Lessening the Rehabilitative Focus of the Federal Juvenile Delinquency Act: A Trend towards Punitive Juvenile Dispositions

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Lessening the Rehabilitative Focus of the Federal Juvenile Delinquency Act: A Trend Towards Punitive Juvenile Dispositions?

United States v. M.R.M.¹

I. INTRODUCTION

Both the federal and state governments have recognized that criminal adults and delinquent juveniles are fundamentally different. Acknowledging that juveniles are more amenable to successful rehabilitation than adults, each government has created a separate juvenile justice system to better handle these unique concerns. The federal structure for juvenile adjudication was established by the Federal Juvenile Delinquency Act ("FJDA," "the Act"),² and was enacted to provide individualized rehabilitation for juvenile delinquents in an informal, less procedurally rigid setting than traditional criminal courts.³ The FJDA grants federal district courts considerable discretion in determining whether a juvenile should be adjudicated under the FJDA or prosecuted as an adult, as well as in balancing the broadly categorized factors enumerated in the Act.

Despite the FJDA’s recognition that juveniles are more suitable to rehabilitation than adults, courts seem to be moving away from a rehabilitative approach of juvenile delinquency dispositions. In United States v. M.R.M., the Eighth Circuit Court of Appeals recently affirmed a punitive disposition of a teenage girl that resulted in a sentence of nearly three years of incarceration.⁴ This ruling is an example, therefore, of courts ignoring the rehabilitative purpose of the FJDA. This Note argues that the decision in United States v. M.R.M. marks a change toward delivering punitive juvenile justice in the Eighth Circuit, and that the informal structure of the FJDA, combined with significant judicial discretion, vague factors of consideration outlined in the statute, and a lack of sentencing guidelines has the potential to create disparate dispositions among similarly situated juveniles.

¹. 513 F.3d 866 (8th Cir. 2008).
II. FACTS AND HOLDING

In 2004, an unknown man assaulted then sixteen year-old M.R.M. while she was with three other female acquaintances. During the attack, the acquaintances left M.R.M. alone and did not assist her. A few days after the attack, while at a house on an Indian reservation in South Dakota, M.R.M. realized that one of the acquaintances was going to be visiting that same house. With a baseball bat in hand, M.R.M. met the girl at the door and proceeded to strike her numerous times, severely injuring the girl.

M.R.M. was charged under the Federal Juvenile Delinquency Act with a two-count information charge, one for assault with a dangerous weapon and the other for assault resulting in serious bodily injury. Rejecting the government’s recommendation that M.R.M. be put on probation for three years, the district court ordered M.R.M. to be committed in official detention until she reached the age of twenty-one. As a result of this order, M.R.M. spent a total of thirty-four months and twenty days in detention. M.R.M. appealed for review of the sentence and based her appeal on the district court’s rejection of the government’s recommended sentence of probation and the court’s much harsher sentence of nearly three years imprisonment.

On appeal to the Eighth Circuit, M.R.M. argued that the district court erred in the determination of her punishment. M.R.M. contended that the court was plainly unreasonable in making its decision and that the decision was contrary to existing law. She also argued that the court’s consideration of her prior arrests as character evidence was unfairly prejudicial. M.R.M.’s arguments attacked the court’s broad discretion of sentencing juveniles and the disparities resulting from such discretion. The court, however, did not find M.R.M.’s grounds for appeal persuasive and ultimately affirmed the district court’s sentencing determination, finding that her sentence was not plainly unreasonable nor contrary to law, and that the

5. Id. at 867.
6. Id.
7. Id.
8. Id.
9. Id. at 867-68.
12. Id.
13. Id.
14. Id.
15. Id.
16. Id. at 870.
17. Id. at 868.
district court did not plainly err when it considered her prior arrest record when determining her sentence.\textsuperscript{18}

III. LEGAL BACKGROUND

The Federal Juvenile Delinquency Act\textsuperscript{19} cannot be fully understood without first noting its legislative history and the purposes behind its enactment. The FJDA was enacted in 1938 in response to the idea of separating adult and juvenile criminal adjudications.\textsuperscript{20} One motive for providing separate proceedings was the belief that juveniles were more responsive to rehabilitative treatment than they were to traditional forms of criminal punishment.\textsuperscript{21} The FJDA was established to create a procedural device for juvenile adjudication outside of the adult criminal context.\textsuperscript{22} The Act itself does not create a federal offense, but instead provides the framework for the disposition of juveniles in the federal courts.\textsuperscript{23} Further, a proceeding under the FJDA that results in a finding of delinquency does not result in a criminal conviction but rather an adjudication of status.\textsuperscript{24} The courts' recognition of a presumption in favor of juvenile adjudication, rather than traditional adult criminal proceedings, emphasizes the FJDA's rehabilitative purpose,\textsuperscript{25} and removes the stigma associated with being convicted of a criminal offense.

