STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0864

State of Minnesota,
Respondent,

vs.

Jason Michael Paris,
Appellant.

Filed April 7, 2014
Affirmed
Johnson, Judge
Concurring specially, Randall, Judge*

Hennepin County District Court
File No. 27-CR-11-39037

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Alan D. Margoles, Michelle Speeter Margoles, Margoles & Margoles Law Firm, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Rodenberg, Judge; and Randall, Judge.

*Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

In 2013, at the age of 26, Jason Michael Paris was found guilty by the district court of first-degree criminal sexual conduct based on evidence that, 11 years earlier, at the age of 15, he sexually abused a younger step-brother. On appeal, Paris challenges his conviction by arguing that the statute that vests jurisdiction over his offense in the district court is facially unconstitutional. He contends that his constitutional right to equal protection requires that his case be tried in and resolved by the juvenile court. We conclude that the statute is not unconstitutional on its face and, therefore, affirm.

FACTS

In June 2011, the Maple Grove Police Department received a report from an adult man, K.Y., that his step-brother, Paris, had sexually abused him approximately seven to nine years earlier, between June 2002 and June 2004. When police officers interviewed Paris in October 2011, he did not deny that he and K.Y. engaged in sexual conduct in June 2002, though his version differs from K.Y.'s version. In June 2002, Paris was 15 years old, and K.Y. was 11 years old.

In December 2011, the state charged Paris with first-degree criminal sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(g) (2002). The state filed its complaint with the Hennepin County District Court. In February 2012, Paris moved to dismiss the complaint. Paris argued that the statute that vests jurisdiction in the district court, section 260B.193, subdivision 5(d), of the Minnesota Statutes, is unconstitutional on its face because it violates the equal protection clauses of the United States

Constitution and the Minnesota Constitution. In September 2012, the district court denied the motion.

In March 2013, the parties agreed to try the case to the district court on stipulated facts. *See* Minn. R. Crim. P. 26.01, subd. 3; *Dereje v. State*, 837 N.W.2d 714, 720-21 (Minn. 2013). The district court found Paris guilty. The presumptive guidelines sentence for Paris's offense is an executed sentence of 86 months of imprisonment. *See* Minn. Sent. Guidelines II, IV (2002). The district court, however, ordered a downward dispositional departure by staying imposition of the sentence for six years and ordering Paris to serve 90 days in the county workhouse. Paris appeals.

D E C I S I O N

Paris argues that the district court erred by denying his pre-trial motion to dismiss the complaint on the ground that section 260B.193, subdivision 5(d), is unconstitutional on its face. On appeal, he renews his argument that the statute violates the equal protection clauses of the United States Constitution and the Minnesota Constitution.

The courts presume that a statute is constitutional. *State v. Behl*, 564 N.W.2d 560, 566 (Minn. 1997). The "power to declare a statute unconstitutional should be exercised with extreme caution and only when absolutely necessary." *Id.* (citation omitted). A party challenging the constitutionality of a statute bears a "very heavy burden" on appeal and must demonstrate that the statute is unconstitutional beyond a reasonable doubt. *State v. Johnson*, 813 N.W.2d 1, 11 (Minn. 2012). A party making a facial challenge to the constitutionality of a statute "bears the heavy burden of proving that the legislation is unconstitutional in all applications." *State v. Ness*, 834 N.W.2d 177, 182 (Minn. 2013)

(quotation omitted). If even a single constitutional application is identified, "it is inappropriate to speculate regarding other hypothetical circumstances that might arise." *Id.* This court applies a *de novo* standard of review to a district court's ruling on the constitutionality of a statute. *Johnson*, 813 N.W.2d at 4.

The statute that Paris challenges provides as follows:

> The district court has original and exclusive jurisdiction over a proceeding:
>
> (1) that involves an adult who is alleged to have committed an offense before the adult's 18th birthday; and
>
> (2) in which a criminal complaint is filed before expiration of the time for filing under section 628.26 and after the adult's 21st birthday.
>
> The juvenile court retains jurisdiction if the adult demonstrates that the delay in filing a criminal complaint was purposefully caused by the state in order to gain an unfair advantage.

