



IN THE SUPREME COURT OF THE STATE OF DELAWARE

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 NEW CASTLE COUNTY

APPELLANT'S SUPPLEMENTAL MEMORANDUM

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INTRODUCTION

A panel of this Court held oral argument on July 8, 2026. The next day, this Court ordered the parties to submit supplemental memoranda on two questions:

1. What, if any, effect did the 2021 amendments to 10 *Del. C.* § 1010 have on pre-amendment caselaw that recognized a rebuttable presumption that a juvenile charged with a designated felony under § 1010 should be tried as an adult?
2. What effect, if any, does the rebuttable presumption referred to in the previous question have on the burden of proof and the evidentiary standard applicable to a juvenile's effort to rebut the presumption?

This is Appellant Angelo Rodriguez's supplemental memorandum. Counsel incorporates all the prior briefing and argument by reference.

BRIEF ANSWERS TO THE COURT'S QUESTIONS

1. It is unlikely that the General Assembly intended to impose a rebuttable presumption on children seeking to transfer their cases to Family Court. Superior Court judges created the rebuttable presumption. To the extent that the presumption was ever a valid expression of the law, it is no longer so after the 2021 amendments. And the presumption as applied to any 12-16 year old child is in direct contravention of the statute.

2. The General Assembly imposed the most neutral of standards upon motions to transfer. The judge may transfer the case to Family Court "if, in the opinion of the Court, the interests of justice would be served by such a transfer."¹

¹ 10 *Del. C.* § 1011(b).

That standard has never changed.² The judge-made rebuttable presumption puts an unfair burden on the child to disprove the presumed fact: that the case should remain in Superior Court as charged. The presumption imposes a quantitative burden of proof on the child whereas the statute requires a qualitative assessment of how the interests of justice would be best served.

ARGUMENT

I. IF THE DEPLOYMENT OF A REBUTTABLE PRESUMPTION BY THE SUPERIOR COURT WAS EVER LEGITIMATE, IT WAS INVALIDATED UPON THE ENACTMENT OF THE 2021 AMENDMENTS – IN PARTICULAR, FOR A CHILD BETWEEN 12 AND 16 YEARS OLD.

Development of the rebuttable presumption

In Angelo Rodriguez’s case, the Superior Court imposed a rebuttable presumption that the case must remain in Superior Court.³ The rebuttable presumption first appeared in *State v. Anderson*,⁴ a 1978 reverse amenability opinion pertaining to several juveniles charged as adults. At that time, any child charged with first degree murder, rape, or kidnapping was required to be charged

² See, *State v. Anderson*, 385 A.2d 738, 740 (Del. Super. 1978)(holding that the former 10 Del. C. § 939, now § 1011, imposes a “sole standard” of the interests of justice); *Marine v. State*, 607 A.2d 1185, 1209 (Del. 1992)(noting that the reverse amenability statute enables the Superior Court to conclude that the interests of justice would be best served by transfer to Family Court).

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

⁴ 385 A.2d 738 (Del. Super. 1978).

in Superior Court.⁵ The Court went on to describe the process for considering transfer of such cases to Family Court in the interests of justice.⁶

According to the Superior Court in *Anderson*,

Since a juvenile charged with a designated felony in the Superior Court has lost the benefit of Family Court adjudication by statutory pronouncement, there is presumption that a need exists for adult discipline and legal restraint. Hence, the burden is upon the juvenile to demonstrate the contrary.⁷

The quoted passage is from a Pennsylvania case that addressed a related but different legal issue. *Commonwealth v. Pyle*⁸ was the Pennsylvania Supreme Court's first case addressing a juvenile charged with murder under a new statute that made a murder charge subject to possible transfer to juvenile court.⁹ Prior to the amendment, any juvenile charged with murder remained in adult court.¹⁰

Pyle addressed the allocation of burden of proof. The lower court placed the burden on the prosecution to disprove that the juvenile's assertion that he or she is amenable to the rehabilitative processes of juvenile court jurisdiction.¹¹ But the Supreme Court reasoned that since original jurisdiction for murder charges remained in adult court even after the amendment, the "assumption" (not

⁵ *Id.* at 740, discussing the requirements of the former 10 *Del. C.* § 938(a)(1).

⁶ *Id.*

⁷ *Id.*

⁸ 342 A.2d 101 (Pa. 1975).

