

Kentucky Public Offender Case Law 2000-2013

Statutory Conflict

1. S.M v. Commonwealth of Kentucky, NO. 2007-CA-001353-DGE, 2008 Ky. App. Unpub. LEXIS 1012 (Ky. Ct. App., July 11, 2008).
 - a. **Facts:** A 13-year-old male was charged with criminal trespass in the second degree, when he entered into a women's restroom and looked under the stall door, and again repeated this action months later by looking over the stall door. The charge was later amended to voyeurism. The juvenile had a history of inappropriate behavior and violence, for which he underwent hospitalization, a juvenile sexual behavior evaluation, and treatment for oppositional defiant disorder. The district court ordered a juvenile sexual offender assessment; however, the minor did not meet the statutory requirement for a juvenile sexual offender under KRS 635.505(2). KRS 635.505(3) notes that the assessment shall only be given to juveniles in order to help the court determine whether the classification of a juvenile sexual offender applies.
 - b. **Issue:** Whether the district court erred in ordering a juvenile sexual offender assessment when the minor failed to meet the statutory definition of a juvenile sexual offender per KRS 635.505(2) and whether the minor was entitled to an independent evaluation.
 - c. **Holding:** Upon a de novo review on a question of law, the Court of Appeals reversed the circuit court below and found that the district court's order that a juvenile sexual offender assessment be completed was in error because the minor was not charged with offenses applicable to the status of a juvenile sexual offender. The Court refrained on ruling on the issue of a minor's due process entitlement to an independent evaluation. However, one Court of Appeals judge raised in the dissent that he would hold that the due process clause mandated the accused child be entitled to an independent evaluation if requested to prepare a defense at disposition.
 - d. **Implications:** This case reflects the rules of statutory construction. KRS 635.510(3) outlines when a juvenile sexual offender assessment is to be administered, but it does not explicitly limit the use of the assessment by the district court in other situations. However, KRS 635.505(3) provides that the juvenile sexual offender assessment is only to be administered when helping the court determine whether the minor in question should be declared a juvenile sexual offender. The Court of Appeals' final outcome shows the importance of choosing the specific provision over the general provision in statutory construction. The narrowing of the scope of the juvenile sexual offender assessment reflects the court's commitment to careful adherence of legislative intent, thereby protecting a child's due process rights and respecting the

circumscribed boundaries set by the legislature in allocating state resources for testing purposes.

2. N.T.G. v. Commonwealth, 185 S.W.3d 218 (Ky. App. 2006).

- a. **Facts:** N.T.G. broke into a house and consumed a sandwich and beverage. He was charged with burglary, theft by unlawful taking under \$300, and criminal mischief. He admitted to TBUT, criminal mischief, and criminal trespass. He was 13 years old at the time of his disposition. The juvenile court ordered 15 days of detention to be probated.
- b. **Issue:** Whether a juvenile under age 14 can be given a probated period of detention, when KRS 635.060 prohibits detention for juveniles under age 14.
- c. **Holding:** KRS 635.060 prohibits detention for a child under 14 years of age. It did not matter that the detention period was probated. It did not matter that the child had now turned 14.
- d. **Implication:** The court held that the statute was controlling and must be strictly followed. This affirms the juvenile code's focus on the intent of juveniles when they commit offenses rather than their ability to benefit from or endure punishment.

3. A.W. v. Commonwealth, 163 S.W.3d 4 (Ky. 2005).

- a. **Facts:** A.W. was adjudicated a public offender and given probation conditions that he abide by curfew and receive no new charges. The court held the juvenile in contempt for violating probation. The juvenile appealed, claiming that probation should have been revoked instead. He also argued that the court was bound by detention limitations for public offenses (45 days for 14-year-olds).
- b. **Issue:** Whether contempt sanctions for violations of specific conditions of probation violated KRS 610.010, due process rights of fair treatment, or double jeopardy; whether KRS 635.060 limited court's contempt powers.
- c. **Holding:** A juvenile can be held in contempt for violating probation. The contempt sentence may be longer than time probated and longer than maximum detention time permitted for a public offender—KRS 635.060 was not intended to limit court's contempt power. The contempt sentence was still reversed due to absence of several due process safeguards during hearing.
- d. **Implication:** This holding allows a court to use its contempt power to circumvent statutes that limit sentences imposed on juveniles.

