MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

C.S.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

March 21, 2023

Court of Appeals Case No. 22A-JV-1400

Appeal from the Jay Circuit Court

The Honorable Brian D. Hutchison, Judge

Trial Court Cause No. 38C01-1906-JD-16

Memorandum Decision by Chief Judge Altice
Judges Brown and Tavitas concur.

Altice, Chief Judge.

Case Summary

[1] C.S. admitted to attempted Level 4 felony child molesting if committed by an adult and the trial court thereafter entered a dispositional order awarding wardship of C.S. to the Indiana Department of Correction (the DOC). Two years and eight months after disposition, C.S. filed an Ind. Trial Rule 60(B) motion for relief from judgment, seeking relief from his delinquency adjudication on claims that: (1) his waiver of rights before he spoke to police was invalid due to a lack of meaningful consultation with his mother, whose interests were adverse to his; and (2) the trial court neither advised C.S. of his legal rights, nor inquired about his waiver of those rights, at the admission hearing. The trial court denied C.S.'s motion. On appeal, C.S. raises several issues that we consolidate and restate:

> I. Was the delinquency adjudication rendered void such that the trial court should have granted relief to C.S. under T.R. 60(B)(6)?
>
> II. Alternatively, was C.S. entitled to have his delinquency adjudication set aside under T.R. 60(B)(8)?

[2] We affirm.

Facts & Procedural History

[3] On June 2, 2019, Portland Police Department Officer Ruben Vela was dispatched to a home on a report of a brother sexually assaulting his sister. When Officer Vela arrived, a juvenile male, later determined to be thirteen-year-old C.S., was outside along with his mother (Mother). Mother told Officer

Vela that C.S. had "forced himself" on his nine-year-old sister, E.M. *Appendix* at 8. C.S. denied doing so. Mother drove E.M. to the police station, while Officer Vela transported C.S.

[4] Officer Vela's report stated that he read C.S.'s rights to him with Mother present and that C.S. signed a waiver of rights with Mother present. The waiver was on a "Juvenile Advice of Rights" form, which listed various rights, including the right to remain silent, have an attorney called, and stop answering questions at any time. *Id*. at 14. C.S. signed under the "Waiver" portion, stating, among other things, that he had read the form, understood his rights, was willing to make a statement, his parent was present, and they had "been given the opportunity to talk in private before deciding to make this statement." *Id*. Mother signed below the "Waiver of Parent or Guardian" section, where Mother certified that she understood C.S.'s rights and was permitting him to answer questions and that they "were given the opportunity to talk in private with one another" before deciding to make the waiver. *Id.* Officer Vela signed a certification on the same form affirming that he read the "warning and waiver" to Mother, that she also read it, and that C.S. and Mother were "given the opportunity to speak in private" before signing the waiver. *Id*. On a Voluntary Statement" form, Mother wrote that she gave her "full consent" for Officer Vela to speak to C.S. and E.M. *Id*. at 13.

[5] E.M. reported that this was the fifth time that C.S. had attempted to force himself on her, describing that C.S., with his clothes off, would hold her hands above her head and pin her down, try to touch her vagina, and warn E.M. that

if she told Mother, he would make her suck his penis. C.S. admitted to lying on top of E.M. and holding her down but denied touching her vagina with his penis or fingers.

[6] On June 18, 2019, the State alleged C.S. to be a delinquent child for committing what would be Level 3 felony attempted child molesting if committed by an adult. On July 3, 2019, the court held an initial hearing at which C.S. appeared with counsel. There was some discussion amongst counsel and the court as to which of two of C.S.'s pending delinquency cases was being heard. The other case involved a misdemeanor battery, if committed by an adult, to which C.S. had entered an admission on May 22, and the court entered a disposition that date. The court noted on the record that the "[s]ame people are present" at the current hearing as were present at the May 22 hearing. *Supplemental Transcript* at 4.

