

NO. 74000-8-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

NICHOLAS J. SPRINGFIELD,

Appellant.

FILED
Jul 01, 2016
Court of Appeals
Division I
State of Washington

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE JOHN P. ERLICK

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Where a juvenile respondent's challenge to the sufficiency of the evidence underlying his adjudication consists only of disagreement with the fact-finder's assessment of witnesses' credibility, should this Court find that the evidence was sufficient to support the finding of guilt?

2. Where our supreme court has declared as recently as 2008 that the juvenile court system is not so similar to the adult criminal system that the constitutional right to jury trial in "criminal prosecutions" applies in juvenile court, and where the juvenile court system has become even less similar to the adult criminal system since then, should this Court conclude that a respondent continues to have no right to trial by jury in juvenile court?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS.

The State charged juvenile respondent Nicholas J. Springfield¹ with one count of attempted robbery in the first degree. CP 4. Following a fact-finding hearing, the juvenile court found Springfield guilty as charged. CP 46. The juvenile court imposed a

¹ Because the respondent's crime is a "most serious offense" that is not eligible for automatic sealing under RCW 13.50.260(1), this brief will use the respondent's full name unless this Court directs otherwise.

“manifest injustice” disposition below the top of the standard range, which consisted of the 27 weeks Springfield had already served in a combination of secure detention, electronic home monitoring, and inpatient treatment, plus an additional nine months of community supervision. CP 36-38, 57-58. Springfield timely appealed. CP 55.

2. SUBSTANTIVE FACTS.

In January 2015, 15-year-old M.S. was a freshman at Ballard High School. RP² 279-80. As he was leaving school one day, about 20 minutes before the normal dismissal time, M.S. was confronted in an alley by then-15-year-old Springfield and two other young men. RP 282-87. Although M.S. could not recall Springfield’s name at the time, he recognized Springfield’s face from school and from having had contact with him approximately 11 times in the past. RP 281, 310, 330.

Springfield demanded the Beats brand headphones that M.S. was wearing on his head, saying, “Give me your fucking Beats,” in an angry and demanding tone. RP 288-92. When M.S. said, “Excuse me?” Springfield pulled a gun from the waistband of his pants. RP 291, 321. He repeated his demand and put the gun to M.S.’s left thigh. RP 291, 296. M.S. could feel that the barrel of

² The four volumes of the verbatim report of proceedings are consecutively paginated, and will be collectively referred to as “RP.”

the gun was metal and knew that it was real based on prior experience with both real and fake guns. RP 295-97.

This was not the first time someone had pointed a gun at M.S. RP 294. Unafraid, and determined not to let anyone take his Beats from him, M.S. again told Springfield, "No." RP 291, 294. When Springfield repeated the same demand yet again, M.S. simply walked past him and left to meet up with his mother, who was waiting to pick him up. RP 283, 291, 298. As he walked away, M.S. looked back and saw Springfield move his hand backwards; however, he did not specifically see what Springfield did with the gun. RP 291.

M.S. did not say anything to his mother about the altercation until she asked him a little while later about other recent incidents of armed robbery at Ballard High School. RP 300. After he told her what had happened to him earlier that afternoon, M.S.'s mother immediately notified a school security guard, who notified the police and asked M.S. to come back to the school to give a statement. RP 300, 303. When M.S. arrived back at school and located the security guard, he observed Springfield nearby in the company of several Seattle Police Officers. RP 307-08. M.S. identified Springfield both at the scene and in the courtroom as the person

who had attempted to rob him, based on having observed his face for approximately 10 seconds during the incident. RP 70, 280-81, 293, 312.

At the juvenile court fact-finding hearing, M.S., his mother, and a Seattle Police Officer testified to the facts above.³ Springfield did not testify; the only defense witness for fact-finding purposes was Springfield's father, who testified solely about the pants Springfield had been wearing when arrested.⁴ The juvenile court found M.S.'s testimony credible. CP 43 (Finding 46). The court acknowledged that defense counsel had effectively challenged the accuracy of M.S.'s perception or memory of the incident in certain respects, but stated that the identified inconsistencies were explicable by the passage of time, were not material, and did not alter the court's conclusion that Springfield had committed the crime with which he was charged.⁵ CP 44 (Findings 47-50).