A. Jurisdictional Requirements

For the FJDA to apply, certain statutory requirements must be met. The first requirement is that the individual qualify as a "juvenile" under the FJDA's definition. The FJDA defines "juvenile" as "a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition . . . , a person who has not attained his twenty-first birthday."\textsuperscript{26} Importantly, the age of the individual is not an element of juvenile delinquency but merely a fact that triggers FJDA provisions and procedures.\textsuperscript{27}

\textsuperscript{18} Id. at 868-69, 872.
\textsuperscript{21} Id. at 3.
\textsuperscript{22} United States v. Allen, 574 F.2d 435, 437 (8th Cir. 1978).
\textsuperscript{23} Id.
\textsuperscript{24} Id.
\textsuperscript{25} Male Juvenile E.L.C., 396 F.3d at 461 (citing Female Juvenile, A.F.S., 377 F.3d at 32-33).
\textsuperscript{27} United States v. Frasquillo-Zomosa, 626 F.2d 99, 101-02 & n.1 (9th Cir. 1980) (recognizing prior decisions that do not make age a substantive element of juvenile delinquency and citing United States v. Powers, 420 F.2d 937 (9th Cir.)
Courts have also noted that a juvenile's age is relevant at the time the government commences proceedings, holding that when an offense was committed while the juvenile was under eighteen but his/her twenty-first birthday has passed before the proceeding is initiated, the FJDA no longer applies.28 Courts reason that juvenile proceedings under the FJDA grant special treatment and protection to juveniles during adjudication, and that persons who are over twenty-one at the time of adjudication have “simply outgrown [the] status as a juvenile and the purposes and benefits of the Act.”29

Once it is determined that the individual qualifies as a juvenile within the meaning of the FJDA, federal jurisdiction under the Act is proper if “(1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction . . . , (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony” or a Controlled Substance offense,30 and a “substantial Federal interest” exists.31 Additionally, courts have held that federal courts have proper jurisdiction for the adjudication of Native American juveniles for acts taking place on reservations, with procedures determined by the FJDA.32 However, being treated as a juvenile under the FJDA is not an absolute right that prevents a juvenile from being criminally prosecuted as an adult.33 The Attorney

1970); United States v. Costanzo, 395 F.2d 441 (4th Cir. 1968); Thomas v. United States, 370 F.2d 621 (9th Cir. 1967)).

28. See, e.g., United States v. Hoo, 825 F.2d 667, 669-70 (2d Cir. 1987); In re Martin, 788 F.2d 696, 697-98 (11th Cir. 1986) (clarifying that the age of juvenile at date of indictment, not the date of offense, determines whether FJDA procedures apply); United States v. Araiza-Valdez, 713 F.2d 430, 431-32 (9th Cir. 1980) (holding that a filed complaint is insufficient to trigger the FJDA proceedings, but an indictment brought before the juvenile turns twenty-one is sufficient); United States v. Doe, 631 F.2d 110, 113 (9th Cir. 1980) (noting that jurisdiction under FJDA is established at the beginning of the proceedings and becomes fixed); United States v. Wai Ho Tsang, 632 F. Supp. 1336, 1339 (S.D.N.Y. 1986) (but noting that a hearing could be granted to determine whether the government illegitimately delayed filing the indictment to prevent the application of FJDA).

29. Araiza-Valdez, 713 F.2d at 433.


32. See, e.g., United States v. Allen, 574 F.2d 435 (8th Cir. 1978).

33. See, e.g., United States v. Hayes, 590 F.2d 309, 310 (9th Cir. 1979); United States v. Rombom, 421 F. Supp. 1295, 1300 (S.D.N.Y. 1976); Ramirez v. United States, 238 F. Supp. 763, 764 (S.D.N.Y. 1965) (holding that a juvenile does not have an absolute right to be proceeded against as a juvenile under the Youth Delinquency Act).
General must investigate and certify that the statutory requisites are met and present the certification to the district court.\textsuperscript{34}

Even if the statutory requirements are satisfied, the Attorney General can request a transfer of the juvenile to federal court for adult prosecution if the decision is necessary and in the interest of justice.\textsuperscript{35} Prior to the FJDA’s 1974 amendments, the Attorney General alone held the power to waive juvenile jurisdiction and have the juvenile tried as an adult.\textsuperscript{36} Due to heavy criticism of the Attorney General’s unfettered discretion in this arena, the FJDA’s 1974 amendments limited this power.\textsuperscript{37} Now, a presumption in favor of juvenile adjudication exists, requiring the Attorney General to file a motion for transfer, and overcome the presumption by proving that a prosecution as an adult is necessary.\textsuperscript{38} The district court makes the ultimate decision as to the necessity of trying the individual as an adult and whether juvenile jurisdiction should be waived.\textsuperscript{39}

In determining whether a transfer of the juvenile is in the interest of justice, and thus necessary, the court has to balance six factors outlined in the Act.\textsuperscript{40} These factors take account of a variety of traits, characteristics and background information about the juvenile at issue.\textsuperscript{41} The factors Congress provided in the FJDA include:

the age and social background of the juvenile; the nature of the alleged offense; the extent and nature of the juvenile’s prior delinquency record; the juvenile’s present intellectual development and psychological maturity; the nature of past treatment efforts and the juvenile’s response to such efforts; the availability of programs designed to treat the juvenile’s behavioral problems.\textsuperscript{42}

