

No. 1-11-1559

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 08 CR 18742
	)	
RENARD BRANCH,	)	Honorable
	)	Thomas V. Gainer, Jr.,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE PUCINSKI delivered the judgment of the court.  
Justices Neville and Mason concurred in the judgment.

O R D E R

- ¶ 1 *HELD:* Minor defendant's conviction for first degree murder and his 47-year sentence affirmed where his automatic transfer to adult court pursuant to the automatic transfer provision of the Juvenile Court Act did not amount to a violation of the eighth amendment's proscription against cruel and unusual punishment or a deprivation of defendant's right to due process of law.
- ¶ 2 Following a bench trial, defendant Renard Branch was convicted of first-degree murder and

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was sentenced to 47 years' imprisonment. Although he was 15 years old at the time of the offense, defendant was tried as an adult in accordance with the automatic transfer provision set forth in section of the Illinois Juvenile Court Act of 1987 ("Juvenile Court Act" or "Act") (705 ILCS 405/5-715 (West 2010)). On appeal, defendant challenges the constitutionality of the Illinois automatic transfer statute and sentencing scheme. For the reasons set forth herein, we affirm the judgment of the circuit court.

¶ 3

### I. BACKGROUND

¶ 4 On August 30, 2008, at approximately 10:30 p.m. multiple gunshots were fired at a local park, located at 6200 West Bloomingdale Avenue in Chicago, where numerous young people from the neighborhood had gathered. Paris Jackson was among the teenagers and young adults at the park that evening and was killed after suffering a gunshot wound to his back. Defendant was charged with multiple counts of first degree murder in connection with Jackson's death.

¶ 5 Although he was just 15 years of age at the time of the offense, the cause was transferred from juvenile court to adult criminal court due to the severity of the charges as required by section 5-715 of the Juvenile Court Act. 705 ILCS 405/5-715 (West 2010). Following the transfer, defendant elected to proceed by way of a bench trial. After hearing from multiple witnesses who identified defendant as the individual who arrived at the park with a gun and fired shots in the direction of a crowd of people, the court found defendant "guilty of first degree murder on all counts."<sup>1</sup> The court also found that defendant personally discharged the firearm

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<sup>1</sup> Because defendant does not raise any challenge with respect to the sufficiency of the evidence, we need not detail all of the evidence presented during his trial.

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that proximately caused Jackson's death. At the sentencing hearing that followed, the court observed that defendant was subject to a mandatory statutory sentence of at least 45 years' imprisonment given the applicability of the firearm enhancement. 730 ILCS 5/5-4.5-20(a) (West 2008) ("Imprisonment for [first degree murder] shall be a determinate term of (1) not less than 20 years and not more than 60 years"); 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2008) ("[I]f , during the commission of the offense, the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person, 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court"). Although the court recognized that defendant's tender age was a mitigating factor, the court elected to impose a sentence of 47 years' imprisonment. In doing so, the court expressed its concern that defendant had been adjudicated delinquent for possession of a firearm one year prior to the shooting, and explained that it believed that it had "no recourse other than to impose a lengthy period of incarceration \* \* \* to protect people from [him]." Defendant's timely appeal followed.

¶ 6

## II. ANALYSIS

¶ 7 On appeal, defendant challenges the constitutionality of the Illinois automatic transfer statute and sentencing scheme.

¶ 8 The constitutionality of a statute is an issue of law that is subject to *de novo* review. *People v. Sharpe*, 216 Ill. 2d 481, 486-87 (2005). Because statutes carry a "strong presumption" of constitutionality, it is the burden of the party challenging the constitutionality of a given statute to "clearly establish" that the statute violates constitutional protections. *Id.* at 487. A

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reviewing court is duty-bound to “construe a statute in a manner that it upholds its validity and constitutionality if it reasonably can be done.” *People v. Graves*, 207 Ill. 2d 478, 482 (2003).

