

Children's Law Center of Indiana



Delinquency

9/12/2006

In A.E. v. State, 853 N.E.2d 950 (Ind. 2006), the Court affirmed the juvenile court's refusal to grant the juvenile time-served credit against his 18-month sentence, for 99 days he was confined between the dates of his arrest and his dispositional hearing, and affirmed the Court of Appeals on the remaining issues. The 15-year-old juvenile was alleged to be delinquent for having committed an act that would be armed robbery, a Class B felony, if committed by an adult. He ultimately admitted to the robbery allegation in exchange for the State's dismissal of a charge of resisting law enforcement. The juvenile court sentenced the juvenile to an 18-month determinate commitment to the Department of Correction and to participation in specific programs, but did not allow time-served credit for the 99 days the juvenile had been detained between arrest and sentencing. The Court of Appeals affirmed the juvenile court, except a divided court found that the juvenile was entitled to the time-served credit of 99 days. A.E. v. State, 829 N.E.2d 549 (Ind. Ct. App. 2005).

The juvenile court is not required to credit the time served in pre-disposition confinement against the juvenile's determinate sentence. Id. The Court noted that (1) the issue on which it was reversing the Court of Appeals was the same as that addressed "today" in J.D. v. State, 853 N.E.2d 945 (Ind. 2006); (2) that the Court of Appeals in J.D. v. State, 826 N.E.2d 146 (Ind. Ct. App. 2005), *vacated*, 841 N.E.2d 181 (Ind. 2005) had affirmed the juvenile court's denial of the juvenile's request for time-served credit; that the Court of Appeals decision here stood in direct conflict with its decision in J.D.; and the Court was resolving that conflict by "holding that a juvenile court is not required to give credit for the time a juvenile serves in pre-disposition confinement." A.E. at 950-51. The Court observed that one of the reasons the Court of Appeals gave in support of its decision in this case was of constitutional dimension:

Referring to article I, section 23, of the Indiana Constitution, the Court of Appeals said, "Denying credit time to a juvenile who remains in juvenile court but receives a determinate sentence to be served at the Department of Correction would appear to create an unequal burden on children thereby implicitly granting a special privilege or immunity to adults. This arguably raises disparate treatment issues." A.E., 829 N.E.2d at 554.

Id. at 951. The Court declined to give the issue "extended treatment," inasmuch as it had not been raised by one of the parties, but noted that "the Court of Appeals, in a different context, has rejected the claim that differences between the juvenile and adult criminal laws and procedures create unconstitutional disparate treatment under article I, section 23." Gall v. State, 811 N.E.2d 969 (Ind. Ct. App. 2004), *trans. denied*, 822 N.E.2d 977 (Ind. 2004); Person v. State, 661 N.E.2d 587 (Ind. Ct. App. 1996), *trans. denied* (Ind. 1996).