4. X.B. v. Commonwealth, 105 S.W.3d 459 (Ky. App. 2003).

- a. **Facts:** X.B. was charged in the Juvenile Division of the Warren District Court with the criminal offenses of second-degree burglary, first-degree criminal mischief, third-degree criminal mischief, and theft by unlawful taking of property valued less than \$300. X.B., who was thirteen years old at the time, signed a

district court form that contained a provision that stated “[i]f you stipulate (admit) to the charges, the Court will consider recommendations made by the County Attorney working with the Cabinet for Human Resources and your attorney.” When X.B. signed this statement, he was present in court with only his grandfather. He was not represented by an attorney at that time. X.B. returned to the juvenile court with an attorney and stipulated to the charge of second-degree burglary. The remaining charges were merged into that charge. Following X.B.’s stipulation, the court set the case for a dispositional hearing to be held and a representative from DJJ would make recommendations at that time.

The DJJ case worker recommended to the court that X.B. be probated to DJJ and that X.B. be allowed to continue living with his grandfather. In addition, the case worker recommended that X.B. be evaluated for day treatment. However, the court decided that probation was not appropriate and that X.B. was “right for placement” with DJJ. Thus, the court rejected the recommendation of DJJ and ordered placement rather than probation.

- b. **Issues:** Did the trial court abuse its discretion when it placed the juvenile in DJJ without providing reasons for the placement? Was the stipulation to a charge of second-degree burglary knowing and voluntary when the juvenile was not represented by an attorney at the time the statement was signed?
- c. **Holding:** (1) The trial court was required to state its reasons for placing juvenile in the custody of the Department of Juvenile Justice rather than in a less restrictive placement, in a juvenile delinquency proceeding where the juvenile was 13 years old, and had never been adjudicated delinquent by the juvenile justice system or subject to any punishment. (2) The juvenile's stipulation to the charge of second-degree burglary was knowing and voluntary.
- d. **Implications:** KRS 600.101(2)(c) states that “[t]he court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary.” The court’s failure to provide any reason for ordering DJJ placement rather than probation was an abuse of discretion.

Although the juvenile did not have an attorney when he signed the statement of rights form at his initial juvenile court appearance, the juvenile was represented by an attorney when he stipulated to the offense at a later hearing. The statement only said that the court would “consider” the recommendation of the DJJ and therefore, the decision to reject that recommendation did not break a promise made to the juvenile.

5. C.I. v. Commonwealth, 2003 Ky. App. Unpub. LEXIS 1246 (Oct. 31, 2003).

- a. **Facts:** C.I. was 14 years old when he pled guilty to second-degree sexual abuse of a younger child. After he was committed to DJJ as a juvenile sexual offender for

residential placement, DJJ then raised the issue of whether C.I. was mentally retarded. DJJ filed a motion that he was improperly committed, since he tested for an IQ of 66 seventeen months earlier.