³ Additional witnesses were called by both the State and Springfield for purposes of the CrR 3.5 hearing, which the juvenile court incorporated into the fact-finding hearing for efficiency, but Springfield's inculpatory statements to police officers were eventually suppressed. RP 9-10, 124, 197, 439; CP 48-52.

⁴ The father's testimony that Springfield's pants that day had no pockets contradicted M.S.'s prior statement that Springfield had pulled the gun out of a pocket. RP 341; CP 44.

⁵ Specifically, the court noted inconsistencies between M.S.'s testimony and his prior recorded statement on details such as from where Springfield had pulled the gun, and whether M.S. had a friend with him when he first saw Springfield in the alley. CP 44 (Findings 48-49).

C. ARGUMENT

1. THE EVIDENCE WAS SUFFICIENT TO SUPPORT THE JUVENILE COURT'S FINDING THAT SPRINGFIELD COMMITTED THE CRIME CHARGED.

Springfield contends that insufficient evidence supports the juvenile court's finding of guilt because M.S. should not have been found credible. This claim should be rejected. When the evidence is viewed in the light most favorable to the State, as is required in a sufficiency challenge, M.S.'s testimony was indisputably sufficient to support the juvenile court's finding that Springfield was guilty as charged.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution requires the State to prove every element of a charged crime beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 25 L. Ed. 2d 368 (1970). When an appellant claims that there was insufficient evidence to support his conviction, the reviewing court views the evidence and all inferences that can reasonably be drawn from it in the light most favorable to the State. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). Viewing the evidence in that light, if any rational trier of fact could have found each element of the

crime proven beyond a reasonable doubt, then the evidence is sufficient to support the conviction. State v. Green, 94 Wn.2d 216, 221-22, 616 P.2d 628 (1980). Credibility determinations are solely for the trier of fact and cannot be reviewed on appeal. Morse v. Antonellis, 149 Wn.2d 572, 574, 70 P.3d 125 (2003).

In order to prove Springfield guilty of attempted robbery in the first degree, the State had to prove that Springfield did an act that was a substantial step toward the commission of robbery in the first degree, with the intent to commit robbery in the first degree. CP 44; RCW 9A.28.020. "A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone." RCW 9A.56.190. A person who is armed with a deadly weapon or displays what appears to be a deadly weapon during a robbery is guilty of robbery in the first degree. RCW 9A.56.200(1)(a)(i), (ii).

M.S.'s testimony that Springfield pointed a real gun at him and repeatedly demanded his headphones in an angry and threatening voice, if found credible, provided evidence satisfying all the necessary elements of attempted robbery in the first degree.

Tellingly, Springfield does not contend otherwise, nor does he dispute that the juvenile court explicitly found M.S.'s testimony credible. Brief of Appellant at 8-12; CP 43 (Finding 46). Instead, Springfield's argument challenges only the propriety of the juvenile court's finding of credibility. Brief of Appellant at 8-10. However, "a claim of insufficiency admits the truth of the State's evidence." State v. Thomas, 150 Wn.2d 821, 874, 83 P.3d 970 (2004). This rule vitiates Springfield's claim, and bars any relief.

2. RESPONDENTS IN JUVENILE COURT HAVE NO CONSTITUTIONAL RIGHT TO A JURY TRIAL.

Springfield contends that the juvenile court system has become sufficiently similar to the adult criminal system that the state and federal constitutional guarantees of jury trials in "criminal prosecutions" now apply to juvenile court proceedings. This exact claim was rejected in 2008 in a supreme court decision—binding on this Court—that Springfield fails to discuss. The similarities Springfield identifies existed when our supreme court rejected this argument in 2008, and the juvenile court system has become even less similar to the adult criminal system since then.

- a. This Court Is Bound By The Supreme Court's Determination That There Is No Constitutional Right To A Jury Trial In Juvenile Court.

