

Children's Law Center of Indiana



Delinquency

9/12/2006

In **J.D. v. State**, 853 N.E.2d 945 (Ind. 2006), the Court affirmed the juvenile court's refusal to grant the juvenile time-served credit against his one-year determinate sentence, for the time he was detained prior to sentencing. The fifteen-year-old juvenile was arrested and alleged to be a delinquent child for committing acts that, if committed by an adult, would constitute burglary, theft, and resisting law enforcement. He was confined in the county juvenile detention center for thirty-five days before he admitted to the act that would constitute burglary, in exchange for the State dismissing the remainder of the allegations. The juvenile court sentenced the juvenile to serve a one-year determinate sentence, and denied the juvenile's request for time-served credit of thirty-five days. The Appeals Court affirmed. **J.D. v. State**, 826 N.E.2d 146 (Ind. Ct. App. 2005). The Indiana Supreme Court granted transfer. 841 N.E.2d 181 (Ind.2005).

Requiring credit for the time a juvenile has spent in pre-disposition confinement would impermissibly impinge upon the juvenile court's broad authority to fashion dispositional alternatives. *Id.* The Court agreed with the Court of Appeals that I.C. 35-50-6-3 (a criminal statute applicable to adults which holds that a person imprisoned for a crime is entitled to credit time for each day the person was confined awaiting trial or sentencing) provides substantive rights and is not, therefore, incorporated into the Juvenile Code by operation of I.C. 31-32-1-1 (which specifies that in juvenile delinquency cases, the "procedures governing adult criminal trials" apply in all matters not covered by the Juvenile Code.) However, the Court further held that I.C. 35-50-6-3 provided for "'good time credit' -- the additional credit a prisoner receives for good behavior and educational attainment," -- rather than what the juvenile here sought which was "'credit for time served' -- the credit toward the sentence a prisoner receives for time actually served." *Id.* at 946-47.

The Court opined that the inherent differences between the juvenile delinquency and adult criminal justice systems dictated that a juvenile offender was not entitled to credit for time served in detention prior to sentencing. It noted that a key feature of the Juvenile Code was the broad range of alternatives a juvenile court judge had available once a child had been found to be "a delinquent child." The Court cited to prior cases including **N.D.F. v. State**, 775 N.E.1085 (Ind. 2002) in which it had held that because of the flexibility as to dispositional alternatives that juvenile courts possessed, in delinquency cases involving a special statute dealing with the disposition of cases involving recidivists, the State was not required to comply with the more exacting requirements that it faces in adult habitual offender cases. *Id.* at 947-48.

The Court referred to legislation passed in, and subsequent to 1997 which added to the Juvenile Code several sections often referred to as “determinate sentencing” provisions, and noted that the juvenile’s claim implied “the notion that because our determinate adult sentencing regime provides credit for time served, credit for time served should also be available at least with respect to a sentence imposed under the Juvenile Code’s determinate sentencing provisions.” *Id.* at 948-49. The Court held, however, that the enactment of “determinative sentencing” provisions did not affect its holding here. *Id.* at 949.

The Court also noted its agreement with the Court of Appeals with regard to the inapplicability here of *C.T.S. v. State*, 781 N.E.3d 1193 (Ind. Ct. App. 2003), *trans. denied*, 792 N.E.2d 45 (Ind. 2003). In *C.T.S.* the Court of Appeals had remanded the juvenile’s indeterminate sentence to the juvenile court and ordered the court to give the juvenile time-served credit. Here, *C.T.S.* was distinguished because it involved an extraordinary period of months awaiting disposition, more akin to the constitutional right to a speedy trial. *Id.*