

IN THE SUPREME COURT OF GUAM

PEOPLE OF THE TERRITORY OF GUAM,
Plaintiff-Appellant,

vs.

DOREEN QUICHOCHO,
Defendant-Appellee.

Supreme Court Case No. CRA97-003
Superior Court Case No. CM0494-96

OPINION

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Appeal from the Superior Court of Guam
Argued and Submitted on 21 August 1997
Agana, Guam

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BEFORE: PETER C. SIGUENZA, Chief Justice, JANET HEALY WEEKS, and JOSE LEON GUERRERO¹, Associate Justices.

WEEKS. J.:

The People of the Territory of Guam seek reversal of a Superior Court judgment dismissing petty misdemeanor charges against the Defendant-Appellee Doreen C. Quichocho for lack of jurisdiction. This Court, having reviewed the record, the briefs and the applicable law finds that the trial court erred in dismissing the action against the Defendant-Appellee. For the reasons set forth below, we reverse the lower court's dismissal of the charges.

I.

[1] The Defendant-Appellee was detained at the Town House Department Store for shoplifting on 23 April 1995. At the time the offense was allegedly committed, she was 17 years old, twenty-eight days shy of her eighteenth birthday. On 25 March 1996, almost a year after the offense and after Quichocho turned eighteen, the Appellee was formally charged with theft by deception by the Prosecution Division of the Office of the Attorney General.

[2] In a written decision filed 17 January 1997 the complaint against the Defendant-Appellee was dismissed by the superior Court for lack of jurisdiction. The trial court first determined that the Family Court Act was ambiguous and noted a conflict between 19 GUAM CODE ANN. § 5103(a)(4)(1993), which gives the Family Court jurisdiction over any person under eighteen at the time legal proceedings commence, and 19 GCA § 5106, which provides a certification procedure for persons older than sixteen and less than eighteen at the time the alleged offense is committed, and where such an offense is a serious crime. In dismissing the charges, the lower court determined that: the date the offense is committed is the proper time for determining Family Court jurisdiction; Quichocho was under eighteen at the time of the offense; and she was within the exclusive jurisdiction of the Family Court. the Government has timely appealed that decision.

II.

[3] This Court has jurisdiction over this appeal pursuant to 48 U.S.C. §1424-3(d)(1984). The sole issue presented is whether the Family court has jurisdiction over an individual who committed an offense while under eighteen, but was charged after the person turned eighteen years old. The question is one of jurisdiction and involves interpretation of the applicable statute conferring such jurisdiction. Issues of statutory construction and jurisdiction are reviewed de novo. *United States v. Brian N.*, 900 F.2d 218, 220 (10th Cir. 1990); *United States v. Lewis*, 67 F.3d 225, 228 (9th Cir. 1995). The Family Court is a court of limited jurisdiction whose jurisdiction may be restricted by the legislature. *Woodard v. Wainwright*, 556 F.2d 781 (5th Cir. 1977). This court will review the applicable jurisdictional statutes cognizant of the limited nature of the Family Court's jurisdiction.

[4] The Appellant urges a plain reading of the Family Court Act in contending that an individual is only a child for Family Court jurisdiction if he is charged before he turns eighteen. The Appellee argues that this court should interpret the Family Court Act in a manner which, in her opinion, avoids an unjust result. Under such an interpretation, Family Court jurisdiction is inferred from the certification procedures of 19 GCA § 5106(a) and attaches on the date the offense is committed. The Appellee contends that to read the statute otherwise would allow the government to circumvent the certification procedures of 19 GCA § 5106 by giving the government the discretion to file charges in either the Superior Court or the Family Court.

¹ Part time.

[5] The law on statutory construction is well-settled. If a statute is unambiguous, then judicial inquiry is complete. *Rubin v. United States*, 449 U.S. 424 (1981). In determining whether a statute is ambiguous, the Court examines the “language of the statute and the ‘structure of the law as a whole including its object and policy’” *Hotels of Marianas, Inc. v. Government of Guam*, 71 F.3d 1455, 1459 (9th Cir. 1995); *See also Rubin v. United States*, 449 U.S. 424. (finding a statute unambiguous if language consistent with history and purpose of the act.) This Court finds that the meaning of the statute at issue is plain, clear and unambiguous. The Family Court does not have jurisdiction over an individual who was a minor at the time the offense was committed, but was an adult when the individual was actually charged.

[6] Public Law 17-12, known as the Family Court Act, was enacted into law: (1) to establish the Family Court; and (2) to amend 9 GCA § 7.10 to conform with the Family Court’s jurisdiction. The jurisdiction of the Family Court is set forth at 19 GCA § 5103. 19 GCA § 5103 establishes that the Family Court shall have exclusive jurisdiction in proceedings “(a) Concerning any child living or found within the territory of Guam . . . (4) who is alleged to have violated any territorial law.” (Emphasis added). “*Child*” is defined as “a person less than eighteen (18) years of age on the date the legal proceedings are first commenced against him.” 19 GCA § 5102(d). Therefore, for Family Court jurisdiction to attach, the individual must be a child, and a person is only a child if they are under the age of eighteen on the date legal proceedings are commenced against that person. 19 GCA § 5103.

[7] Appellee’s argument that 19 GCA § 5106 implies Family Court jurisdiction over a child under eighteen when the offense is committed is simply erroneous. 19 GCA § 5106 is not a statute which vests jurisdiction; in fact, it sets forth situations in which the Family Court may lose jurisdiction.² Before 19 GCA § 5106 is even available to a certain individual, it must first be determined that the individual is a child who falls under the jurisdiction of the Family Court. Under 19 GCA § 5102(d), an individual is only a child if he or she is under eighteen on the date legal proceedings commence against the person. Therefore, to obtain the benefit of a certification hearing, both the date of the offense and the date legal proceedings commence must occur while the individual is under eighteen.