Importantly, of these six factors, no single factor is determinative in deciding whether a juvenile proceeding should be transferred to an adult criminal tribunal. Further, the court is not required to give the same weight to each factor and only needs to weigh each factor as it sees fit.\textsuperscript{43} The district court

\textsuperscript{34} 18 U.S.C. § 5032.
\textsuperscript{35} Id.
\textsuperscript{37} Id.
\textsuperscript{38} United States v. Anthony Y., 172 F.3d 1249, 1252 (10th Cir. 1999) ("Juvenile adjudication is presumed proper unless the government establishes that prosecution as an adult is warranted.") (quoting Juvenile Male #1, 47 F.3d 68, 71 (2d Cir. 1995)); see also United States v. Leon, D.M., 132 F.3d 583, 589 (10th Cir. 1997); United States v. Nelson, 68 F.3d 583, 588 (2d Cir. 1995).
\textsuperscript{39} 18 U.S.C. § 5032.
\textsuperscript{40} Id.
\textsuperscript{41} United States v. SLW, 406 F.3d 991, 993 (8th Cir. 2005).
\textsuperscript{42} 18 U.S.C. § 5032.
\textsuperscript{43} Anthony Y., 172 F.3d at 1252.
need only include its findings regarding these factors in the record, and then balance them "in the interest of justice" to determine the probability of successful rehabilitation before the juvenile reaches the age of majority.\textsuperscript{44} Thus, the district court, through its considerable discretion, has a significant amount of control over whether a juvenile will receive a more lenient juvenile proceeding and disposition focusing on rehabilitation or an adult criminal proceeding focusing on punishment.

One factor that has caused significant conflict among the federal courts is consideration of "the extent and nature of the juvenile’s prior delinquency record." The Act defines juvenile delinquency as "the violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult."\textsuperscript{45} The Seventh Circuit has interpreted "prior delinquency record" to include unadjudicated prior arrests,\textsuperscript{46} while the Eighth Circuit has held that unadjudicated prior arrests do not fall within the purview of this factor.\textsuperscript{47} Although the Eighth Circuit has interpreted unadjudicated prior arrests outside of the "prior delinquency record" factor, it has included unadjudicated prior criminal conduct when balancing the other five factors to make the decision to transfer a juvenile to an adult criminal court.\textsuperscript{48} Other courts, such as the Tenth Circuit, agree with the Eighth Circuit and take unadjudicated prior criminal conduct into consideration when balancing the other five factors.\textsuperscript{49}

\textbf{B. FJDA Proceedings Distinct from Federal Criminal Proceedings}

Important differences exist between a juvenile adjudicated under the FJDA and a juvenile charged as an adult in a federal criminal proceeding. These differences include dissimilar terminology as well as procedural guarantees.

Courts have consistently held that the FJDA does not grant the right to a trial by jury because juvenile proceedings are not criminal in nature, thereby making the Sixth Amendment’s guarantee of a trial by jury inapplicable.\textsuperscript{50} The original Act specifically stated that juveniles adjudicated under the FJDA

\textsuperscript{44} SLW, 406 F.3d at 993.
\textsuperscript{46} United States v. Wilson, 149 F.3d 610, 613 (7th Cir. 1998).
\textsuperscript{47} United States v. Juvenile L.W.O., 160 F.3d 1179, 1183 (8th Cir. 1998).
\textsuperscript{48} Id. (Court did not find error in admitting evidence of prior unadjudicated criminal conduct, noting that "the plain language of those terms is broad enough to authorize the admission of evidence regarding almost any action, criminal or otherwise.").
\textsuperscript{49} United States v. Anthony Y., 172 F.3d 1249, 1253 (10th Cir. 1999).
\textsuperscript{50} See, e.g., United States v. Juvenile, 347 F.3d 778 (9th Cir. 2003); United States v. Male Juvenile, 280 F.3d 1008, 1021 (9th Cir. 2002); United States v. C.L.O., 77 F.3d 1075 (8th Cir. 1996); United States v. King, 482 F.2d 454 (6th Cir. 1973).
would not have a right to trial by jury;\(^{51}\) however, the 1974 amendments to the Act removed this provision. Notwithstanding the 1974 amendments, district courts still interpret the FJDA as denying such a right, despite arguments that the FJDA is now silent on the issue.\(^{52}\) In denying the right to a jury trial, courts emphasize the fact that adjudication under the FJDA is inherently different than an adult criminal prosecution in that the “essential nature of the proceeding [is] the ascertainment of . . . status as a juvenile delinquent rather than [a] conviction as a criminal.”\(^{53}\) Courts continually rely on the fact that juvenile proceedings are not criminal in nature and thus constitutional guarantees present in criminal prosecutions do not apply.\(^{54}\)