Minn. Stat. § 260B.193, subd. 5(d). Paris concedes that the state did not purposefully delay in charging him, and he does not dispute that the statute of limitations in section 628.26 had not yet run.[1] Accordingly, a straightforward application of section 260B.193, subdivision 5(d), in this case leads to the conclusion that the district court has jurisdiction over the charged offense because Paris was charged after he reached the age of 21, even though he was alleged to have committed the offense as a juvenile.

[1] "[I]ndictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within nine years after the commission of the offense or . . . three years after the offense was reported to law enforcement authorities." Minn. Stat. § 628.26 (2002).

I.

Paris argues that section 260B.193, subdivision 5(d), is unconstitutional on its face because it requires juvenile offenders who are charged *after* reaching age 21 to be prosecuted in the district court, which may impose more severe penalties, while juvenile offenders who are charged *before* reaching age 21 will be or may be prosecuted in the juvenile court, which may impose less severe penalties.[2]

The Equal Protection Clause of the United States Constitution provides, "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The right to equal protection in Minnesota is contained in a constitutional provision that states, "No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers." Minn. Const. art. I, § 2. The two clauses are "analyzed under the same principles." *Johnson*, 813 N.W.2d at 11 (quotation omitted). Neither clause absolutely "'forbid[s] classifications'"; both clauses "'simply keep[] governmental decisionmakers from treating differently persons who are in all

[2]As a general rule, the jurisdiction of the juvenile court continues until the juvenile becomes an adult, *see* Minn. Stat. § 260B.101, subd. 1 (2002), or "until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so," Minn. Stat. § 260B.193, subd. 5(a) (2002). The jurisdiction of the juvenile court may be "extend[ed] until the offender becomes 21 years of age," *id.*, subd. 5(b), if certain criteria for "extended juvenile jurisdiction" (EJJ) are satisfied, *see* Minn. Stat. § 260B.130, subd. 1 (2002). "An EJJ prosecution is a blending of juvenile and adult criminal dispositions that extends jurisdiction over a young person to age twenty-one and permits the court to impose both a juvenile disposition and a criminal sentence." *In re Welfare of B.N.S.*, 647 N.W.2d 40, 42 (Minn. App. 2002). If a district court imposes an EJJ disposition, "[e]xecution of the adult sentence is stayed so long as the offender does not violate the provisions of the juvenile disposition and does not commit a new offense." *Id.* (citing Minn. Stat. § 260B.130, subd. 4 (2000)).

relevant aspects alike.'" *Id.* at 12 (quoting *Nordlinger v. Hahn*, 505 U.S. 1, 10, 112 S. Ct. 2326, 2331 (1992)). In other words, "similarly situated individuals shall be treated alike, but only invidious discrimination is deemed constitutionally offensive." *State v. Garcia*, 683 N.W.2d 294, 298 (Minn. 2004) (quotation omitted).

The threshold issue in our equal-protection analysis is whether the "claimant is treated differently from others to whom the claimant is similarly situated in all relevant respects." *Johnson*, 813 N.W.2d at 12. This requirement reflects the reality that the state is not required to treat individuals who are "different in fact or opinion as though they were the same in law." *Behl*, 564 N.W.2d at 568. If the threshold "similarly situated" requirement is satisfied, the issue then is whether there is a "rational basis" for the differential treatment, so long as the statute does not implicate a "suspect classification or a fundamental right." *Garcia*, 683 N.W.2d at 298. In this case, the parties agree that the statute does not implicate a suspect classification or fundamental right and that the rational-basis test applies.

A.

As stated above, the threshold issue is whether the "claimant is treated differently from others to whom the claimant is similarly situated in all relevant respects." *Johnson*, 813 N.W.2d at 12. The district court concluded that the two categories created by the statute are not similarly situated because the "[j]uvenile court is designed to deal with rehabilitation and consequences for persons up to the age of 21 and [Paris] is no longer in that category." Paris, however, contends that juvenile offenders who are charged after age 21 are similarly situated to juvenile offenders who are charged before age 21 because

the "distinction in charging time bears no relevance to the offenses committed by juveniles or the age at which the offenses were committed" and "everything the individuals did was exactly the same." In response, the state contends that a juvenile offender's age at the time of charging is a relevant distinction.