- b. **Issue:** Whether a Kaufman Brief IQ test is sufficient to find that a juvenile sexual offender is mentally retarded for purposes of KRS 635.505(4).
 - c. **Holding:** The trial court's order denying DJJ's motion that C.I. was improperly committed was affirmed, because C.I. did not raise the issue and because a more comprehensive assessment after the first IQ test found that he was not mentally retarded.
 - d. **Implication:** A child's mental state in sex offense cases can be a significant issue. Based on this case, courts will give more weight to more recent tests.
6. D.R.T. v. Commonwealth, 111 S.W.3d 392 (Ky. App. 2002).
- a. **Facts:** A juvenile committed a public offense and then turned 18 before his dispositional hearing. The court ordered him to serve 90 days in an adult facility and only 5 of these days were probated. In a separate case, M.R. was ordered to serve 20 days in an adult detention center after he turned 18.
 - b. **Issue:** Whether a juvenile court can sentence an adult to detention in an adult facility for public offenses committed when the defendant was under age 18.
 - c. **Holding:** KRS 635.060(2), (3) envisions situations where the juvenile has turned 18, so only dispositions set out by that provision for juveniles are available: probation, home detention, or supervision for a maximum one-year period.
 - d. **Implication:** Courts continue to hold that the rules surrounding sentencing of juveniles apply due to the age they committed the offense rather than the age that they will be punished. This case affirms the focus on the differences in mens rea between juveniles and adults rather than their ability to benefit from or endure punishment.

Constitutional Claims

1. R.B. v. Commonwealth, NO. 2012-CA-000310-DG, 2013 Ky. App. Unpub. LEXIS 242 (Mar. 15, 2013).
- a. **Facts:** R.B., whose IQ is below 70, allegedly forced a 15-year-old girl to have sex with him by threatening her with a handgun, though R.B. maintained that the act was consensual. He was initially charged with first-degree rape but reached a plea deal for two misdemeanors—possession of a handgun by a minor and sexual misconduct—to avoid transfer as youthful offender. But there was no agreement on the ultimate disposition. R.B. argued that his low IQ rendered him ineligible for commitment to DJJ and requested the lesser restrictive alternative of

probation, volunteer work, and mental-health counseling. The district court found that there was no lesser restrictive alternative than committing him as a public offender to DJJ.

- b. **Issue:** Whether a mentally retarded public offender's commitment to DJJ and ensuing obligation to complete an individual treatment plan subjects the child to cruel and unusual punishment in violation of the Eighth Amendment.
 - c. **Holding:** The Court of Appeals affirmed the circuit court's ruling that commitment to DJJ was proper. Without specific statutory language, the IQ restriction on the classification of juvenile sexual offenders does not apply to the classification of public offenders. Commitment of a public offender is proper if there is no feasible alternative. Here, the court found that there was no feasible alternative since R.B. had a long history of behavior problems with efforts to treat them. Finally, the court found that this particular juvenile was not subjected to cruel and unusual punishment in violation of the Eight Amendment since there were not enough "specific details" indicating that his low IQ renders him unable to complete a required individual treatment plan in the same timeframe as his peers. The court also noted that "societal standards" against using a handgun to threaten a minor into non-consensual sex supported the punishment.
 - d. **Implication:** This court seemed to presume that the legislature's decision to not restrict public-offender classifications by IQ meant that the legislature had considered all implications of classifying mentally retarded juveniles as public offenders, including a mentally retarded public offender's ability to perform intellectual components of mandated individual treatment plans. Without "specific details" that low IQs keep public offenders from completing individual treatment plans in the same timeframe as their peers, the legislature's presumed considerations and intent control. In addition, KRS 600.010 mandates that lesser restrictive alternatives be attempted to ensure that children are only removed from their family when absolutely necessary, and this case shows that previous rehabilitative efforts that are unrelated to the current charge, such as placement at Sunrise Foster Care, home detention, and ordered cooperation with in-home mental health services, can essentially be used against a juvenile in determining how dispositions of public-offense charges comply with KRS 600.010.
2. C.J.D. v. Commonwealth of Kentucky, NO. 2007-CA-000129-DG, 2008 Ky. App. Unpub. LEXIS 1043 (Ky. Ct. App., May 2, 2008).
- a. **Facts:** A 15-year-old male was accused and convicted of first-degree sexual abuse, first-degree sodomy, and third-degree terroristic threatening. The minor was committed to the Department of Juvenile Justice as a juvenile sexual offender, where he appealed his conviction based on the lack of a right to trial by jury.