Other courts reason that the denial of the right to a jury trial for juveniles derives from the informal nature of juvenile proceedings as compared to the formalistic procedures of a criminal prosecution. One court noted that juvenile proceedings are purposely designed and intended to be “‘intimate, informal, protective and paternalistic’” and found that it would be inconsistent for Congress to intend a right to trial by jury in such an informal setting.\(^{55}\) Rather than focusing on the rigid, procedural-intensive nature of adult criminal procedures set in place to guarantee Constitutional rights, juveniles are given protective treatment in juvenile proceedings, making such proceedings non-criminal in nature.\(^{56}\)

The courts also continually reject the argument that a juvenile is entitled to a trial by jury based on statutory grounds. After the 1974 amendments to the FJDA that deleted the provision explicitly stating that juveniles would not have a right to trial by jury in juvenile proceedings, courts faced the argument that the deletion of the provision implies the Congressional intent of giving the right to trial by jury.\(^{57}\) However, courts found that even after the 1974

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52. See, e.g., United States v. Hill, 538 F.2d 1072, 1075 (4th Cir. 1976) (also noting that if a juvenile wishes to have a trial by jury, he is free to choose to be criminally prosecuted as an adult and have the constitutional right to trial by jury).

53. Id.

54. See, e.g., United States v. King, 482 F.2d 454 (6th Cir. 1973) (adopting reasoning in Supreme Court case holding that a state juvenile proceeding is not criminal in nature, holding that the FJDA was not unconstitutional for denying trial by jury).

55. United States v. Cuomo, 525 F.2d 1285, 1292 (5th Cir. 1976) (quoting United States v. Torres, 500 F.2d 944, 947 (2d Cir. 1974)).

56. United States v. Salcido-Medina, 483 F.2d 162, 164 (9th Cir. 1973) (noting Congress’ concern in providing “[p]referential and protective treatment of juveniles charged with crime” and holding that FJDA is not unconstitutional for denying jury trial because the proceeding is not intended to be a criminal trial).

amendments there is no implied statutory right to trial by jury because the purpose and policy behind the amendments was to make juvenile proceedings less similar, not more, to criminal prosecutions.\textsuperscript{58} Allowing a jury trial, therefore, would contradict such a policy.\textsuperscript{59}

Another significant difference between federal juvenile proceedings under the FJDA and adult criminal prosecutions is that in the former the Attorney General can initiate a juvenile proceeding by information instead of by indictment.\textsuperscript{60} Although the Fifth Amendment requires a grand jury indictment for capital crimes,\textsuperscript{61} courts have found that the FJDA's commencement of proceeding by information does not violate constitutional requirements. Supporting this stance, these courts held that the Fifth Amendment only applies to crimes, and juvenile delinquency proceedings are not criminal in nature.\textsuperscript{62} One court reasoned that lack of a grand jury indictment in an FJDA proceeding is not unconstitutional because requiring a grand jury indictment would contravene the rehabilitative purpose and informal structure of juvenile proceedings.\textsuperscript{63}

\textbf{C. Dispositional Hearings under the FJDA}

Once a court finds that a juvenile is delinquent, the court must hold a disposition hearing to determine the appropriate sentence.\textsuperscript{64} The Act specifies that the disposition hearing must take place within twenty days after the delinquency determination.\textsuperscript{65} After the disposition hearing, the court has a variety of options, including suspending the delinquency determination, placing the juvenile on probation, committing the juvenile to official detention, or ordering restitution.\textsuperscript{66}

The Act provides the maximum amount of time for a term of probation\textsuperscript{67} and a term of official detention as what "would be authorized if the juvenile had been tried and convicted as an adult."\textsuperscript{68} Courts have interpreted "maximum term of imprisonment" to mean that a juvenile can receive a term

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\item[58.] \textit{Doe}, 385 F. Supp. at 907.
\item[59.] \textit{Id}.
\item[61.] U.S. CONST. amend. V ("No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury . . . ").
\item[62.] See United States v. Indian Boy X, 565 F.2d 585, 595 (9th Cir. 1977); United States v. Hill, 538 F.2d 1072, 1076 (4th Cir. 1976); see also United States v. Rombom, 421 F. Supp. 1295 (S.D.N.Y. 1976).
\item[63.] \textit{Indian Boy X}, 565 F.2d at 595.
\item[64.] 18 U.S.C. § 5037(a) (2006).
\item[65.] \textit{Id}. The court, however, does not need to meet the twenty-day deadline if it has ordered further observational study. \textit{Id}.
\item[66.] \textit{Id}.
\item[68.] 18 U.S.C. § 5037 (c)(1)(C), (c)(2)(B)(iii).
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of official detention as if the juvenile were tried as an adult and sentenced according to the Federal Sentencing Guidelines, even though they do not directly apply in FJDA proceedings.\(^69\) When determining the most appropriate sentence, the court should take in account the juvenile’s age at the time of sentencing, rather than the age at the time of the offense.\(^70\)

