

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PROVIDENCE, SC. FAMILY COURT

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IN RE: [REDACTED]  
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Juv. No. 2008-0010-1

H E A R D B E F O R E:

The Honorable Chief Judge Jeremiah Jeremiah, Jr.  
Providence County Family Court  
January 3, 2008

APPEARANCES:

Office of A.G.....Michael McCarthy, Esq.  
.....Jay Sullivan, Esq.  
  
For Respondent.....William Devine, Jr., Esq.  
.....Mark Dana, Esq.

1 IN RE: [REDACTED]

2 JUV. NO. 2008-0010-1

3 JANUARY 3, 2008

4 THE COURT: For the record, identify  
5 yourself, please.

6 MR. SULLIVAN: Jay Sullivan, assistant  
7 attorney general.

8 MR. MCCARTHY: Michael McCarthy, special  
9 assistant attorney general.

10 THE COURT: Counsel.

11 MR. DEVINE: William Devine, Your Honor,  
12 for [REDACTED]

13 THE COURT: Counsel.

14 MR. DANA: Mark Dana for [REDACTED]  
15 [REDACTED]

16 THE COURT: Who else, please?

17 [REDACTED], sir.

18 THE COURT: And mother and father?

19 [REDACTED] Yes.

20 THE COURT: This is petition  
21 PDL-08-00000-3/1, driving to endanger, death  
22 resulting; 2, unlawful possession of alcohol by a  
23 minor; 3, driving under the influence of liquor  
24 under 18 years of age; 4, possession of marijuana;  
25 5, destruction of state property; 6, eluding a

1 police officer.

2 waive the reading of the rights?

3 MR. DEVINE: Yes, Your Honor.

4 THE COURT: waive advisement of rights?

5 MR. DEVINE: Yes, Your Honor. Your  
6 Honor, I think you read one of the charges as  
7 driving to endanger, death resulting?

8 THE COURT: Let me see what it says.  
9 Hold on a second.

10 (PAUSE)

11 THE COURT: Driving to endanger,  
12 resulting in personal injury. I'm sorry. I stand  
13 corrected. waive advisement of rights?

14 MR. DEVINE: Yes, Your Honor.

15 MR. DANA: Yes, Your Honor.

16 THE COURT: Accompanied by mother and  
17 father. Enter denials. State.

18 MR. MCCARTHY: Your Honor, Mr. Sullivan  
19 and I, from the Attorney General's Office, will be  
20 doing today's arraignment. Mr. Sullivan will give  
21 a brief recitation of the facts of the case, but  
22 the State requests the respondent be placed on  
23 strict home confinement with robo-cuff.

24 MR. SULLIVAN: Yes, Your Honor. Thank  
25 you. Your Honor, the State would assert to the

1 court that this defendant was driving a motor  
2 vehicle on the 28th at about 8:15 p.m.; that he  
3 was in Colt State Park. A DEM officer attempted  
4 to pull the suspect over for driving in the park  
5 after hours. When the DEM officer approached the  
6 vehicle, the suspect fled down the road from the  
7 DEM officer. The chase, or pursuit lasted a  
8 little under a minute. The suspect fled down  
9 what's called Colt Road and ended up driving over  
10 300 feet over some grass and crashing on  
11 Poppasquash Road. Unfortunately, for this  
12 suspect, there was a gentleman walking home on  
13 that evening along the road. He heard a ruckus to  
14 his side. He jumped --

15 THE COURT: Unfortunately for the  
16 suspect?

17 MR. SULLIVAN: I'm sorry. The victim in  
18 this case. The victim was walking home. The  
19 suspect was driving over the grass. The victim  
20 heard the ruckus. He jumped to avoid the vehicle,  
21 which he was struck partially by the vehicle and  
22 landed underneath the vehicle, the vehicle landing  
23 on his arm, puncturing his lung, as the vehicle  
24 was teetering along the wall on Poppasquash Road.

