

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 29, 1999

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 99-0586

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**IN THE INTEREST OF JANELLE L.I.,
A PERSON UNDER THE AGE OF 17:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

v.

JANELLE L.I.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Langlade County:
JAMES P. JANSEN, Judge. *Affirmed.*

MYSE, P.J. Janelle L.I. appeals an order waiving juvenile court jurisdiction for a charge relating to her operating a motor vehicle without the owner's consent. The charge stems from an incident when Janelle and a friend stole a car and, after stealing money from Janelle's step-father, journeyed from Wisconsin to Mississippi where they were apprehended. Janelle contends that the

trial court failed to apply the statutory factors in determining waiver and that the court's reasoning that an adult institution serves her best interest better than a juvenile institution is without any evidentiary basis. Because the trial court correctly considered the statutory factors and that there was sufficient evidence to uphold the trial court's discretionary determination to waive juvenile jurisdiction, the order is affirmed.

Janelle and a friend stole money from Janelle's step-father, took a motor vehicle from a parking lot in the City of Antigo, and traveled to Mississippi when they were ultimately apprehended. The State filed a delinquency petition under ch. 938, STATS., along with a juvenile waiver petition. Apparently, Janelle was charged as a juvenile for the theft of money and a sanction of ten days in secured detention was imposed. Sentence credit was given for the ten days spent in secured detention in Mississippi. Janelle moved to Kenosha, where she now resides with her father.

The State filed charges against Janelle for operating a motor vehicle without the owner's consent and a petition to waive juvenile court jurisdiction. The court found that waiver to adult court was appropriate for various reasons specified in its oral decision, and an order waiving juvenile court jurisdiction was entered.

Petitions to waive juvenile jurisdiction are addressed to circuit court discretion. *In re P.A.K.*, 119 Wis.2d 871, 886-87, 350 N.W.2d 677, 684-85 (1984). The court's discretionary determination will not be upset unless there is an erroneous exercise of discretion. *In re Curtis W.*, 192 Wis.2d 719, 726, 531 N.W.2d 633, 635 (Ct. App. 1995). It is an erroneous exercise of discretion if the trial court fails to specify the reasons supporting the discretionary determination

made, or if the trial court misapplies the law, unless by searching the record, we can find reasons to support the court's exercise of discretion. *See Thorpe v. Thorpe*, 108 Wis.2d 189, 198, 321 N.W.2d 237, 242 (1982).

“The paramount consideration in determining waiver is the best interests of the child.” *In re Elmer J.K.*, 224 Wis.2d 372, 384, 591 N.W.2d 176, 180 (Ct. App. 1999). In making its discretionary determination, the trial court must apply the statutory factors identified, but need consider only those factors which are relevant to the specific case. *In re J.A.L.*, 162 Wis.2d 940, 960, 471 N.W.2d 493, 501 (1991). The weight to be accorded each of the relevant statutory factors in a specific case is a matter submitted to the trial court's discretion. *Id.* The trial court's determination will be affirmed as long as there is a reasonable basis for the court's determination. *In re G.B.K.*, 126 Wis.2d 253, 259, 376 N.W.2d 385, 389 (Ct. App. 1985).

The record reflects that the trial court considered the relevant statutory factors of age, prior record, severity of the offense, and whether Janelle was living an adult lifestyle. *See* § 938.18(5), STATS. The court considered Janelle's age when it determined that she was approximately sixteen-and-one-half years old and would soon reach the age when she would be treated as an adult in the Wisconsin court system. The court considered her prior record and noted that she had sixty police contacts in the relatively short time she was a resident of Langlade County, was a disciplinary problem in school, and had prior juvenile court dispositions. The court considered the seriousness of the offense, including the fact that Janelle was the ring leader of the events as they unfolded and was not under the influence of an older more serious offender. The court specifically noted that Janelle was living an adult lifestyle without adequate restraints and had

failed to respond to the previous juvenile dispositions that involved a new custodial residence and counseling.

Janelle specifically challenges the trial court's determination that her best interests would be served by being treated as an adult. *See Elmer J.K.*, 224 Wis.2d at 384-85, 591 N.W.2d at 181. We disagree. The court reasoned that the juvenile institutions were more dangerous for Janelle than the more closely supervised adult institutions, were institutionalization ordered. Janelle now claims that no evidentiary basis supports the court's opinion. However, this reasoning was only one of a series of factors the court considered in reaching its decision to waive juvenile court jurisdiction. The court's concern for Janelle's safety is appropriate, and the court's opinion that an adult institution would better serve her interest is a reasonable opinion as to what is in her best interest. This court will not parse the record to isolate specific reasons advanced by the trial court for entering its waiver or order as long as the court's determination is reasonable. *See G.B.K.*, 126 Wis.2d at 259, 376 N.W.2d at 389.

The court's determination that an adult institution would be safer for Janelle, despite a lack of evidence on the subject, does not override its proper consideration of the relevant factors under § 938.18(5), STATS. The court's determination of which institution would be safer for Janelle is only further evidence of its thorough consideration of what served Janelle's best interest. Consideration of what best protects a juvenile's safety can only be viewed as a consideration of his or her best interest.

This court concludes that Janelle's numerous contacts with the police, her prior juvenile court appearances, her age, mature lifestyle and the court's conclusion that she could not be reached by the resources available to the

juvenile court are sufficient bases to sustain the court's exercise of discretion in waiving juvenile court jurisdiction. This court affirms the trial court's order.

By the Court.—Order affirmed.

This opinion will not be published. RULE 809.21(3)(b)4, STATS.

