



IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|---|---------------------------|
| ANGELO RODRIGUEZ, |) | |
| |) | |
| Defendant Below- |) | |
| Appellant, |) | No. 27, 2026 |
| |) | |
| |) | ON APPEAL FROM |
| v. |) | THE SUPERIOR COURT OF THE |
| |) | STATE OF DELAWARE |
| STATE OF DELAWARE, |) | ID No. 2407012691 |
| |) | |
| Plaintiff Below- |) | |
| Appellee. |) | |

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
DELAWARE IN AND FOR SUSSEX COUNTY

APPELLANT’S REPLY BRIEF

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Angelo Rodriguez, through the undersigned counsel, replies to the State's answering brief as follows:

INTRODUCTION

Angelo Rodriguez, age 14, was the very epitome of a wayward child. Having recently relocated to Delaware, he did not have a prosocial peer group. His father has been incarcerated since Angelo was a toddler. His mother's paramour – a semi-father figure – did not make the move to Delaware. His close relationship with his grandfather ended when the grandfather passed away.

Angelo struggled in school and got in trouble all the time. He tested off the charts for hyperactivity and impulsivity. But his mother did not believe in medication, so Angelo's ADHD went untreated. Despite Angelo being on an IEP for behavioral issues, his mother refused to believe he was anything less than a model child.

Over the span of a couple months in 2023, Angelo committed several crimes. These were usually committed along with older boys and in one serious case, an adult. This crime spree culminated in Angelo being placed on probation for the first time. He was generally compliant.

On June 9, 2023, Angelo found himself hanging out in Ellendale with a group of kids he did not know. He possessed a firearm that he had taken from his brother's house a few weeks earlier. The group to which Angelo was attached got

in a fight with another group that was having a party at a rec center. While running away from the melee, Angelo impulsively fired shots backwards towards the crowd, tragically killing Aniyah Coverdale and wounding another person in the foot. The shooting was captured on security camera footage from a nearby restaurant. As such, there can be no doubt that this was not an act of cold-blooded, intentional murder. Rather, it was a reckless and senseless spray of bullets that resulted in the tragic death of the victim.

In denying Angelo's motion to transfer his case to Family Court, the Superior Court committed legal error. The Court also misapprehended important facts while minimizing others. This Court should reverse the Superior Court's judgment and remand this case for resentencing in Family Court.

ARGUMENT

I. THE SUPERIOR COURT ERRED BY DENYING FOURTEEN-YEAR-OLD ANGELO RODRIGUEZ'S MOTION TO TRANSFER HIS CHARGES TO FAMILY COURT.

The Superior Court committed legal error from the outset by finding that the General Assembly established a rebuttable presumption that Angelo's case should remain in Superior Court.

The State correctly points out that this is a question of law that is renewed *de novo* by this Court.¹ The State is wrong, however, in its assertion that it made no difference that the Court below engaged in a rebuttable presumption analysis. The State asserts that the Court viewing the evidence through a rebuttable presumption lens did not increase or change the burden of persuasion for Angelo. But that is not how rebuttable presumptions work.

The Delaware General Assembly did not establish a jurisdictional rebuttable presumption in 10 *Del. C.* § 1010 or § 1011. Fairly read, 10 *Del. C.* § 1010(a)(5) merely creates a jurisdictional possibility that a child between 12 and 16 *may* be proceeded against as an adult for certain enumerated crimes.² In other words, the Department of Justice makes the jurisdictional decision, subject to judicial review. And § 1011(b) sets forth a nonexhaustive list of three factors for the Superior

¹ Ans. Br. at 23.

² 10 *Del. C.* § 1010(a)(5).

Court to consider on a motion for transfer – notably, the General Assembly did not impose a rebuttable jurisdictional presumption.

