

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE V. RAUF

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

STATE OF NEBRASKA, APPELLEE,

V.

HASEEB RAUF, APPELLANT.

Filed October 20, 2026. No. A-26-339.

Appeal from the District Court for Sarpy County: STEFANIE A. MARTINEZ, Judge.
Affirmed.

Layf J. Carlson, of Burnett Legal Group, L.L.P., for appellant.

Michael T. Hilgers, Attorney General, and Teryn Blessin for appellee.

RIEDMANN, Chief Judge, and BISHOP and WELCH, Judges.

RIEDMANN, Chief Judge.

INTRODUCTION

Haseeb Rauf, a juvenile, appeals the decision of the district court for Sarpy County that denied his motion to transfer his criminal case to juvenile court. Finding no abuse of discretion by the district court, we affirm.

BACKGROUND

Rauf had recently turned 17 years of age at the time of a June 2, 2025, incident leading to his arrest. The facts underlying his arrest reveal that on June 1, Rauf entered a Target store in Sarpy County, Nebraska, and hid. After the store closed and the employees had left, Rauf emerged and entered the backroom inventory areas. He used cordless power tools to cut through a metal security cage that stored various electronic items. He removed multiple items and loaded them into a

backpack and garbage bag. He then left the store, taking the items with him. Store employees estimated the value of the items taken at \$19,751 and the damage to the security cage over \$500.

Investigators were able to compare store video, and finger and palm print impressions, to video, photographs, and other items derived from a similar incident at an Omaha, Nebraska, Target store. Rauf was identified as the individual involved in both occurrences and was charged in the district court for Sarpy County on December 18, 2025, with theft by unlawful taking \$5,000 or more and criminal mischief, \$501-\$1,499, arising out of the Sarpy County theft.

Rauf sought to have his case transferred to juvenile court. At a hearing on the motion held on March 27, 2026, the State called Tera Kirkland, a specialized juvenile probation officer, to testify. It also offered into evidence approximately 40 pages of law enforcement investigative reports. Rauf called Colleen Conoley, a licensed psychologist, to testify, and he offered into evidence her report and her juvenile transfer evaluation.

The evidence revealed that Rauf was born in May 2008 and had emigrated from Afghanistan in 2021. Law enforcement was called to the Sarpy County Target store in the early hours of June 2, 2025, in reference to a burglary alarm. Upon canvassing the store, a theft was suspected. Video from inside the store revealed a single male entering the store before it closed, hiding, and then cutting the security cage and removing the items after the store employees left. The individual used cordless power tools that were believed to have been stolen earlier from a home improvement store. The individual left the store through a fire door at approximately 1:50 the next morning.

The investigation further revealed similar incidents at two Omaha Target stores in May and July 2024, in which a suspect hid inside the store and after closing, emerged, and committed numerous thefts. The suspect in those thefts appeared similar to Rauf. The suspect who stole the two power tools from an Omaha home improvement store in May 2025 also appeared similar to Rauf. Some of the stolen items from these various thefts were listed on-line for sale, and the account holder was Rauf.

Law enforcement obtained Rauf's finger and palm prints and was able to match them to prints left at the Sarpy County Target store. Rauf was then arrested and charged.

Conoley testified that she conducted an interview with Rauf and his father and administered various tests. At the time of the interview, Rauf had graduated high school. She painted a bleak picture of Rauf as it relates to relationships; his relationship with his family was strained, and he had no friends. He attributed the lack of friends to his "poverty," stating that he did not have the right clothes or possessions to fit in. Conoley diagnosed him with autism spectrum disorder at a Level 1 severity. This diagnosis explained his being the sole actor in this theft, his lack of forethought regarding consequences, and his need for instant gratification. Based on the Risk and Treatment Amenability assessment, Conoley believed Rauf was at a low risk of future dangerousness to the community.

