



Delinquency

4/28/2005

NOTE: Transfer Granted, Opinion Vacated by In Re J.D., 841 N.E.2d 181 (Ind. Aug. 11, 2005) (Table).

In J.D. v. State, 826 N.E.2d 146 (Ind. Ct. App. 2005), the Court affirmed the juvenile court's denial of the juvenile's request for time-served credit for his pre-sentence confinement of thirty-five days. The juvenile was arrested and alleged to be a delinquent child for committing acts that, if committed by an adult, would constitute Class B felony burglary, Class D felony theft, and Class A misdemeanor resisting law enforcement. The juvenile admitted to committing burglary. The State dismissed the remainder of the juvenile's allegations and recommended that the juvenile serve a one-year determinate sentence. The juvenile court ordered the juvenile to serve a one-year determinate sentence, but denied his request for time-served credit for the thirty-five days he was detained prior to sentencing. The juvenile appealed.

The juvenile court had no authority to award the juvenile time-served credit against his sentence of one-year determinate. Id. at 147. Contrary to the juvenile's argument, the Court found that I.C. 31-32-1-1 does not apply to substantive rights such as a right to time-served credit, but rather provides that "the procedures governing criminal trials apply in all matters not covered by the juvenile law." The Court cited State ex rel. Blood v. Gibson Circuit Court, 157 N.E.2d 475, 478 (Ind. 1959) for the proposition that substantive rules "fix duties, establish rights and responsibilities among and for persons;" procedural rules "merely prescribe the manner in which [substantive] rights and responsibilities may be exercised and enforced in a court." Thus, I.C. 31-32-1-1 "merely" uses the criminal code as a template for prescribing the manner in which existing substantive rights "may be exercised and enforced in a court." See In re K.G., 808 N.E.2d 631, 637 (Ind. 1959) (using I.C. 31-32-1-1 to demarcate the procedures to apply to an existing substantive right). J.D. at 147.

The Court distinguished C.T.S. v. State, 781 N.E.2d 1193, 1204 (Ind. Ct. App. 2003) trans. denied, which the juvenile asserted entitled him to time-served credit. In C.T.S., the Court remanded C.T.S.'s indeterminate sentence to the juvenile court and ordered the juvenile court to give C.T.S. time-served credit. The Court held that C.T.S. was an unusual remand order on which the juvenile in this case could not rely because C.T.S. involved an extraordinary period of months awaiting disposition, more akin to the constitutional right of speedy trial. J.D. at 147.