⁹ *Id.* at 103.

¹⁰ *Id.* at 104.

¹¹ *Id.* at 106.

presumption) exists that “the need for adult discipline and legal restraint exists.”¹²

As such, “with this in mind it becomes the juvenile’s burden to prove that he does not belong in the criminal court.”¹³

As such, the *Pyle* Court’s holding merely allocated the burden of proof to the child, correcting the lower court. It appears that *Anderson*’s use of “presumption” rather than “assumption” may have set the Superior Court down the path of creating a rule of law imposing a rebuttable presumption.

In *State v. Wyszynski*,¹⁴ the Superior Court took that next step by holding, “there exists a statutory presumption that a child charged with Unlawful Sexual Intercourse First Degree needs adult correctional treatment and the burden of proof rests with the child to rebut this presumption.”¹⁵ The *Wyszynski* Court cited *Anderson* for this proposition, even though *Anderson* is best read as allocating the burden of proof rather than imposing a rebuttable presumption upon the child.

After *Wyszynski*, the Superior Court used a rebuttable presumption in many reverse amenability decisions.¹⁶ For example, in *State v. Jones*,¹⁷ the Court set

¹² *Id.*

¹³ *Id.*

¹⁴ 1994 WL 234099 (Del. Super. May 5, 1994).

¹⁵ *Id.* at *3. By 1994, the list of crimes requiring adult jurisdiction had expanded to include first or second degree murder, rape, unlawful sexual intercourse in the first degree or kidnapping in the first degree. 10 *Del. C.* § 1010(a)(1) (1994 Del. Laws Ch. 213) (1994).

¹⁶ *See*, Ans. Br. at 30, n.23 for a collection of such cases.

¹⁷ 2022 WL 16631345 (Del. Super. Nov. 2, 2022).

forth the rebuttable presumption language, then held, “in weighing the following factors, Defendant fails to rebut this presumption.”¹⁸

The judicially created rebuttable presumption has been the starting point for analysis of reverse amenability motions for many years. But it is an interpretation not intended by the General Assembly. The only analytical prism intended by the legislature is whether the interests of justice are served by transfer of the child’s case to Family Court.

Moreover, 10 *Del. C.* 1011(b), which has existed since 1971, contains no reference to a rebuttable presumption. On the contrary, the subsection sets forth a nonexhaustive list of three factors for the judge to consider in making the interests of justice determination.¹⁹ By designating certain offenses for Superior Court jurisdiction over children, the General Assembly did not instruct the Superior Court to tilt the playing field in advance of considering the merits.

Finally, the statute vests discretion in the Attorney General to transfer a child’s case to Family Court “if, in the Attorney General’s opinion, the interests of justice would best be served.”²⁰ In addition to underscoring the interests of justice standard, this subsection impliedly undermines any notion that the General

¹⁸ *Id.* at *2.

¹⁹ 10 *Del. C.* § 1011(b).

²⁰ 10 *Del. C.* § 1011(a).

Assembly wanted the DOJ or the Superior Court to force upon the child a presumption that the case must remain in adult court.

The 2021 amendments eliminated the possibility of a rebuttable presumption as to children aged 12-16; as such, the Superior Court's use of it in Angelo's case was clear legal error.

Over the years, the General Assembly has amended § 1010 many times, reflecting evolving attitudes towards juvenile justice. In the 1995, the General Assembly enlarged the list of offenses included in original Superior Court jurisdiction: first or second degree murder, unlawful sexual intercourse in the first degree, kidnapping in the first degree, or any attempts to commit those crimes.²¹ For the first time, however, the legislature added an age cutoff at 15 for original jurisdiction.²²

In 1996, the General Assembly amended 11 *Del. C.* § 1447A(e). That statute mandated adult prosecution for any juvenile over age 16 charged with Possession of a Firearm During Commission of a Felony (PFDCF). The General Assembly lowered the age to 15.²³

This provision was part of H.B. 599, a suite of amendments designed to enlarge adult jurisdiction for juveniles and to make it easier for the State to prosecute juveniles as adults for non-mandatory offenses. The synopsis stated its

²¹ *State v. Anderson*, 697 A.2d 379, 382, n.1 (Del. 1997).

²² 1994 Del. Laws Ch. 335, § 1 (1994).