The statutory scheme merely establishes what courts in which the criminal proceeding may take place. No presumption exists that the child is in the correct court. Indeed, this Court views “both the amenability and reverse amenability processes as containing pivotal constitutional safeguards providing independent judicial scrutiny over the charging of juveniles.”³

This Court has never imposed a rebuttable presumption standard on the reverse amenability question. The Superior Court created the rebuttable presumption language, and as the State points out, the phrase has been reused in many cases.⁴ But that does not mean it is a correct statement of the law. Indeed, all the cases so holding predate the 2021 amendments to 11 *Del. C.* § 1010.⁵ Before the amendments, any child “shall” be prosecuted as an adult for enumerated crimes. After the amendments, “a child” was redefined to mean “age 16 or older.”⁶ And a new subsection was added to carve out a narrower list of crimes where a child between 12 and 16 may be proceeded against as an adult.⁷

³ *State v. Anderson*, 697 A.2d 379, 383 (Del. 1997)(internal citations omitted).

⁴ Ans. Br. at 29-30.

⁵ See, Ans. Br. at 25, n.10 for a good explanation of the 2021 amendments.

⁶ 10 *Del. C.* § 1010(a)(emphasis added).

⁷ 10 *Del. C.* § 1010(a)(5).

Therefore, if the Superior Court’s interpretation of the statute as creating a rebuttable presumption was ever valid, it certainly is no longer so after the 2021 amendments. Moreover, a rebuttable presumption cannot apply to a child between 12 and 16, because the charging decision by the DOJ is discretionary.

Instead, the statute imposes neutral judicial review of the reverse amenability question: the Court may transfer the case to Family Court “if, *in the opinion of the Court*, the interest of justice would be served by such transfer.”⁸ As such, the General Assembly did not impose upon the judge a duty to presume that the case must remain in Superior Court, absent sufficient rebuttal.

Contrary to the State’s view, the rebuttable presumption makes a significant difference. A rebuttable presumption presumes a fact. Here, that fact is that jurisdiction in Superior Court is correct. Then it is up to the party against whom the presumption is directed to prove that the fact does not exist.⁹

This Court has held that the legal standard for rebutting a presumption requires the adversely affected party to convince the court by clear and convincing evidence that the presumption is false.¹⁰ The Superior Court’s presumption

⁸ 10 *Del. C.* § 1011(b)(emphasis added).

⁹ *See, e.g.*, D.R.E. 301(a).

¹⁰ *Hudek v. Procek*, 806 A.2d 140, 147 (Del. 2002)(explaining the burden of proof required to rebut a presumption that when a parent places legal title to property in the name of his or her child, the parent intended to make a gift of the property to the child).

imposed an undue burden on Angelo to rebut the Court's presumption by a much higher legal standard than the reverse amenability statute specifies. As such, the Superior Court committed legal error which should be reversed.

The Superior Court's denial of Angelo's motion to transfer was not the product of a logical, deductive reasoning process.

The nature of the present offense and the extent and nature of the defendant's prior record, if any.

The Superior Court erred in finding that Angelo's prior criminal history weighed against transfer. As discussed previously, Angelo was a wayward 13 year-old who had little to no adult supervision. He had severe ADHD. Over a period of a couple months, he committed escalating crimes, usually in the company of older peers.

The Superior Court pulled facts from the record selectively. For example, during the September 24, 2023 carjacking incident, the Court points out that the codefendant threatened to kill the female victim and her unborn child.¹¹ But the Court conspicuously left out the fact that when the codefendant made this threat, Angelo admonished him, "Bro, chill."¹²

The Court found that "the defendant's priors, including firearms and armed robbery, cause the Court to determine that the second prong also weighs against

¹¹ *State v. Rodriguez*, 2025 WL 466631 at *3 (Del. Super. Feb. 11, 2025).

¹² A123.

transfer.”¹³ In doing so, the Court failed to consider that Angelo was 13 when he committed these crimes and had never received any rehabilitative services. In fact, if his mother allowed him to take ADHD medication and if she was not willfully blind to his problems, Angelo would very likely have made better choices. The Court, rather, treated Angelo as an older teen incorrigible who had been to Ferris before. He is not that teen.

The State acknowledges that, as argued in the opening brief, Angelo committed most of his criminal activity during a two-month period when he was 13 years old. But the State points out that in 2024, Angelo took a credit card from a student in school and took his brother’s pistol. The State is correct about those 2024 incidents, but it does not affect the calculus. For most of these incidents, Angelo was a spiraling young teenager who needed help. His mother would not let him get help through school interventions or medication. Angelo had not yet appeared before the Family Court.

