

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

August 6, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62(1), STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-1192

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

**IN THE INTEREST OF SAMUEL J.G.,  
a person Under the Age of 18:**

**STATE OF WISCONSIN,**

**Petitioner-Appellant,**

**v.**

**SAMUEL J. G.,**

**Respondent-Respondent.**

APPEAL from an order of the circuit court for Oconto County:  
LARRY L. JESKE, Judge. *Affirmed.*

MYSE, J. The State of Wisconsin appeals an order denying its petition for waiver of juvenile court jurisdiction over Samuel J.G.<sup>1</sup> The State contends that the circuit court erroneously exercised its discretion by refusing to waive Samuel into adult court. Because this court concludes that the circuit court did not erroneously exercise its discretion, the order is affirmed.

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<sup>1</sup> This court granted leave to appeal this nonfinal order on April 26, 1996.

Samuel was charged with nineteen counts of criminal damage to property for allegedly participating with another juvenile in cutting the brake lines to nineteen school buses in the Oconto Falls School District. Samuel was also charged with one count of recklessly endangering another's safety because a school bus driver drove one of the buses and discovered the severed brake lines. The State requested waiver of juvenile court jurisdiction, and the juvenile court worker recommended granting the waiver petition based upon the seriousness of the offense and the ability of the adult court to impose incarceration. The circuit court, however, denied the waiver petition concluding that there was not clear and convincing evidence that Samuel should be waived into adult court.

The decision whether to waive juvenile jurisdiction is addressed to the sound discretion of the circuit court. *In re J.A.L.*, 162 Wis.2d 940, 960, 471 N.W.2d 493, 501 (1991). The circuit court's decision must be based on the criteria listed in § 48.18(5), STATS., and the court must set forth in the record specific findings with respect to the criteria. *In re C.D.M.*, 125 Wis.2d 170, 176, 370 N.W.2d 287, 290 (Ct. App. 1985). The circuit court, however, has discretion as to the weight it affords each of the criteria. *In re B.B.*, 166 Wis.2d 202, 209-10, 479 N.W.2d 205, 207-08 (Ct. App. 1991). On review, this court looks to whether the record reflects a reasonable basis for the circuit court's determination. *See In re G.B.K.*, 126 Wis.2d 253, 259, 376 N.W.2d 385, 389 (Ct. App. 1985).

In this case, the court examined the appropriate statutory criteria and discussed each of the factors that were relevant. The State contends, however, that the court erroneously exercised its discretion because it improperly failed to consider the serious nature of the alleged offense. This court acknowledges that the conduct was serious and could have involved the serious injury or death to untold numbers of children. The circuit court also found that the offense was extremely serious. While the seriousness of the offense may be sufficient for the circuit court to grant the waiver petition, the court is not obligated to grant the petition based solely upon the serious nature of the conduct alleged. *See J.A.L.*, 162 Wis.2d at 960, 471 N.W.2d at 501. The circuit court has discretion in determining which factors are entitled to the most weight. *Id.* In this case, the circuit court felt that Samuel's best interests and the public's need for protection could be met by retaining juvenile court jurisdiction. The circuit court could properly examine other relevant factors and conclude that, notwithstanding the serious nature of the conduct, waiver of juvenile jurisdiction was not warranted.

The State argues that the circuit court did not adequately set forth the reasons for its exercise of discretion. This court disagrees. The circuit court discussed each of the relevant criteria under § 48.18(5), STATS., including the fact that there were adequate facilities available in the juvenile court system for Samuel and that he was a suitable candidate for counseling programs available through the juvenile court. The court further found that the public could be adequately protected if Samuel was retained in the juvenile court system. While the court did comment that the adult court system may be better because of the court's power to impose more severe penalties, that comment does not contradict the fact that there are adequate facilities in the juvenile system for Samuel. The circuit court concluded that Samuel's best interests and the ability to adequately protect the public while retaining juvenile court jurisdiction were sufficient to deny the waiver petition.

Because the circuit court properly considered all of the relevant factors and came to a reasonable conclusion, this court concludes that the circuit court did not erroneously exercise its discretion by denying the petition to waive Samuel into adult court. While a reasonable judge could have elected to waive juvenile court jurisdiction based upon the serious nature of the offense alleged, such a result is not compelled. The circuit court, in its discretion, could properly conclude that the factors consistent with retaining juvenile court jurisdiction outweigh those in favor of waiver. Therefore, this court affirms the order.

*By the Court.* – Order affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.