

IN THE SUPREME COURT OF IOWA
Supreme Court No. 22-0326

STATE OF IOWA,
Plaintiff-Appellant,

vs.

IOWA JUVENILE COURT FOR PLYMOUTH COUNTY,
Defendant-Appellant.

APPEAL FROM THE IOWA DISTRICT COURT
FOR PLYMOUTH COUNTY
THE HONORABLE DANIEL P. VAKULSKAS, JUDGE

APPELLANT'S REPLY BRIEF

BRENNA BIRD
Attorney General of Iowa

GENEVIEVE REINKOESTER
Assistant Attorney General
Hoover State Office Building, 2nd Floor
Des Moines, Iowa 50319
(515) 281-5976
(515) 281-8894 (fax)
genevieve.reinkoester@ag.iowa.gov

DARIN J. RAYMOND
Plymouth County Attorney

JENNIFER GIESELMAN
Assistant Plymouth County Attorney

ATTORNEYS FOR PLAINTIFF-APPELLANT

FINAL

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	3
STATEMENT OF THE ISSUES PRESENTED FOR REVIEW	4
RESPONSE TO APPELLEE’S ARGUMENTS Error! Bookmark not defined.	
I. The Juvenile Court Was Without Authority to Modify or Vacate Its Waiver Order.	5
II. The Legal Framework for Newly Discovered Evidence Applies to Juvenile Court Proceedings, and the Juvenile Court Abused Its Discretion When It Granted Defendant’s Motion.....	11
CONCLUSION	12
REQUEST FOR ORAL SUBMISSION	12
CERTIFICATE OF COMPLIANCE	13

TABLE OF AUTHORITIES

State Cases

<i>Carter v. Carter</i> , 957 N.W.2d 623 (Iowa 2021).....	11
<i>Jones v. State</i> , 479 N.W.2d 265 (Iowa 1991)	11
<i>State v. Hanes</i> , 790 N.W.2d 545 (Iowa 2010).....	5
<i>State v. Piper</i> , 663 N.W.2d 894 (Iowa 2003).....	5

State Statutes

Iowa Code § 232.8(1)(c).....	7
Iowa Code § 232.45(6).....	6
Iowa Code § 232.45(7).....	6
Iowa Code § 232.52.....	6
Iowa Code § 602.4102	9
Iowa Code § 602.5103	9
Iowa Code § 602.6202.....	10
Iowa Code § 602.6306.....	10
Iowa Code § 907.3A(1)	6
Iowa Constitution Art. 5, §§ 1, 4	9

**STATEMENT OF THE ISSUES PRESENTED FOR
REVIEW**

**I. The Juvenile Court Was Without Authority to Modify
or Vacate Its Waiver Order.**

Authorities

State v. Hanes, 790 N.W.2d 545 (Iowa 2010)

State v. Piper, 663 N.W.2d 894 (Iowa 2003)

Iowa Code § 232.8(1)(c)

Iowa Code § 232.45(6)

Iowa Code § 232.45(7)

Iowa Code § 232.52

Iowa Code § 602.4102

Iowa Code § 602.5103

Iowa Code § 602.6202

Iowa Code § 602.6306

Iowa Code § 907.3A(1)

Iowa Constitution Art. 5, §§ 1, 4

**II. The Legal Framework for Newly Discovered Evidence
Applies to Juvenile Court Proceedings, and the
Juvenile Court Abused Its Discretion When It Granted
Defendant's Motion.**

Authorities

Carter v. Carter, 957 N.W.2d 623 (Iowa 2021)

Jones v. State, 479 N.W.2d 265 (Iowa 1991)

RESPONSE TO APPELLEE’S ARGUMENTS

I. **The Juvenile Court Was Without Authority to Modify or Vacate Its Waiver Order.**

Defendant concedes that Iowa Code chapter 232, namely 232.45, does not “specifically state” that a juvenile court retains any jurisdiction after waiver, and he provides no compelling authority in support of his assertion that such retention of jurisdiction is inherent. App. Br. at 10, 18.