The nature of past treatment and rehabilitative efforts and the nature of defendant’s response thereto.

In evaluating this factor, the Superior Court again resorted to selective factfinding. As to Angelo’s secure detention at Stevenson House in September 2023, the Court found, “Defendant was involved in several fights and disobeyed a

¹³ *Rodriguez* at *3.

staff directive.”¹⁴ But the record reflects that Angelo was generally compliant at Stevenson house and progressed through the behavioral phases.¹⁵ He had a couple incidents with a particular counselor.¹⁶ And he had a setback for failing to follow a staff directive.¹⁷ But he attained the highest behavioral status nevertheless.¹⁸ He also was doing well in school.¹⁹

Angelo also attained the highest behavioral status at New Castle County Detention Center when he was moved there.²⁰

The Superior Court’s disregard of these facts is unreasonable. For whatever reason, the Court chose to give weight only to negative facts about Angelo and disregarded the others. As another example, the Court noted that Angelo’s sixth grade teacher made a DFS referral when Angelo told her that he wanted to drop out of school and become a drug dealer.²¹ But the Court elided the rest of the statement: “because of [my] father and brother.”²² In proper context, Angelo’s statement underscores that his only family role models were criminals.²³

¹⁴ *Rodriguez* at *4.

¹⁵ A197-198.

¹⁶ A197.

¹⁷ A198.

¹⁸ *Id.*

¹⁹ A199.

²⁰ A269.

²¹ *Rodriguez* at *5.

²² A390.

²³ *See*, A420.

In any event, during Angelo's minimal time under supervision, the record reflects that he was generally compliant. But in considering this factor, the Court reverted back to discussing Angelo's prior criminal history.²⁴ This history was already counted against Angelo in the first factor.

The State asserts that the fact that Angelo tested positive for marijuana while on probation weighs against a finding that he is amenable to treatment.²⁵ But his own probation officer did not see it that way. She thought of the positive tests as an opportunity for Angelo to engage in treatment rather than as a reason to punish him.²⁶

The State takes issue with the assertion that YRS only recommended denial of transfer because of the nature of the charge.²⁷ Ms. Bryant clearly testified that the nature of the charge was the only reason for the recommendation.²⁸ And she started to give her personal view but then remembered she was not at liberty to do so.²⁹ Asked hypothetically if it was a lesser charge, Bryant testified that the DYRS recommendation was different. When asked if the charge of murder first degree

²⁴ *Rodriguez* at *5.

²⁵ Ans. Br. at 34-35.

²⁶ A200.

²⁷ Ans. Br. at 36-37.

²⁸ A188.

²⁹ A206.

was the deciding factor, Ms. Bryant stated, “the deciding factor for DYRS is, yes.”³⁰

The record cannot be any clearer than that.

The Superior Court’s decision on the rehabilitative efforts is out of step with other reverse amenability decisions.

Angelo has a criminal history from age 13-14, had “short-lived”³¹ efforts at rehabilitation, then committed a serious crime that the State decided to charge in Superior Court. A finding that he is not amenable to rehabilitation is an outlier when compared to other cases.

In *State v. Ellington*,³² a 14 year-old was charged with Murder First Degree and other offenses. The child had a difficult upbringing, previously undiagnosed ADHD, and used drugs at an early age. He had minimal prior treatment with YRS.³³ An expert testified that he had significant treatment needs, but due to his minimal treatment history, they had not been addressed. The Superior Court found that this factor weighed in favor of transfer and granted the motion.³⁴

In *State v. Thomas*,³⁵ a 17 year-old was charged with first degree murder. The Superior Court found that a lack of prior treatment, especially when the child

³⁰ A189.

³¹ *Rodriguez* at *5.

³² 2017 WL 3328364 (Del. Super. Aug. 3, 2017).

³³ *Id.* at *5.

³⁴ *Id.* at *5-6.