25 The suspect then was brought -- the police

1 noticed a strong alcohol about him. They found  
2 cans of beer and a 30-pack in the car. Not 30  
3 cans but a number of cans of beer. They found  
4 marijuana in the glove compartment of the car.  
5 They brought him to the Bristol Police Station,  
6 that being the closest one, where he consented to  
7 a breath test. His blood alcohol was recorded at  
8 .035 and .033.

9 THE COURT: What is it, .08 that's --

10 MR. SULLIVAN: .08 is the legal limit.  
11 So it wasn't at the legal limit, but he was  
12 driving while impaired. As the court is aware,  
13 over .02 is the blood alcohol level.

14 He's charged with eluding flight from the DEM  
15 officer. He's charged with damage to state  
16 property and public property for the crash, and  
17 damage to the yard; driving with possession of  
18 alcohol by a minor; charged with possession of  
19 marijuana, and also the most serious charge before  
20 the court is his driving recklessly which resulted  
21 in a serious injury to the victim.

22 THE COURT: Now, Mr. Sullivan, evidently,  
23 your department has a double standard because  
24 yesterday we had a youngster who was in an  
25 accident -- sit down, Mr. McCarthy.

1 MR. MCCARTHY: Yes, Your Honor.

2 THE COURT: ...and hit three cars, but he  
3 didn't have any alcohol in the car. He had no  
4 marijuana in the car. He eluded the police  
5 officer, and Mr. McCarthy asked that I detain him  
6 at the training school for probable cause. So,  
7 evidently, there's a double standard here.

8 MR. SULLIVAN: Well, Judge, this  
9 respondent -- I've been using suspect incorrectly.  
10 This respondent has no prior contact with this  
11 court.

12 THE COURT: The other gentleman had a  
13 shoplifting charge before me.

14 MR. SULLIVAN: And has never had --

15 THE COURT: It's a minor truancy  
16 petition.

17 MR. MCCARTHY: If I may, Your Honor.

18 THE COURT: No, Mr. McCarthy.

19 MR. SULLIVAN: Your Honor, in this -- as  
20 the court is aware, we just handled a similar  
21 matter too involving another Barrington gentleman.  
22 It's our position that since this suspect has no  
23 previous contacts and the Barrington police --

24 THE COURT: You know my feeling about  
25 eluding a police officer. You're not in this

1 court very often.

2 MR. SULLIVAN: I'm not.

3 THE COURT: Mr. McCarthy, tell him my  
4 feeling about eluding a police officer.

5 MR. MCCARTHY: Your Honor, you have the  
6 highest respect for the police departments in the  
7 State of Rhode Island.

8 THE COURT: And I say respect them and  
9 don't elude them. My theory is five days at the  
10 training school for probable cause when they elude  
11 a police officer. Isn't that correct,  
12 Mr. McCarthy?

13 MR. MCCARTHY: That is correct.

14 THE COURT: So you don't know what I do  
15 here, do you, Mr. Sullivan?

16 MR. SULLIVAN: I was not aware that's  
17 your policy, five days at the training school.

18 THE COURT: Absolutely, and this is a  
19 more serious offense.

20 MR. SULLIVAN: Much more serious.

21 THE COURT: This is very serious.

22 MR. SULLIVAN: Yes, it is, Your Honor.

23 THE COURT: I can't understand the  
24 Attorney General doing a double standard, and  
25 that's what he's doing, and you may tell him I'm

1 very critical of him for doing so.

2 Mr. Devane, anything you want to say?

3 MR. DEVINE: It's Devine.

4 THE COURT: Devine. I apologize.

5 MR. DEVINE: Your Honor, his parents are  
6 here; the respondent's parents are here. This is  
7 his first time before the court. He has no priors  
8 at all. He is not a danger to the community nor  
9 to himself, Your Honor.

10 THE COURT: The guy who drives and drinks  
11 and speeds and eludes a police officer is not a  
12 danger to the community?

