

Direct File Case

Flakes v. People, 153 P.3d 427 (Colo. 2007).

The Supreme Court granted certiorari to determine the constitutionality of the direct file statute in the Children's Code, Section 19-2-517. The court holds that the district court has the discretion to sentence a juvenile as an adult or as a juvenile when found guilty of unenumerated charges. The court also holds that the direct file statute is constitutional.

The direct file statute authorizes a prosecutor to charge a juvenile as an adult by filing enumerated charges directly in district court. Flakes, a juvenile, was charged as an adult in district court with two counts of first degree murder, two counts of first degree murder for extreme indifference to human life, and two counts of accessory murder. The El Paso district attorney's office bypassed the juvenile courts and direct filed on Flakes. The district court imposed an adult sentence and Flakes argued that his adult sentence was illegal because he was eligible for a juvenile sentence. The court of appeals affirmed in November 2000, and cert. was granted by the Supreme Court to review Flakes' constitutional challenges.

Flakes contends that the direct file statute sweeps up any unenumerated charges filed with the enumerated offenses into a broad category of crimes which, if convicted of, require an adult sentence. The direct file statute enumerates the charges that a prosecutor may file against a juvenile. The court agrees that the plain language of the statute does not include any charges of accessory to murder after the fact, thus the direct file statute does not expressly grant authority to the prosecution to directly file the accessory to murder charges in district court.

Next, the court analyzed what sentence the district court may impose when exercising its ancillary jurisdiction over a juvenile found guilty of an *unenumerated* offense. (The court had already determined that the direct file statute is limited in scope to enumerated offenses.) The sentencing provisions of the statute are broad, but are limited to the charges in section 1 of 19-2-517, and the plain language of the statute does not sweep sentencing for unenumerated offenses into the same category as enumerated offenses. The court determined that to conclude otherwise would not be sensible because even misdemeanor and petty offenses filed with enumerated offenses would require adult sentence.

The court concludes that district courts have the discretion to sentence a juvenile guilty of an unenumerated, but directly filed offense, under either the Children's Code or the adult criminal sentencing statutes. But, because it is unclear whether the district court abused its discretion, and because the court did not make adequate findings before imposing an adult sentence, the Supreme Court reversed the court of appeals.