³⁵ 1992 WL 423933 (Del. Super. Dec. 30, 1992).

has adjusted well and succeeded in education at NCCDC favored transfer to Family Court.³⁶

In *State v. Rogers*,³⁷ a 16 year-old was charged with Murder First Degree and other offenses. The Superior Court found that Rogers had received only limited treatment from YRS before his arrest. While at Stevenson House, Rogers largely complied with the rules, but his behavior was problematic because he was involved in several altercations. When on probation, Rogers failed to comply with certain conditions.³⁸ The Court found, however, that “it appears that Mr. Rogers never received the extensive services his behavior warranted.”³⁹ As such, the Court found that this factor weighed in favor of transfer.⁴⁰

As these cases demonstrate, when a child has not had significant opportunity for rehabilitation and shows some amenability for treatment, the Superior Court routinely finds this factor weighs in favor of transfer. In Angelo’s case, the Court’s

³⁶ *Id.* at *3. The motion was denied, however, due to the defendant’s age and the fact that the PFDCF charge would have to remain in Superior Court, necessitating two trials.

³⁷ 2023 WL 8803506 (Del. Super. Dec.19, 2023).

³⁸ *Id.* at *4.

³⁹ *Id.*

⁴⁰ *Id.* at *6. The Court nevertheless granted the motion. Given Rogers’ age and the fact that the firearm charges had to be tried in Superior Court, “keeping all charges together in this Court serves his best interest by allowing for a quicker and more efficient resolution of his case.” *Id.* at *5.

refusal to consider Angelo's youth, his lack of YRS treatment, his untreated ADHD, and his amenability to treatment constitutes error that should be reversed. The interests of society and defendant.

As the State points out, the Superior Court did not address Angelo's interests at all in its brief consideration of this factor.⁴¹ In that same footnote, the State asserts that since the opening brief noted that the young adult brain is not mature until the mid-20s, it is "arguably not in Rodriguez's interests that he be released into the community at the age of 19."⁴² That argument misstates the neurological science and the United States Supreme Court's and this Court's decisions.

Human brain development occurs across a continuum. The brain does not remain undeveloped throughout young adulthood then change to developed status in one's mid-20s. There can be no question that Angelo's brain will continue to develop as he matures throughout his teens. No rational reason exists to keep him locked up until his mid-20s when his brain is fully developed.

The State next argues that "Rodriguez's argument that incarcerating young offenders simply does not work is one best addressed to the legislature."⁴³ But the legislature did address it. The General Assembly has enacted significant reforms to lessen the population of young offenders eligible for adult prosecution. Indeed, in

⁴¹ Ans. Br. at 45, n.77.

⁴² *Id.*

⁴³ Ans. Br. at 46.

Angelo's case, the only reason he was prosecuted as an adult is because the Department of Justice decided to do so.

The State next claims that "Rodriguez's argument, taken to its logical end, would require that all juvenile offenders be adjudicated in the Family Court, regardless of the crime they committed, their criminal history, or the success of past rehabilitative efforts."⁴⁴ The State is incorrect about that.

Our statutory scheme requires thoughtful consideration of whether the interests of justice weigh in favor of transfer or adult prosecution. Obviously, a youth who has a lengthy criminal history and who has responded poorly to multiple rehabilitative efforts will be viewed differently than a younger offender with no criminal history and for whom there has been no treatment yet.

Angelo falls on the latter end of the continuum. He was very young when he committed the offense for which the DOJ decided to charge him as an adult. He had a difficult upbringing, punctuated by a sudden and disorienting move to Delaware. He made impetuous and poor choices, likely exacerbated by his untreated ADHD and mental health issues.

Angelo committed a series of offenses as a 13 year-old and was eventually introduced to rehabilitative services. Despite a couple bumps in the road, he was essentially compliant with supervision. He also did well in school.

⁴⁴ Ans. Br. at 46-47.

The Superior Court committed clear error in concluding that Angelo is beyond rehabilitation in the juvenile justice system. The Court apparently has concluded that no amount of time left on the rehabilitation clock is enough if even a 14 year-old offender is too old to qualify.

The Superior Court should be reversed for legal error and abuse of discretion.

CONCLUSION

For the reasons stated here and in the opening brief, this Court should reverse. The Superior Court misapplied the law and failed to consider important facts while over-emphasizing others. The effect of a reversal will be a jurisdictional transfer to Family Court, where Angelo will be sentenced for Murder Second Degree, to which he has already pled guilty.

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