

L.M.P.,

V.

Appellee.

Case No. J-2008-02

MAY - 6 2008

MICHAEL S. RICHIE
CLERK

¹ In Oklahoma County District Court Case No. CF-2007-1057, Appellant was charged with Murder in the First Degree. Pursuant to the statutory law applicable at the time the crime was committed, 10 O.S.Supp.2006, Section 7306-2.5(A) version 2, Appellant is presumed to be an adult.

discretion by the trial court in reaching its decision. *See C.L.F. v. State*, 1999 OK CR 12, 989 P.2d 945, 946. We have defined "abuse of discretion" as a clearly erroneous conclusion and judgment, one that is clearly against the logic and effect of the facts presented in support of and against the application. *Id.*

After a review of all the evidence presented to the trial court, we find Appellant established by a preponderance of the evidence she should be treated as a youthful offender. *See C.R.B. v. State*, 1999 OK CR 1, 973 P.2d 339. As such, we find the trial court's ruling denying Appellant's motion for youthful offender certification was an abuse of discretion.²

Decision

IT IS THEREFORE THE ORDER OF THIS COURT that the order of the District Court of Oklahoma County denying Appellant's motion to be sentenced as a Youthful Offender is **REVERSED**. **IT IS THE FURTHER ORDER OF THIS COURT** that this matter is **REMANDED** to the District Court with directions that Appellant is to be certified as a youthful offender. Pursuant to Rule 3.15, Rules of the Oklahoma Court of Criminal Appeals, Title 22, Ch. 18, App. (2008), the **MANDATE** is **ORDERED** issued upon the filing of this decision.

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² Our finding in this proposition of error, renders moot Appellant's other claims of error.

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OPINION BY: CHAPEL, J.

LUMPKIN, P.J.: DISSENT
JOHNSON, J., V.P.J.: CONCUR
JOHNSON, A., J.: DISSENT
LEWIS, J.: CONCUR

A. JOHNSON, JUDGE, DISSENTING:

The trial court held a comprehensive hearing and filed a thorough and well-reasoned order explaining its ruling denying L.M.P.'s application for youthful offender status. Its findings are supported by the record. Our standard of review in this matter is deferential and relief is available only if we find that the trial court abused its discretion. See *C.L.F. v. State*, 1999 OK CR 12, ¶ 5, 989 P.2d 945, 946. The question here is not whether the juvenile arguably met her burden, but whether the trial court's denial of youthful offender status to L.M.P. is clearly contrary to the applicable law and facts presented. It is not. For this reason, I dissent. I am authorized to state that Judge Lumpkin joins in this dissent.