2014 IL App (1st) 113315-U

SECOND DIVISION
December 23, 2014

No. 1-11-3315

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 10 CR 3081
	)	
CAMERON FORT,	)	
	)	Honorable Vincent M. Gaughan,
Defendant-Appellant.	)	Judge Presiding

PRESIDING JUSTICE SIMON delivered the judgment of the court.
Justices Neville and Pierce concurred in the judgment.

O R D E R

Held: Minor defendant's sentence for his second degree murder conviction was not void where he was tried in criminal court on charges of first degree murder, the second degree murder conviction arose from the same incident, and no hearing was held to determine if he should be sentenced as an adult under the Juvenile Court Act (705 ILCS 405/5-130(c)(ii) (West 2010)) (Act). Illinois case law is clear that the automatic transfer statute of the Act (705 ILCS 405/5-130 (West 2010)) does not violate the eighth amendment or substantive or procedural due process. Defendant's sentence of 18 years' imprisonment for second degree murder did not constitute abuse of discretion where trial court acknowledged the harm to the victim, spoke to the victim's father at sentencing and considered defendant's age, numerous letters submitted by friends and family, and noted other mitigating factors before imposing the sentence.

¶ 1 Defendant Cameron Fort was charged with first degree murder in the March 16, 2009, shooting death of Lee Ivory Miller. Defendant, who was 16 years-old at the time of the commission of the crime, was tried in a bench trial as an adult under the Criminal Code of 1961 and convicted of second degree murder based upon an unreasonable belief that he was acting in self defense. Following argument in aggravation and mitigation, the trial judge sentenced defendant to 18 years' imprisonment with 2 years' mandatory supervisory release. Defendant appeals his conviction and sentence.

¶ 2 Defendant argues that his conviction and sentence must be vacated and the matter remanded for entry of an adjudication of delinquency under the Juvenile Court Act (705 ILCS 405/5-100, *et seq.* (West 2010)) (Act), because he was convicted of second degree murder and sentenced without a request by the State for a sentencing hearing under the Criminal Code in violation of section 5-130(1)(c)(ii) of the Act (705 ILCS 5-130(1)(c)(ii) (West 2010)). Defendant contends that the trial court considered improper factors and the 18-year sentence imposed was excessive given his age, minimal criminal history, and potential for rehabilitation. Defendant also argues that the automatic transfer provision of the Act (705 ILCS 405/5-130 (West 2010)) (Act) is unconstitutional. For the following reasons, we affirm the judgment of the circuit court.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged with multiple counts of first degree murder and attempted first degree murder. Defendant was 16 years-old at the time of the offense, but was tried in criminal court on one count of intentional murder, one count of knowing murder, and two counts of felony murder. The remaining counts were *nolle prossed* and the parties proceeded to a bench

trial where the State presented the testimony of three witnesses as well as a video of the interrogation of defendant by an assistant State's Attorney and detective.

¶ 5 Keva Donaldson testified that on March 16, 2009, she attended Hyde Park Academy and after school met a group of friends at the intersection of East 64th Street and South Stony Island Avenue. While Donaldson was speaking with another girl, 'Bolo,' a boy she knew from school, tapped her on her back. Donaldson testified that she ignored Bolo but, after he continued to tap her, she told him to stop. When she told him to stop, Bolo got irritated, the two "got into it" and Bolo hit Donaldson in the face leaving a mark on Donaldson's face from Bolo's ring. Bolo and his friends ran away after he hit Donaldson.

¶ 6 Donaldson testified that she recognized the boys in the group because they fought with her friends almost every day and that defendant was in the group. Donaldson borrowed a cell phone to call a friend to come and confront or talk to Bolo. Airreon Sykes, Elijah Sullivan, Gerome Freeman, Lamont Nichols, and the victim arrived shortly thereafter. Donaldson testified that she remained with her friends at the corner for a long time, eventually leaving to purchase some chips from a convenience store.. When she exited the store, Sykes and another boy ran up to Donaldson and told her that defendant had shot the victim a block away. Donaldson testified that she did not hear any shots fired.

