

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

IN RE: J.S.	:	APPEAL NOS. C-220549
		C-220550
	:	C-220551
		C-220552
	:	
	:	TRIAL NOS. 21-001971Z
	:	21-002234Z
	:	21-002235Z
	:	21-002236Z
	:	<i>OPINION.</i>

Appeals From: Hamilton County Juvenile Court

Judgments Appealed From Are: Affirmed

Date of Judgment Entry on Appeal: August 2, 2023

Melissa A. Powers, Hamilton County Prosecuting Attorney, and *Sean M. Donovan*, Assistant Prosecuting Attorney, for Plaintiff-Appellant State of Ohio,

Raymond T. Faller, Hamilton County Public Defender, and *Joshua A. Thompson*, Assistant Public Defender, for Defendant-Appellee J.S.

WINKLER, Judge.

{¶1} The state appeals the juvenile court’s denial of a discretionary transfer of jurisdiction over J.S. from juvenile court to the common pleas court for prosecution of multiple felonies if committed by an adult. The state argues the juvenile court abused its discretion in determining that J.S. was amenable to rehabilitation in the juvenile system. For the reasons below, we affirm the judgment of the juvenile court.

Facts and Procedural History

{¶2} On July 23, 2021, the state filed complaints in the juvenile court against J.S. for multiple crimes arising from an alleged carjacking of a bootleg taxi. Specifically, J.S. was charged with aggravated robbery under R.C. 2911.01, a first-degree felony if committed by an adult; felonious assault under R.C. 2903.11, a second-degree felony if committed by an adult; grand theft of a motor vehicle under R.C. 2913.02, a fourth-degree felony if committed by an adult. The complaints alleged that J.S. attempted to steal a car after a bootleg cab ride and in the process dragged the driver approximately 40 feet resulting in the hospitalization of the driver for a week with extensive injuries.

{¶3} On March 16, 2022, the state moved for a discretionary relinquishment of jurisdiction on all three charges. As required by R.C. 2152.12(C), the juvenile court conducted the investigation into J.S.’s social history, education, family situation, and any other factor bearing on whether J.S. was amenable to juvenile rehabilitation. As part of that investigation, it tasked Dr. Carla Dreyer to evaluate J.S.’s amenability to treatment in the juvenile system. Dr. Dreyer interviewed J.S., reviewed J.S.’s history and conducted multiple psychological assessments. Ultimately, Dr. Dreyer

concluded that “given [J.S.’s] risk for future violence and reoffending, risk factors, lack of protective factors, age, and history, [J.S.] is not amenable to rehabilitation in the juvenile system at this time.” Dr. Dreyer detailed J.S.’s five adjudications of delinquency since age 13 and J.S.’s history of a conduct disorder complicated by abuse of tobacco, marijuana, and prescription painkillers, trauma exposure, and poor coping skills. Dr. Dreyer noted that while J.S. had not participated in residential treatment or been committed to the Ohio Department of Youth Services by a juvenile court, J.S. had been involved in outpatient services and probationary supervision to little benefit. Dr. Dreyer reported that J.S. denied the need for further treatment to address criminal thinking or substance abuse.

{¶4} On October 3, 2022, the juvenile court held a hearing under Juv.R. 30 to determine whether J.S. was amenable to treatment in juvenile court or should be transferred to the court of common pleas. The parties stipulated J.S. was 18 and a half years of age and that there was probable cause for all three charges, so the sole issue before the juvenile court was whether J.S. was amenable to treatment in the juvenile court. The court heard arguments from the state and J.S. and admitted Dr. Dreyer’s report along with some of J.S.’s submissions. After the hearing, the juvenile court found J.S. amenable to treatment in the juvenile system and retained jurisdiction over his cases. The state now appeals that determination.

Analysis

{¶5} In its sole assignment of error, the state argues that the juvenile court abused its discretion when it retained jurisdiction over J.S.

{¶6} Pursuant to R.C. 2152.12(B), once a complaint has been filed alleging that a juvenile has committed an act that would be a felony if committed by an adult, the juvenile court may transfer the case to adult court if it finds that (1) at the time of the offense, the juvenile was 14 years of age or older, (2) probable cause exists that the juvenile committed the act charged, and (3) the juvenile is not amenable to care or rehabilitation in the juvenile system. *State v. Dawson*, 1st Dist. Hamilton No. C-130765, 2015-Ohio-488, ¶ 8. At the hearing on the discretionary transfer, the parties stipulated that J.S. was over 14 years of age at the time the alleged offenses were committed and that there was probable cause for all three charges. Thus, the sole issue before the juvenile court was J.S.’s amenability to treatment in the juvenile system.

