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"In pursuit of a consistent, efficient, and effective Juvenile Justice System"

Delinquency

5/5/04

NOTE: Transfer Granted, Opinion Vacated by K.S. v. State, 831 N.E.2d 738 (Ind. Mar. 3, 2005) (Table).

In K.S. v. State, 807 N.E.2d 769 (Ind. Ct. App. 2004), the Court found that the juvenile court failed to obtain jurisdiction in this matter and, accordingly, reversed and vacated the juvenile court's original delinquency adjudication as well as all of the orders flowing from it. The youth, age thirteen, was arrested on suspicion of having committed Class A misdemeanor battery. The next day: (1) the State filed a petition alleging the youth to be a delinquent child; (2) the probation department completed a preliminary inquiry and investigation report; and (3) the juvenile court conducted an initial hearing during which it advised the youth and his mother of their rights, stated that the court had jurisdiction over the matter after ascertaining the youth's age, and provided the youth and mother with a copy of the delinquency petition. Seven days later, after the youth admitted to the battery charge, the juvenile court adjudicated him to be delinquent and placed him on probation. Subsequently, the probation department filed several allegations that the youth violated his probation, and the juvenile court eventually granted wardship of the youth to the Department of Correction. On appeal, the youth argued that the juvenile court never properly obtained jurisdiction during the entirety of these proceedings because it failed to strictly follow the statutory prerequisites for obtaining jurisdiction at the time of the original delinquency filing.

The juvenile court failed to obtain jurisdiction in this matter because the record failed to disclose that the court independently approved the filing of the original delinquency petition after considering probable cause of delinquency and the best interests of the child and the public. Indiana courts have held for many years that strict compliance with the statutory prerequisites for obtaining jurisdiction at the commencement of delinquency proceedings is required of juvenile courts. See, e.g., Shupe v. Bell, 141 N.E.2d 351, 355 (Ind. Ct. App. 1957). Through the evolution of the statutes governing the initiation of delinquency proceedings, one constant requirement has been that the juvenile court must authorize the filing of a delinquency petition. See Taylor v. State, 438 N.E.2d 275, 277 (Ind. 1982). Noncompliance with the statutory prerequisites precludes the assumption of jurisdiction over a juvenile. Id. at 277.

In juvenile delinquency proceedings, unlike adult criminal proceedings, the State does not make the final decision whether to proceed with a juvenile delinquency action. Instead, juvenile courts are vested with the responsibility of reviewing a proposed delinquency petition and an accompanying preliminary investigation form and making an independent decision whether there is probable cause that (1) the juvenile is delinquent and (2) it is in the best interests of the child or the public to commence a delinquency proceeding. IC 31-37-10-2. Pursuant to the clear language of the statute, probable cause of the juvenile having committed a criminal act is not enough by itself to require an official juvenile delinquency proceeding; particularly in cases involving less heinous crimes, it may not always be in the best interests of the child or the public to submit the child to the full authority of the judicial system. K.S. at 770-71. The Court opined that, in this case, there was no indication in the record that the juvenile court made an independent determination of the necessity of proceeding with a delinquency action. Instead, the State’s delinquency petition was treated like an information or indictment in an adult criminal proceeding in that the mere filing of the petition was viewed as sufficient to commence the delinquency proceeding. Id. at 771.

The Court distinguished Taylor, which the State argued was controlling: (1) Taylor concerned a situation in which the juvenile court concededly had followed all of the statutory prerequisites to jurisdiction, and had simply failed to officially record them at the time. In this case, by contrast, there was no concession by the youth that the prerequisites had been discharged adequately, and no evidence in the record that the juvenile court made an independent determination that it would approve the filing of the delinquency petition on the grounds provided for in IC 31-37-10-2. (2) The Taylor court stated that the purposes of the procedural requirements had been satisfied and the interests of the public and the juvenile had been evaluated and considered. Taylor at 277. In this case, there was nothing in the record to indicate that the interests of the youth and the public were considered and evaluated by the juvenile court. K.S. at 772-73.

The Court also observed that, in the “Juvenile Justice Benchbook—Delinquency,” produced by the Indiana Judicial Center, the Benchbook Committee states that it believes there are five essential elements to obtaining jurisdiction in a juvenile delinquency proceeding, and that the fifth element is “the order of the juvenile court approving the filing of the delinquency petition.” Id. at 773. Further, the Court noted that, notwithstanding the sample order approving the filing of a delinquency petition contained in the Benchbook, “this crucial step for obtaining juvenile jurisdiction apparently was not taken in this case.” Id.

Regardless of the label attached to the type of “jurisdiction” impacted by a juvenile court’s failure to follow the necessary prerequisites for proceeding with a juvenile delinquency action, errors of this type are not waivable and may be raised at any time, with or without a contemporaneous objection. The youth’s failure to challenge the juvenile court’s jurisdiction in this matter until the appeal, raised the question of waiver. The Court opined that, ordinarily, the answer to this question would derive from an analysis of whether a juvenile court’s failure to properly follow the statutory and case

law prerequisites, including explicit approval for filing a delinquency petition, impacted subject matter jurisdiction, jurisdiction over the parties, or jurisdiction over the particular case. Unlike jurisdiction over the particular case, jurisdiction over the subject-matter and over the parties is required for a court to enter a valid judgment. See Buckalew v. Buckalew, 754 N.E.2d 896, 898 (Ind. 2001). The Court noted that, although many cases discussed the importance of courts following the proper steps for obtaining jurisdiction in juvenile matters, there was not a clear answer as to what type of jurisdiction those steps implicated. In a review of cases covering the last half-century, the Court found that only the majority opinion in Harris v. State, 398 N.E.2d 1346 (Ind. Ct. App. 1980) considered a juvenile court's failure to follow the procedural steps for obtaining jurisdiction to be a waivable error. In Summers v. State, 230 N.E.2d 320, 323 (Ind. 1967), the supreme court stated "the exclusive original jurisdiction" of a juvenile court may only be obtained by following the statutory prerequisites, including court authorization for the filing of a delinquency petition, "and unless such preliminary procedural steps are taken there is not jurisdiction established." K.S. at 374-75.