- b. **Issue:** Whether a juvenile is entitled to a jury trial pursuant to the state and federal constitutions when the offense charged makes him eligible for the status of a juvenile sexual offender.
 - c. **Holding:** The Court of Appeals affirms the circuit court order that the state may adjudicate a minor as a juvenile sexual offender without granting the minor a right to trial by jury even though the law requires mandatory treatment and a lengthier sentence for an adjudicated juvenile sexual offender.
 - d. **Implications:** The Court notes that a juvenile sex offender must be placed in a DJJ facility for treatment, can be held past his 18th birthday, up to age 21 if he is still in treatment at the age of 19 and may be ordered to be in treatment for three years, creating a determinate sentence unlike all other public offenders who are subject to indeterminate sentences based only upon a successful completion of treatment.
3. Petitioner F. v. Brown, 306 S.W.3d 80 (Sup. Ct. Ky., 2010).
- a. **Facts:** Bridget Skaggs Brown, Commissioner for the Department of Juvenile Justice issued a release to collect DNA samples to juvenile offenders adjudicated for certain offenses. The information received was to be placed into a database in order to facilitate the work of law enforcement and criminal justice.
 - b. **Issues:** Whether the requirement of DNA sampling, under KRS 17.170, for all persons convicted of felonies, including juveniles who 1) were 14 years or older at the time of the offense, or have been adjudicated a public offender for a felony of sex offense, incest, or being a juvenile sexual offender, were intended to be applied to the range of identified juvenile public offenders; 2) whether the manner and method of testing was a justified intrusion into the liberty and privacy rights of the affected minor and a legal search and seizure under the Fourth and Fourteenth Amendments of the US Constitution and Section 10 of the KY Constitution on the grounds that the state has a strong interest in centralizing information on convicted and adjudicated individuals; 3) whether a different judicial scrutiny is required for a Section 10 violation than for that required in analyzing a person's Fourth and Fourteenth Amendment rights; 4) whether DJJ, a state agency, could act despite the Department of Corrections failure to promulgate the requisite regulations designed to set forth the procedures required to implement these new statutorily mandated DNA collections; 5) whether DJJ could act after the dates set in a memorandum by the Secretary of the Justice Cabinet (the agency within which DJJ resides) and in lieu of written notice by the Secretary to the Reviser of Statutes.
 - c. **Holding:** The Court of Appeals decision was affirmed. Requiring DNA sampling of adjudicated public offenders in the manner implemented by DJJ for the offenses listed in KRS 17.170 and KRS 17.171 does not violate the rights of adjudicated juveniles.

- d. **Implications:** The Court reaffirms prior holdings placing Section 10 coterminous with the Fourth and Fourteenth Amendment as regards privacy and liberty interests.
4. J.D. v. Commonwealth, 211 S.W.3d 60 (Ky. App. 2006).
 - a. **Facts:** Juvenile was charged with third-degree terroristic threatening for threatening to harm family members with a gun. A district court reviewed his constitutional rights with him at a detention hearing. However, he was then additionally charged with beyond control of parent and fourth-degree assault for grabbing his little brother around the neck. He admitted to the terroristic threatening and assault allegations as part of an agreement but no discussion of his rights took place at this hearing.
 - b. **Issue:** Whether a Boykin colloquy must occur with respect to each count a juvenile is charged with.
 - c. **Holding:** Because the juvenile's rights were not discussed with respect to the assault charge, his admission was not voluntary and intelligent. The case was remanded with instructions to vacate the adjudication and disposition.
 - d. **Implication:** This case expanded and clarified the holding in *D.R. v. Commonwealth*. Boykin rights apply to each count that a juvenile is charged with, and there must be a review of these rights and an inquiry at any hearing in which new charges are brought; any colloquy is only sufficient for counts already charged.
 5. Q.C. v. Commonwealth, 164 S.W.3d 515 (Ky. App. 2005)
 - a. **Facts:** Q.C., a juvenile, was charged with terroristic threatening and burglary in the second degree. Q.C. denied the charges and proceeded to an adjudication hearing. After hearing the evidence, the district court Judge dismissed the terroristic threatening charge but found Q.C. guilty of burglary. Q.C. was sentenced to sixty days in detention but the sentence was suspended and Q.C. was placed on supervised probation until he turned eighteen.