### IV. Instant Decision

In *United States v. M.R.M.*, the Court of Appeals for the Eighth Circuit affirmed the district court’s decision to sentence juvenile M.R.M. to over three years of incarceration.\(^71\) In doing so, the Eighth Circuit emphasized the broad discretion in the sentencing of juveniles, stating that such sentencing does, “indeed, [involve] broader discretion than when sentencing an adult.”\(^72\) Additionally, the court reviewed the applicability of the adult sentencing guidelines to juveniles but stated that they do not apply “even in their advisory capacity.”\(^73\) The court supported its reasoning by examining the statute governing juvenile dispositions,\(^74\) finding that the factors in the adult sentencing guidelines\(^75\) are not included in the juvenile sentencing statute.\(^76\) Further, the court admitted that the factors in the adult sentencing guidelines may be helpful when “determining whether a district court permissibly considered certain evidence as relevant in a juvenile proceeding,” but rejected the idea that a court should balance all of those factors when determining a juvenile disposition.\(^77\)

On appeal, M.R.M. argued that the punishment ordered by the district court was plainly unreasonable.\(^78\) She based her argument on the “need to avoid unwarranted sentence disparities” and claimed that her punishment differed from those given in similar cases.\(^79\) The court rejected this argument, however, finding that, because juvenile sentencing has no guidelines through which to judge any claimed disparities, the court could not find that her

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70. See United States v. Leon H., 365 F.3d 750, 753 (9th Cir. 2004); United States v. K.R.A., 337 F.3d 970, 977 (8th Cir. 2003).

71. 513 F.3d 866 (8th Cir. 2008).

72. Id. at 867-68 (citing *K.R.A.*, 337 F.3d at 978).

73. Id. at 868 (citing *R.L.C.*, 503 U.S. at 307 n.7).


76. *M.R.M.*, 513 F.3d at 868.

77. Id. (citing United States v. D.A.L.D., 469 F.3d 727, 730 (8th Cir. 2006)).

78. Id. The court has jurisdiction to review a juvenile sentence under the FJDA if it is “imposed in violation of law’ or is ‘plainly unreasonable.’” *Id.* (quoting 18 U.S.C. § 3742(a)(1), (4); United States v. K.R.A., 337 F.3d 970, 978 (8th Cir. 2003)).

79. Id. (referencing this need as a factor under 18 U.S.C. § 3553(a)(6) when imposing a sentence for adults).
punishment was plainly unreasonable.\textsuperscript{80} The court also added that disparities that result in the sentencing of juveniles are “part and parcel of a dispositional process in which neither Congress nor the Sentencing Commission has elected to provide direction . . .”\textsuperscript{81}

M.R.M. further contended in her appeal that the district court was unreasonable when it “failed to consider whether official detention was the least-restrictive disposition available.”\textsuperscript{82} She relied on a Ninth Circuit decision that established a standard in which the FJDA requires that juveniles “‘be confined in the least-restrictive environment that will support their continued rehabilitation.’”\textsuperscript{83} However, the Eighth Circuit refused to adopt the standard, reasoning that the FJDA’s structure is “ambiguous at best” and that the plain language of the statute makes no mention of a least-restrictive requirement.\textsuperscript{84} The court of appeals recognized that rehabilitation is an important purpose of the FJDA but stated that it is only one of many purposes of juvenile delinquency adjudications,\textsuperscript{85} further noting that the district court could take in account other policies, such as deterrence and public protection.\textsuperscript{86}

M.R.M. further argued that the district court unreasonably relied on impermissible factors when determining her sentence, including prior arrests and her history of bad conduct.\textsuperscript{87} The lower court considered M.R.M.’s history, both criminal and non-criminal, as well as the character of the offense, when deciding that official detention was the most appropriate disposition.\textsuperscript{88} M.R.M. argued that remarks made by the district court judge, such as the comment stating that her past “‘arrests do not impact the guidelines, but they do show what kind of person [M.R.M. has] been,’” were sufficient to show “plain error.”\textsuperscript{89} However, the Eighth Circuit did not find

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\item Id. at 868-69.
\item Id. at 869. The court also noted that M.R.M. did not provide adequate information to prove a plainly unreasonable disparity, even if sentence disparity qualified as grounds for unreasonableness, finding that M.R.M. relied on incomplete statistics and offered example cases for comparison that lacked a full sentencing record. Id. at 869 n.2.
\item Id. at 869.
\item Id. (quoting United States v. Juvenile, 347 F.3d 778, 785-86 (9th Cir. 2003)).
\item Id.
\item Id.
\item Id.
\item Id.
\item Id. at 871. The district court commented on M.R.M.’s criminal history that included “public intoxication (three times), a curfew violation, disorderly conduct, driving without a permit, and malicious mischief.” Id. at 870.
\item Id. at 869. The Court also noted and rejected M.R.M.’s argument that the court erred by failing to provide information about the facility where she would be detained because M.R.M. did not raise the argument in the lower court and stated that information about the facility would not have changed the court’s ultimate decision. Id. at 870 n.3.
\item Id. at 870 (quoting lower court transcript).
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that M.R.M.'s argument amounted to "plain error,"\textsuperscript{90} holding that a judge in juvenile sentencing has wide discretion and should take account of a juvenile's past history to determine the most suitable disposition.\textsuperscript{91} The court based its reasoning on a state of Washington Supreme Court case that found juvenile records are a necessity in the sentencing of juvenile, "because without them, 'it is obvious that neither law enforcement nor the juvenile court would ever have a true picture of the developing pattern of any juvenile.'"\textsuperscript{92} The Eighth Circuit further commented that the informal structure of the juvenile justice system "lead[s] us to hesitate before declaring that it is obviously wrong for a judge to infer a troubled past in the case of a juvenile delinquent with a series of past arrests."\textsuperscript{93} Additionally, the instant court noted that the "violent nature of the offense, M.R.M.'s history of drug and alcohol use, . . . a relapse during a previous rehabilitation program, and M.R.M.'s troubled family life" provided sufficient evidence to support the court's final decision of confinement.\textsuperscript{94}