At this first phase of the equal-protection analysis, we must determine whether the age of a juvenile offender at the time of charging is a "relevant" factor that makes the two groups similarly situated. *See Johnson*, 813 N.W.2d at 12. Our analysis is informed in significant part by the purposes of the juvenile court in Minnesota. In 1959, the legislature stated that the juvenile court serves the following purposes:

> The purpose of the laws relating to juvenile courts is to secure for each minor under the jurisdiction of the court the care and guidance, preferably in his own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and, when the minor is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents. The laws relating to juvenile courts, shall be liberally construed to carry out these purposes.

1959 Minn. Laws ch. 685, § 1, subd. 2, at 1275 (codified at Minn. Stat. § 260.011, subd. 2 (1961)). In 1975, the supreme court stated that "the whole purpose of the Juvenile Court Act is to rehabilitate a young person before he or she becomes a menace to society." *In re Welfare of J.E.C. v. State*, 302 Minn. 387, 401, 225 N.W.2d 245, 254 (1975). In later decades, Minnesota's juvenile-court system shifted somewhat toward a

"more explicitly punitive" model, *State v. McFee*, 721 N.W.2d 607, 613 (Minn. 2006), and away from the model that favored the "protection and rehabilitation of juveniles," *id.* at 612. Nonetheless, the legislature's present policy concerning the juvenile court retains many of the concepts that existed in 1959:

> The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

Minn. Stat. § 260B.001, subd. 2 (2012).

In light of the historical and present purposes of the juvenile court, it is clear that the statute accounts for the unique traits of juveniles, both at the time they commit an offense and at the time they are prosecuted. If a person younger than 18, 19, or 21 is charged and tried in juvenile court, *see supra* note 2, the juvenile justice system is able to order a disposition that takes advantage of a juvenile's amenability to rehabilitation and prevents further delinquency. *See J.E.C.*, 302 Minn. at 401, 225 N.W.2d at 254. But if an adult defendant were charged and tried in juvenile court, the juvenile justice system would be unable to promote the same policies. Accordingly, we conclude that a person's age at the time he or she is charged with a juvenile offense is "relevant" such that the two groups are not similarly situated for purposes of the equal-protection analysis. *See Johnson*, 813 N.W.2d at 12; *see also State v. M.B.*, 780 N.W.2d 663, 665 (N.D. 2010) (rejecting similar equal-protection challenge to statute similar to section 260B.193,

subdivision 5(b)). This is a sufficient basis for affirming the district court's denial of Paris's motion to dismiss. *See Johnson*, 813 N.W.2d at 12.

B.

Even if the two groups identified by Paris were deemed to be similarly situated, we nonetheless would conclude that the distinction between the two groups is justified by a rational basis.

The rational-basis analysis prescribed by the Minnesota Constitution, which is "more intensive" than the federal rational-basis analysis, "requires an actual and identifiable connection between the statutory classification and the purpose to be achieved." *State v. Brown*, 689 N.W.2d 796, 800 (Minn. App. 2004), *review denied* (Minn. Dec. 13, 2005). Accordingly, if a statute survives scrutiny under the Minnesota rational-basis test, it also survives scrutiny under the federal rational-basis test. *See id.*

Minnesota's rational-basis test requires an analysis of three elements:

> (1) The distinctions which separate those included within the classification from those excluded must not be manifestly arbitrary or fanciful but must be genuine and substantial, thereby providing a natural and reasonable basis to justify legislation adapted to peculiar conditions and needs; (2) the classification must be genuine or relevant to the purpose of the law; that is there must be an evident connection between the distinctive needs peculiar to the class and the prescribed remedy; and (3) the purpose of the statute must be one that the state can legitimately attempt to achieve.

State v. Benniefield, 678 N.W.2d 42, 46 (Minn. 2004). This court is "unwilling to hypothesize a rational basis to justify a classification, as the more deferential federal standard requires." *Garcia*, 683 N.W.2d at 299 (quotation omitted).

