MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE INTEREST OF: J.N.W.

APPELLANT,

v.

JUVENILE OFFICER

RESPONDENT.

DOCKET NUMBER WD84378

DATE: February 15, 2022

Appeal From:

Dekalb County Circuit Court
The Honorable Richard Brent Elliott, Judge

Appellate Judges:

Special Division: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge and W. Brent Powell, Special Judge

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Attorneys:

Kathryn Merwald, Kansas City, MO, for appellant.

Kenneth C. Hensley, Raymore, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

IN THE INTEREST OF: J.N.W., APPELLANT,
v.
JUVENILE OFFICER, RESPONDENT.

WD84378 Dekalb County

Before Special Division Judges: Cynthia L. Martin, Chief Judge, Presiding, Gary D. Witt, Judge, and W. Brent Powell, Special Judge

J.N.W. appeals from an order dismissing his juvenile proceeding and transferring him to a court of general jurisdiction for criminal prosecution as an adult pursuant to section 211.071, RSMo 2016. J.N.W. asserts that the juvenile court committed error in certifying him as an adult because the evidence did not support that determination and because he was deprived of due process as the judge was not impartial. J.N.W. further claims that he received ineffective assistance of counsel during the certification hearing because counsel failed to object to admissions of portions of a police report that constituted inadmissible hearsay and statements by J.N.W. that were subject to suppression.

AFFIRMED.

Special Division holds:

(1) Rule 74.01(a)'s denomination requirement is not applicable to section 211.071 determinations so that an "order" that is signed by the judge and that releases and discharges a juvenile from the juvenile court's jurisdiction is final and appealable, even though it is not denominated a "judgment."

(2) Whether denominated as a "judgment" or an "order," appealable juvenile court determinations are final for purposes of appeal no earlier than thirty days after their entry.

(3) In challenging the evidence supporting the juvenile court's certification of J.N.W. as an adult, J.N.W. relies on evidence that the juvenile court found unpersuasive and asserts that the juvenile court should have weighed the evidence differently. The standard of review applicable to certification determinations, which is for abuse of discretion, does not allow for an appellate court to reweigh the evidence, or to determine the reliability or credibility of witnesses. The totality of the circumstances do not support a conclusion that the juvenile court abused its discretion.

(4) J.N.W. has not sustained his burden to establish that he received ineffective assistance of counsel in a certification proceeding.

(5) The juvenile court judge did not plainly err in failing to recuse himself because the record demonstrates that the comments made by the juvenile judge about which J.N.W. complains were either an effort to streamline the certification hearing and to conserve judicial resources, or an assessment of the evidence after the conclusion of the evidence and in connection with the juvenile court taking the case under advisement.

Opinion by: Cynthia L. Martin, Judge February 15, 2022

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