[7] The trial court then turned to the present case and read the allegations of the delinquency petition, with C.S. thereafter confirming that he understood the State's allegations against him. The court then said to C.S.:

> *All those rights that we discussed before[,] they still apply*. You still have the right to a speedy trial, fact finding hearing. You have the right to cross examine all the State's witnesses. You have the right to bring your own witnesses and exhibits to court and to have the court issue orders to make sure that they show up. You're presumed not to have violated the law. The State has the burden of proving it. They have to prove it beyond a reasonable doubt at a hearing where you have the right to remain silent. You also have the right to testify but if you exercise that right[,] anything you say could be used against you. And you still have

> the right to be represented by the attorney. . . . Do you understand those right[s]?

Id. at 5-6 (emphasis added). C.S. responded in the affirmative and then entered a denial. Upon the State's request and Mother's agreement, the court ordered "continued detention" at the Youth Opportunity Center (the YOC). *Id*. at 8.

[8] On August 19, 2019, C.S. appeared with the same counsel and a guardian-ad-litem (GAL) for a fact-finding hearing. The parties advised the court that C.S. intended to enter an admission, and thereafter, the court read, and C.S. admitted, the allegations in the petition.[1] The trial court entered an order adjudicating C.S. a delinquent child and set the matter for disposition. Noting that C.S. was "already under a dispositional order that requires detention," the trial court asked the State's position, and the State requested continued detention. *Id*. at 6. The court ordered C.S. be returned to the YOC.

[9] The parties appeared on September 13, 2019, for a dispositional hearing. C.S. was represented by the same counsel and the GAL was also present. The State recommended commitment to the DOC, and counsel for C.S. indicated that Mother was not willing to let C.S. come home until he receives treatment,

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[1] Although the delinquency petition alleged Level 3 felony conduct, all parties agreed at the hearing that C.S. was admitting to attempted child molesting as a Level 4 felony if committed by an adult. *See Exhibits Vol*. at 7. In accordance with that, the trial court's Order on Admission identifies the offense as being a Level 4 felony if committed by an adult, as do the subsequent Dispositional Order and the pre-dispositional report filed by probation.

which he could receive at the DOC. The court placed C.S. in the wardship of the DOC for an indeterminate period of time.

[10] On March 1, 2022, C.S. filed a T.R. 60(B) motion for relief from judgment.[2] C.S. sought relief under T.R.(6) and (8)[3] and asserted that the delinquency adjudication and the subsequent dispositional order should be set aside because (1) C.S. was denied meaningful consultation with Mother and her interests were adverse to his, making his waiver of rights invalid, and (2) the juvenile court, at the August 19, 2019, admission hearing, failed to both advise C.S. of his statutory and constitutional rights and ensure that he was knowingly and voluntarily waiving his rights.

[11] The court held an evidentiary hearing on May 19, 2022. Transcripts of the admission and dispositional hearings were admitted into evidence without objection. C.S. argued that, to constitute meaningful consultation, the parent's interest must have been solely aligned with the accused child, and, here, Mother's interests were divided between C.S. and E.M. As to his lack of advisements claim, C.S. argued that his admission was "akin to" an adult guilty plea hearing, *transcript* at 10, where a trial court, before accepting the plea, must be certain that the plea is entered into knowingly, intelligently, and voluntarily

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[2] At this point, C.S. was represented by different counsel. Specifically, the record reflects that attorney Deidre Eltzroth filed her appearance on behalf of C.S. on October 15, 2019, about one month after the dispositional hearing.

[3] Although the introductory portion of C.S.'s motion indicated that he was seeking relief "pursuant to [T.R.] 60(B)(2), (6) and (8)," he at no time presented argument concerning subsection (B)(2). *Appendix* at 42.

and is required to advise the defendant of certain rights.[4] As that did not occur at C.S.'s admission hearing, C.S. argued his admission was void and asked the court to vacate the delinquency adjudication and disposition, release him from custody, and place him on supervised probation.

[12] The State opposed any relief from judgment or release, arguing that C.S.'s motion was not filed within a reasonable period of time as required for T.R. 60 and noting that "[t]he [] investigating officer that was involved in this matter is no longer with the Portland Police Department and I believe has moved out of county[.]" *Id*. at 9. Further, the State maintained that, even if considered to be timely filed, C.S. was not entitled to relief because the judgment was not void, C.S. was not denied meaningful consultation with Mother, and he was adequately advised of his rights "throughout the process" as all the necessary rights were read to him at the initial hearing. *Id*. Further, the State highlighted that, under subsection (8), C.S. needed to show a meritorious defense, which he had not done.