The statute at issue in this case passes the Minnesota rational-basis test. First, the distinction drawn by the statute is not "arbitrary or fanciful." *See Benniefield*, 678 N.W.2d at 46. As discussed above, the statute draws a distinction between two groups in part because of the recognized difference in the need to treat and punish juveniles and adults differently. The legislature intends for the juvenile court to provide children with "access to opportunities for personal and social growth." *See* Minn. Stat. § 260B.001, subd. 2. That goal would be significantly different in the case of an adult defendant in juvenile court. Second, the needs of juvenile offenders for purposes of both punishment and procedure are different from the needs of adults. *See Benniefield*, 678 N.W.2d at 46. The specific needs of juvenile offenders are evident in the very creation of a juvenile court system. Third and finally, the objective of the statute is legitimately achievable. *See id.* Juvenile offenders regularly receive appropriate juvenile punishments based on their culpability at the time of their offense and on their rehabilitative needs. Accordingly, if it were necessary to do so, we also would conclude that the statute is justified by a rational basis.

Thus, the district court did not err by denying Paris's motion to dismiss because section 260B.193, subdivision 5(d), is not unconstitutional on its face.

II.

Paris also argues that the statute violates his rights to procedural due process and substantive due process under both the United States Constitution and the Minnesota Constitution. Paris did not make this argument in the motion papers that he filed with the district court. During the motion hearing, Paris's attorney merely referred to "due

process," without actually making a legal argument on the issue. The district court appropriately did not address the issue of due process in its order denying Paris's motion to dismiss.

As a general rule, this court "will not decide issues which are not first addressed by the trial court . . . even if the issues involve constitutional questions." *State v. Sorenson*, 441 N.W.2d 455, 457 (Minn. 1989). This is especially true for constitutional challenges to a statute. *State v. Frazier*, 649 N.W.2d 828, 839 (Minn. 2002). Thus, we will not consider Paris's arguments concerning procedural due process and substantive due process, which were not properly presented to and not considered by the district court.

Affirmed.

RANDALL, Judge (concurring specially)

I concur in the result, but I write separately because this case is the result of a marginal, frankly questionable, change in the law. Appellant was tried at the age of 26 as an adult for an act of juvenile delinquency committed when he was only 15 years old. His act is now a crime, rather than an act of delinquency, only because of this questionable change in the law.

The change in the law took effect before appellant's juvenile act, *see* 1999 Minn. Laws ch. 139, § 29, so there is an argument that there is no ex post facto[3] issue in this case. I find that there is. For decades before either appellant's acts or this change in the law, courts treated juveniles as juveniles. That is the very point of the juvenile system. A juvenile could end up with an adjudication of delinquency, EJJ,[4] or possible certification to adult court. But the juvenile's case always started where it should, in juvenile court. With this present change, a juvenile offender starts in adult court. Appellant was

[3] The Ex Post Facto Clause of the United States Constitution provides that "[n]o State shall . . . pass any . . . ex post facto Law." U.S. Const. art. I, § 10. "To fall within the *ex post facto* prohibition, a law must be [1] retrospective—that is, 'it must apply to events occurring before its enactment'—and [2] it 'must disadvantage the offender affected by it.'" *Lynce v. Mathis*, 519 U.S. 433, 441, 117 S. Ct. 891, 896 (1997) (quoting *Weaver v. Graham*, 450 U.S. 24, 29, 101 S. Ct. 960, 964 (1981)); *see also Hankerson v. State*, 723 N.W.2d 232, 241 (Minn. 2006)

[4] An extended juvenile jurisdiction (EJJ) prosecution is a combination of juvenile and adult criminal dispositions that extends jurisdiction over a young person to age 21 and permits the court to impose both a juvenile disposition and a criminal sentence. *See* Minn. Stat. §§ 260B.130, subd. 4, .193, subd. 5(b) (2012). Execution of the adult sentence is stayed so long as the offender does not violate the provisions of the juvenile disposition and does not commit a new offense. *See* Minn. Stat. § 260B.130, subd. 4(2). If the juvenile violates the conditions of the stay, he may then face execution of the adult sentence. *See id.*, subd. 5.