¶ 7 Freeman testified that on March 16, 2009, he arrived at 1516 East 65th Place and saw Donaldson along with Sykes, Sullivan, Nichols, the victim and two others he identified as "Roberts Lee" and "Makita." Freeman and the group began walking down East 65th Place toward a viaduct and then crossed the street to talk to a group of females. Freeman testified that he then crossed back over East 65th Place to rejoin his friends who were congregated in a vacant

lot. Freeman stated that Nichols was about three to four houses down the street from the vacant lot.

¶ 8 Freeman testified that, as he got closer to his friends, he noticed that they had strange looks on their faces that he described as shock and surprise. Freeman looked to the east and saw defendant pointing a gun at the group from about ten steps away. Freeman testified that defendant hesitated for about a second and then fired gunshots at Freeman and his friends.

¶ 9 Freeman testified that two or three shots were fired and that he turned to run before the first shot was fired so he did not actually see the shooting. He did, however, recount that he saw the victim, who may have been holding a stick in his hand, fall after the first shot. Freeman did not see the victim make any move toward defendant prior to the shooting. Freeman also denied that he or any of his friends had guns or other weapons during the shooting. About ten minutes later, Freeman returned to the scene and remained with the victim until an ambulance arrived, but Freeman did not talk with the paramedics or any police officers about the shooting at any time as he was afraid to do so.

¶ 10 Sykes testified that at the time of the trial he was incarcerated for unlawful use of a weapon and also had prior convictions for misdemeanor possession of cannabis and criminal trespass to land. Sykes testified that on March 16, 2009, he was on the corner of East 65th Street and South Stony Island Avenue with Sullivan, Freeman, Nichols, Donaldson, and the victim, when an acquaintance approached him and "said that he had seen someone walking towards our way that we had got into it with like a week or two ago." Sykes knew defendant from Hyde Park High School and claimed that defendant was the person who had swung a belt during the fight a week or two before the shooting. However, Sykes testified that he was not at that fight.

¶ 11 Sykes saw defendant walking on the east side of South Stony Island Avenue toward Sykes and his group of friends and then cross to the west side of the street before heading west onto East 65th Place. Sykes and the group of friends remained on the corner for a while before Nichols suggested that the group go and see if defendant was still down the block. Sykes testified that Nichols went down East 65th Place while Sykes, Freeman, Sullivan, and the victim walked toward the vacant lot through an alley that ran parallel to East 65th Place. Sykes testified that the group split up out of instinct.

¶ 12 When the group reached the vacant lot they started talking and laughing with each other. Sykes testified that because they were distracted they did not notice the defendant was right in front of them but facing the other direction. Sykes testified that no one in the group had any weapons and no one picked up any stick or pole while in the vacant lot. Sykes stated that when defendant turned around he looked surprised and reached for his coat pocket and pulled out a gun and pointed it at Sykes.

¶ 13 Sykes testified that he immediately ran away but defendant did not fire any shots for a couple of seconds. Sykes heard the first shot hit the ground. After he heard the second shot fired, he heard the victim scream After he heard the third, and final shot, Freeman screamed and fell to the ground. Sykes admitted that he was not looking at what was happening while he ran away and that he got Freeman up and they ran through the alley to East 65th Street and South Stony Island Avenue.

¶ 14 About ten minutes after the shots were fired, Sykes heard that the victim had been shot and he returned to the intersection of East 65th Place and South Stony Island Avenue. Sykes testified that Sullivan remained at the scene of the shooting the entire time alongside the victim

until the ambulance arrived. Sykes stated that he was a "P. Stone" gang member and defendant was probably a member of the Gangster Disciples, but Sykes denied that anyone was shouting gang slogans before the shooting.

¶ 15 The parties stipulated to the testimony of the medical examiner, forensic investigator, and forensic analyst, who would have testified that three bullet wounds and two bullets were discovered during the autopsy of the victim and the cause of death was homicide. A cartridge case was recovered from the scene and the two bullets recovered from the victim were tested and determined to have been fired from the same firearm.

¶ 16 The State concluded its case by presenting a DVD video of defendant's interrogation by a detective and assistant State's Attorney on January 9, 2010, a day after he was arrested. Defendant stated that on March 14, 2009, he had found a gun in the alley and was going to return the gun to that location on March 16, 2009, when he saw Nichols at a bus stop near East 65th Street and South Stony Island Avenue. Defendant stated that Nichols approached defendant with his hand in his pocket so defendant crossed the street. Defendant had heard that Nichols had threatened others with guns but not that he had ever shot anyone.

