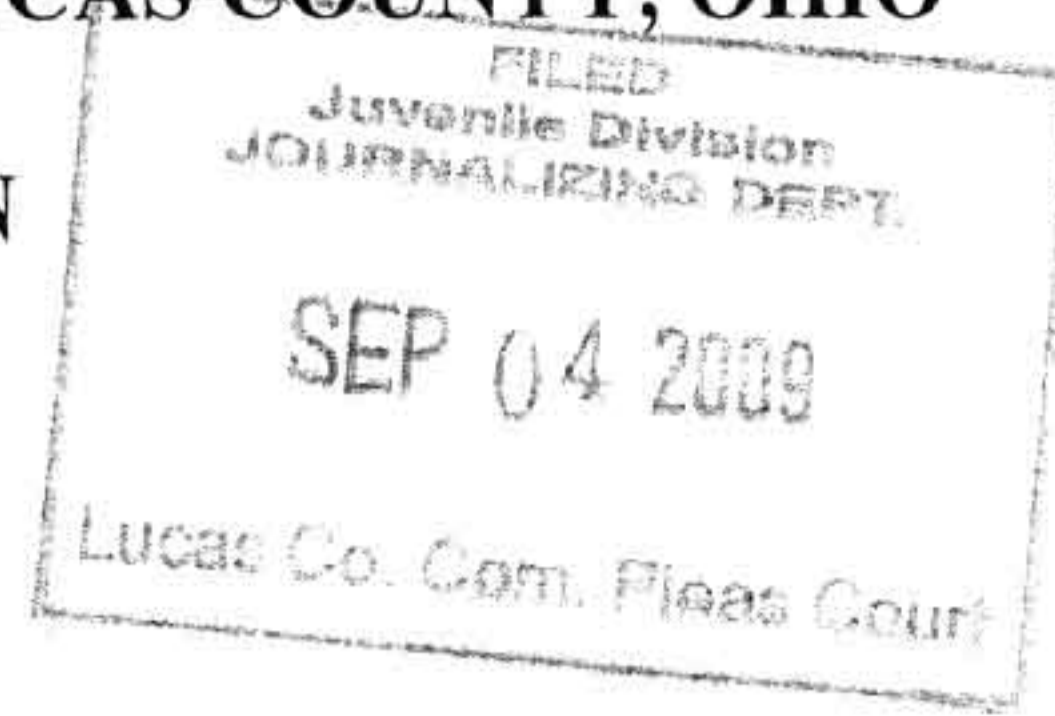


IN THE COURT OF COMMON PLEAS, LUCAS COUNTY, OHIO

JUVENILE DIVISION



In the Matter of:	)	Case No.
	)	JC09195368.01 Aggravated Robbery
	)	JC09195823.02 Murder
<b>JEMISON, Dai'Lahntae</b>	)	
	)	
Aged: 16 years	)	JUDGE CONNIE ZEMMELMAN
	)	
DOB: 08/26/1993	)	<b>JUDGMENT ENTRY</b>

When determining whether to transfer a case involving an allegedly delinquent child for criminal prosecution as an adult, this Court is required to follow the procedures set out in R.C. 2152.12 and Juv. R. 30. Pursuant to R.C. 2152.12(B) the case may be transferred ONLY if the Prosecution proves each of the following:

- (1) The child was at least 14 years of age at the time of the act charged;
- (2) There is probable cause to believe the child committed the act charged; and
- (3) After weighing the applicable factors set forth in R.C. 2152.12(D) and (E), it is shown that the child is not amenable to care and rehabilitation in the juvenile system and that the safety of the community requires that the child be subject to adult sanctions.

In this case the first two criteria were established at the Phase I hearing held July 21, 2009. The evidence in this case showed that Dai'Lahntae Jemison was 15 years old on June 22, 2009, when he punched Robert Brundage in the jaw, knocking him off of his bike with the intent of stealing the bike. As a result of the juvenile's action, Mr. Brundage fell off of his bike and struck his head on the ground, resulting ultimately in his death.

Prior to this incident Dai'Lahntae Jemison had never been involved in the juvenile court system. He had just completed his second year at Horizon Science Academy. He had received suspensions over the course of his two years at Horizon for various infractions – some of which were relatively minor and others involved fighting with other students and disrespect for authority. None of these incidents gave rise to the filing of charges against this juvenile and, in fact, the testimony revealed that Dai'Lahntae exhibited significant improvement during the course of his two years at Horizon. Both Dr. Carnel Smith, the Dean of Students, and Leslie Kudro, his history teacher, saw potential in Dai'Lahntae. Dr. Smith testified that Dai'Lahntae was often impulsive, acting before thinking. He testified that Dai'Lahntae was making strides in overcoming these impulsive behaviors through the school mentoring program. Ms. Kudro testified that Dai'Lahntae started his first year being quite disruptive in school and became “someone who was doing his work and wanted to be on the right track.” Both of these educators described this student as a “typical” 15 year old in terms of maturity and emotionality. Both indicated that they would take him back as their student.

