

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 4, 1998

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.

Nos. 97-2497
97-2498
97-2499
97-2500

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT II

**IN THE INTEREST OF SHAWN R.H.,
A PERSON UNDER THE AGE OF 18:**

STATE OF WISCONSIN,

PETITIONER-RESPONDENT,

V.

SHAWN R.H.,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Fond du Lac County:
HENRY B. BUSLEE, Judge. *Affirmed.*

NETTESHEIM, J. Shawn R.H. appeals from a juvenile court sanction order directing that he serve thirty days in secure detention for violating the rules of conduct recited in a dispositional order. Shawn contends that the order

violates his due process rights because he agreed to not contest the sanction order based on prior notification that any secure detention period would not exceed ten days. Shawn also contends that the juvenile court's order constitutes a misuse of discretion because the court failed to state the basis for the violation and failed to state reasons for the sanction.

We deem the appeal moot because Shawn has served the thirty-day secure detention sanction.

Shawn was adjudged delinquent on January 24, 1997. He was placed on supervision and required to abide by prescribed rules of conduct. On February 26, Shawn's supervising social worker alleged that Shawn had violated certain of the rules and committed other infractions.¹ The worker requested a sanction hearing. At the hearing on March 26, 1997, Shawn admitted to the violations and the juvenile court imposed a thirty-day secure detention sanction order. Shawn objected, contending that the notice of the hearing recited that he would be subject to only ten days' secure detention and that the law barred any greater sanction. Shawn also requested detention credit for a six-day period of detention served before the hearing. The juvenile court rejected both of Shawn's arguments.

Shawn appealed this order and on April 2, 1997, Shawn applied to this court for an ex parte stay of the sanction order. On April 4, the presiding judge of this court temporarily denied Shawn's request and ordered the State to

¹ It appears from the record and the parties' briefs that the rule violations were assigned additional case numbers in the juvenile court. Thus, the order for sanctions which is appealed refers to the underlying dispositional order of January 24, 1997, plus the postdispositional rule violations. By previous order, we have consolidated all four cases for purposes of appeal.

file a response. On April 10, following the State's response, the presiding judge ordered further briefing from the parties on Shawn's additional request for detention credit based on his presanction detention. On April 17, following the additional briefing, the presiding judge issued an order directing that Shawn be given credit against the secure detention term for the six days of presanction detention. The order further stated, "When the credit is considered, the thirty-day period expires shortly and granting relief from the thirty-day sanction would serve no purpose." Pursuant to this order, Shawn completed his service of the secure detention order and he was released on April 20.

Shawn acknowledges that his appellate issues are moot. Nonetheless, he contends that we should address the issues because they are of substantial importance, are likely to recur in the future, and will evade future review because the appellate process cannot be completed before the term of a secure detention order expires. *See Lenz v. L.E. Phillips Career Dev. Ctr.*, 167 Wis.2d 53, 66-67, 482 N.W.2d 60, 64 (1992).

We will assume, *arguendo*, that the issues are of substantial importance. However, we disagree with Shawn that these issues arise with frequency. This is the first time we have seen these issues raised in a juvenile case. Moreover, the issues here have a counterpart in the well-established criminal law which requires a judge at a plea hearing to assure that the defendant fully understands the range of possible penalties and to recite sufficient reasons for the sentence selected. We believe that juvenile judges will see the analogy of this law to plea and penalty situations in juvenile cases.

In addition, we disagree with Shawn that these issues will escape appellate review in future cases. A stay of the sanction pursuant to RULE

808.07(2), STATS., will prevent the issues from becoming moot. We acknowledge that the presiding judge did not grant a stay in this case, but this was because of the particular circumstances surrounding this case. Shawn's application for a stay was taken on an ex parte basis and the presiding judge deemed that a response from the State was necessary before the judge should rule. In addition, Shawn's stay application also asked for presanction credit against the secure detention order. This prompted the presiding judge to call for additional briefing on that issue before the judge ruled. It is unlikely that these delaying factors will be present in a future case which presents these issues. Absent such factors, we suspect a stay will be granted since a liberty interest is at stake.

We make a final observation regarding mootness. This court recently spoke to the burgeoning caseload in the court of appeals and the lack of judicial resources to deal with it. *See State v. Stefanovic*, No. 97-1991, slip op. at 9-10 (Wis. Ct. App. Nov. 26, 1997, ordered published Dec. 17, 1997). In light of that unfortunate condition, it is far better that we commit our limited resources to the backlog of cases in which the rights and obligations of the litigants are actually at stake rather than to those in which our decision will have no practical or legal effect.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.