¶ 17 Defendant continued down East 65th Place and saw that Nichols was still following him. Defendant was "eighty percent sure" that Nichols was holding a gun causing defendant to fear for his life. When defendant reached the vacant lot he saw Sykes and the victim about ten feet away. Defendant stated that Sykes was holding and brushing a thick metal pole, but he could not see if the victim was holding anything.

¶ 18 Defendant described his taking a gun from his sweatshirt pocket before he reached the vacant lot and bumping into a gate when he saw Sykes and the victim, which caused him to jump

and the gun to accidentally discharge. Defendant noticed that neither Sykes nor the victim moved after the first shot, but he fired again three seconds later in self-defense because his ears were ringing and he thought he heard Nichols shooting at him. Defendant stated that he did not aim at the victim with the second shot, but only attempted to scare the group of boys away. Defendant denied firing a third shot, stating that he fled the area after the second shot.

¶ 19 Defendant was initially going to return the gun to where he had found it, but decided to call two of his uncle's friends and give the gun to them. Defendant admitted that he did not inform the police of this because he did not want to get anyone else into trouble. He described that shortly after he got rid of the gun, a university police officer stopped him and asked where the gun was. Defendant told the officer that he knew nothing about a gun and did not say anything about a shooting. Despite the fact that defendant thought his life was in danger, he said that he did not tell the officer about the shooting because he did not think anyone got hurt. He also stated that he did not come forward when he heard that the victim died because he did not intend to kill anyone and had not been in trouble before.

¶ 20 Defendant explained that he and the group of boys he encountered were from different areas and different gangs, and that he was present when Bolo hit Donaldson. Defendant also admitted that he was at the "massive fight" a couple days before the shooting and there were people swinging belts, but defendant denied participating. Defendant added that there were fights every day. Defendant stated that he still walked through this area intending to return the gun because he had previously walked in that area and among those people without confrontation. Defendant told the detectives that he stopped going to school after March 18, 2009, because it was too difficult and he planned to get a G.E.D.

¶ 21 The State rested and defendant did not present any evidence. Following closing arguments, the trial court found defendant not guilty of felony murder and found the State proved the elements of first-degree murder, but also found that "at the time of the killing [defendant] believed the circumstances to be such that if they existed would have justified or exonerated the killing under the said principles of self-defense, but his belief was unreasonable." Accordingly, the trial court entered a conviction of second-degree murder and the matter proceeded to sentencing.

¶ 22 The parties presented arguments and evidence in aggravation and mitigation. The State discussed the fact that the victim was shot three times in the back, defendant had been expelled from school for absenteeism, and the fact that defendant told the police he was not a member of a gang while the police department had information that defendant had been involved with gang activity associated with the Gangster Disciples street gang. The State also presented a statement from the victim's father detailing the loss he suffered and the pain from the fact his son was shot three times in the back. In mitigation, defendant presented twelve written letters from defendant's family and friends attesting to defendant's character. The defense also pointed to defendant's lack of juvenile or criminal record. Defendant personally expressed remorse and sympathy to the victim's family, stating that he was afraid at the time and sought forgiveness.

¶ 23 In sentencing defendant, the trial court stated:

> "Mr. Hutchins, I think you covered this in your Victim Impact Statement, God hasn't given me nor the state in the Constitution has given me power [to] give your son back, and I'm sorry we can't resolve that. And there's going to be that - - instances like you mentioned, driving the Metra train and seeing the spot where

> you all used to go fishing. Those are things - - and you're going to be turning around in the house looking for your son, and he's not going to be there. These things never go away, you know, so I'm sorry about that.
>
> Looking at the Presentence Investigation report, the factors in aggravation, the factors in mitigation, and the nonstatutory factors in mitigation, it's my finding that I'm going to sentence [defendant] to 18 years in the Illinois Department of Corrections. Two years mandatory supervised release."

¶ 24 On appeal, defendant argues that: (1) he was improperly sentenced under the terms of the automatic transfer statute; (2) the trial court erred in sentencing defendant; and (3) the automatic transfer statute is unconstitutional.

