in the juvenile system in a way that would produce better results than anything in the adult system and significantly lessen his danger to the public. We see no error or abuse of discretion in the court’s denial of Mr. Leach’s reverse transfer motion.

**JUDGMENT OF THE CIRCUIT COURT
FOR WORCESTER COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**