

RENDERED: MAY 26, 2006; 10:00 A.M.  
TO BE PUBLISHED

# Commonwealth Of Kentucky

## Court Of Appeals

NO. 2004-CA-002595-DG  
AND  
NO. 2004-CA-002596-DG  
AND  
NO. 2004-CA-002597-DG

S.K.; M.M.F.; and B.D.T.

APPELLANTS

DISCRETIONARY REVIEW FROM DAVIESS CIRCUIT COURT  
v. HONORABLE HENRY GRIFFIN, III, JUDGE  
ACTION NOS. 04-XX-00006, 04-XX-00007, AND 04-XX-00008

COMMONWEALTH OF KENTUCKY

APPELLEE

### OPINION REVERSING AND REMANDING

\*\* \*\* \* \* \*

BEFORE: KNOPF AND TACKETT, JUDGES; HUDDLESTON, SENIOR JUDGE.<sup>1</sup>

KNOPF, JUDGE: In separate proceedings before the juvenile division of the Daviess District Court, S.K., B.D.T., and M.M.F. (movants) were each determined to have committed a public offense that caused substantial damage: property damage or medical expenses in excess of a thousand dollars. In each case

---

<sup>1</sup> Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

the movant was ordered to make restitution to the victim, and in each case when the movant turned eighteen a portion, at least, of the restitution remained outstanding. The Commonwealth subsequently moved the juvenile court to hold the movants in contempt. The cases were consolidated, and by order entered March 8, 2004, the Daviess District Court ruled that its subject matter jurisdiction in each case had lapsed when the movant turned eighteen and thus that it no longer had authority to enforce the restitution orders. The Commonwealth appealed to the Daviess Circuit Court, which, by order entered November 18, 2004, reversed. It reasoned that the juvenile court's inherent authority to vindicate its orders and KRS 413.090, which provides for a fifteen-year statute of limitations on actions arising from judgments or decrees, implied continuing authority in the juvenile court to enforce its restitution orders even after the offender had turned eighteen. This Court granted the movants' motion for discretionary review, and we now reverse.

As the parties note, whether a juvenile court retains jurisdiction over adults to enforce restitution orders is a matter of first impression in Kentucky. Sister states confronting the issue have reached contrary results depending on the specific statutory language at issue.<sup>2</sup> In Kentucky, the

---

<sup>2</sup> In the Interest of Timothy C.M., 560 S.E.2d 452 (S.C.App. 2002) (jurisdiction retained); Cesaire v. State, 811 So.2d 816 (Fla.App. 2002)

Unified Juvenile Code, KRS Chapters 600 to 645, and KRS 24A.130 confer upon the district court exclusive but limited juvenile jurisdiction "in all cases relating to minors."<sup>3</sup> With a handful of enumerated exceptions, none of which applies to restitution orders,<sup>4</sup> KRS 610.010(13) confers upon the juvenile court "continuing jurisdiction over a child pursuant to subsection (1) of this section, [the section conferring jurisdiction over public offenses such as those committed by the movants] to review dispositional orders . . . until the child . . . reaches the age of eighteen (18) years." Both this Court and our Supreme Court have narrowly construed the juvenile court's authority, carefully limiting it to that expressly conferred by the General Assembly.<sup>5</sup> Given this precedent and the clear statement in KRS 610.010(13) that as a general rule juvenile court jurisdiction does not extend to adults, we are convinced the circuit court erred when it inferred such an extension with respect to outstanding restitution orders.

To be sure, KRS 600.060 provides that the Juvenile Code was not intended to limit the district court's inherent

---

(jurisdiction lapsed); Summerville v. Summerville, 384 N.W.2d 152 (Mich.App. 1986) (jurisdiction retained); MacKillop v. Foster, 683 P.2d 146 (Ore.App. 1984) (jurisdiction lapsed).

<sup>3</sup> KRS 24A.130.

<sup>4</sup> KRS 610.120(3).