Contrary to the majority, the sole dissenting judge, Judge Arnold, believed that "drawing inferences about M.R.M.'s character from her arrest record [was] contrary to law and plainly unreasonable," and that the case should be remanded to the lower court for resentencing.\textsuperscript{95} Judge Arnold argued that the district court erred when it included M.R.M.'s prior arrests for consideration of sentencing due to their lack of probative value and reliability to indicate illegal wrongdoing. Further, the dissent relied on a United States Supreme Court case that held "'[a]n arrest shows nothing more than that someone probably suspected the person apprehended of an offense.'"\textsuperscript{96} He also noted that the United States Sentencing Guidelines explicitly prohibit judges from using a prior arrest as a basis for departure from the guidelines.\textsuperscript{97} Judge Arnold gave numerous citations to case law holding that the use of prior arrests and charges are inherently unreliable and found that the lower

\textsuperscript{90} The court decided her argument on a "plain error" standard because M.R.M. did not object or request clarifications of any of the statements made in the lower court. \textit{Id.}
\textsuperscript{91} \textit{Id.}
\textsuperscript{92} \textit{Id.} at 871 (quoting Monroe v. Tielsch, 525 P.2d 250, 251 (Wash. 1974)).
\textsuperscript{93} \textit{Id.} at 871-72. The judge in the lower court also made comments about his personal experiences with juveniles (not involved in the instant case), including a warning to M.R.M. that "'if you keep going . . . the direction that you're going, [your parents] will have to bury you some day.'" \textit{Id.} at 872 (quoting the lower court's transcript). The court rejected M.R.M.'s additional argument that these comments were unreasonable, stating that the judge's references to his personal experiences were not unreasonable based on the context of the discussion in which they were included. \textit{Id.}
\textsuperscript{94} \textit{Id.} at 872-73.
\textsuperscript{95} \textit{Id.} at 873 (Arnold, J., dissenting).
\textsuperscript{96} \textit{Id.} (quoting Schwarze v. Bd. of Bar Exam'rs, 353 U.S. 232, 241 (1956)).
\textsuperscript{97} \textit{Id.} (citing U.S. SENTENCING GUIDELINES MANUAL § 4A1.3(a)(3) (2004)).
court’s neglect of this principle of law constitutes a decision made contrary to law and plain error. 98

V. COMMENT

United States v. M.R.M. 99 marks a significant turn in juvenile delinquency adjudications under the FJDA 100 because the Eighth Circuit focuses on punishment rather than rehabilitation. The original purpose for having a distinct system for juvenile adjudications was to focus the court’s attention on rehabilitation, lessening the stigma of criminal conviction, and providing resources to juveniles who would benefit more from rehabilitation than incarceration. 101 However, the discussion in M.R.M. indicates that the rehabilitative nature of FJDA juvenile delinquency adjudications is of decreasing importance to the Eighth Circuit.

Throughout the procedural stages under the FJDA, the district court is given considerable discretion, including the ability to determine whether a juvenile should be transferred to an adult criminal proceeding, the court’s balancing of six vague factors to determine if juvenile adjudication is appropriate, with the controlling weight of each factor to be decided by the judge, and discretion in the ultimate disposition. The informally structured process, with no set guidelines for sentencing juveniles, combined with a paternalistic view taken by judges, easily leads to discrepancies among similarly situated juveniles. Due to the fact that judges have such wide discretion, their decisions are reviewed on a “plain error” or “abuse of discretion” standard, making the possibility of a disposition being overturned or remanded very small.

When a separate juvenile system was created in the early twentieth century, the goal was to create a system of parens patriae, designed to adjudicate both criminal and non-criminal behavior of juveniles in a non-punitive manner. 102 A parens patriae approach to treating juveniles offers an individualized, informal method of addressing delinquent juveniles, removing them from an adversarial criminal system along with the stigma of criminal conviction. 103 Proponents of a separate juvenile system with a rehabilitative focus recognize that juveniles are inherently different than adults, particularly in their ability to comprehend the consequences of their actions. 104 The traditional view of a rehabilitative, non-criminal system of juvenile

98. Id. at 873-74.
99. 513 F.3d 866.
102. MARTIN R. GARDNER, UNDERSTANDING JUVENILE LAW § 7.01 (2d ed. 2003).
103. Id. § 7.02[B].
adjudication takes account of a juvenile’s “diminished capacity to control impulses and to resist peer pressure.” 105 In sum, the justice system established for juveniles “has traditionally disavowed punitive dispositions,” 106 providing an individualized, less-threatening process to address delinquent juvenile behavior.