Kirkland testified that Rauf's relationship with his parents was "highly-conflicted." She testified that because of this, in-home services may be appropriate, but given the parents' language barrier, the services may take longer. Given Rauf's age, Kirkland opined that it "would be very difficult" to complete the services he needs in a year or less. She explained that his autism diagnosis would require additional time for him to complete the services because the manner in which the services are offered would differ to ensure Rauf could understand what is being taught.

The district court denied the motion to transfer. In its order, it analyzed the factors set forth in Neb. Rev. Stat. § 43-276 (Cum. Supp. 2024). It determined that there were minimal services that the juvenile court could offer Rauf that would benefit him before he turned 19 years old. It found that Rauf's motivation for the crimes was to obtain money so he could fit in with his peers. Based upon Conoley's testimony that it "will take time" for Rauf to learn that friendships are not based upon materialistic things, it found this factor also weighed in favor of retaining the case in district court. The court further cited Rauf's age, the fact that he was a suspect in three similar incidents, his ability to appreciate the nature and seriousness of his conduct, and Rauf's best interests and the security of the public were factors supporting a sound basis for retaining the case in district court. Rauf appeals.

ASSIGNMENT OF ERROR

Rauf assigns that the district court abused its discretion in denying his motion to transfer because "all of the factors weigh heavily in favor of transfer to juvenile court."

STANDARD OF REVIEW

An appellate court reviews a trial court's denial of a motion to transfer a pending criminal proceeding to the juvenile court for an abuse of discretion. *State v. Jeremiah T.*, 319 Neb. 133, 21 N.W.3d 313 (2025). An abuse of discretion occurs when a trial court's decision is based upon reasons that are untenable or unreasonable or if its action is clearly against justice or conscience, reason, and evidence. *State v. Aldana Cardenas*, 314 Neb. 544, 990 N.W.2d 915 (2023).

ANALYSIS

Neb. Rev. Stat. § 43-246.01(3) (Cum. Supp. 2024) grants concurrent jurisdiction to the juvenile court and the county or district courts over juvenile offenders who (1) are 11 years of age or older and commit a traffic offense that is not a felony or (2) are 14 years of age or older and commit a Class I, IA, IB, IC, ID, II, or IIA felony. Actions against these juveniles may be initiated either in juvenile court or in the county or district court. In the present case, one of the allegations against Rauf put him within this category of juvenile offenders.

When an alleged offense is one over which both the juvenile court and the criminal court can exercise jurisdiction, a party can move to transfer the matter. For matters initiated in criminal court, a party can move to transfer it to juvenile court pursuant to Neb. Rev. Stat. § 29-1816(3) (Cum. Supp. 2024).

In the instant case, when Rauf moved to transfer his case to juvenile court, the district court conducted a hearing pursuant to § 29-1816(3)(a), which subsection requires consideration of the following factors set forth in § 43-276:

(a) The type of treatment such juvenile would most likely be amenable to; (b) whether there is evidence that the alleged offense included violence; (c) the motivation for the commission of the offense; (d) the age of the juvenile and the ages and circumstances of any others involved in the offense; (e) the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court; (f) the best interests of the juvenile; (g) consideration of public safety; (h) consideration of the juvenile's ability to appreciate the nature and seriousness of his or her

conduct; (i) whether the best interests of the juvenile and the security of the public may require that the juvenile continue in secure detention or under supervision for a period extending beyond his or her minority and, if so, the available alternatives best suited to this purpose; (j) whether the victim or juvenile agree to participate in restorative justice; (k) whether there is a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07; (l) whether the juvenile has been convicted of or has acknowledged unauthorized use or possession of a firearm; (m) whether a juvenile court order has been issued for the juvenile pursuant to section 43-2,106.03; (n) whether the juvenile is a criminal street gang member; and (o) such other matters as the parties deem relevant to aid in the decision.

The customary rules of evidence shall not be followed at such hearing and, “[a]fter considering all the evidence and reasons presented by both parties, the case shall be transferred to juvenile court unless a sound basis exists for retaining the case in county court or district court.” § 29-1816(3)(a).

Rauf argues that “every single factor under [] § 43-276 weighs in favor of transferring [Rauf’s] case to juvenile court.” Brief for appellant at 13. We disagree.