First, Defendant asserts that “the Iowa Code contains a built-in means by which the juvenile court, upon the taking of evidence and receiving of argument, can take back jurisdiction[.]” App. Br. at 11. But Defendant fails to state what this alleged “built-in means” is and fails to provide any citation for it. *See id.* Because Defendant fails to clearly state what this mechanism is and fails to cite to any statute that provides the authority for such a mechanism, the State cannot respond to this bald assertion. This failure also requires the Court to perform research on Defendant’s behalf. *State v. Piper*, 663 N.W.2d 894, 914 (Iowa 2003) (declining to undertake a partisan role of research and advocacy) *overruled on other grounds by State v. Hanes*, 790 N.W.2d 545 (Iowa 2010).

To the extent Defendant is referencing the youthful offender provisions of Iowa Code sections 907.3A and 232.45(7)—which is not clear from his argument—it is undisputed that youthful offender status is not implicated in this case. Section 232.45 provides for separate procedures for those juveniles waived to district court for prosecution as an adult and those waived to district court for prosecution as a youthful offender. *See* Iowa Code § 232.45(6) & (7). Defendant was waived to district court for prosecution as an adult under Iowa Code section 232.45(6). *See* 05-03-2021 Waiver Order; App. 50–55. Defendant cites to Iowa Code section 232.23, but again, that statute specifically contemplates youthful offenders and has no bearing here. App. Br. at 11. The youthful offender statutes specifically contemplate that after the juvenile is convicted in district court, jurisdiction over the child transfers back to the juvenile court for disposition and supervision. Iowa Code §§ 907.3A(1), 232.52. No such similar provision exists for juveniles waived to district court for prosecution as an adult.

Second, Defendant misreads the statutes and claims that “the statute does have a means to return jurisdiction to the juvenile courts via the reverse waiver.” App. Br. at 13. Reverse waiver does not *return*

jurisdiction to the juvenile court because in cases of reverse waiver, the juvenile court did not have original jurisdiction. Instead, under section 232.8(1)(c), certain “violations by a child, aged sixteen or older...are *excluded from the jurisdiction of the juvenile court* and shall be prosecuted as otherwise provided by law unless the district court transfers jurisdiction of the child to the juvenile court...pursuant to section 803.6.” Iowa Code § 232.8(1)(c) (emphasis added).

When the juvenile court has original jurisdiction over a child under section 232.8(1)(a), it may waive its jurisdiction over the child under sections 232.8(3)(a) and 232.45, and jurisdiction is then vested in the district court. When the district court has original jurisdiction over a child under section 232.8(1)(c), it may “reverse” waive its jurisdiction over the child under sections 232.8(1)(c), 232.45(6) & (8), and 803.6, and jurisdiction is then vested in the juvenile court. But these statutes provide no mechanism—in cases of either waiver or reverse waiver—where a case may be transferred back to the court of original jurisdiction, and they certainly do not vest authority in the transferring court to unilaterally take its jurisdiction back.

Third, the use of the word “transfer” does not indicate “a willingness of the legislature and, indeed, the court system to contemplate moving the offender back and forth between the courts as needed[.]” App. Br. at 14. The word “transfer” is not reciprocal in nature. Quite the opposite. Transfer means “to convey or remove from one place or one person to another; to pass or hand over from one another, especially to change over the possession or control of.” Black’s Law Dictionary, 11th ed. (2019). The use of the word “transfer” conveys the legislature’s desire for permanence.

Fourth, the State disputes Defendant’s assertion that the district court “yielded” its jurisdiction to the juvenile court. App. Br. at 16. At the hearing, the district court said it was the court’s “view that the waiver and the jurisdictional issue is with the juvenile court. I realize that they have waived it to adult court, but I believe the juvenile court would still have jurisdiction [] to reconsider its own order.”10-08-2021 Brief in Support of Motion to Modify Order, Attachment (07-26-2021 Transcript of Motion Hearing) at 23:3–24:3; App. 107–08. The district court’s order reflects the same. 10-08-2021 Brief in Support of Motion to Modify Order, Attachment (07-26-2021 Order re: Motion for Reverse Waiver); App. 82–84. Thus, it seems the district court

believed its jurisdiction was concurrent with the juvenile court, at least regarding the jurisdictional order.

