

No. 1-13-3511

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
v.)	Cook County.
)	
ERNEST WILLIAMS)	13 CR 14388, 13 CR 14390-92
)	
Defendant-Appellant.)	The Honorable
)	Diane Cannon
)	Judge, presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Mason and Justice Fitzgerald Smith concurred in the judgment.

ORDER

¶ 1 *Held:* The Illinois Juvenile Court Act (705 ILCS 405/5-120 (West 2012)) did not violate defendant's constitutional rights because the automatic transfer provision did not impose any cruel and unusual punishment where the trial court sentenced defendant to a number of years in prison. We affirm.

¶ 2 Following a 402 conference (Ill. Sup. Ct. R. 402 (eff. April 26, 2012)), defendant Ernest Williams pled guilty to four counts of residential burglary (720 ILCS 5/19-3 (West 2012)) and the trial court sentenced him to eight years' imprisonment to be served concurrently on all four cases. On appeal, defendant contends that the Illinois Juvenile Court Act (705 ILCS 405/5-120 (West 2012)) violated his constitutional rights by

automatically excluding all 17-year-old minors charged with a criminal offense from juvenile court jurisdiction with no consideration of their youth and its attendant circumstances. We affirm.

¶ 3

BACKGROUND

¶ 4 On July 15, 2013, Chicago Police Department (CPD) officers arrested defendant while responding to a gang disturbance. CPD officers recognized defendant who had a warrant out for his arrest for residential burglary. At the scene, defendant attempted to flee and resisted arrest.

¶ 5 Subsequently, the trial court held a 402 conference and CPD officers, detectives, and the named victims testified to the following facts. On March 2, 2013, at approximately 4:00 p.m., defendant allegedly entered the residence of Die Zhang without permission located at 462 West 28th Place, Apartment 2. Zhang's door was broken into and found open. Zhang reported four laptop computers and money missing. Defendant's fingerprint was found on the interior of the rear window.

¶ 6 On March 18, 2013, at approximately 2:00 p.m., defendant allegedly entered the residence of Chang Huan Ma without permission located near 3213 South Green Street. Defendant's fingerprints were found on a point of forced entry from the residence and items were reported missing.

¶ 7 On April 13, 2013, at approximately 8:00 a.m., defendant allegedly entered the residence of Marek Galuszka without permission located at 2907 South Union, Apartment 1-R. Galuszka reported two computers, jewelry, a television, a bottle of cologne, and other items missing. Defendant's fingerprints were found on the exterior glass of a floor table, a cologne box, and the exterior side of the front doorknob.

¶ 8 On April 29, 2013, at approximately 4:30 p.m., defendant allegedly entered the residence of Julie Wang without permission located at 930 West 29th Street, Apartment 1-R. Wang reported a television, laptop computer, iPad, jewelry, and passport missing.

¶ 9 Defendant pled guilty to four counts of residential burglary (720 ILCS 5/19-1 (West 2012)). The trial court sentenced defendant to eight years' imprisonment to be served concurrently on all four cases. Defendant then filed this timely appeal.

¶ 10 ANALYSIS

¶ 11 On appeal, defendant contends that the Illinois Juvenile Court Act (705 ILCS 405/5-120 (West 2012)) violated his constitutional rights by automatically excluding all 17-year-old minors charged with a criminal offense from juvenile court jurisdiction with no consideration of their youth and its attendant circumstances. A strong presumption exists that statutes are constitutional and courts will uphold a statute whenever reasonably possible, resolving all doubts in favor of the statute's validity. *People v. Patterson*, 2014 IL 115102, ¶ 90; *People v. Harmon*, 2013 IL App (2d) 120439. In addition, the challenging party has the burden of rebutting this presumption. *People v. Willis*, 2013 IL App (1st) 110233, ¶ 43. Whether a statute is constitutional is a question of law and we therefore review it *de novo*. *People v. Sharpe*, 216 Ill. 2d 481, 486-87 (2005).