²³ *Anderson* at 381.

purpose was to “protect Delawareans from violent juvenile criminals...”²⁴ The synopsis noted that the purpose of the act was to address problems in the current statute “by reducing, and in some cases eliminating the barriers to prosecuting violent juvenile offenders in Superior Court.”²⁵

The pendulum began to swing back in the 2000s. In 2005, for example, the General Assembly limited Superior Court jurisdiction for Robbery First Degree to those juveniles that displayed a deadly weapon or who inflicted serious physical injury upon the victim.²⁶

In 2021, the General Assembly enacted major juvenile justice reform with House Bill 115. The synopsis stated:

United States Supreme Court case law and scientific research has changed how we think about juvenile delinquency. We know now that an adolescent’s brain is not fully developed until the mid-twenties which makes juveniles especially prone to poor decision-making. In the landmark case of *Miller v. Alabama*, in which the United States Supreme Court prohibited mandatory life sentences without parole for juveniles on the rationale that children are inherently different than adults, the Court relied not only scientific research but on common sense and what any parent knows: kids will be kids.²⁷

The amendment limited original jurisdiction in Superior Court to children over 16 alleged to have committed first or second degree murder, first or second

²⁴ 1996 Del. Laws Ch. 596 (H.B. 599)(1996).

²⁵ *Id.*

²⁶ 2005 Del. Laws Ch. 195 (S.B. 200)(2005).

²⁷ 2021 Del. Laws Ch. 259 (H.B. 115)(2021).

degree rape, assault in the first degree, kidnapping in the first degree, and robbery in the first degree (if the conditions of display of a deadly weapon or serious physical injury are met).²⁸ The General Assembly also created a new subsection establishing the potential of prosecution for children age 12-16 for the most serious offenses: “a child over the age of 12 and under the age of 16 *may* be proceeded against as an adult only when they are alleged to have committed murder in the first degree, murder in the second degree, rape in the first degree, or rape in the second degree.”²⁹

In 2025, the General Assembly provided for expanded appellate review of the Superior Court’s denial of a reverse amenability motion (or its converse, the granting of the State’s non-amenability motion). The new subsection of § 1011 provides that if the child pleads guilty or no contest after his or her motion to transfer charges is denied, he or she has the right to appeal that decision.³⁰

The 2021 and 2025 amendments reflect the General Assembly’s evolved approach to juvenile justice. Upon its assessment of juvenile jurisprudence and neuroscience, the General Assembly has limited the prosecution of juveniles as adults.

²⁸ 10 *Del. C.* § 1010(a)(1). An attempt to commit those crimes also vests jurisdiction in Superior Court.

²⁹ 10 *Del. C.* § 1010(a)(5)(emphasis added). An attempt to commit those crimes does not qualify for adult prosecution for children aged 12-16.

³⁰ 10 *Del. C.* § 1011(e).

The judicially created rebuttable presumption was questionable from the beginning. It is found nowhere in the relevant statutes. Moreover, the legal standard *is* set forth: the interests of justice. But if there ever was a valid rebuttable presumption argument, it no longer holds water in light of the 2021 and 2025 amendments.

More to the point, there can be no rebuttable presumption as to a child in the 12 to 16 age bracket. Any such notion is undone by the fact that it is a permissive “may” subsection, *permitting* the prosecution of such children in adult court. It is not a “shall” statute *requiring* such a prosecution. The Attorney General initially controls where a child aged 12 to 16 is prosecuted for the enumerated offenses.

The case law establishing (and perpetuating) the rebuttable presumption is wholly reliant on the General Assembly’s legislative statement that certain crimes “shall” be prosecuted in Superior Court. Judges have then divined the General Assembly’s intent that such children need adult correctional supervision. The 2021 amendment establishing *optional* prosecution for children aged 12-16 wholly negates the *raison d’etre* for the Superior Court’s rebuttable presumption as to the former statute. As such, the rebuttable presumption case law is no longer valid, if it ever was.

The Superior Court in Angelo Rodriguez’s case committed legal error by imposing a rebuttable presumption where none exists. This Court should reverse.

II. THE REBUTTABLE PRESUMPTION UNFAIRLY PREJUDICES THE CHILD BY REQUIRING THE CHILD TO REBUT THE PRESUMED FACT: THAT THE CASE SHOULD REMAIN IN SUPERIOR COURT.

