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SJC-13739

COMMONWEALTH vs. QUAHIR Q., a juvenile.

Suffolk. September 5, 2025. – November 20, 2025.

Present: Budd, C.J., Gaziano, Kafker, Wendlandt, Georges,
Dewar, & Wolohojian, JJ.

Firearms. Practice, Criminal, Juvenile delinquency proceeding,
Continuance without a finding, Sentence, Appeal by
Commonwealth. Juvenile Court, Delinquent child.
Delinquent Child. Statute, Construction.

Complaint received and sworn to in the Suffolk County
Division of the Juvenile Court Department on March 28, 2022.

A motion to revise or revoke sentence was heard by Peter M. Coyne, J.

The Supreme Judicial Court on its own initiative
transferred the case from the Appeals Court.

Molly Paris, Assistant District Attorney, for the
Commonwealth.

Neil S. Tassel for the juvenile.

Cristina F. Freitas & Debbie F. Freitas, Committee for
Public Counsel Services, for youth advocacy division of the
Committee for Public Counsel Services & another, amici curiae,
submitted a brief.

Joseph N. Schneiderman, for K.S., amicus curiae, submitted
a brief.

KAFKER, J. The issue presented is whether a Juvenile Court judge may impose a continuance without a finding (CWOFF) in a case in which a juvenile is charged by a delinquency complaint with carrying a firearm without a license in violation of G. L. c. 269, § 10 (a). Based on the text and over-all structure of the relevant criminal and juvenile statutes, the rehabilitative goals of the juvenile justice system, and the statutory discretion granted to Juvenile Court judges in the disposition context, we conclude that a CWOFF is a lawful disposition on such a § 10 (a) charge.¹

1. Background. a. Facts. On March 28, 2022, administrators at the Dearborn School in the Roxbury section of Boston learned that a student might be in possession of a weapon. School administrators performed an administrative search, which revealed that the juvenile possessed a nine millimeter Glock pistol with six rounds of ammunition inside his "fanny pack" on his person. Consequently, Boston police officers arrived at the school and the juvenile was arrested and taken into custody.

¹ We acknowledge the amicus briefs submitted by the youth advocacy division of the Committee for Public Counsel Services and Citizens for Juvenile Justice, and by K.S.

In arguing for a CWOFF in the instant case, defense counsel explained that the juvenile had previously been subjected to threats and assaults while taking public transportation to school. Although the juvenile did not possess a license to carry the firearm outside of his home or place of work, he did possess a valid firearm identification (FID) card.² After his arrest, with the help of his parents and counsel, the juvenile was successfully readmitted to Boston public schools, from which he subsequently graduated. Since his graduation, the juvenile has completed numerous occupational trainings and worked part-time jobs.

b. Procedural history. A delinquency complaint issued in the Juvenile Court, charging the juvenile with unlawful possession of a firearm in violation of G. L. c. 269, § 10 (a) (count one); carrying a loaded firearm without a license in

² An FID card entitles a person to possess certain nonlarge capacity firearms and ammunition. G. L. c. 140, § 129B (6), as amended through St. 2018, c. 123, §§ 9, 10. See G. L. c. 140, § 129B (a), as amended through St. 2024, c. 135, § 44 (effective Oct. 2, 2024). A person from the age of fourteen to seventeen may apply for an FID card with a parent or guardian's permission, provided that such person is not issued the FID card until he or she is fifteen years old. G. L. c. 140, § 129B (1) (iv)-(v), as amended through St. 2018, c. 123, §§ 9, 10. See G. L. c. 140, § 129B (a), as amended through St. 2024, c. 135, § 44. A license to carry, available only to individuals twenty-one and older, entitles a license holder to possess large capacity firearms, including handguns. G. L. c. 140, § 131 (d) (iv), as amended through St. 2018, c. 123, §§ 11, 12. G. L. c. 140, § 131 (d), as amended through St. 2024, c. 135, § 49 (effective Oct. 2, 2024).

violation of G. L. c. 269, § 10 (n) (count two); and unlawful possession of ammunition in violation of G. L. c. 269, § 10 (h) (1) (count three).

The juvenile tendered a plea recommendation to the court in which he recommended a CWOFF on the firearm counts while the Commonwealth recommended commitment to the Department of Youth Services (DYS) until the juvenile's nineteenth birthday. Both parties agreed to a dismissal of the ammunition offense in consideration of the plea. With respect to count one, the Commonwealth also filed a written response arguing that CWOFFs are prohibited for juveniles charged under G. L. c. 269, § 10 (a).