[8] To further confirm the date of charging as the relevant jurisdictional date, Public Law 17-12 amended 9 GCA § 7.10, entitled “Exemption from Criminal Liability Due to Juvenile Status” to read:

“No person may be tried for or convicted for an offense if:

(a) his age at the time he is charged with an offense places him within the exclusive jurisdiction of the Family Division of the Superior Court.”

This exemption statute confirms the age at the time of charging (i.e., the date legal proceedings commence) as determinative of Family Court jurisdiction.

[9] This Court’s reading of the statute is consistent with the object, policy and history of the Family Court Act and clearly supports the Appellant’s contention that Family Court jurisdiction vests upon the charging of an offense prior to the suspect’s eighteenth birthday.

[10] Although the language of the statute is clear and unambiguous, a review of the legislative history confirms the plain meaning of the statute. P.L. No. 17-12 was introduced as Bill 78 and heard by the Seventeenth Guam Legislature’s Committee on Federal, Foreign and Legal Affairs on March 28, 1983. Testimony which commented on Bill 78 clearly indicated that, for purposes of Family Court jurisdiction

² 19 GCA § 5106 is titled, “Certification for Criminal Proceedings” and provides a procedure for certifying as an adult, a child who is sixteen (16) years of age or older at the time he allegedly commits a misdemeanor or felony of the third degree and automatically divests the Family Court of jurisdiction if a child who is sixteen (16) years of age or older commits a felony of the first or second degree.

over criminal offenses, the relevant date is the date legal proceedings are commenced, and more specifically, the date of charging.

[11] The Compiler of Law, Charles H. Troutman, testified before the legislature that:

“this Bill, provide[s] that a person will be treated as a juvenile if he is charged while a juvenile. If he is charged when an adult, regardless of when he committed the crime, and assuming that the prosecution did not use bad faith in deliberately delaying the case, then he will be treated as an adult.”

Letter from Charles H. Troutman, Compiler of Laws, Office of the Attorney General to Senator Eugene Ramsey, Chairman of the Committee on Federal, Foreign & Legal Affairs, 17th Guam Legislature (March 28, 1983) (hereinafter “Troutman Letter”). The Territorial Prosecutor, Russell E. Weller Jr., presented written testimony which noted: “Section 3 of the proposed bill makes the defendants [sic] age at the time he is charged with an offense the determining factor on whether or not the defendant is tried as an adult or as a juvenile. . . . I personally support this sort of legislation, and feel that the decision on whether or not to proceed in adult or juvenile court is properly left to the prosecutor.” Letter from Russell E. Weller Jr., Territorial Prosecutor, Office of the Territorial Prosecutor to Senator Eugene Ramsey, Chairman of the Committee on Federal, Foreign & Legal Affairs, 17th Guam Legislature (April 8, 1983) (hereinafter “Weller letter”).

[12] The date legal proceedings commence was also understood to mean the date of charging. Russell E. Weller Jr. testified: “It should be made clear that legal proceedings is the filing of charging instrument, not an arrest or a detention by juvenile or police authorities.” See Weller letter, page 2. Charles H. Troutman also used charging as shorthand for the commencement of legal proceedings. See Troutman letter, Page 1.

[13] Elsewhere, charging is understood as the commencement of a prosecution, 8 GCA § 10.70 states “a prosecution is commenced when either an indictment is presented in open court . . . or a complaint is filed.” The distinction, if any, between the date of charging and the date of the commencement of legal proceedings is a distinction without a difference. For the purposes of this appeal, they are one and the same.

[14] The Appellee also raised concerns relating to the potential unfairness in allowing a prosecutor the discretion in selecting the forum to bring an action. These concerns were also brought to the attention of the Seventeenth Guam Legislature, which was then considering Bill 78. It was a policy decision by the legislature to grant such discretion to the prosecutors of the Territory³. Prosecutors already possess the discretion to charge. See *United States v. Herman*, 589 F.2d 1191, 1200 (3rd Cir. 1978), cert. denied, 441 U.S. 913 (1979).

[15] Under the rules of statutory construction, this Court must give the statute a meaning consistent with the plain meaning of the words used and the legislative intent. The plain meaning of 19 GCA § 5103(a)(4) is that the jurisdiction of the Family Court attaches at the date the person is charged with an offense. Although the Defendant was seventeen when she allegedly committed the theft, she was charged when she was eighteen and she is, therefore, not within the jurisdiction of the Family Court. The complaint filed against her in the Superior Court was improperly dismissed. Since this is not a case where the statutory language is ambiguous or capable of more than one interpretation, the Court need not choose from among alternative interpretations. *Esta Later Charters, Inc. v. Ignacio*, 875 F.2d 234, 238-9 (9th Cir. 1989).

³ As to bad faith delay in prosecuting an action, discretion is not unbridled as noted in Troutman’s Letter to the Legislature.

CONCLUSION

[16] The Court must give the statute the effect the Legislature had intended. The Legislature wanted to insure that Family Court jurisdiction was based on the age of the individual on the date on which legal proceedings were commenced. The Legislature clearly intended to give the Government the discretion to prosecute certain individuals in certain situations in either Family Court or Superior Court. While the Appellee was seventeen at the time she allegedly committed the offense, she was eighteen years old when she was charged and under the plain and unambiguous reading of the statute, she was properly charged as an adult. This Court must give the clear statute its intended effect. Given the fact that the defendant was eighteen when charged the Superior Court has jurisdiction over the defendant.

[17] We must therefore, **REVERSE** the court's decision dismissing the complaint for lack of jurisdiction.