Dr. Thomas Sherman, the Medical Director of the Court Diagnostic and Treatment Center, described Dai'Lahntae as friendly, affable, and quite pleasant, never appearing surly or evasive. In Dr. Sherman's opinion Dai'Lahntae does not suffer from mental disease or defect and behaves emotionally appropriate for his age, indicating that this child is not emotionally or psychologically mature enough for a transfer to the adult system. He also makes it clear that there is no indication of antisocial personality traits or the "hardened" inflexible character traits more typical of an incorrigible future offender. Dr. Sherman also pointed out that children of this age are malleable, and vulnerable to impulsive behaviors. This type of behavior often disappears with age, especially with the provision of services through the juvenile system.

Larry Twitchell, Intake Officer with the Juvenile Court Probation Department, testified that Dai'Lahntae was cooperative with him, well-spoken, and forthright. He felt his maturity level was typical for a 15 year old. He also indicated that Dai'Lahntae's verbal aggressiveness at school seemed to escalate near the end of the school year. Mr. Twitchell's recommendations, if he were his Probation Officer, would include anger management treatment and rehabilitation through a locked-down juvenile facility, among other services. He pointed out that this juvenile has never had court-ordered services, and that he does well in a structured environment as evidenced by the positive reports he received from the Juvenile Detention Officers working with Dai'Lahntae during his detention in this case.

In applying this evidence to the applicable law, a review of the nine factors that would favor transfer, as set out in R.C. 2152.12 (D) will be addressed first.

- (1) Mr. Brundage died as a result of Dai'Lahntae's act. This Court does not minimize the tragedy of this situation. However, the manner of death is a relevant consideration. Clearly Dai'Lahntae Jemison used force against his victim with the specific intent of stealing Mr. Brundage's bicycle. But there is not even a suggestion in the record that Dai'Lahntae intended, or even considered, that death would result from his use of this force.
- (2) There is no evidence that the physical harm was exacerbated because of the physical vulnerability or age of the victim, although Mr. Brundage was 66 years old at the time of his death.
- (9) The Prosecutor argues that 5 years is not sufficient time to rehabilitate this child in the juvenile system, relying on his history of fighting in school and the force used in punching Mr. Brundage.

The Prosecutor agrees that factors (3) through (8) are not applicable to this case.

In applying the evidence to the eight factors against transfer as set out in 2152.12 (E), it is clear from the record that (1), (2), (3) and (7) do not apply.

- (4) As stated earlier there is no evidence that the Dai'Lahntae intended for his action to result in the death of his victim. Further, in light of Dr. Sherman's testimony, it is doubtful whether a typical, impulsive 15 year old would have reasonable cause to believe that this act would inflict death.

- (5) There is no disagreement that Dai'Lahntae previously has not been adjudicated a delinquent child.
- (6) The Prosecutor does not dispute Dr. Sherman's opinion that this juvenile is not emotionally, physically, or psychologically mature enough for transfer.
- (8) There being no evidence to the contrary, it appears that 5 years in the juvenile system is sufficient time to rehabilitate Dai'Lahntae and the level of security available in the juvenile system provides a reasonable assurance of public safety.


This Court has read a great deal of case law involving discretionary transfers of juveniles, including those cases provided by the prosecution at hearing. The Court has also reviewed prior transfers ordered by this Court as well. Following this research I am constrained to point out that these cases usually involve children who have extensive histories in the juvenile court system prior to transfer. Alternatively, where the juvenile has had no prior contact, the cases involve heinous acts exhibiting little or no regard for human life. Examples include brutal beatings, stabbings, and shootings. These cases are clearly distinguishable from the case now before this Court.

That being said, I feel compelled to acknowledge the tragedy of losing any life to such a senseless act. This is especially notable where the life taken involves someone like Mr. Brundage who has been a tremendous asset to our community. This act of violence will have a lifelong effect on Mr. Brundage's survivors, friends, and on Dai'Lahntae Jemison. These considerations are certainly relevant at the time of the

ultimate disposition in this case – but they are not pertinent to the question of whether Dai’Lahntae Jemison is amenable to treatment in the juvenile justice system.

In light of the foregoing, it is clear that the State of Ohio has failed to meet its burden of proving that Dai’Lahntae Jemison is not amenable to treatment or rehabilitation within the juvenile system.

It is, therefore, ORDERED, ADJUDGED and DECREED that the States’s Motion to Relinquish Jurisdiction is, therefore, denied.

  
CONNIE F. ZEMMELMAN, Judge

xc: Atty Lori Olender, APA  
Atty Joanne Rubin  
Tawanda Harris