Although the FJDA enumerates six specific categories of information which the court must investigate, include in the record, and then balance to determine whether a rehabilitative disposition is in the interest of justice, these factors are rather ambiguous. Most notably, the circuits have particular trouble with the meaning of the factor “prior delinquency record” and whether or not nonadjudicated arrests or charges fall within the meaning of “delinquency record.” However, the courts have managed to fit in prior nonadjudicated arrests, delinquent behavior, and other bad conduct within one of the five other factors, with the court giving as much weight to each of the six factors as it deems appropriate.

If, after a finding of delinquency, the court believes that official detention is the most appropriate disposition of the juvenile, the only limit imposed on the court’s determination is the maximum sentence provided by the Federal Sentencing Guidelines. Accordingly, this maximum sentence has the potential to be very high, making juvenile proceedings and sentencing more similar to those of adult criminal prosecutions but without the procedural safeguards and Constitutional guarantees associated with traditional criminal prosecutions. The non-criminal procedural aspects of juvenile delinquency proceedings remain, including the denial of a right to a jury trial for juvenile delinquency proceedings under the FJDA, despite the ability of the district court to grant a punitive disposition which is criminal in nature, such as a term of incarceration.

The Eighth Circuit’s recent case of U.S. v. M.R.M. explicitly rejects the standard outlined by the Ninth Circuit that requires the court, after determination of delinquency under the FJDA, to have the juvenile “‘confined in the least-restrictive environment that will support their continued rehabilitation.’” 107 In M.R.M., the Eighth Circuit gave less deference to the rehabilitative tradition of juvenile justice and the purposes behind the creation of the FJDA, and instead inserted objectives that the court found to be more important. 108 Specifically, the court justified its actions based on “protection of the public or deterrence,” both of which are achieved through official detention. 109

105. Id.
106. GARDNER, supra note 102, § 7.02[B].
108. Id.
109. Id.
The district court’s sentence imposed on M.R.M., official detention for over thirty-four months,110 and the Court of Appeals’ finding that the sentence was not plainly unreasonable, is a significant departure from earlier dispositions given to juveniles under the FJDA by the Eighth Circuit, as well as other circuits. Prior to the instant decision, district courts had been reluctant to dispense sentences of official detention for juveniles under the FJDA. The courts instead believed sentencing a juvenile to official detention after an FJDA delinquency determination was most appropriate in cases where the juvenile was unresponsive to prior rehabilitative efforts.

For example, in United States v. Juvenile JG, where the juvenile was charged with assault with a deadly weapon, the Eighth Circuit affirmed the district court’s decision to transfer him from a juvenile proceeding under the FJDA to adult criminal prosecution.111 The court stressed the fact that the juvenile “fail[ed] to cooperate in any rehabilitative efforts, and . . . respond[ed] to such efforts with defiance and continued delinquency,” which made adjudication under the FJDA inappropriate due to the Act’s rehabilitative purpose.112 Additionally, in A.C.H. v. United States, the district court’s disposition of twenty-one months of official detention was imposed only after the juvenile violated his original disposition of supervised probation.113 Further, the district court in A.C.H. agreed with the Ninth Circuit’s reasoning, quoting from a Ninth Circuit decision stating that the “emphasis on rehabilitation and leniency [in the FJDA] makes it highly unlikely that Congress meant to treat juveniles more harshly than adult offenders.”114

Similarly, the Second Circuit in an earlier decision emphasized the importance of rehabilitative treatment for juveniles adjudicated under the FJDA by affirming a district court’s decision to weigh more heavily a juvenile’s minimal prior rehabilitative treatment than the seriousness of the offense and juvenile’s prior record.115 In that case, the court of appeals recognized that the primary purposes of the FJDA “are to ‘remove juveniles from the ordinary criminal process in order to avoid the stigma of a prior criminal conviction and to encourage treatment and rehabilitation.’”116 The Court of Appeals also noted the lower court’s conclusion that “Congress has

110. Id. at 868.
111. 139 F.3d 584 (8th Cir. 1998).
112. Id. at 587.
113. Id. at 586-87.
114. No. 06-SC-2262, 2006 WL 3487116, at *1 (D. Minn. Nov. 28, 2006) (The juvenile was adjudicated delinquent for second degree burglary.).
115. Id. at *6-7 (quoting Jonah R. v. Carmona, 446 F.3d 1000, 1010 (9th Cir. 2006)) (agreeing with the Ninth Circuit that pre-sentence custody credits allowed under 18 U.S.C. § 3585 applied to the juvenile’s sentence under the FJDA).
116. United States v. Juvenile Male # 1, 47 F.3d 68 (2d Cir. 1995).
117. Id. at 71 (quoting United States v. Brian N., 900 F.2d 218, 220 (10th Cir. 1990)).
provided juvenile adjudication as an alternative to adult prosecution. . . . reflect[ing] a hope that the disastrous effects of the environment in which [the juvenile] has grown can be reversed."118