The effect of the rebuttable presumption is to place an unfair burden of proof on the child to rebut the presumption that the child's case should remain in Superior Court.

As an initial point, the Court's question pertains in part to the burden of proof and evidentiary standard on a motion to transfer. Clearly, the child has a burden of pleading. If the child does not file a motion to transfer, then the case obviously remains in Superior Court.

Once the child has filed that motion, however, the sole standard imposed upon the judge is whether the interests of justice favor a transfer of the case to the Family Court. The child impliedly carries a burden of persuasion. After all, the case is in Superior Court and the child wants it moved to Family Court. By statute, however, the judge's role is to consider all the evidence through the rubric of the factors set forth in § 1011(b) and any other factors deemed relevant to determine what the interests of justice require.

In fact, after the 2021 amendments regarding 12 to 16 year-olds, the burden of proof could reasonably be placed upon the State. It is the State, after all, that charged the child as an adult when there was no requirement to do so. This burden shifting happens in other contexts. On a motion to suppress evidence from a warrantless search, for example, the defendant bears the initial burden of pleading,

but the burden of proof shifts to the State to prove that the search did not violate the defendant's constitutional rights.³¹

Ultimately, the Superior Court is not required under the statute to make a quantitative weighing of proof. The Court's task, rather, is to make a qualitative determination: whether the interests of justice favor transfer to Family Court.

A rebuttable presumption imposes an unfair burden of proof on the child. A rebuttable presumption presumes a fact and places a burden on the other party to disprove that fact.

The quantum of evidence required to rebut a presumption varies. In a criminal trial, of course, the presumption of innocence can only be overcome by proof beyond a reasonable doubt. Our evidentiary rules for civil cases impose a burden of proving the nonexistence of the presumed fact by a preponderance of the evidence.³² This Court, however, has held that Delaware courts, "in many different contexts," have expressed the burden of proof to rebut a legal presumption to be "clear and convincing evidence."³³

One such example in criminal law is that the defendant's statements made during a plea colloquy are presumed to be truthful. The defendant is bound by

³¹ *Hunter v. State*, 783 A.2d 558, 560 (Del. 2001).

³² D.R.E. 301.

³³ *Hudak v. Prosek*, 806 A.2d 140, 147 (Del. 2002). *See*, n.12 for examples of where the clear and convincing evidence has been applied.

those answers unless he or she proves to the contrary by clear and convincing evidence.³⁴

Our reverse amenability cases have not articulated what the burden of proof is to overcome the rebuttable presumption that the case should remain in Superior Court. But because the presumption is rather imposing – that the child is in need of adult discipline and legal restraint – it is unlikely that the Superior Court has imposed a mere preponderance of the evidence standard to prove the nonexistence of the presumption.

In any event, speculating on the burden of proof required to rebut an improper presumption is not a useful exercise. The presumption itself is wrong. The presumption contravenes the statute that imposes an interest of justice standard upon the Court.

The General Assembly knows how to impose statutory rebuttable presumptions. A person who owns more than 20% of the voting stock is presumed to have control of an entity.³⁵ All jointly acquired property during a marriage is presumed to be marital property.³⁶ The owner of a car caught speeding by an electronic speed monitor is presumed to be responsible.³⁷

³⁴ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).

³⁵ 8 *Del. C.* § 203(c)(4).

³⁶ 13 *Del. C.* § 1513(c).

³⁷ 21 *Del. C.* § 4170A(h)(1).

The fact that the General Assembly declined to impose a statutory rebuttable presumption on reverse amenability cases establishes that the Superior Court's conclusion that it did so is incorrect.

The Superior Court erred as a matter of law by imposing a rebuttable presumption that Angelo Rodriguez's case should remain in Superior Court.

As discussed in the briefing and at the oral argument, the Superior Court construed significant facts against Angelo by highlighting the negative aspects while ignoring favorable ones. It is reasonable to infer that the selective factfinding engaged in by the Court was the result of the Court's legal presumption that Angelo's case should remain in Superior Court.

When considered in light of the rebuttable presumption, the erroneous factfinding and conclusions of the Court make some sense. But the Court's use of the presumption was legal error that should cause this Court to reverse the judgment of the Superior Court. A reversal would result in an order vacating Angelo's sentence and further ordering that his case be transferred to Family Court for a new sentencing hearing.

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