¶ 9 Pursuant to the terms of the Illinois automatic transfer statute, any juvenile over the age of 15 who is charged with certain Class X felonies, including first degree murder, must be prosecuted as an adult. 705 ILCS 405/5-130(1)(a) (West 2010). Although this statutory provision has been upheld in the past (*People v. J.S.*, 103 Ill. 2d 1090 (1984); *People v. M.A.*, 124 Ill. 2d135 (1988); *People v. Jackson*, 2012 IL App (1st) 100398; *People v. Salas*, 2011 IL App (1st) 091880), defendant argues that the legal landscape has been altered by a series of United States Supreme Court cases that have addressed the propriety of different punishments imposed on juvenile offenders in various jurisdictions. The specific cases relied upon by defendant include *Roper v. Simmons*, 543 U.S. 551 (2005), *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 132 S. Ct. 2455 (2012). In *Roper*, the United States Supreme Court held that the eighth amendment forbids the imposition of the death penalty on offenders who were under the age of 18 years of age when they committed their crimes. Thereafter, in *Graham*, the Court held that the imposition of a life sentence without the possibility of parole on a juvenile offender who does not commit a murder, violates the tenets of the eighth amendment. Finally, in *Miller*, the Court concluded that any sentencing scheme calling for the mandatory imposition of a life sentence without the possibility of parole on offenders who were under the age of 18 at the time of their offense violates the eighth amendment prohibition against cruel and unusual punishment. Defendant argues that these “watershed decisions” have recognized that fundamental differences exist between juvenile and adult offenders, and that it is thus

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impermissible to treat juveniles like adults for purposes of criminal prosecution and sentencing.

We address each of defendant's constitutional arguments in turn.

¶ 10                                   A. Eighth Amendment & Proportionate Penalties Clause

¶ 11    Defendant first argues that the Illinois automatic transfer provision and statutory scheme violates the eighth amendment's prohibition against cruel and unusual punishment and the Illinois State constitution's proportionate penalties clause because it mandates adult prosecution and sentencing for certain juveniles "without permitting any opportunity for consideration of [the juvenile's] age, attendant characteristics, or circumstances of the offense." He notes that in his case, the convergence of several statutes mandated a minimum sentence of 45 years' imprisonment absent any consideration of his juvenile status, and argues that such a statutory scheme cannot withstand constitutional scrutiny.

¶ 12    The State acknowledges that pursuant to the Illinois automatic transfer provision and the criminal statutory sentencing scheme defendant was subject to mandatory adult criminal prosecution and a minimum 45-year prison sentence. The State, however, argues that "the protections afforded by the Eighth Amendment [and the Illinois proportionate penalties clause] are not implicated in this case" because the "automatic transfer provision does not purport to punish; rather, it is fairly regarded as a procedural mechanism for drawing a line between juveniles who will receive the benefits of the Juvenile Court Act and those who will not."

¶ 13    The eighth amendment provides: "Excessive bail shall not be required, nor excessive fines imposed nor cruel and unusual *punishments* inflicted." (Emphasis added.) U.S. Const., amend. VIII. The Illinois proportionate penalties clause, in turn, states that "[a]ll *penalties* shall

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be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." (Emphasis added.) Ill. Const. 1970, art. I, § 11. Our supreme court has held that the Illinois "proportionate penalties clause is coextensive with the [eighth amendment's] cruel and unusual punishment clause. [Citations.] Both clauses apply only to the criminal process— that is, to direct actions by the government to inflict *punishment*." (Emphasis added.) *In re Rodney H.*, 223 Ill. 2d 510, 518 (2006).

¶ 14 In Illinois, there is no constitutional requirement that minor offenders must be treated as juveniles, and the Illinois automatic transfer statute merely reflects the determination of the Illinois legislature that " 'certain minors are not eligible for continuation in the administrative scheme of the juvenile court.' " *People v. Perea*, 347 Ill. App. 3d 26, 35 (2004), quoting *In re M.C.*, 319 Ill. App. 3d 713, 720 (2001). As such, the automatic transfer statute is not a penalty or punishment provision; rather, it merely governs the procedure to be utilized to determine the culpability of juvenile offenders charged with certain Class X felonies. See *Jackson*, 2012 IL App (1st) 100398, ¶ 24 ("The automatic transfer provision is not a penalty provision in even the broadest sense. It merely dictates for a small class of older juvenile defendants who are charged with certain heinous crimes where their cases are to be tried. Guilt has not been determined at this stage, let alone what punishment, if any, should be imposed. The automatic transfer statute does not dictate any form of punishment as that term is used throughout criminal statutes"); *Salas*, 2011 IL App (1st) 091880, ¶ 66 (recognizing that the automatic transfer statute "does not impose any punishment on the juvenile defendant, but rather it only provides a mechanism for determining where defendant's case is to be tried, *i.e.*, it provides for the forum in which his guilt

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may be adjudicated"). Because the automatic transfer statute is procedural rather than punitive, the provisions contained therein do not violate the eighth amendment's proscription against cruel and unusual punishment or the Illinois proportionate penalties clause. *Jackson*, 2012 IL App (1st) 100398, ¶¶ 18-24; *Salas*, 2011 IL App (1st) 091880, ¶¶ 66-70.