Both the federal and state constitutions guarantee the right to trial by jury in "criminal prosecutions." U.S. CONST. amend. VI; WASH. CONST. art. I, § 22. In contrast, the legislature has decreed that cases in the juvenile court system "shall be tried without a jury." RCW 13.04.021(2). Our federal and state supreme courts have repeatedly declined to equate a juvenile court adjudication with a criminal prosecution, and have therefore rejected claims that juvenile court respondents have a constitutional right to trial by jury. McKeiver v. Pennsylvania, 403 U.S. 528, 91 S. Ct. 1976, 29 L. Ed. 2d 647 (1971); State v. Chavez, 163 Wn.2d 262, 180 P.3d 1250 (2008); State v. Schaaf, 109 Wn.2d 1, 743 P.2d 240 (1987); State v. Lawley, 91 Wn.2d 654, 591 P.2d 772 (1979).

Our state supreme court explained in 2008 that "[w]hile punishment is the paramount purpose of the adult criminal system, the policies of the [Juvenile Justice Act ("JJA")] are two-fold: to establish a system of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders; and to hold juveniles accountable for their offenses." Chavez, 163 Wn.2d at 267-68. Chavez argued that recent statutory

amendments made juvenile proceedings for violent and serious violent offenses sufficiently akin to adult criminal prosecutions that he was entitled to a trial by jury. Id. at 269. However, the court noted that “the claim that changes to the juvenile justice system make its focus punitive and no longer rehabilitative has been posited and consistently rejected by this court.” Id.

The Chavez court pointed out that despite the ways in which the juvenile court system has become more like the adult criminal system, it retains its predominantly rehabilitative philosophy and far more lenient penalties, in contrast with the primarily punitive philosophy and more severe penalties of the adult criminal system. Id. at 269-72. This remains true today. Springfield’s adjudication for attempted robbery in the first degree combined with his offender score of zero left him facing a standard range of 15 to 36 weeks (approximately three and a half to eight months) in a Juvenile Rehabilitation Administration facility. RCW 13.40.0357; CP 36. If convicted of the same crime in the adult system, he would have faced a standard range of 23.25 to 30.75 months in an adult prison. RCW 9.94A.515; RCW 9.94A.595.

After reviewing recent statutory changes, the Chavez court concluded that “while statutory amendments may have arguably

eliminated some distinctions between juvenile and adult criminal systems the juvenile justice system has not been so altered that juveniles charged with violent and serious violent offenses have the right to a jury trial.” Id. at 272. Until our supreme court chooses to revisit Chavez’s holding that there is no constitutional right to jury trial in juvenile court, it remains binding on this Court, and controls the outcome in this case. See State v. Gore, 101 Wn.2d 481, 487, 681 P.2d 227 (1984).

- b. Neither The Sentencing Reform Act Nor Recent Caselaw Provides A Basis To Depart From McKeiver And Chavez.

Springfield argues that both the Sentencing Reform Act and recent cases about the scope of the jury trial right in the adult criminal system necessitate a finding that there is now a right to trial by jury in juvenile court. First, he argues that the Sentencing Reform Act’s inclusion of juvenile criminal adjudications in adult’s offender score requires that the right to jury trial be imported into juvenile court. He bases this contention on his assertion that Apprendi’s⁶ rationale for excluding prior convictions from the requirement that facts exposing a defendant to increased punishment be found by a jury applies only to convictions obtained

⁶ Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000).

under the protection of the right to jury trial. Brief of Appellant at 18-20. However, Springfield's argument has already been rejected by our courts. Chavez, 163 Wn.2d at 269; State v. J.H., 96 Wn. App. 167, 175, 978 P.2d 1121 (1999) ("The fact that a juvenile adjudication will be considered as criminal history in a later adult prosecution is not new, and does not determine whether the juvenile proceeding itself so resembles an adult proceeding as to require a jury trial.").

Springfield also argues that under Hurst v. Florida⁷ and Alleyne v. United States,⁸ the Sixth Amendment's right to jury trial must always be interpreted solely by looking at the intent of the framers. Because the criminal court system made no distinction between juveniles and adults at the time the Sixth Amendment was adopted, he concludes that the federal constitutional right to jury trial continues to apply to juveniles today. Brief of Appellant at 22-23.

However, even assuming Springfield's interpretation of Hurst and Alleyne to be correct, the fact that all juveniles and adults

⁷ ___ U.S. ___, 136 S. Ct. 616, 193 L. Ed. 2d 504 (2016) (holding that Florida system wherein judge makes critical findings needed for imposition of death penalty violates the Sixth Amendment right to jury trial).