13 MR. DEVINE: Well, that is the State's  
14 version of the events, Your Honor. Basically --

15 THE COURT: He didn't hit anybody?

16 MR. DEVINE: Basically, Your Honor, I  
17 haven't received discovery yet, Your Honor, from  
18 the State. I understand what the allegations are  
19 from the State. I'm trying to explain to the  
20 court and give the court a little insight.

21 THE COURT: Sure. Go right ahead.  
22 You're a very respected attorney.

23 MR. DEVINE: Thank you, Your Honor. He  
24 attends Barrington High School, Your Honor, as you  
25 know. He's involved in three sports. He

1 maintains a 3.5 GPA.

2 THE COURT: You're shaking your head no.

3 MR. SULLIVAN: I was -- Your Honor, I was  
4 not saying no. I was thinking out loud and my  
5 head was shaking.

6 THE COURT: Be careful. I'll hold you in  
7 contempt. Go ahead.

8 MR. DEVINE: He maintains a 3.5 GPA  
9 average.

10 THE COURT: Now you're smiling,  
11 Mr. Sullivan. Do you think something is funny?

12 MR. SULLIVAN: Not at all, Your Honor.

13 THE COURT: Go ahead, Mr. -- counsel.

14 MR. DEVINE: Like I was saying, he  
15 maintains a GPA average of 3.5, Your Honor. He's  
16 had no disciplinary issues at all. He has no  
17 health issues. His parents are here. They  
18 provided a good home for him. He has the support  
19 of his family. I think that holding this  
20 individual would not do any good to the system,  
21 for him, for his family, or for the victim, Your  
22 Honor.

23 I would agree with the recommendation of the  
24 State from the perspective of home confinement and  
25 having Family Court services monitor the home

1 confinement and have him report and have the court  
2 provide any other requirements as he is in his  
3 parents' custody.

4 I believe there are many options that we can  
5 look for outside of holding this person in the  
6 training school considering the fact he has no  
7 prior record, that he has good family support, and  
8 that he has not been before this court before.

9 THE COURT: I --

10 MR. DEVINE: I'm sorry. My final point  
11 is that he was never held on this. I mean, there  
12 was never an emergency petition filed.

13 THE COURT: You know what I say about  
14 that? Seriously, just because the police  
15 department is stupid doesn't mean I'm going to be  
16 stupid.

17 MR. DEVINE: I'm not saying anyone is  
18 stupid here, Judge. I'm just saying the State --  
19 the police never held this individual. He was  
20 let -- he was let go. He was home.

21 THE COURT: I know that.

22 MR. DEVINE: He's here today --

23 THE COURT: I understand that.

24 MR. DEVINE: -- based on the State's  
25 request to be here today with very little notice.

1 I mean, so from that perspective, there is no  
2 emergency petition filed which says a lot about  
3 the situation. I don't think he should be put in  
4 the training school.

5 THE COURT: But my theory has always  
6 been, Mr. McCarthy, eluding a police officer,  
7 training school because I believe in respecting  
8 authority. I believe that -- you know, we have  
9 some bad judges, bad lawyers, bad police officers  
10 but I believe in respecting authority.

11 I find he's a danger to the community. He'll  
12 be detained at the training school. Probable  
13 cause hearing on Monday. Thank you very much.


14 MR. MCCARTHY: Thank you, Your Honor.

15 (HEARING ADJOURNED)  
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**C E R T I F I C A T I O N**

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2  
3 I, **REBECCA J. AUBUCHON**, do hereby certify  
4 that the foregoing pages are a true and accurate  
5 transcript, according to my stenographic notes, in  
6 the matter of [REDACTED] heard before the  
7 Honorable Chief Judge Jeremiah S. Jeremiah, Jr.,  
8 in the Providence County Family Court on  
9 January 3, 2008.

10 In witness whereof, I have hereunto set my  
11 hand this 3rd day of January, 2008.

12  
13  
14   
15 **REBECCA J. AUBUCHON,**  
16 **Notary Public**  
17 **Certified Court Reporter**

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My Commission Expires: August 8, 2009