

Georgia Court of Appeals

In the Interest of H. E. B.
A10A0980 (criminal case)
May 5, 2010
Mikell, Judge.
10 FCDR 1588 (05/21/10)

Headnote: The Court of Appeals affirmed H. E. B.'s delinquency adjudication for running away from home when she was 17 years old, holding that the juvenile court had jurisdiction over the matter, because O.C.G.A. § 15-11-2 (2) defines a child, inter alia, as an individual under the age of 18 years, who is alleged to be a status offender, H. E. B. was charged with the status offense of running away from home and, thus, the juvenile court had jurisdiction over the action pursuant to § 15-11-2 (2).

Text: Mikell, Judge.

The juvenile court adjudicated H. E. B. delinquent for running away from home when she was 17 years old. (1.) On appeal, H. E. B. contends that the court erred in denying her motion to dismiss for lack of jurisdiction based on OCGA § 15-11-28 (d), which states that "[t]he juvenile court shall not have jurisdiction to initiate any new action against an individual for acts committed after he or she has reached the age of 17 years." Because we conclude that OCGA § 15-11-2 (2) (C) extends the court's jurisdiction to certain offenses, such as running away, which are committed when a child is under the age of 18 years, we affirm.

OCGA § 15-11-2 (2) defines a "child" as any individual who is: (A) Under the age of 17 years; (B) Under the age of 21 years, who committed an act of delinquency before reaching the age of 17 years, and who has been placed under the supervision of the court or on probation to the court; or (C) Under the age of 18 years, if alleged to be a "deprived child" or a "status offender" as defined by this Code section.

A "status offender" is defined as a child "who is charged with or adjudicated of an offense which would not be a crime if it were committed by an adult, in other words, an act which is only an offense because of the perpetrator's status as a child. Such offenses shall include . . . running away from home." (2.) In denying H. E. B.'s motion to dismiss, the juvenile court ruled that it had jurisdiction pursuant to OCGA § 15-11-2 (2) (C), because H. E. B. had been charged with the status offense of running away from home when she was under the age of 18. We review this decision de novo as it involves the interpretation of a statute, which is a question of law. (3.)

H. E. B. contends that Code sections 15-11-28 (d) and 15-11-2 (2) (C) conflict and that the juvenile court should have followed the former statute and dismissed the petition filed against her. This argument ignores fundamental rules of statutory construction. "[A]ll statutes relating to the same subject-matter, briefly called statutes 'in pari materia,' are construed together, and harmonized wherever possible, so as to ascertain the legislative intent and give effect thereto." (4.)

Furthermore, "[a]ll statutes are presumed to be enacted by the legislature with full knowledge of the existing . . . law and with reference to it; they are therefore to be construed in connection and in harmony with the existing law." (5.)

The legislature amended OCGA § 15-11-2 (2) (C) in 2003 to include "status offender" under the age of 18 in the definition of a "child." (6.) The jurisdictional limitation prohibiting new juvenile court actions against persons based on acts committed by them after the age of 17 years had long been in effect. (7.) Thus, we presume that the legislature was fully aware of that age limit when it amended OCGA § 15-11-2 (2) (C). Construing this provision in harmony with OCGA § 15-11-28 (d), we conclude that the legislature intended to extend the juvenile court's jurisdiction to initiate actions against "status offenders," such as runaways, who are under the age of 18 years when they commit the offensive act.

Our conclusion comports with *State v. Crankshaw*, (8.) in which the Supreme Court of Georgia determined that by enacting the predecessor statute to OCGA § 15-11-2 (2) (B), (9.) the legislature intended to extend the jurisdiction of the juvenile courts to take actions against individuals between the ages of 17 and 21 years under the circumstances specified in that Code section. (10.) It follows that in this case, the juvenile court did not err in determining that it had jurisdiction over H. E. B. pursuant to OCGA § 15-11-2 (2) (C).

Judgment affirmed. Smith, P.J., and Adams, J., concur .

(1.) The parties in this case entered into a stipulation of facts for the purpose of appeal pursuant to OCGA § 5-6-41 (i), showing that H. E. B. turned 17 on May 9, 2009, and ran away from home on July 13, 2009.

(2.) OCGA § 15-11-2 (11).

(3.) *Weaver v. State* , 299 Ga. App. 718, 719 (2) (683 SE2d 361) (2009).

(4.) (Citation and punctuation omitted.) *Goldberg v. State* , 282 Ga. 542, 546 (651 SE2d 667) (2007). Accord *In the Interest of J. V.* , 282 Ga. App. 319, 321 (638 SE2d 757) (2006).

(5.) (Citation and punctuation omitted.) *McPherson v. City of Dawson* , 221 Ga. 861, 862 (148 SE2d 298) (1966).

(6.) Ga. L. 2003, p. 640, § 1.

(7.) See Ga. Code Ann. § 24A-301 (d), now codified as OCGA § 15-11-28 (d).

(8.) 243 Ga. 183 (253 SE2d 69) (1979).

(9.) Ga. Code Ann. § 24A-401 (c) (2).

(10.) *Crankshaw* , *supra* at 184.

Trial Judge: Karen Calloway, Upson Juvenile Court.

Attorneys: Monica N. Hamlett, Assistant Public Defender, Thomaston, for appellant. Scott L. Ballard, District Attorney, Griffin, and Robert W. Smith Jr., Assistant District Attorney, Fayetteville, for appellee.