{¶7} Appellate review of a juvenile court’s determination of a child’s amenability to rehabilitation in the juvenile system is conducted under an abuse-of-discretion standard. *State v. Amos*, 1st Dist. Hamilton No. C-150265, 2016-Ohio-1319, ¶ 38, citing *In re M.P.*, 124 Ohio St.3d 445, 2010-Ohio-599, 923 N.E.2d 584, ¶ 14. An abuse of discretion occurs when “ ‘a court exercis[es] its judgment, in an unwarranted way, in regard to a matter over which it has discretionary authority.’ ” *State v. Austin*, 1st Dist. Hamilton Nos. C-210140 and C-210141, 2021-Ohio-3608, ¶ 5, quoting *Johnson v. Abdullah*, 166 Ohio St.3d 427, 2021-Ohio-3304, 187 N.E.3d 463, ¶ 35.

{¶8} While courts lack the discretion to make errors of law, a court does have discretion to settle factual disputes. *Johnson* at ¶ 38. An exercise of judicial discretion to settle factual disputes necessarily implies a selection by the judge of one choice from a range of alternative outcomes. *See State v. Jenkins*, 15 Ohio St.3d 164, 222, 473 N.E.2d 264 (1984). To abuse such a

choice, the “result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias.” *Id.* at 222, quoting *Spalding v. Spalding*, 355 Mich. 382, 384-385, 94 N.E.2d 810 (Mich.1959). Accordingly, an appellate court cannot find an abuse of discretion where, had it decided the issue de novo, the appellate court would not have found the trial court’s reasoning process to be persuasive or where a countervailing reasoning process that is more persuasive to the appellate court supports a contrary result. *See AAAA Enterprises, Inc. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990); *State v. Boles*, 187 Ohio App.3d 345, 2010-Ohio-278, 932 N.E.2d 345, ¶ 23 (2d Dist.) (“[W]here the issue on review has been confided to the discretion of the trial court, the mere fact that the reviewing court would have reached a different result is not enough, without more, to find error.”).

{¶9} A juvenile court’s judgment in making an amenability determination is “a broad assessment of individual circumstances and is inherently individualized and fact-based.” *In re M.P.* at ¶ 14. Accordingly, juvenile courts have “wide latitude to retain or relinquish jurisdiction.” *State v. Watson*, 47 Ohio St.3d 93, 95, 547 N.E.2d 1181 (1989). What grounds constitute reasonable grounds for the juvenile court to relinquish jurisdiction is within the sound discretion of the juvenile court. *State v. Carmichael*, 35 Ohio St.2d 1, 298 N.E.2d 568 (1973), paragraph one of the syllabus. So long as the court “‘considers the appropriate statutory factors and there is some rational basis in the record to support the court’s findings when applying those

factors, [an appellate court] cannot conclude that the trial court abused its discretion in deciding whether to transfer jurisdiction.’ ” *State v. Marshall*, 1st Dist. Hamilton No. C-150383, 2016-Ohio-3184, ¶ 15, quoting *State v. West*, 167 Ohio App.3d 598, 2006-Ohio-3518, 856 N.E.2d 285, ¶ 10 (4th Dist.).

{¶10} In determining whether a child is subject to rehabilitation, the juvenile court is required to consider a series of statutory factors that weigh for and against the transfer of the juvenile’s case to the common pleas court. *See* R.C. 2152.12(B)(3). In making its decision, the juvenile court need only identify those specific factors for and against transfer that were applicable and that it weighed in making its determination. *See State v. Washington*, 1st Dist. Hamilton No. C-130213, 2014-Ohio-4178, ¶ 19 and 23. Although not explicitly listed in R.C. 2152.12(D), the seriousness of the underlying charged offenses and the safety of the community are additional relevant factors in the amenability determination. *Marshall* at ¶ 22. The statute is silent as to the weight of the factors. Thus, the juvenile court has discretion to determine how much weight to allot each factor while assessing the individualized facts of each case. *See id.* at ¶ 15.

{¶11} When weighing these statutory factors, the juvenile court had before it a report assessing the amenability of J.S. in the juvenile system that had been prepared by Dr. Dreyer. Dr. Dreyer concluded based on J.S.’s risk of future violence and reoffending, risk factors, lack of protective factors, age, and history, that J.S. is not amenable to treatment in the juvenile system. The juvenile court ultimately disagreed. While a juvenile court may not “arbitrarily” ignore an expert opinion, it “may reach a contrary conclusion if there are ‘some reasons * * * objectively present’ in the record to do so.” *State*

v. Walker, 2017-Ohio-9255, 103 N.E.3d 325, ¶ 14 (1st Dist.), quoting *State v. Brown*, 5 Ohio St.3d 133, 135, 449 N.E.2d 449 (1983). An expert's opinion is not conclusive, even if uncontradicted. *Id.* While Dr. Dreyer's report comprehensively assessed J.S., the report did not reach conclusions on all the statutory factors and Dr. Dreyer was limited in what material was available to her. The record shows the juvenile court heard argument, assessed information not considered in Dr. Dreyer's report, took submissions from J.S., and conducted its own amenability analysis based on all the applicable factors. Thus, the court did not arbitrarily ignore Dr. Dreyer's opinion in reaching a different result.