As a condition of his probation, Q.C. was required to be home by 9:00 p.m. every night but he broke curfew and did not return home for three days. The district court judge charged Q.C. with contempt of court, his probation was revoked and he was committed to the Department of Juvenile Justice (DJJ).
 - b. **Issues:** Does a juvenile court have authority to revoke a minor's probation without serving the juvenile with written notice of the grounds of the probation violation?
 - c. **Holding:** Although the juvenile court had authority to revoke minor's probation, due process requires the Commonwealth to serve minor with written notice setting forth specific grounds that constituted alleged probation violation,

however, because the juvenile was now 22 yrs old and his DJJ detention ended 2 yrs ago the court cannot give him any relief therefore, the appeal is moot.

- d. **Implications:** Q.C. argued that he could not have been committed to DJJ for either violating his probation or contempt because a juvenile court can only commit a child to DJJ when the child has been found guilty of a public offense. While the juvenile code neither mentions probation violation nor probation revocation, when the Court held that the General Assembly imbued the court “with the inherent power to revoke probation.” Otherwise they would be powerless to enforce probation.

6. M.J. v. Commonwealth, 115 S.W.3d 830 (Ky. App. 2002).

- a. **Facts:** M.J. fired an air rifle at a truck. At a hearing the trial court only heard testimony from the driver of the pickup truck. The Commonwealth had to find two other witnesses after the defense moved for a directed verdict, and the trial court gave a two-week recess to allow the prosecution to do so. After the prosecution found the witnesses, the juvenile was charged with third-degree criminal mischief and was adjudicated as a public offender.
- b. **Issue:** Whether a two-week recess amounts to a terminated hearing according to KRS 505.030(4) and thus violates double jeopardy.
- c. **Holding:** The two-week recess did not violate double jeopardy, since the hearing was not “terminated” according to KRS 505.030(4). Because the defense did not object after the recess, the defendant’s right to separate witnesses was waived.
- d. **Implication:** It is within the trial court’s discretion to hear more evidence after the Commonwealth closes its case. Ky. Rules of Evidence 614 allows the judge to call witnesses *sua sponte*. Without more, a two-week delay does not violate Kentucky statute or constitutional provisions.

7. Commonwealth v. M.G., 75 S.W.3d 714 (Ky. App. 2002).

- a. **Facts:** A 17-year-old was accused of assaulting 10-year-old girl. The victim was questioned outside defendant’s presence. In a separate case that was combined with this one for purposes of appeal, a 14-year-old defendant was accused of sodomizing his 8-year-old brother. The victim in that case was questioned without anyone present. Defense counsel did not object in either case. On appeal, the circuit court held that the right to confrontation was a personal one that cannot be waived by the action or inaction of counsel. The 17-year old also made incriminating statements in an interview with a social worker without being read his *Miranda* rights.
- b. **Issue:** Whether a juvenile’s right to be present and confront the witness against him can be waived when counsel fails to object; whether *Miranda* safeguards apply to social workers acting as agents of law enforcement.

- c. **Holding:** The Commonwealth did not establish requirements of KRS 421.350 for allowing the victim to testify outside the presence of the defendant. Because the victims were the only eyewitnesses and because the court erred in admitting investigative and other hearsay evidence in the 14-year-old's case, the error was not harmless. There is no hearsay exception for a social worker; they must give Miranda warnings if acting as agents of law enforcement.
- d. **Implication:** This court strictly recognized and expanded certain constitutional rights of juveniles. The right to confront witnesses is very important and the court must be sure that juveniles understand this right.