The judge decided that a CWOFF is a lawful disposition for a juvenile who violates G. L. c. 269, § 10 (a). The judge then accepted the juvenile's tender, entered a CWOFF until his nineteenth birthday as to both counts one and two, and dismissed count three. The Commonwealth's subsequent motion to revise or revoke the sentence for count one pursuant to Mass. R. Crim. P. 29, 365 Mass. 780 (1974), was denied.

The Commonwealth timely appealed. We transferred the matter to this court sua sponte to address whether a judge in the Juvenile Court may impose a CWOFF after an admission to sufficient facts to support an adjudication of delinquency under G. L. c. 269, § 10 (a).

2. Discussion. Delinquency proceedings are governed by G. L. c. 119, §§ 52 through 63. "When interpreting any provision governing juvenile delinquency proceedings, we are guided by the two legislative pronouncements housed within G. L. c. 119, § 53." Commonwealth v. Magnus M., 461 Mass. 459, 461 (2012). First, the provisions "shall be liberally construed" so that children, "as far as practicable, . . . shall be treated, not as criminals, but as children in need of aid, encouragement and guidance." G. L. c. 119, § 53. Second, proceedings against children "shall not be deemed criminal proceedings." Id. These twin directives reflect "the principal aim and underlying philosophy of our juvenile justice system," which is "primarily rehabilitative, cognizant of the inherent differences between juvenile and adult offenders, and geared toward 'the correction and redemption to society of delinquent children.'" Magnus M., supra, quoting Metcalf v. Commonwealth, 338 Mass. 648, 651 (1959). "The aims of 'correction and redemption' of delinquent children are to be accomplished in part by the very broad discretion allowed Juvenile Court judges with regard to disposition . . . 'to avoid attaching to [juveniles] the stigma of a criminal.'" Police Comm'r of Boston v. Municipal Court of the Dorchester Dist., 374 Mass. 640, 667 (1978), quoting Metcalf, supra.

a. Standard of review. Although the Legislature has granted Juvenile Court judges "broad 'discretion . . . to render individualized dispositions consistent with the best interests of the child,'" Commonwealth v. Mogelinski, 466 Mass. 627, 631 (2013), quoting Commonwealth v. Hanson H., 464 Mass. 807, 808 (2013), this court will of course not uphold a disposition if it is illegal, see Commonwealth v. Walters, 479 Mass. 277, 280 (2018). Because the legality of a juvenile's disposition is a question of statutory interpretation, our review is de novo. See, e.g., Commonwealth v. Dones, 492 Mass. 291, 294 (2023), citing Commonwealth v. Beverly, 485 Mass. 1, 11 (2020).

b. CWOFs allowed and precluded by G. L. c. 119, § 55B. Dispositions in delinquent child cases are governed by G. L. c. 119, §§ 55B and 58. General Laws c. 119, § 55B, describes available dispositions following the tender of a plea or admission to sufficient facts, see Magnus M., 461 Mass. at 461 n.3 ("G. L. c. 119, § 55B, . . . address[es] pleas . . . before trial on a delinquency complaint"), and G. L. c. 119, § 58, sets forth, inter alia, the available dispositions once an adjudication of delinquency has been made, see id. at 463-464. Because the judge in this case imposed a CWOF after he accepted the juvenile's pretrial admission, G. L. c. 119, § 55B, provides the appropriate dispositional framework and is the starting point of our analysis.

"Where the words [of a statute] are 'plain and unambiguous' in their meaning, we view them as 'conclusive as to legislative intent'" (alteration in original). Commonwealth v. Ambrose A., 495 Mass. 135, 138 (2024), quoting Commonwealth v. K.W., 490 Mass. 619, 624 (2022). "We do not read into the statute . . . words that the Legislature had an option to, but chose not to include." Dones, 492 Mass. at 297, quoting Commonwealth v. Williams, 481 Mass. 799, 807-808 (2019). Indeed, as a general matter, "[t]he statutory expression of one thing is an implied exclusion of other things omitted from the statute" (citation omitted). Arrowood Indem. Co. v. Workers' Compensation Trust Fund, 496 Mass. 222, 231-232 (2025).