Rauf relies heavily upon Conoley’s report and opinions regarding the effect of his autism spectrum disorder diagnosis and argues that the district court was “clearly erroneous” because it “neglects and dismisses” Conoley’s psychological analysis. Brief for appellant at 15. However, the district court, as the trier of fact, is not required to take the opinions of experts as binding upon it. *State v. Jeremiah T.*, 319 Neb. 133, 21 N.W.3d 313 (2025). Testimony of expert witnesses is not treated any differently in the factfinding process than that of witnesses generally when it comes to determining weight and credibility of the testimony. *Id.*

With these principles in mind, we address the relevant factors of § 43-276 that the district court found supported a sound basis for retention of the case in district court. We note that the district court spoke in terms of factors that “weigh in favor of transfer,” “weigh against transfer,” and “neither weigh for nor against, transfer,” rather than the relevant classification of whether the statutory factors support a showing of a sound basis for retention or whether they do not. See *State v. Aldana Cardenas*, 314 Neb. 544, 990 N.W.2d 915 (2023). We utilize the language of *Aldana Cardenas* in analyzing whether the district court abused its discretion in its determination of the various factors. Factors that the district court found neither weighed for or against transfer are considered factors that do not support a sound basis for retention. See *id.*

(a) Type of Treatment to Which Juvenile Most Likely Amenable.

We recognize that Conoley diagnosed Rauf with autism spectrum disorder, Level 1, following these charges. She explained that because of this, Rauf interprets information differently and his cause-and-effect processing is different. This requires that any service offered address the underlying disorder. She opined that

he doesn’t have insight or awareness to where his difficulties are, so there would have to be some time spent in that area, in educating the family and also bringing in the family as a support, because I think that the best way to practice some of these skills and develop bonds is with his family first, and that can be done in the home.

Regarding a timeframe in which treatment could be accomplished, Conoley admitted “that it is a little bit more complicated than typical with the language and cultural barriers, so that would be more difficult to determine how long or how much time that would necessitate.”

Kirkland confirmed that in-home services would likely take longer due to the language barrier with the parents. She opined it “would be very difficult” to complete services for Rauf by the time he turned 19 years old. She explained that because of Rauf’s autism diagnosis, services may take longer or be more difficult because in addition to providing the service, they also need to teach in a different way so he could understand.

Based on the above evidence, the district court did not abuse its discretion in determining that § 43-276(a) supported a sound basis for retention.

(c) Motivation for Offense.

Conoley’s report indicates that Rauf’s motivation for the theft was to obtain money because he believed he lived in “poverty.” And, because of this poverty, he believed he lacked material things, which led to his inability to develop friendships. Conoley opined that Rauf needed to learn how to develop relationships and that this would take time; thus, the court found this factor weighed against transfer. Rauf argues that because his motivation was tied to his autism diagnosis, it is not indicative of standard criminal culpability.

As noted by the Nebraska Supreme Court in *Aldana Cardenas, supra*, § 43-276(c) does not elucidate on how “motivation for the commission of the offense” should factor into the transfer decision. Here, the district court appears to have considered motivation in the sense of how long it would take to treat the misconception that motivated Rauf to steal. We do not consider this finding in itself to be an abuse of discretion, and instead, we consider it with the other factors the district court found to favor retention in determining whether those factors taken together and balanced provided a sound basis for retention. See *State v. Aldana Cardenas*, 314 Neb. 544, 990 N.W.2d 915 (2023).

(d) Rauf’s Age.

Rauf had just turned 17 years old at the time of the incident. At the time of the transfer hearing, he was just shy of his 18th birthday. The district court found this factor weighed against transfer. Because the juvenile court would lose jurisdiction over Rauf in May 2027, it did not abuse its discretion in finding this factor supported a sound basis for retaining jurisdiction.

(e) Rauf’s Previous History.