Abuse of Discretion

- 1. E.D.J. v. Commonwealth of Kentucky, NO. 2008-CA-001450-ME, 2009 Ky. App. Unpub. LEXIS 539 (Ky. Ct. App., June 26, 2009).
 - a. **Facts:** During a period of four months, E.D.J, a juvenile female, was charged with a series of family-related offenses, including disorderly conduct in the second degree, resisting arrest, two counts of assault in the fourth degree/domestic violence, terroristic threatening in the third degree, and harassment. For unstated reasons the child pled to these offenses. The district court then reviewed the predisposition investigative report (PDI), which advised that if the case were moved to family court as a status offense case, the Cabinet could supervise the child. Otherwise, the child would be subject to DJJ probation and necessary services for the child and family would not be provided. The district court judge transferred the case. The hearing in family court lasted four minutes. Though a public defender was present, the attorney said nothing on behalf of the child. Without making any findings, the judge ordered the case transferred back to the district court. The district court again heard the case for disposition, where counsel for the child did speak and the judge decided to continue the case to give the minor enough time to appeal the family court's decision.
 - b. **Issue:** Whether the family court abused its discretion in choosing not to resolve the case under the beyond parental control statute.
 - c. **Holding:** The Court of Appeals affirmed the decision of the family court despite recognizing the harm to the child, because the family court judge appeared to follow the intended legislative intent. The case was reviewed only under an abuse of discretion standard as an appellate court does not generally interfere with the decisions of courts who possess "exclusive jurisdiction," over matters unless there is an abuse in the proceedings.
 - d. **Implications:** This case highlights the breakdown in necessary services for children and the absolutely necessity for prosecutors to scrutinize charging decisions in light of the best interests of children given our current conundrum where services for families and children are delivered by two separate agencies who do not coordinate their services.

2. T.R v. Commonwealth of Kentucky, NO. 2010-CA-001040-DG, 2011 Ky. App. Unpub. LEXIS 916 (Ky. Ct. App., December 22, 2011).

- a. **Facts:** T.R, a juvenile male, sexually assaulted his five-year-old brother, and was adjudicated delinquent of first-degree sexual abuse. He was committed to DJJ, where he completed sexual offender treatment, and was subsequently placed in a foster home. After a two-week release, T.R reoffended and pled delinquent on this second offense to second-degree sexual abuse. DJJ prepared a PDI and recommended that the juvenile should be committed as a public offender due to his low IQ (which also should have prohibited his original prosecution as a juvenile sexual offender), placed in a residential facility, and ordered to complete the sexual offender treatment program. The minor's counsel argued that outpatient care and probation would be the least restrictive alternative for T.R. The district court entered an order to place the juvenile into a residential facility.
- b. **Issue:** Whether the district court violated the least restrictive alternative requirement in KRS 600.010(2)(c) when it committed the minor to the Department of Juvenile Justice for residential placement. Whether the Juvenile Sex Offender Assessment was inadequate and should not have been relied upon to support residential treatment. Whether the court erred in ordering residential placement as the child was not declared to be a juvenile sex offender.
- c. **Holding:** The Court of Appeals affirmed the order placing the minor in DJJ for residential treatment determining there was no abuse of discretion by the sentencing judge given the child's prior offense and the circumstances surrounding this offense. The Court of Appeals reviewed the other two claims under a palpable error standard because they were not preserved for appellate review and held that it was appropriate to rely upon the JSOA and that residential placement was appropriate for the child given the nature of the offense and the child's history.
- d. **Implications:** The trial court was not persuaded by trial counsel's argument that the child performed well while in foster care for several months after the second offense and that the treatment he was receiving during that interim period, before final disposition in his second sex abuse case was helpful and should be continued rather than moving the child to a DJJ residential placement. The focus of the court seemed to be more offense based than child focused. No evidence was introduced to establish that the treatment at the DJJ facility was superior or better suited to these child's needs and the child's low IQ would indicate that standard DJJ residential treatment would likely not be effective. All in all, the case was analyzed more like a standard adult sentencing where the focus is on just punishment rather than effective intervention designed to bring about a change in the child's situation to help the child improve.