⁸ 570 U.S. ___, 133 S. Ct. 2151, 186 L. Ed. 2d 314 (2013) (holding in adult context that any fact that increases mandatory minimum sentence must be submitted to a jury).

charged with criminal acts in 1789 went through the same “criminal prosecutions” does not mean that the framers would have considered the modern juvenile court system, which was not contemplated at the time, to constitute a “criminal prosecution” within the meaning of the Sixth Amendment. Hurst and Alleyne had nothing to do with juvenile court proceedings, and nothing in those opinions calls into question the conclusions of McKeiver and Chavez that juvenile court adjudications do not constitute “criminal prosecutions.”

Springfield’s parallel argument in the state constitutional context is even less well founded. He cites State v. Smith⁹ for the proposition that the scope of the jury trial right must be determined based on the right as it existed at the time the state constitution was adopted, and concludes again that because juveniles were treated like adults at that point in our history, they retain the right to trial by jury. Brief of Appellant at 23-26. Not only does Smith, like Hurst and Alleyne, say nothing about the juvenile court system, but it pre-dates Chavez by five years. State v. Smith, 150 Wn.2d 135,

⁹ 150 Wn.2d 135, 75 P.3d 934 (2003) (holding state constitution does not require that prior convictions be proved to the jury in part because jury had no role in sentencing when constitution was enacted).

135, 75 P.3d 934 (2003). It thus supplies no basis for concluding that Chavez is no longer good law.

- c. There Have Been No Changes To The Juvenile Justice Act Since Chavez That Would Justify The Conclusion That A Right To Jury Trial Now Exists.

Even if this Court had the authority to depart from Chavez based on changed circumstances, Springfield has not identified a single way in which the juvenile court system has become significantly more similar to the adult criminal system since Chavez was decided in March 2008. His brief lists numerous ways in which, Springfield contends, “Washington’s juvenile court system has become more punitive while the adult system has focused [more] upon rehabilitation,” yet every single example he identifies was already in effect prior to Chavez. Appendix A.¹⁰

Moreover, in the years since Chavez was decided, laws regarding the vacation and sealing of juvenile criminal records have become more protective of juvenile respondents’ interest in eventual relief from the stigma of their crimes. In 2014, the legislature enacted RCW 13.50.260 to provide for the automatic sealing of many juvenile court cases upon the respondent’s 18th

¹⁰ Appendix A contains a list of the examples identified by Springfield, and corresponding authority showing that the relevant provision was already in effect prior to Chavez.

birthday, and to require courts to seal even juvenile adjudications for class A felonies upon request when certain conditions have been met, departing even further from the adult model. Laws of 2014, ch. 175, § 4.

The only juvenile offenses that can never be sealed are rape in the first or second degree and indecent liberties that was actually committed with forcible compulsion. RCW 13.50.260(4)(a)(v). In contrast, adult convictions for violent offenses (which includes all completed and attempted class A felonies, such as Springfield's offense of attempted robbery in the first degree) and crimes against persons can never be vacated. RCW 9.94A.640(2); RCW 9.94A.030(55)(a)(i); RCW 9A.56.200(2). The juvenile court system thus now provides far more protection for juveniles from the stigma of a criminal adjudication than does the adult system, rendering the juvenile court system even less similar to the adult criminal system than at the time of Chavez. This reinforces Chavez's conclusion that the juvenile court system yet retains its core rehabilitative purpose, making the constitution right to trial by jury inapplicable.

This Court remains bound by the holding of Chavez. But even if this Court were free to reexamine that holding, there would be no basis to conclude that the juvenile court system has grown



sufficiently similar to the adult criminal system since 2008 to entitle juvenile court respondents to trial by jury.

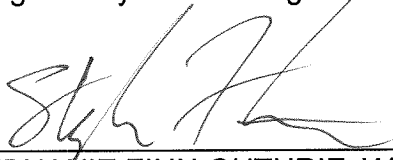
D. CONCLUSION

For all of the foregoing reasons, the State respectfully asks this Court to affirm the juvenile court's adjudication of Springfield's guilt.

DATED this 15th day of July, 2016.