[13] The court inquired about why the motion was filed "two years and eight months" after the disposition. *Id*. at 11. Counsel for C.S. explained that COVID-19 was a significant contributing factor and C.S. was subjected to disciplinary restrictions "that did not allow for much action outside." *Id*.

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[4] *See Boykin v. Alabama*, 395 U.S. 238, 243 (1969).

[14] On May 23, 2022, the trial court issued an order denying C.S.'s T.R. 60(B) motion for relief from judgment, finding, in part:

> Assuming, without finding, that his parent was adverse to him at the initial meeting with police and not simply promoting the acceptance of responsibility for his actions, and further assuming without finding that the *Boykin* rights needed to be repeated to him, the juvenile's request fails. Pursuant to TR 60(8), even if the judgment was void, the motion "shall be filed within a reasonable time." The disposition order in this cause was entered September 13, 2019. The motion for relief therefrom was not filed until March 1, 2022. The court declines to find that the filing made 900 days after disposition was made within a reasonable time. The motion for relief from judgment is denied.

Appendix at 72. C.S. now appeals.

Discussion & Decision

[15] Post-conviction procedures are not available to challenge juvenile delinquency adjudications, which are civil in nature. *J.A. v. State*, 904 N.E.2d 250, 254 n.1 (Ind. Ct. App. 2009), *trans. denied*. Our Supreme Court has held that T.R. 60 is the "appropriate avenue through which a juvenile must raise any and all claims premised on the illegality of an agreed delinquency adjudication." *J.W. v. State*, 113 N.E.3d 1202, 1207-08 (Ind. 2019).

[16] T.R. 60(B) allows a court to relieve a party from a judgment under certain delineated circumstances. As is relevant to this appeal, the rule provides that on a party's motion "and upon such terms as are just," a trial court may relieve a party from a judgment if "the judgment is void." T.R. 60(B)(6). The rule also

allows the court to grant relief for "any reason justifying relief from the operation of the judgment," other than those reasons set forth in subsections (B)(1)-(4), which are not relevant to the case before us. T.R. 60(B)(8). The burden is on the T.R. 60(B) movant to demonstrate that relief is both necessary and just. *Smith v. State*, 38 N.E.3d 218, 220-21 (Ind. Ct. App. 2015) (quotation omitted).

[17] Generally, the grant or denial of a motion for relief from judgment under T.R. 60(B) is within the sound discretion of the trial court, and we will reverse only for abuse of that discretion. *Id.* at 220. However, "If a judgment is void, the trial court cannot enforce it and the motion under Rule 60(B)(6) must be granted" – that is, involves no discretion – and, therefore, we review a trial court's judgment on a T.R. 60(B)(6) motion de novo. *Anderson v. Wayne Post 64, Am. Legion Corp.*, 4 N.E.3d 1200, 1205 (Ind. Ct. App. 2014), *trans. denied*.

[18] Thus, whether a judgment is void, as opposed to voidable, affects not only under what subsection of T.R. 60(B) a party seeks relief, but also our standard of review. Indeed, as our courts have observed, the distinction between a void and voidable judgment "is no mere semantic quibble." *Mosley v. State*, 171 N.E.3d 1031, 1034 (Ind. Ct. App. 2021) (*Stidham v. Whelchel*, 698 N.E.2d 1152, 1154 (Ind. 1998)). We have explained,

> [a] decision that is void has no legal effect at any time and cannot be confirmed or ratified by subsequent action or inaction and is subject to a collateral attack. An action or judgment which has been declared void is a nullity; it is as if it never existed. All

> subsequent actions predicated on that ruling are tainted by its nullity and are similarly without effect.