Remedies

1. J.D.N. v. Commonwealth, 2012 Ky. App. Unpub. LEXIS 313 (Apr. 27, 2012).
 - a. **Facts:** J.D.N. was an adult at the time of the appeal. As a juvenile, he had plead guilty to one count of theft over \$300, three counts of theft under \$300, and one count of criminal mischief in the second degree. He was placed on probation and ordered to pay restitution, the amount of which was reserved for a later hearing. After several continuances and a brief hearing, several restitution payments were made. J.D.N. then turned 18. At a show cause hearing it was argued that there was no legal basis for restitution since there was no written restitution order in the record; that hearing was continued. J.D.N. then challenged the proof of restitution and the juvenile court's jurisdiction to order restitution against an adult.
 - b. **Issue:** Whether a juvenile court has jurisdiction to order that an adult pay restitution in accordance with a disposition hearing held before the adult turned 18.
 - c. **Holding:** Commonwealth v. S.K. already held that a juvenile court had jurisdiction to order that an adult pay restitution in accordance with a disposition hearing that occurred after the juvenile turned 18. This court held that the timing of the disposition hearing is irrelevant; otherwise, the prosecutor would absurdly be forced to postpone a disposition hearing until after a juvenile turned 18.
 - d. **Implications:** This court affirmed the consensus that restitution is proper for juveniles.
2. K.R v. Commonwealth of Kentucky, 360 S.W.3d 179 (2012).
 - a. **Facts:** K.R, a 16-year-old female, was charged with first-degree assault, first-degree burglary, and tampering with physical evidence in a juvenile proceeding. While living in Louisville, the juvenile engaged in prostitution. The male victim and K.R had gotten into a dispute about the sexual act to be performed after K.R had received payment for her services. K.R was grabbed and her bracelet was taken by the victim and his roommates. The juvenile reported the theft to two male friends, one who was in possession of a gun. They attempted to gain entry into the victim's apartment unsuccessfully. One of the males with K.R saw the victim in the window and shot him in the face. The victim required surgery to remove the bullet from his jaw.
 - b. **Issue:** Whether a writ of mandamus is an available remedy to protect the prosecution's right to seek automatic transfer of a case when the charge is complicity with a firearm used in the commission of the offense.
 - c. **Holding:** The Court of Appeals is affirmed because the writ of mandamus was an available and appropriate remedy. The district court erred in failing to transfer the case to the circuit court.
 - d. **Implications:** This case may open the door to the use of writs to clarify transfer provisions and trial court decisions but it will more likely be limited to automatic transfer cases that do not involve much application of juvenile court discretion.

3. Commonwealth of Kentucky v. S.K., 253 S.W.3d 486 (Ky. 2008).

- a. **Facts:** This appellate case concerned three lower court cases which involved orders of restitution for offenses committed by minors where the individuals were all adjudicated delinquent of public offenses. One of the minors was not adjudicated until after his 18th birthday. All of the cases involved the issue of enforceability of the order of restitution after the individuals turned 18.
- b. **Issue:** Whether a juvenile court retains jurisdiction over an individual to enforce a restitution order appropriately entered by the juvenile court once the individual has turned eighteen.
- c. **Holding:** The Court of Appeals was in error when it ruled that a juvenile court lost jurisdiction to order or enforce restitution once a public offender has turned eighteen. In accordance with KRS 600.060, a provision designed to protect the contempt powers of the court, the juvenile code does not restrict the exercise of contempt powers by the juvenile court.
- d. **Implications:** Even once a public offender turns eighteen, a juvenile court still has the ability to use its contempt powers. This ideology is codified in KRS 600.060, which recognizes that the juvenile code does not decrease or limit the court's contempt powers. Restitution is an order made by the court and any interference or attempt at restriction, legislative or otherwise, would be an unconstitutional attempt to intervene with judicial functions.

