

MEMORANDUM

TO: Atty. Sean Tyler

FROM: Mikaela Joyce Saddi

DATE: April 17, 2021

RE: Nathan Serrano – Motion to Transfer Jurisdiction to Juvenile Court

QUESTION PRESENTED

Is our Client, Nathan Serrano, who is of age of minority, eligible for a decertification process or transfer from Pennsylvania criminal court to juvenile court?

SHORT ANSWER

Yes. Our Client's, the Appellant's, case is eligible of transfer from criminal to juvenile court, provided that he accepts responsibility of the wrongdoings, and therefore be possibly considered as an adjudicated delinquent.

FACTS

On February 22, 2021, our Client, Nathan Serrano, a 15-year-old resident of Lansdale, PA, allegedly attacked his younger brother and sister, who were 13 and nine years old respectively, at a playground in Hatfield, PA. According to police reports, one of the victims, the accused's 13-year-old brother, sustained 15 stab wounds to his hands, face, and chest, as well as a stab on the back for which situated him in a critical but stable condition a day after the incident. Our Client's nine-year-old sister, meanwhile, sustained a stab wound to the head and was later released after injury treatments. On the day of the crimes, Serrano's mother called on police, eventually held our Client in custody in lieu of \$500,000 bail, and identified that a knife was used as his weapon. The Commonwealth of Pennsylvania charged Serrano as an adult with

attempted homicide, two counts of aggravated assault, two counts of simple assault, two counts of recklessly endangering another person, two counts of harassment, and possession of instrument of crime.

DISCUSSION

Our Client may be eligible for transfer from criminal court to juvenile court if he admits accountability from the crimes alleged. Under Pennsylvania law, a juvenile case may be transferred to a criminal proceeding if all of the following exist: “(1) The child was 14 or more years of age at the time of the alleged conduct. (2) A hearing on whether the transfer should be made is held in conformity with this chapter. (3) Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing.” 42 Pa. Stat. and Cons. Stat. Ann. § 6355 (West). Also, it is imperative that the Court finds “(i) that there is a prima facie case that the child committed the delinquent act alleged; (ii) that the delinquent act would be considered a felony if committed by an adult; (iii) that there are reasonable grounds to believe that the public interest is served by the transfer of the case for criminal prosecution.” 42 Pa. Stat. and Cons. Stat. Ann. § 6355 (West).

However, the Court must also consider the that the transfer to a criminal proceeding is of public’s interest and must be determined according to “(A) the impact of the offense on the victim or victims; (B) the impact of the offense on the community; (C) the threat to the safety of the public or any individual posed by the child; (D) the nature and circumstances of the offense allegedly committed by the child; (E) the degree of the child's culpability; (F) the adequacy and duration of dispositional alternatives available under this chapter and in the adult criminal justice system; and (G) whether the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors: (I) age; (II) mental capacity; (III) maturity; (IV) the degree of criminal sophistication exhibited by the child; (V) previous records, if any; (VI) the nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child; (VII) whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction; (VIII) probation or institutional reports, if any;” 42 Pa. Stat. and Cons. Stat. Ann. § 6355 (West).

In the matter of Commonwealth v. Serrano, the Court may be reasonable in transferring our Client's case into criminal prosecution except for the following considerations whether: "(G) the child is amenable to treatment, supervision or rehabilitation as a juvenile by considering the following factors: (I) age; (II) mental capacity; (III) maturity; (IV) the degree of criminal sophistication exhibited by the child; (V) previous records, if any; (VI) the nature and extent of any prior delinquent history, including the success or failure of any previous attempts by the juvenile court to rehabilitate the child; (VII) whether the child can be rehabilitated prior to the expiration of the juvenile court jurisdiction; (VIII) probation or institutional reports, if any; (IX) any other relevant factors; and (iv) that there are reasonable grounds to believe that the child is not committable to an institution for the mentally retarded or mentally ill." 42 Pa. Stat. and Cons. Stat. Ann. § 6355 (West).

The Appellant's mother stated that her child is suffering from schizophrenia, one of the considerations that should be looked into according 42 Pa. Stat. and Cons. Stat. Ann. § 6355(G)(II) (West) and therefore, he may not be in a healthy state of mind when the crimes occurred. At the age of 15 years old, Serrano may be very well rehabilitated in a juvenile facility until he is in the age of majority.

According to the Pennsylvania Juvenile Act, the public may be protected from children who committed delinquent acts through "supervision, rehabilitation, and care while promoting responsibility and the ability to become a productive member of the community." 42 Pa.C.S.A. § 6301(b)(2). The Juvenile Act defines a 'child' as a person who is under eighteen years of age which makes our Client considered as a "child" according to the law. Typically, most crimes involving juveniles are tried in the juvenile court of the Court of Common Pleas. Com. v. Wallick, No. 2122 MDA 2012, 2014 WL 10965739, at *3 (Pa. Super. Ct. Mar. 5, 2014).

Therefore, it is sufficient to say that our Client should be eligible to be tried at a juvenile court based on the laws presented. Serrano deserves a treatment, and not necessarily a punishment catered to a perfectly sane adult, considering that he may be suffering from a mental disorder and is a minor, at that, on the date the crimes were alleged. Further, the transfer from

criminal to juvenile court may possibly save our Client from the harsh and unforgiving environment of prison which he does not truly deserve, and from which, may take a toll on his mental, emotional, and physical well-being. More importantly, it averts our Client from being acclimated to prison and adapting himself with convicted criminals who, most of them, have been proven of committing crimes with a sane mind. The case is not the same for our Client.

It is worth noting, however, of the possibility that the Court may require him to admit responsibility for the crimes alleged. In *Commonwealth v. Wallick*, the case argued that the first step to rehabilitation is the acknowledgment of criminal responsibility. According to the case's Commonwealth's expert, because the appellant would not accept responsibility for his actions, "he could not be rehabilitated" and therefore was not allowed for decertification. 26 A.3d at 490. *Com. v. Wallick*, No. 2122 MDA 2012, 2014 WL 10965739, at *5 (Pa. Super. Ct. Mar. 5, 2014). Further,

CONCLUSION

Based on these facts, it is likely that the court may find this motion to decertify reasonable, provided that our Client admits responsibility for his actions, and therefore, so as to be declared as someone who needs rehabilitation. This motion will not only significantly reduce the sentence, it will also aid in his rehabilitation since he is a minor and possibly a child with mental disorder.

Our Client is a minor who is possibly suffering from a mental disorder and punishing him as an adult, without consideration of his mental state and capacity, can only aggravate his situation at hand. A criminal prosecution for our Client does not only affect him, as clearly, these are crimes committed to several family members and, most likely, will affect the family members involved. While he may have allegedly committed wrongful acts, we cannot separate the fact that he is a child to his parents and brother to his siblings and we ask the Court to consider this as well.