¶ 12 The eighth amendment to the United States Constitution states that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const., Art. amend. VIII. The United States Supreme Court has repeatedly recognized the special characteristics of juvenile offenders. Specifically, juveniles lack maturity and have an underdeveloped sense of responsibility, which leads to poor decision making. *Roper v. Simmons*, 543 U.S. 551, 569 (2005) (held that the

eighth amendment's cruel and unusual punishment clause forbade a sentence of death for juveniles). Juveniles are also more susceptible to negative influences and peer pressure (*Graham v. Florida*, 560 U.S. 48, 68 (2010) (holding the eighth amendment forbade a life sentence without parole for juvenile offenders convicted of a nonhomicide offense)) and "lack the ability to extricate themselves from horrific, crime-producing settings." *Miller v. Alabama*, _ U.S. _, 132 S. Ct. 2455, 2464 (2010) (holding the eighth amendment prohibits mandatory life without parole for juvenile offenders).

¶ 13 The statute at issue provided that "no minor who was under 17 years of age at the time of the alleged offense may be prosecuted under the criminal laws of this State." 705 ILCS 405/5-120 (West 2012). Here, since defendant was 17-years-old at the time of his adjudication, he was subject to criminal (not juvenile) court. Defendant relies heavily on the aforementioned United States Supreme Court cases and argues that due to his youth the trial court imposed too harsh of a sentence. Those cases, however, are clearly distinguishable because they applied (1) a different analysis (2) under a different test for (3) an alleged violation of a different constitutional provision regarding severe sentencing sanctions-not the automatic transfer to adult court at issue here. *People v. Croom*, 2012 IL App (4th) 100932, ¶ 16. Further, our supreme court has explicitly rejected defendant's contention noting that:

"The purpose of the transfer statute is to protect the public from the most common violent crimes, not to punish a defendant. In enacting the automatic transfer statute, the legislature has reasonably deemed criminal court to be the proper trial setting for a limited group of older juveniles charged with at least one of five serious named felonies [citation]...The mere possibility that a defendant may

receive a potentially harsher sentence if he is convicted in criminal court logically cannot change the underlying nature of a statute delineating the legislature's determination that criminal court is the most appropriate trial setting in his case." *Patterson*, 2014 IL 115102 at 105.

¶ 14 Accordingly, the automatic transfer provision is not a penalty provision, but merely dictates where a select amount of older juveniles' cases should be tried. Guilt has not been determined at this stage; let alone what punishment, if any, should be imposed. See *Harmon*, 2013 IL App (2d) 120439 at ¶ 62 (the reviewing court noted that the defendant "cannot escape the fact that the statute itself does not impose any penalties"); *People v. Jackson*, 2012 IL App (1st) 100398, ¶ 24 ("[b]ecause the automatic transfer provision does not mandate or even suggest a punishment, any analysis as to whether or not it violated the eighth amendment's proscription against cruel and unusual punishment is futile"). Therefore, the automatic transfer provision does not impose any punishment, and thus, is not subject to the eighth amendment's cruel and unusual punishment clause.

¶ 15 Defendant also contends that his due process rights were violated because he could face a much longer prison term in criminal court than could have been imposed in juvenile court for the same offense. Although our supreme court has repeatedly discussed the need to consider a juvenile's unique characteristics in the eighth amendment context, it has never held that "the failure to address the inherent differences between teen and adult offenders creates a due process violation when a teen is potentially subjected to a prison sentence involving a term of years rather than the death penalty or natural life in prison." *People v. Fiveash*, 2015 IL 117669, ¶ 45; See *Patterson*, 2014 IL 115102 at ¶¶ 97-98; *People v. Miller*, 202 Ill. 2d 328, 341-42 (2002). In the case *sub judice*, the trial

court only sentenced defendant to a number of years in prison, not a life term without parole. Further, defendant offers no additional persuasive basis to justify the reconsideration of our prior case law and we reject his due process claim. Consequently, the trial court did not violate defendant's constitutional rights.

¶ 16

CONCLUSION

¶ 17 Based on the foregoing, we affirm the decision of the Circuit Court.

¶ 18 Affirmed.