¶ 15 B. Due Process

¶ 16 Defendant next challenges the constitutionality of the Illinois automatic transfer provision on due process grounds. Specifically, he argues that "because juveniles as a class are less culpable than adults, no juvenile— regardless of his or her offense— may automatically receive the same sentence as an adult without being allowed to show that he or she does not deserve such a sentence." Because Illinois' juvenile statutory scheme requires courts to prosecute and sentence 15 and 16-year old offenders indistinguishably from adults, defendant argues juveniles are not afforded due process of law.

¶ 17 The State responds that the automatic transfer provision does not violate any due process guarantees because it is "founded on a rational basis where there is an obvious overwhelming interest in protecting the public from the overwhelming danger posed by criminal acts with which this defendant stands charged." Moreover, the statute does not deprive juveniles of their liberty interests absent an opportunity to be heard. Accordingly, the State maintains that defendant's due process challenge must fail.

¶ 18 The due process clauses of the federal and Illinois State constitutions prohibit the government from depriving any individual of "life, liberty or property without due process of law." U.S. Const., amends V, XIV; Ill. Const., art. I, § 2. Due process encompasses both

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procedural and substantive elements. “Whereas procedural due process governs the procedures employed to deny a person’s life, liberty or property interest, substantive due process limits the state’s ability to act, irrespective of the procedural protections provided.” *In re Marriage of Miller*, 227 Ill. 2d 185, 197 (2007). To satisfy the requirements of procedural due process, a statute must provide affected parties with an opportunity to be heard at a meaningful time and in a meaningful manner. *People v. P.H.*, 145 Ill. 2d 209, 235 (1991); *Salas*, 2011 IL App (1st) 091880, ¶ 78. To satisfy the requirements of substantive due process, the statute, as written, must be reasonably designed to address the evils which the legislature has determined to be a threat to the public’s health, safety and general welfare. *P.H.*, 145 Ill. 2d at 223.

¶ 19 In *People v. J.S.*, 103 Ill. 2d 395 (1984), our supreme court rejected substantive and procedural due process challenges to the Illinois automatic transfer statute. Addressing the substantive due process argument, the court applied the rational basis test and concluded that the automatic transfer statute, which requires 15- and 16-year-old offenders who commit only the more heinous Class X felonies of murder, rape, deviate sexual assault and armed robbery with a firearm to be tried in an adult court was a rational classification, explaining that it was “rationally based on the age of the offender and the threat posed by the offense to the victim and the community because of its violent nature and frequency of commission.” *Id.* at 405. The court further found that the automatic transfer statute did not violate procedural due process as it did not allow for any disparity in treatment among minors or prevent juveniles from enjoying a meaningful opportunity to be heard, explaining: “All 15– and 16–year–olds who have committed the enumerated offenses, which we have held were not arbitrarily or unreasonably selected by the

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legislature, are to be prosecuted in the adult criminal court system. There is no discretionary decision to be made by the juvenile court\* \* \*.” *Id.* at 405.

¶ 20 We do not find that a different result is compelled by *Roper*, *Graham* or *Miller*. As explained above, those cases addressed constitutional challenges to sentencing statutes under the eighth amendment, not due process challenges to a non-sentencing transfer statute, like the one at issue here. Thus, *J.S.* remains controlling authority. *Jackson*, 2012 IL App (1st) 100398, ¶ 16; *Salas*, 2011 IL App (1st) 091880, ¶ 79-80. In accordance with *J.S.*, we find that the Illinois automatic transfer statute does not violate due process guarantees under our federal or Illinois State constitution.

¶ 21

### III. CONCLUSION

¶ 22 The judgment of the circuit court is affirmed.

¶ 23 Affirmed.