But even if the district court did yield its jurisdiction, it was without authority to do so. A court vested with proper jurisdiction by the legislature cannot yield this jurisdiction to another court not authorized to hear the matter. Could this Court yield its jurisdiction to the district court and order it to render an opinion? *See* Iowa Constitution Art. 5, §§ 1, 4; Iowa Code §§ 602.4102, 602.5103. Could a district court judge yield his or her authority to a district associate judge to try a class A felony? *See* Iowa Code § 602.6306. Or could a district court yield its jurisdiction to the appellate courts and require them to oversee a trial? *See* Iowa Code § 602.6202. Clearly, the answer is no.

Finally, Defendant claims that “the necessity for [] high hurdles” of proof to transfer a case back to the juvenile court would make it a rare procedure. App. Br. at 18. But he contradicts this point elsewhere in his brief. Just three pages prior, Defendant asserts that the use of the word transfer in the code chapter indicates the legislature intended for courts to move “the offender back and forth...as needed.” App. Br. at 14. Defendant does not offer any

parameters or restrictions on such “back and forth” transfer of jurisdiction, and he seems to imply courts could move a child between the courts several times if they deemed it appropriate. App. Br. at 15 (“This language appears to indicate a recognition by the court that children can move between these two fora as needed and so as to accomplish the purposes of the juvenile statute.”).

And in section II of his brief, Defendant states that “juvenile courts operate largely outside of the formalistic framework of the rules of evidence” and that “[a]pplication of the harsher strictures of the newly discovered evidence standards to juvenile court proceedings runs the risk of excluding some of the very forms of evidence that juvenile courts use to rehabilitate or to convey services and resources to those in need.” App. Br. at 21. In one section of his brief, Defendant relies on the “high hurdles” of Iowa Rules of Civil Procedure 1.1012 and 1.1013, and in the next section asserts those “high hurdles” should not apply to the juvenile court. It cannot be both.

The State asks this Court to find the juvenile court lacked both the statutory and inherent authority to revoke its waiver order.

II. The Legal Framework for Newly Discovered Evidence Applies to Juvenile Court Proceedings, and the Juvenile Court Abused Its Discretion When It Granted Defendant's Motion.

Defendant does not really dispute the State's "nearly five pages [of] criticism of the juvenile's efforts to provide information to the juvenile court regarding treatment options, facilities, and personnel and whether such information is truly newly discovered evidence[,]" nor does he dispute "that the juvenile court's order cited no caselaw, nor did it outline any legal framework for newly discovered evidence." App. Br. at 20–21. Instead, he asserts this legal framework should not apply to juvenile courts.

The newly discovered evidence framework laid out by the State in its initial brief is used in both criminal and civil cases. See *Carter v. Carter*, 957 N.W.2d 623 (Iowa 2021); *Jones v. State*, 479 N.W.2d 265 (Iowa 1991). Defendant provides no compelling reason why this framework should not also apply in juvenile cases. Because both the juvenile court and Defendant relied on rules 1.1012 and 1.1013 for the juvenile court's authority to take back jurisdiction from the district court, it is appropriate for both to be bound by these rules' legal requirements.

CONCLUSION

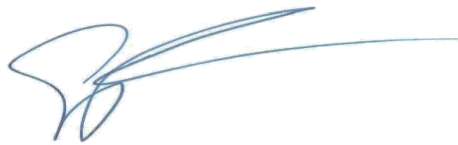
The State asks this Court to find that once the juvenile court waived its jurisdiction over I.S., it no longer had jurisdiction or authority to modify or vacate this order. In the alternative, if the juvenile court retained any authority to review this order, the State asks this Court to find the juvenile court abused its discretion when it revoked its original waiver.

REQUEST FOR ORAL SUBMISSION

The State requests oral argument.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa



GENEVIEVE REINKOESTER
Assistant Attorney General
Hoover State Office Bldg., 2nd Fl.
Des Moines, Iowa 50319
(515) 281-5976
genevieve.reinkoester@ag.iowa.gov

CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

- This brief has been prepared in a proportionally spaced typeface using Georgia in size 14 and contains **1,497** words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Dated: January 19, 2023



GENEVIEVE REINKOESTER

Assistant Attorney General

Hoover State Office Bldg., 2nd Fl.

Des Moines, Iowa 50319

(515) 281-5976

genevieve.reinkoester@ag.iowa.gov