The Ninth Circuit has continually emphasized the FJDA's rehabilitative purpose, making it a primary consideration in juvenile dispositions. For example, the Ninth Circuit held that the FJDA's rehabilitative focus "entitles a juvenile to an individualized assessment of his rehabilitative needs and to a disposition with the least restrictive means to meet those needs."119 The court additionally noted that although adult sentencing recognizes rehabilitative needs such as educational or vocational treatment, the "FJDA's rehabilitative focus, however, goes far beyond that consideration."120

In an earlier decision, the Ninth Circuit stated that "so long as a juvenile remains within the auspices of the FJDA for sentencing, he or she is presumptively capable of rehabilitation, and any sentence imposed by a district court must accord with this presumption."121 The Ninth Circuit has further noted that the FJDA criticizes incarceration, recommending juveniles be confined "in the least-restrictive environment that will support their continued rehabilitation."122 The court concluded that sentencing under the FJDA implicitly requires implementing a least-restrictive standard when confining juveniles.123

However, the Eighth Circuit in M.R.M. failed to acknowledge the extensive discussion and recognition of the rehabilitative purpose of the FJDA in other cases. The M.R.M. court not only explicitly declined to adopt the "least-restrictive" standard when sentencing a juvenile under the FJDA, it specifically rejected the Ninth Circuit's interpretation of the FJDA.124 The court de-emphasized the primary rehabilitative purpose of the Act, making it only a mere consideration when sentencing a juvenile.125 The Eighth Circuit held that the district court's encouragement of the juvenile to attend counseling while being incarcerated constituted adequate consideration of rehabilitation by the court.126 This is a far cry from the rehabilitative considerations outlined in other circuits.

By lessening the rehabilitative nature of the FJDA, the Eighth Circuit is opening the door to sentences that are punitive in nature, such as incarceration. M.R.M. is a prime example of the negative consequences associated with individualized justice fostered by a high level of judicial

118. Id. at 70.
119. United States v. Juvenile Male, 470 F.3d 939, 941 (9th Cir. 2006).
120. Id. (citing the rehabilitative considerations discussed in the adult sentencing provision of 18 U.S.C. § 3553(a)(2)(D)).
121. United States v. Juvenile, 347 F.3d 778, 785 (9th Cir. 2003).
122. Id.
123. Id. at 785-86.
125. Id. at 869-70.
126. Id.
discretion, the application of the FJDA’s vague standards, and consideration of prior unadjudicated conduct.\textsuperscript{127} Further, the court quickly dismissed M.R.M.’s argument that the court has a duty to avoid excessive and disparate dispositions of juveniles under the FJDA on the ground that there is no benchmark to gauge the disposition, overlooking significant implications.\textsuperscript{128} Such implications of disparate sentencing include the increased likelihood of juveniles being denied potentially successful rehabilitative treatment that may reduce recidivism, separating juveniles from their families while incarcerated, and being negatively impacted by the stigma of incarceration. The Eighth Circuit’s rejection of the “least restrictive” standard outlined in the Ninth Circuit, combined with its move away from a rehabilitative focus for juvenile dispositions, has the potential of causing extreme variances of sentences not only within the Eighth Circuit, but among other circuits as well. This decision will likely be disregarded in the Ninth Circuit, but because the number of dispositions decided under the FJDA is relatively small, the case may have considerable precedential value as the Courts of Appeals routinely rely on decisions rendered outside of their respective circuits.

VI. CONCLUSION

The Federal Juvenile Delinquency Act is a federal response to the idea that delinquent juveniles should not be subject to the harshness of adult criminal prosecutions and are more amenable to rehabilitative treatment. To emphasize this point, juvenile adjudications under the FJDA, which are noncriminal in nature and result in a civil adjudication, are significantly different than the criminal procedure and sentencing of adults. Such distinctions under the FJDA include no right to trial by jury, a lack of sentencing standards, and a high level of judicial discretion in juvenile delinquent proceedings. The informalities associated with the juvenile process are designed to provide a determination that takes into account the individual rehabilitative needs of a juvenile.

However, the Eighth Circuit’s recent affirmation of a district court’s incarceration of a juvenile for almost three years in \textit{United States v. M.R.M.}, marks a significant departure from the rehabilitative focus of the FJDA. By rejecting the Ninth Circuit’s “least restrictive” standard, the court severely curtailed the rehabilitative focus of the FJDA. The court found the district court’s cursory consideration of rehabilitation sufficient, despite the fact that M.R.M. had not received prior rehabilitative treatment. A high level of judicial discretion, combined with a more punitive approach to juvenile

\textsuperscript{127} The court did not find error in the district court’s consideration of M.R.M.’s prior unadjudicated arrests, as well as other delinquent behavior such as alcohol consumption. \textit{Id.} at 870, 872.

\textsuperscript{128} \textit{Id.} at 868-69.
adjudications, sets the stage for disparate juvenile dispositions under the FJDA that lack rehabilitation and treatment.

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