<sup>5</sup> Commonwealth v. W.E.B., 985 S.W.2d 344 (Ky. 1998); Jefferson County Department for Human Services v. Carter, 795 S.W.2d 59 (Ky. 1990); D.R.T., a Child v. Commonwealth, 111 S.W.3d 392 (Ky.App. 2002).

contempt authority, and KRS 610.010(10) expressly provides that "[n]othing in this chapter shall prevent the district court from holding a child in contempt of court to enforce valid court orders previously issued by the court." Our Supreme Court recently underscored the force of the juvenile court's contempt authority, moreover, by holding that contempt was a valid sanction for a probation violation and that a juvenile could be detained for contempt beyond the dispositional maximums.<sup>6</sup> However, both the statutes and our Supreme Court refer to sanctioning a *child* for the *child's* contempt; they neither state nor imply that the juvenile court's contempt authority extends to adults. A court's inherent contempt authority, after all, does not confer jurisdiction. It merely arms the court to defend and carry out the jurisdiction it otherwise possesses. Where, as here, that jurisdiction does not extend to adults, neither does the court's contempt authority.

Nor, of course, do the statutes of limitation confer jurisdiction. KRS 413.090, limiting actions on judgments and decrees to fifteen years, does not mean that judgments must remain enforceable for fifteen years, but only that they do not remain enforceable beyond that period. Nothing about the limitations statute prevents a juvenile court judgment from lapsing for lack of jurisdiction or implies that the General

---

<sup>6</sup> A.W., a child under Eighteen v. Commonwealth, 163 S.W.3d 4 (Ky. 2005).

Assembly meant, although it failed to say, that restitution orders were to be excepted from the general rule that juvenile court dispositions lapse when the offender turns eighteen.

Finally, we are not unmindful of the substantial public policy arguments the Commonwealth advances in favor of extending the juvenile court's authority to adult restitution obligors. The law generally favors attempts to make victims whole; adults are generally better able than juveniles to meet financial obligations; and, more importantly, by allowing the movants to escape their restitution obligation simply by waiting the system out, other similarly situated juveniles are apt to be encouraged to disobey restitution orders.<sup>7</sup> Although we acknowledge the force of these arguments, the fact remains that it is the General Assembly, not the courts, that determines public policy in this area, and the General Assembly has not fashioned a restitution exception to the general rule terminating juvenile court jurisdiction at eighteen. Such an exception, moreover, would need to incorporate concerns, among others, about the obligor's ability to pay, about the fact that contempt is generally not available as a means to enforce money judgments;<sup>8</sup> and about the fact that in Kentucky imprisonment for

---

<sup>7</sup> Cf. In the Interest of C.L.D., a child, v. Beauchamp, 464 So.2d 1264 (Fla.App. 1985) (noting similar policy arguments).

<sup>8</sup> Aetna Casualty & Surety Co. v. Markarian, 114 F.3d 346 (1<sup>st</sup> Cir. 1997); Hale v. Peddle, 648 A.2d 830 (Ver. 1993).

debt is constitutionally limited.<sup>9</sup> The General Assembly is in a far better position than the court to weigh these many factors and to determine how best to balance the interests in victim restitution and juvenile rehabilitation.

In sum, as a general rule, KRS 610.010(13) limits juvenile court jurisdiction to minors. Neither the court's contempt power nor the limitations period for an action on a judgment implies an exception to that rule for restitution obligors. The circuit court erred by ruling otherwise. Accordingly, we reverse the November 18, 2004, opinion of the Daviess Circuit Court and remand for reinstatement of the March 8, 2004, judgment of the Daviess District Court.

ALL CONCUR.

BRIEFS AND ORAL ARGUMENT FOR  
APPELLANT:

Timothy G. Arnold  
Assistant Public Advocate  
Department of Public Advocacy  
Frankfort, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
Attorney General  
Daniel M. Burlew, II  
Special Assistant Attorney  
General  
Owensboro, Kentucky

ORAL ARGUMENT FOR APPELLEE:

Daniel M. Burlew, II  
Owensboro, Kentucky

---

<sup>9</sup> Ky. Const. § 18.