deprived of his right to argue to the juvenile court that it should retain jurisdiction or, at least, that he be subject only to EJJ. It is not that the juvenile court could not have certified appellant to the district court as an adult for this offense. But it is highly unlikely given his age at the time, and the gravity of the offense, which was minimal. I say "minimal" because the district court judge, when imposing appellant's sentence, recognized the unfairness of subjecting appellant to the adult presumptive sentence, which would have been an executed sentence of 86 months of imprisonment, *see* Minn. Sent. Guidelines II, IV (2002), and instead stayed imposition of a sentence for six years and ordered appellant to serve 90 days in the county workhouse. But because he was sentenced as an adult in district court, he now has a criminal record.

I do not accept the state's argument that defendants of appellant's age do not "fit" juvenile court. If appellant had been charged in juvenile court, he could have been adjudicated delinquent, faced EJJ prosecution, or possibly been certified to district court as an adult. The state would have the same options as with any other 15-year-old defendant. The state claims that the juvenile system is not equipped to handle adults with an adjudication of juvenile delinquency. If there are violations of probation or EJJ, the answer to me is to handle them the same way as you would handle others with an adjudication of delinquency. The court could extend his probation from age 26 to the number of years it could have if he had been adjudicated delinquent at age 15. The law would need changing, but it would be a good change. If there are serious probation violations and he has to be confined, do it at an adult prison even though it started out as an act of juvenile delinquency. We do that now. Minnesota has had 15-, 16-, and 17-

year-olds serving time in the adult prison system for years. We are equipped to do that if the need arises. If appellant were allowed to start in juvenile court he would at least be allowed to challenge the state's request for EJJ or certification, which is better than having to take his first step in district court.

If the trial judge had given appellant the presumptive sentence for this act, I suggest we would have a constitutional issue under the prohibition against cruel and unusual punishment. *See* U.S. Const. amend. VIII; Minn. Const. art. I, § 5; *see also State v. Chambers*, 589 N.W.2d 466, 479-80 (Minn. 1999). The district court judge, wisely recognizing that, came up with a sentence that ameliorated the harshness of the presumptive adult sentence for acts committed as a 15-year-old juvenile.

The last few years have seen almost a mass hysteria over criminal sexual conduct involving minors, pedophilia, etc. It is reminiscent in a way of the hysteria for a short time in history surrounding the Salem witch trials. *See* Arthur Miller, *The Crucible* (1952).

The legislature and the courts seem to have been dragged into this hysteria and we are falling all over each other to impose harsher and harsher punishments and to express disdain for these offenses. No offenses, even more serious than this one, are worth denying people the right to be charged fairly, to be given a fair trial, and to be treated with the dignity every citizen, presumed innocent until proven guilty, is entitled to. The present law at issue in this case does none of those.

The majority has written correctly, so I am concurring. But I am writing separately to point out the immediate need for this law to be changed or, better yet,

abolished. If this need were met, appellant could have been handled as a juvenile as he should have been, because that is what he was when he committed the offense.

The record is clear that appellant did not in any way evade responsibility for this act or evade being charged. The delay is solely the responsibility of the initial law enforcement investigation and the lateness of the victim in coming forward. It is not to say that law enforcement was "at fault" but it is to say that appellant definitely was not. Also the victim is not with clean hands. Before contacting law enforcement, the victim messaged appellant over Facebook asking if his fiancée knew what he had done. Appellant did not deny what happened, and tried to discuss it with the victim. The victim responded, "[T]here's nothing you could say that could make things better. [D]o you know how badly I could f-ck up your situation? . . . [U]nless you figure something out I plan on [M]onday first telling dad, then mom, then [your fiancée]." We do not know if the victim was after an out-of-court settlement or not, but it is clear that this case got off to a rocky start. A savvy district court judge recognized the situation and came up with one of the lightest sentences possible to rectify what I call the injustice of appellant having to stand trial as an adult for the acts of a 15-year-old.