Although not convicted, Rauf was a suspect in three other similar incidents. The district court relied upon this information to find this factor weighed against transfer. Rauf argues that this finding “is inexplicable and erroneous.” Brief for appellant at 16. He faults the district court for relying on uncharged investigations referenced in police reports; however, § 43-276(e) requires the district court to consider “the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court.” Rauf’s “previous history” includes the investigations contained within the police reports upon which the district

court relied. We find no abuse of discretion in the court's consideration of these other events in determining that § 43-276(e) supports a sound basis for retaining jurisdiction.

(h) Appreciation of Nature and Seriousness of Conduct.

Because Rauf's cognitive abilities demonstrated well developed language and working memory and he acknowledged it was morally wrong to take others' belongings, the district court found this factor weighed against transfer. Rauf argues his ability to appreciate the nature and seriousness of his conduct was affected by his autism diagnosis and he needed special consideration because of this.

Conoley's report indicates that Rauf understood the seriousness of his charges in terms of possible consequences, and although he stated it was morally wrong to take others' belongings, he did not understand why others were upset by his crime. This is consistent with her explanation that he suffers from a lack of empathy based upon a lack of awareness, a trait not uncommon for persons diagnosed with autism. As with the factor on motivation, we do not consider this finding in itself to be an abuse of discretion, and, instead, we consider it with the other factors the district court found to favor retention in determining whether those factors taken together and balanced provided a sound basis for retention.

(i) Juvenile's Best Interests and Public Security.

The district court found it would be speculative to determine whether it would be in the best interest of Rauf and public safety for him to continue in secure detention or under supervision for a period extending beyond his minority. However, because the charged crime is a Class IIA felony, which carries the possibility of up to 20 years' imprisonment, and Rauf would be under the supervision of the juvenile court for approximately 1 year, the district court found this factor weighed against transfer.

Rauf argues that Conoley identified Rauf's "underlying mental health condition contributing to [his] criminal conduct and provides a road map for facilitating Rauf's rehabilitation that can be implemented and completed within the time he has left before his nineteenth birthday." Brief for appellant at 16. As stated previously, however, the district court was not required to accept Conoley's opinions. Additionally, Conoley explained that because of Rauf's diagnosis, he is unaware of the fixations that can put him at risk of doing things that he should not do or compromising other people's rights, and the first step is making him aware of that. She conceded that even if services were provided through the juvenile court, it is possible that he could need mental health treatment beyond probation.

Contrary to Rauf's assertions, Conoley's testimony and evaluation support a determination that Rauf's autism diagnosis--for which he had not yet received any services--creates an additional layer of treatment that could extend the length of services. We find no abuse of discretion in the district court's determination that this factor supports a sound basis for retention in district court.

Neutral factors.

The district court determined that the following factors did not weigh in favor of, or against, transfer to juvenile court: (j) whether victim agrees to participate in mediation, and (o) other

matters. As stated in *State v. Aldana Cardenas*, 314 Neb. 544, 990 N.W.2d 915 (2023), these factors would be considered as not presenting a sound basis for retention.

No Abuse of Discretion in Finding Sound Basis for Retention.

As the Supreme Court has explained, in conducting a hearing on a motion to transfer a pending criminal case to juvenile court, “[i]t is a balancing test by which public protection and societal security are weighed against the practical and nonproblematical rehabilitation of the juvenile.” *Id.* at 561, 990 N.W.2d at 928. “[I]n order to retain the proceedings, the court need not resolve every statutory factor against the juvenile, and there are no weighted factors and no prescribed method by which more or less weight is assigned to a specific factor.” *Id.*

In our analysis of the district court’s reasoning, we find no abuse of discretion in its determination that the State proved a sound basis for retention of Rauf’s case. It recognized that although some factors did not support retention, they were substantially outweighed by other factors that did support retention. Rauf was almost 18 years old at the time of the transfer hearing, and rehabilitative services would be available for only a short time. The district court’s ruling was well within the bounds of sound discretion and permissible choice, given the evidence and the applicable law.

CONCLUSION

We find no abuse of discretion in the district court’s denial of Rauf’s motion to transfer his case to juvenile court.

AFFIRMED.