We begin with the plain text of the statute. The first paragraph of § 55B states, in relevant part:

"A child who is before the juvenile court on a delinquency complaint . . . shall plead not delinquent [A] child with whom the commonwealth cannot reach agreement for a recommended disposition shall be allowed to tender a plea together with a request for a specific disposition. Such request may include any disposition or dispositional terms within the court's jurisdiction, including, unless otherwise prohibited by law, a disposition request that a finding not be entered, but rather the case be continued without a finding to a specific date thereupon to be dismissed . . . ; provided, however, that a complaint alleging a child to be a delinquent child by reason of having violated the provisions of [G. L. c. 265, § 13B, 13B 1/2, 13B 3/4, 22A, 22B, 22C, 23, 23A, 23B, or 50,]

shall not be placed on file or continued without a finding."³

G. L. c. 119, § 55B. In other words, a juvenile may request a CWOFF upon tender of a plea or admission -- unless the complaint alleges one of the enumerated offenses, which are all sex offenses, or a CWOFF is otherwise prohibited by law.

In enumerating the offenses for which a juvenile may not request a CWOFF in G. L. c. 119, § 55B, the Legislature did not include G. L. c. 269, § 10 (a), or any other firearms offenses. Likewise, G. L. c. 119, § 58, first par., prohibits CWOFFs for the same enumerated offenses.⁴ The most natural understanding of

³ General Laws c. 119, § 55B, second par., clarifies that a "statement consisting of an admission of facts sufficient for a finding of delinquency . . . shall be deemed a tender of plea for purposes of the procedures set forth in this section."

⁴ General Laws c. 119, § 58, first par., provides, in relevant part:

"At the hearing of a complaint against a child the court shall hear the testimony of any witnesses who appear and take such evidence relative to the case as shall be produced. If the allegations against a child are proved beyond a reasonable doubt, he may be adjudged a delinquent child, or in lieu thereof, the court may continue the case without a finding and, with the consent of the child and at least one of the child's parents or guardians, place said child on probation; provided, however, . . . that a complaint alleging a child to be a delinquent child by reason of having violated the provisions of [G. L. c. 265, § 13B, 13B 1/2, 13B 3/4, 22A, 22B, 22C, 23, 23A, 23B, or 50,] shall not be placed on file or continued without a finding."

§ 10 (a)'s omission from both lists is that it was intentional and that the Legislature intended to prohibit CWOs for the enumerated sex offenses only. See, e.g., Commonwealth v. Russ R., 433 Mass. 515, 521 (2001) (Legislature's omission of term in enumerated list in statute "suggest[s] that it intended to exclude" that term). Had the Legislature intended to prohibit CWOs for juveniles charged under § 10 (a), it could have included § 10 (a) among the excepted offenses. We therefore conclude that the Legislature did not intend to prohibit CWOs for juveniles tendering a plea or admission to sufficient facts for a § 10 (a) offense.⁵ For the reasons stated infra, we likewise conclude that CWOs in these circumstances are not "otherwise prohibited by law," as referenced in G. L. c. 119, § 55B.

c. CWOs allowed and precluded by G. L. c. 269, § 10 (a) (6), and G. L. c. 119, § 58. On appeal, the Commonwealth argues that the CWO in this case is unlawful because it violates G. L. c. 269, § 10 (a) (6), which provides that "[p]rosecutions commenced under this subsection shall neither be continued without a finding nor placed on file," and

⁵ Because the statutory language is clear, we "need not consult its legislative history." Garcia v. Steele, 492 Mass. 322, 328 n.7 (2023).

G. L. c. 119, § 58, seventh par., which states that "[n]otwithstanding any other provisions of this chapter, a person adjudicated a delinquent child by reason of a violation of [G. L. c. 269, § 10 (a)], shall be committed to [DYS]." We conclude that (1) the reference to "[p]rosecutions commenced under this subsection" in G. L. c. 269, § 10 (a) (6), is to adult criminal prosecutions and not juvenile delinquency proceedings, and (2) G. L. c. 119, § 58, seventh par., requires the commitment of a child to DYS after an adjudication of delinquency, but a CWOFF is not such an adjudication.

i. G. L. c. 269, § 10 (a). In interpreting interconnected provisions, such as the ones on which the Commonwealth relies here, we must "look to the language of the entire statute, not just a single sentence, and attempt to interpret all of its terms 'harmoniously to effectuate the intent of the Legislature.'" Hanson H., 464 Mass. at 810, quoting Russ R., 433 Mass. at 520.