4. M.M. v. Williams, 113 S.W.3d 82 (Ky. 2003).

- a. **Facts:** M.M., a juvenile, pled guilty in the Floyd District Court to charges of third-degree assault and attempted escape, which occurred while he was in custody at the Big Sandy Area Detention Center. The Floyd District Court released M.M. to his parent's custody and transferred the case to the Laurel District Court for final disposition since he was a resident of Laurel County. Laurel District Court entered an order committing him to the Clark County Detention Center pending placement by the Department of Juvenile Justice. M.M. appealed to the Laurel Circuit Court and sought release pending the appeal pursuant to RCr 12.04. The Laurel Circuit Court denied the motion for release. The Department for Juvenile Justice subsequently placed him in a facility in Morgan County. He then sought habeas corpus relief in the Morgan Circuit Court to preclude further enforcement of the order of the Laurel District Court pending resolution of his appeal to the circuit court. The Court of Appeals reversed the Morgan Circuit Court, holding that M.M.'s habeas petition was procedurally improper, and that he instead should have sought relief through the normal appellate procedures or through a petition for a writ of mandamus.
- b. **Issues:** Was the Laurel District Court's order of commitment stayed by operation of law when M.M. timely filed his appeal in the circuit court? Was M.M. properly entitled to habeas relief since he claimed he was illegally detained in the Morgan County facility?

- c. **Holding:** The Court declines to consider the issue of whether the Laurel District Court's order was stayed when his filed his timely appeal. The only issue considered was the proper application of habeas corpus. M.M.'s proper remedy was appeal or mandamus, not in a habeas petition to another circuit court.
- d. **Further Considerations and Implications:** In the context of this case, habeas relief would have only been proper had M.M. been detained under a void judgment. M.M. argued that the Laurel District Court's order of commitment was unenforceable since he filed a notice of appeal in the circuit court. However, the Court found that the district court's order was a legitimate legal order and M.M. did not contend that the district court did not have proper jurisdiction therefore, he was not illegally detained.

Confessions Secured While Child in School Without Counsel and Without Parental Notification & Commonwealth's Attempt to Access a Writ to Strengthen Its Evidence Before Trial

1. Commonwealth of Kentucky v. Bell, NO. 2011-CA-000562-ME, 2010 Ky. App. Unpub. LEXIS 55 (Ky. Ct. App., March 30, 2012). 365 S.W.3d 216 (Ky. App. 2012).
 - a. **Facts:** During his summer break, T.C, a 13-year old male, was charged with first-degree sodomy of another person under the age of 12, in accordance to KRS 510.070(1)(b). On May 19, 2010, the school-year prior to the summer break that the charge occurred, two detectives had pulled T.C aside during school to interrogate him, without parental notification or consent, and without other adult supervision. The juvenile was read his Miranda rights and questioned about a particular incident that occurred with T.C and his six-year-old cousin in the shower. After charges were filed, T.C filed a motion to suppress his statements due to the lack of parental notification pursuant to KRS 610.200. The Commonwealth filed a Petition for Writ of Prohibition in circuit court to prohibit the district court from suppressing the juvenile's statements. The circuit court denied the petition, and the Commonwealth appealed.
 - b. **Issue:** Whether the circuit court erred in denying a Petition for Writ to a district court ruling that granted a juvenile's motion to suppress an oral confession on the grounds that it was not given voluntarily, that the minor was 13 at the time of confession, that the parents were not notified and did not give their consent, and that the interrogation was misleading.
 - c. **Holding:** The Court of Appeals affirmed the decision of the circuit court in denying a Petition for a Writ affirming concern about the impressionable age of the juvenile and the coercive policing tactics that were used by the detectives.
 - d. **Implications:** The SCOTUS case of JDB was not considered in the opinion.