¶ 25 II. ANALYSIS

¶ 26 A. Sentencing Under the Automatic Transfer Statute

¶ 27 Defendant asserts that his conviction and sentence must be vacated as void and the matter remanded for entry of an adjudication of delinquency. Defendant argues that under the automatic transfer statute, where a juvenile defendant is tried in criminal court because he is charged with one of the enumerated crimes under the Act, but is not convicted of one of them, requires the State to request an adult sentencing hearing. Since defendant was convicted of second-degree murder, which is not an enumerated crime under the Act, and the State did not request a hearing to sentence defendant as an adult, he claims his sentence is void.

¶ 28 Section 5-120 of the Act provided that no minor under the age of 17 could be prosecuted under the Criminal Code outside of recognized exceptions under certain sections of the Act, including section 5–130, the automatic transfer statute, which provides in relevant part:

"(1)(a) The definition of delinquent minor under Section 5–120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with: (i) first degree murder, (ii) aggravated criminal sexual assault, (iii) aggravated battery with a firearm where the minor personally discharged a firearm as defined in Section 2–15.5 of the Criminal Code of 1961, (iv) armed robbery when the armed robbery was committed with a firearm, or (v) aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b)(i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the Criminal Code of 1961 on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961.

(c)(i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5–705 and 5–710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Juvenile Justice for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the

> offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed." 705 ILCS 405/5-130 (West 2010).

¶ 29 Defendant argues that a hearing was required under section 5-130(1)(c)(ii) because he was convicted of second degree murder, not first degree murder or any other specifically enumerated crime under subsection (1)(a). He maintains that the failure to request and hold a hearing on his sentencing as an adult renders his sentence void. However, this argument was considered and rejected by this court in *People v. Toney*, 2011 IL App (1st) 090933 (2011). The *Toney* court considered our supreme court's treatment of this section in *People v. King*, 241 Ill. 2d 374 (2011), in finding that the defendant who was charged with first degree murder but convicted of second degree murder was properly sentenced as an adult. *Toney*, *supra* at ¶¶47-51. Defendant asserts that these cases are distinguishable from the instant matter. He also maintains that the dissent in *Toney* should be followed and extensively cites the legislative history of the Act in support of his argument.

¶ 30 We agree with the State that the *King* and *Toney* courts' interpretation of the Act is correct and we need not resort to legislative history or other statutory interpretation aids in this case. In *King*, the defendant was 15 years of age at the time of the beating death of a man for which the defendant was charged with five counts of first degree murder and one count of attempted first degree murder. *King*, *supra* at 376. The defendant entered a negotiated plea to the attempted murder charge in exchange for the dismissal of the five counts of first degree murder

and a sentence of 15 years' imprisonment. *Id.* On appeal of the denial of his postconviction petition, this court agreed that defendant's sentence was void under section 5-130(1)(c)(ii) of the Act because no hearing was held to determine if he should be sentenced as an adult. *Id.* at 377.

¶ 31 Our supreme court reversed that opinion and affirmed the defendant's sentence, concluding that the language of the Act allowed for sentencing a minor defendant as an adult for " both charges 'specified in' [section 5-130(1)(a)] and 'all other charges arising out of the same incident.' " *Id.* at 378, quoting 705 ILCS 405/5-130(1)(a) & 130(1)(c)(ii) (West 2000). While attempted murder is not one of the enumerated crimes in the Act triggering the automatic transfer to criminal courts and sentencing as an adult, that charge arose from the same incident and allowed for sentencing as an adult under the Act. *Id.* at 385-87. The *King* court also noted that the first degree murder charges remained pending while the trial court accepted the plea and entered a sentence, therefore the language of the Act clearly allowed for sentencing as an adult without a hearing and the resulting sentence was not void. *Id.* at 386-87.

¶ 32 In *Toney*, the defendant, as in the instant matter, was charged and tried for first degree murder but convicted of second degree murder and sentenced as an adult. *Toney*, *supra* at ¶ 48. Also similar to the instant matter, the defendant attempted to distinguish the holding in *King*, because the defendant in *King* negotiated a plea and the first degree murder charges remained pending while the defendant was sentenced and the *Toney* defendant was convicted only of second degree murder. *Id.* The majority in *Toney* refused to limit the holding in *King* to apply only to cases involving guilty pleas, finding that the *King* court interpreted the language of the Act, which explicitly applies "both 'after trial or plea.' " *Id.* at ¶ 49, quoting 705 ILCS 405/5-130(1)(c)(i) (West 2008). The *Toney* majority also rejected the argument that the fact that

the defendant was not charged with second degree murder, his conviction could not amount to a conviction for a "charge[] arising out of the same incident" finding that the *King* court did not limit its finding in that manner and, as a lesser mitigated offense of first degree murder, the State did not have to separately charge the defendant with second degree murder. *Id.* at ¶¶ 50-51.

