

**Supreme Court**

No. 2006-8-C.A.  
(W1/05-109A)

State :  
v. :  
Corey Day. :

Present: Williams, C.J., Goldberg, Flaherty, Suttell, and Robinson, JJ.

**S U M M A R Y**

In this case of first impression, the Supreme Court held that once a child is waived from the jurisdiction of the Family Court pursuant to G.L. 1956 §§ 14-1-7 and 14-1-7.1 to stand trial as an adult, nothing in the statutory scheme restricts the Attorney General from bringing charges against the child in the Superior Court that are different than those that served as the basis for waiver from the Family Court, provided the new charges arise from the same nucleus of operative facts.

On January 28, 2004, the Ocean Tides Residential Treatment Program was broken into, and one of its employees, later was found bound, gagged, and imprisoned in a walk-in freezer on the premises. The defendant, who was a juvenile at the time, was arrested and accused of the break-in. Because the defendant had not reached the age of majority at the time of his arrest, the Family Court had exclusive jurisdiction over him. Under §§ 14-1-7 and 14-1-7.1, the attorney general moved that the Family Court waive jurisdiction over the defendant so that he could be tried as an adult for the criminal charges stemming from the incident. In his waiver motion, the attorney general contended that the defendant had committed four separate offenses: (1) breaking and entering; (2) second-

degree robbery; (3) kidnapping; and (4) assault with intent to commit robbery and kidnapping. After a hearing on November 8, 2004, the Family Court granted the state's motion and ordered defendant waived from its jurisdiction.

A grand jury subsequently indicted the defendant for (1) burglary; (2) first-degree robbery; (3) felony assault; (4) kidnapping; and (5) larceny of goods valued at more than \$500. The defendant then moved to dismiss the indictment based on Rule 12(b)(2) of the Superior Court Rules of Criminal Procedure on the ground that, under §§ 14-1-7 and 14-1-7.1, the Superior Court lacked jurisdiction to hear the case because the indictment impermissibly charged him with crimes that were different from, greater than, and in addition to, the offenses for which he was waived by the Family Court. A justice of the Superior Court agreed with Day, and he granted the motion to dismiss the indictment. The Supreme Court reversed.

The Supreme Court held that § 14-1-7.1 was ambiguous in its use of the word "offense," and therefore the statute had to be construed in light of the likely intent of the Legislature. After a review of the history of juvenile waiver in this country and in Rhode Island in particular; a discussion of the parameters of the jurisdiction of the Family Court; and a review of the foreign case law interpreting similar waiver statutes, the Court held that the word "offense" could not be read literally to mean a particular crime, but rather refers to the bundle of facts for which the waiver was sought. It reasoned that because the Family Court is not cloaked with the subject matter jurisdiction needed to adjudicate specific "crimes" committed by children, a Family Court waiver of jurisdiction consists of the waiver of personal jurisdiction over the child and not the waiver of subject matter jurisdiction over a particular crime. Thus, the Court held, once a Family Court justice

determines that a child should be waived from the jurisdiction of the Family Court, there is no limitation to the charges that may be lodged against the child in the adult court, as long as those charges spring from the nucleus of operative facts upon which the Family Court waiver of jurisdiction was based.