Respectfully submitted,

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APPENDIX A

Example of similarity provided by Springfield	Citation provided by Springfield	Does Springfield's example constitute a change since Chavez was decided in 2008?
Juvenile court sentences have been lengthened. Brief of Appellant ("BOA") at 14.	None.	No. RCW 13.40.0357's juvenile offender standard range sentencing grid was the same in 2007 as it is today. Compare current RCW 13.40.0357 with former RCW 13.40.0357 (2007).
Legislature added "clearly too lenient" aggravating factor to allow manifest injustice sentences above the standard range. BOA at 14.	RCW 13.40.230(2).	No. This provision has been unchanged since first enacted in 1977. Laws of 1977, 1st Ex. Sess., ch. 291, § 77.
Lack of distinction between "adjudication" and "conviction." BOA at 14.	RCW 13.04.011(1). ¹¹	No. The statutory language that adjudication has same meaning as conviction was added in 1997. Laws of 1997, ch. 338, § 6.
Fact that Springfield was required to provide a DNA sample and was fingerprinted and photographed, and fact that no statutory provision requires sheriff to ever destroy those records. BOA at 15.	None.	No. Chavez was subject to the same conditions. Chavez, 163 Wn.2d at 268.
There are no statutory restrictions on the dissemination of juvenile records. BOA at 15.	RCW 10.97.050.	No. This particular statute similarly contained no restrictions on the dissemination of juvenile records prior to 2008. Laws of 2005, ch. 241, § 9.
Youth who are convicted in juvenile court may be housed in adult prisons. BOA at 15.	RCW 13.40.280.	No. This provision existed prior to 2008. Laws of 1989, ch. 410, § 2.
Juveniles tried in adult court may serve sentence in a juvenile facility until age 21. BOA at 15-16.	RCW 72.01.410.	No. This provision existed prior to 2008. See Laws of 2002, ch. 171, § 1.

¹¹ Springfield's brief actually quotes a former version of the statute. BOA at 14. The quoted language stating that the terms "adjudication" and "conviction" "must be construed identically and used interchangeably" was removed from RCW 13.04.011(1) in 2010. Laws of 2010, ch. 150, § 4.

Example of similarity provided by Springfield	Citation provided by Springfield	Does Springfield's example constitute a change since Chavez was decided in 2008?
Therapeutic courts have been created in the adult system with purpose of rehabilitation rather than punishment. BOA at 16.	RCW 2.30.010.	No. This statute was first enacted in 2015, but served only to officially recognize trial courts' existing authority to enact therapeutic courts. Such courts have existed in Washington since the 1990s. See <u>State v. Warren</u> , 96 Wn. App. 306, 979 P.2d 915 (1999) (referencing drug court).
Both adults and juveniles convicted of sex offenses can seek a community-based alternative sentence. BOA at 17.	RCW 13.40.160 ; RCW 9.94A.670.	No. RCW 13.40.160 allowed this prior to 2008. Laws of 1997, ch. 199, § 14. RCW 9.94A.670 also allowed this prior to 2008. Laws of 2006, ch. 133, § 1.
Adults are increasingly able to seek local pre-filing diversion programs, agreed orders of continuances, and deferred prosecutions, similar to juvenile diversion and deferred sentences. BOA at 17.	RCW 35.50.255; RCW 3.66.068; RCW 3.50.330; RCW 10.05.	No. RCW 35.50.255 does not exist. RCW 3.66.068 allowed for district court deferred and suspended sentences prior to 2008. Laws of 2001, ch. 94, § 2. RCW 3.50.330 allowed municipal court deferred and suspended sentences prior to 2008. Laws of 2001, ch. 94, § 4. RCW 10.05 allowed deferred prosecutions in courts of limited jurisdiction prior to 2008. Laws of 2002, ch. 219, § 6.
Juveniles tried in adult court have the ability to be sentenced as if they were in juvenile court. BOA at 17	State v. Maynard, 183 Wn.2d 253, 264, 351 P.3d 159 (2015).	No. <u>Maynard's</u> holding applies only to juveniles who are improperly deprived of juvenile court jurisdiction. See <u>Maynard</u> , 183 Wn.2d at 264

Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Jan Trasen, the attorney for the appellant, at Jan@washapp.org, containing a copy of the BRIEF OF RESPONDENT, in State v. Nicholas Springfield, Cause No. 74000-8, in the Court of Appeals, Division I, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 7 day of July, 2016.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Name:
Done in Seattle, Washington