¶ 33 We agree with the majority in *Toney* that the Act and the decision in *King* support the trial court's sentencing defendant in criminal court without a hearing to determine if he should be sentenced as a juvenile. Accordingly, we reject defendant's argument that we should follow the reasoning of the dissent in *Toney* that the plain language of the Act requires a different result. The Act allows for a trial and sentencing as an adult in criminal court for a guilty finding after trial or plea relating to the five enumerated offenses and all other charges arising out of the same incident. As the *King* and *Toney* courts held, a conviction for second degree murder after a trial on first degree murder charges constitutes an offense arising from the same incident and a hearing under section 5-130(1)(c)(ii) is not required.

¶ 34 B. Sentencing

¶ 35 Defendant contends that the trial court abused its discretion in sentencing him as a juvenile to 18 years' imprisonment, just 2 years less than the statutory maximum for second-degree murder. 730 ILCS 5/5-4.5-30(a) (West 2010). Generally, a reviewing court may only disturb a sentence that falls within the statutory range for the offense of which the defendant has been convicted if the trial court has abused its discretion. *People v. Jones*, 168 Ill. 2d 367, 373-74 (1995). The abuse of discretion standard applies in cases such as this because the trial court is in the best position to determine the circumstances of the case and weigh the credibility of the witnesses. *People v. Burdine*, 362 Ill. App. 3d 19, 26 (2005). Unless the sentence is

grossly disproportionate to the nature of the offense committed, the sentence should be affirmed. *People v. Phillips*, 265 Ill. App. 3d 438, 449 (1994). Where the sentencing factors have been considered, it is within the trial court's discretion to determine what significance is given to each aggravating and mitigating factor. *People v. Saldivar*, 113 Ill. 2d 256, 272 (1986). However, the court may not consider a factor implicit in the offense as an aggravating factor. *Id.*

¶ 36 Defendant argues that the trial court improperly considered in aggravation the victim's death, a factor inherent in the offense. Defendant points to the comments the trial court made to the victim's father while imposing the sentence and argues that consideration of this factor is improper under *Saldivar*. Defendant also notes the statutory mitigating factors present in his case, namely, that: he had no history of delinquency or criminal history; there were grounds to justify the shooting but they were just unreasonable; he acted under a strong provocation; the shooting was induced or facilitated by another; and defendant exhibited a character and attitude that makes it unlikely that he will commit another crime. See 730 ILCS 5/5-3.1(a) (West 2010).

¶ 37 The State argues that defendant failed to include the issue of the improper consideration of a factor implicit in the offense as an aggravating factor in his motion to reconsider sentence and the issue was forfeited. The State maintains that, in any event, this claimed error was not error, much less a clear and obvious error to support plain error review. The State asserts that the trial court properly weighed the statutory and nonstatutory factors presented in this case in imposing the 18 year sentence.

¶ 38 We agree that defendant has failed to prove the trial court abused its discretion in determining the sentence in this case. First, defendant's sentence of 18 years' imprisonment for second-degree murder falls within the range of sentences by statute of between 4 and 20 years

for second degree murder. 730 ILCS 5/5-4.5-30(a) (West 2010). Accordingly, we need only determine whether the trial court abused its discretion in determining the sentence. Based on the factors presented the sentence imposed is not grossly disproportionate to the nature of the offense and the trial court did not abuse its discretion.

¶ 39 When read in context and in full as quoted above in the recitation of facts, the trial court's discussion of the death of the victim was not improper or a clear and obvious error. Rather, the trial court was clearly addressing the victim's father and offered condolences on his loss in response to his victim impact statement. In the separate and distinct second paragraph, the trial court explicitly stated that, in considering what sentence to impose, it considered the presentence investigation report, the statutory and nonstatutory factors in mitigation and aggravation and concluded that 18 years' imprisonment was proper.