{¶12} The juvenile court indicated two factors weighed in favor of a transfer of jurisdiction: (1) the victim suffered physical harm and (2) at the time of the act charged, J.S. was under a community-control sanction. The juvenile court indicated two factors weighed against a transfer of jurisdiction: (1) the child has a mental illness or intellectual disability and (2) there was sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

{¶13} The state argues that the juvenile court abused its discretion in making an analytical error in one factor of its amenability determination. Based on the record, the juvenile court either miscalculated or misstated the amount of time available to rehabilitate J.S. in the juvenile system. The court estimated "so between now and [J.S.'s] 21st birthday, [J.S.] could end up with about four years on these cases if [J.S.] is adjudicated as charged on all of them[.]" However, at the time of the amenability hearing, J.S. was about 18

and a half years of age. This would leave the juvenile system about two and a half years to rehabilitate J.S. before J.S. turned 21. At the time of making the error, the court was also discussing the charges against J.S. The record is unclear whether the judge simply misstated the time for the sentences as opposed to the time for rehabilitation or did miscalculate the time for rehabilitation. No party raised the mathematical error at the time of the error, when the court went through all the applicable factors when announcing its amenability determination, or at any point during the hearing.

{¶14} Even if we were to assume the juvenile court did not misspeak but erroneously calculated the time for rehabilitation, a single mistake by the juvenile court in an otherwise correct analysis is not necessarily an abuse of discretion. *Ojalvo v. Bd. of Trustees*, 12 Ohio St.3d 230, 232-233, 466 N.E.2d 875 (1984). In the context of an amenability determination, a juvenile court’s analytical error as to one factor of many is not, standing alone, necessarily an abuse of discretion where the error is not prejudicial and the court relies on other factors. *State v. Gregory*, 2d Dist. Montgomery No. 28695, 2020-Ohio-5207, ¶ 2 (upholding a decision to transfer jurisdiction despite court misconstruing the meaning of “facilitating” in the factor under R.C. 2152.12(D)(3), that child’s relationship with the victim facilitated the act charged).

{¶15} Here, there is no indication that the court’s factual error prejudiced the state. The error is in calculating the time available for rehabilitation, one factor of many in determining amenability. The juvenile court conducted an otherwise complete analysis of all the other relevant factors and weighed them. There is no indication in the record that the juvenile court

would have made a different determination with two and a half years available for rehabilitation instead of four. *See id.* at ¶ 32 (noting an error must affect the outcome to justify reversal), quoting *State v. Fisher*, 99 Ohio St.3d 127, 2003-Ohio-2761, 789 N.E.2d 222, ¶ 7, and citing Crim.R. 52(A). The juvenile court acknowledged that J.S. was over 18 in a later colloquy, suggesting the court was aware of the limited time available for rehabilitation. Thus, the court did not seem to materially rely on its faulty arithmetic to reach its ultimate determination. *See id.* at ¶ 33 (concluding no possibility the misconstrued term “facilitating” would have affected the outcome).

{¶16} Additionally, the state contends that the juvenile court abused its discretion in failing to properly consider the seriousness of the offenses charged. While J.S. is charged with multiple, serious felonies, the seriousness of the offense is one factor of many in the amenability determination. It remains within the sound discretion of the juvenile court judge to weigh all the relevant factors militating for and against a discretionary transfer of jurisdiction and a juvenile court does not necessarily abuse its discretion when it reaches a different conclusion than a party or reviewing court may have reached. *See Boles*, 187 Ohio App.3d 345, 2010-Ohio-278, 932 N.E.2d 345, at ¶ 23 (“[W]here the issue on review has been confided to the discretion of the trial court, the mere fact that the reviewing court would have reached a different result is not enough, without more, to find error.”).

{¶17} Although we do not pass on the propriety or wisdom of the juvenile court’s determination, where there is “some rational and factual basis to support the [juvenile] court’s decision, [an appellate court] is duty bound to affirm it regardless of our personal views of the evidence.” *Marshall*, 1st Dist.

Hamilton No. C-150383, 2016-Ohio-3184, at ¶ 14; *Gregory*, 2nd Dist. Montgomery No. 28695, 2020-Ohio-5207, at ¶ 30. Because there was a rational and factual basis to support the juvenile court's consideration and weighing of all relevant factors to reach its conclusion of amenability, we overrule the assignment of error.

Conclusion

{¶18} Having overruled the assignment of error, we affirm the judgments of the juvenile court.

Judgments affirmed.

ZAYAS, P.J., and **BOCK, J.**, concur.

Please note:

The court has recorded its entry on the date of the release of this opinion.