The language preceding the CWOFF prohibition in § 10 (a) (6) supports the conclusion that the CWOFF prohibition was not intended to apply in juvenile delinquency proceedings, because the preceding provision plainly does not apply in such proceedings. The statute specifically states that those prosecuted under the subsection "shall be punished by imprisonment in the state prison for not less than two and one-

half years nor more than five years, or for not less than [eighteen] months nor more than two and one-half years in a jail or house of correction." G. L. c. 269, § 10 (a) (6). In the Juvenile Court, only adjudicated youthful offenders can be punished by imprisonment in a State prison, jail, or house of correction. See G. L. c. 119, § 58 (a). See also Commonwealth v. Connor C., 432 Mass. 635, 638 (2000) ("The most severe option grants a judge authority to punish the child [adjudicated a youthful offender] by . . . the punishment the child would receive were he an adult"). Where a juvenile is charged only by a delinquency complaint, the juvenile can only be committed to DYS, and not to jail or a house of correction. See G. L. c. 119, § 58. In sum, the Commonwealth's reading would mistakenly extend § 10 (a) (6)'s prohibition of CWOs in criminal prosecutions requiring imprisonment in jail or a house of correction to juvenile delinquency proceedings.

ii. G. L. c. 119, § 58. We turn next to the Commonwealth's argument that G. L. c. 119, § 58, seventh par., precludes CWOs. By its plain terms, it does not. Instead, the first paragraph of § 58 provides: "If the allegations against a child are proved beyond a reasonable doubt, he may be adjudged a delinquent child, or in lieu thereof, the court may continue the case without a finding" The seventh paragraph of § 58 further provides: "Notwithstanding any other provisions of this

chapter, a person adjudicated a delinquent child by reason of a violation of [G. L. c. 269, § 10 (a),] shall be committed to [DYS]." Thus, the seventh paragraph expressly cabins its requirement of commitment to DYS and its prohibition against CWOs to cases where "a person [has been] adjudicated a delinquent child" (emphasis added).

Neither paragraph precludes CWOs prior to an adjudication of delinquency. The former expressly allows CWOs, and the latter requires commitment to DYS only after an adjudication of delinquency. In the instant case, the judge exercised the choice provided by the first paragraph to continue the case without a finding rather than adjudge the child delinquent. In short, the seventh paragraph was inapplicable as there was no adjudication of delinquency.

Our prior decisions interpreting § 58 support the broad exercise of discretion to order a CWO "to shield a child from the stigma and collateral consequences of a delinquency adjudication." See, e.g., Magnus M., 461 Mass. at 467. See also R.L. Ireland, *Juvenile Law* § 1.73, at 331 (2d ed. 2006) ("If there are facts sufficient for an adjudication of delinquent . . . , the court may, instead of making an adjudication of delinquent, continue the case without a finding . . .").

Without in any way minimizing the dangers presented by the juvenile bringing a firearm to school, we cannot therefore conclude that the statute precludes the exercise of the judge's discretion to issue a CWOFF in the instant case.

We emphasize that the Legislature has, in G. L. c. 119, § 58, itself as well as § 55B of the same chapter, expressly prohibited CWOFFs altogether for certain enumerated sex offenses, but not G. L. c. 269, § 10 (a). By contrast, § 58, seventh par., prohibits CWOFFs for § 10 (a) offenses only for "a person adjudicated a delinquent child." "Where the Legislature used different language in different paragraphs of the same statute, it intended different meanings." Commonwealth v. Williamson, 462 Mass. 676, 682 (2012). This difference indicates the Legislature's intent that the seventh paragraph take effect only after a juvenile has been adjudicated delinquent.

Our construction is bolstered by G. L. c. 119, § 53, which runs counter to the Commonwealth's interpretation of the seventh paragraph of § 58. Juveniles in the juvenile justice system must be "treated, not as criminals, but as children in need of aid, encouragement and guidance." G. L. c. 119, § 53. As we have explained on numerous occasions: "[c]onsonant with that command is the principle, woven into the fabric of our juvenile justice system, that a Juvenile Court judge has broad discretion regarding the disposition of a case in order to ensure that the

rehabilitative aim of § 53 is realized." Commonwealth v. Samuel S., 476 Mass. 497, 506-507 (2017).

3. Conclusion. For these reasons, we conclude that the judge had the authority under G. L. c. 119, §§ 55B and 58, to continue the juvenile's case without a finding, notwithstanding the juvenile's admission to sufficient facts for an adjudication of delinquency under G. L. c. 269, § 10 (a). We therefore affirm the order denying the Commonwealth's motion to revise or revoke the juvenile's sentence.

So ordered.