¶ 40 Defendant highlights the factors in mitigation including his young age, lack of criminal background, rehabilitative potential, and lack of instigation, to argue the sentence was disproportionate to the offense. However, as the State counters, the force employed in killing the victim was excessive with the victim shot three times (twice in the back), there was no evidence the group of boys was armed with more than a stick or a pipe or that they threatened defendant, and defendant failed to contact the police or express remorse upon knowing that he killed the victim. Accordingly, because the court considered the evidence in aggravation and mitigation, including defendant's age, and determined that defendant's actions of firing a gun several times into a crowd of unarmed young men at close range, striking the victim three times and killing him, warranted a sentence at the higher range of the statutory limits, this reasoning was not an abuse of discretion and the sentence imposed is affirmed.

¶ 41 C. Constitutionality of the Automatic Transfer Statute

¶ 42 Defendant's final contention is that the automatic transfer statute (705 ILCS 405/5-130 (West 2010)) violates the eighth amendment and substantive and procedural due process. U.S. Const. amend V, VII, XIV; Ill. Const. 1970, art. I §§ 2, 11. Defendant notes that the law concerning the treatment and sentencing of juveniles under the age of 18 has changed significantly in recent years, even leading to the amendment of the exclusive jurisdiction statute. As defendant notes, that 2013 amendment only applies prospectively and is not applicable to defendant. Therefore, defendant argues that the statutes automatically subject juveniles to adult prosecution and sentencing without any consideration of their youth and its attendant characteristics thereby violating the eighth amendment prohibition of the infliction of cruel and unusual punishment as well as substantive and procedural due process.

¶ 43 Defendant maintains that a recent line of United States Supreme Court cases supports his argument. *Miller v. Alabama*, __ U.S. __, 132 S. Ct. 2455 (2012); *J.D.B. v. North Carolina*, __ U.S. __, 131 S. Ct. 2394 (2011); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005). Defendant argues that these cases hold that children are constitutionally different from adults because of the fundamental differences between juvenile and adult minds that make juveniles less culpable for the same offense and require additional protections. But these cases also found that this reduced culpability caused by both the neurological and psychological development of juveniles also leads to higher likelihood of rehabilitation and the same strong punishment proscribed for adults should not be uniformly applied to juveniles as cruel and unusual punishment. Defendant adds that the statutes also violate due process as they would not pass the rational basis test because the fundamental differences between adults and

juveniles do not support transferring juveniles to adult court without any hearing.

¶ 44 Recently, our supreme court held that the automatic transfer statute does not violate due process or the eighth amendment. *People v. Patterson*, 2014 IL 115102, ¶¶ 89-111. The Illinois Supreme Court and this court have consistently held that the automatic transfer statute does not violate the right to either procedural or substantive due process. *People v. Patterson*, 2014 IL 115102, ¶¶ 89-111; *People v. J.S.*, 103 Ill.2d 395, 402-05 (1984); *People v. Davis*, 2014 IL 115595; *People v. Salas*, 2011 IL App (1st) 091880, at ¶ 75-76, 78-79. Furthermore, Illinois courts have followed the same analysis in rejecting claims that the exclusive jurisdiction statute violates the eighth amendment and due process. *People v. Harmon*, 2013 IL App (2d) 120439, ¶¶ 50-62. This is so because the exclusive jurisdiction and automatic transfer statutes are not punitive sentencing statutes but are forum statutes, providing only procedural mechanisms for determining where a defendant's case is to be tried. *Id.*; see also *People v. Jackson*, 2012 IL App (1st) 100398 at ¶ 24; *People v. Pacheco*, 2013 IL App (4th) 110409, ¶ 55.

¶ 45 As addressed in *Patterson* and *Harmon*, defendant's reliance on *Roper*, *Graham*, and *Miller*, is misplaced for both of his arguments because those courts limited application to eighth amendment claims in the context of the "most severe of all criminal penalties," the death penalty and life without parole, and do not affect our court's prior holdings on the constitutionality of the automatic transfer and exclusive jurisdiction statutes. *Patterson* at ¶ 110; *Harmon* at ¶¶ 54-55, 59, 62. Accordingly, we see no reason to deviate from these cases and, based on this existing precedent, we reject defendant's arguments that the automatic transfer provision is unconstitutional.

¶ 46 III. CONCLUSION

¶ 47 Accordingly, we affirm the judgment of the Circuit Court of Cook County.

¶ 48 Affirmed.