Parkview Hosp. Inc. v. Am. Fam. Ins. Co., 151 N.E.3d 1218, 1228 (Ind. Ct. App. 2020), *trans. denied* (cleaned up). Classic examples include lack of personal jurisdiction or lack of standing. *See Stidham*, 698 N.E.2d at 1156 (default paternity judgment held void for lack of personal jurisdiction); *In re Guardianship of A.J.A.,* 991 N.E.2d 110, 114 (Ind. 2013) (grandparent visitation order held void because grandparent lacked standing to file action seeking visitation). By contrast,

> a voidable judgment is not a nullity, and is capable of confirmation or ratification. Until superseded, reversed, or vacated, it is binding, enforceable, and has all the ordinary attributes and consequences of a valid judgment.

A.J.A., 991 N.E.2d at 114.

[19] C.S. asserts that he was entitled to T.R. 60(B) relief because (1) he did not receive meaningful consultation with Mother before speaking with police and her interests were adverse to his, such that the waiver of his rights was not valid and (2) the trial court both failed to advise him of his constitutional and statutory rights at the admission hearing and failed to ensure that C.S.

knowingly and intentionally waived them.[5] C.S.'s motion sought relief under both subsections (B)(6) and (8), and we discuss each in turn.

I. Relief Under T.R. 60(B)(6)

A. Invalid Waiver - Prior to Speaking with Police

[20] C.S. argues that the waiver of his rights given before speaking to Officer Vela was not valid and, consequently, his subsequent delinquency adjudication is void. Ind. Code § 31-32-5-1 (the Juvenile Waiver Statute) addresses the limited ways in which the statutory and constitutional rights guaranteed to a child may be waived. It provides, in relevant part, that a child's federal or state constitutional rights may be waived by the child's custodial parent if:

> (A) that person knowingly and voluntarily waives the right;
>
> (B) that person *has no interest adverse* to the child;
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> (C) *meaningful consultation has occurred* between that person and the child; and
>
> (D) the child knowingly and voluntarily joins with the waiver[.]

[5] C.S. raised other issues on appeal, including a claim that his counsel provided ineffective assistance. However, in his Reply Brief, C.S. acknowledges that an ineffectiveness claim is waived because he did not raise it in his motion for relief from judgment.

Ind. Code § 31-32-5-1(2) (emphases added).[6] C.S. urges that Mother's interests were adverse to his and that he did not receive meaningful consultation with her before he spoke to police, in violation of the Juvenile Waiver Statute, such that any waiver of his rights was invalid and, as a result, his delinquency adjudication was void.[7] We disagree.

[21] As to Mother's claimed adverse interests, C.S. argues that Mother "put her daughter's needs before [C.S.]'s" because she "allowed both her son (the alleged perpetrator) and her daughter (the alleged victim) to be questioned" by Officer Vela. *Appellant's Brief* at 15. C.S. urges that this adverse interest was effectively confirmed when Mother later stated to the probation officer who was preparing the predispositional report that she was "disgusted and [] disappointed" with C.S. *Appendix* at 94. Our Supreme Court has held that the parent of an alleged juvenile delinquent does not have an adverse interest by virtue of being a parent of both the juvenile and the victim. *K.S. v. State*, 849 N.E.2d 538, 543 (Ind. 2006); *see also N.B. v. State*, 971 N.E.2d 1247, 1254-55 (Ind. Ct. App. 2012) (holding that mother's interests were not adverse where she was the mother of the juvenile and the alleged victim and also subject to charges for neglect of a

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[6] The rule also provides that the rights may be waived "by counsel" or "by the child, without the presence of a custodial parent[.]" I.C. 31-32-5-1(1), (3). However, neither of those subsections is applicable in this case.

[7] To the extent that C.S. asserts on appeal that his due process rights were violated by a lack of meaningful consultation, we agree with the State that because C.S. never raised a due process argument to the trial court, it is waived. *See Hite v. Vanderburgh Cnty. Office of Fam. & Children*, 845 N.E.2d 175, 180-81 (Ind. Ct. App. 2006) (stating that constitutional issues, such as lack of due process, may be waived if the issue is raised for the first time on appeal).

dependent), *trans. denied*. Further, while Mother's subsequent statement to a probation officer that she was disgusted by C.S.'s conduct may have reflected her disapproval and disappointment, we are unconvinced that it established the requisite adverse interest under the statute.

[22] As to his claim that "meaningful discussion" did not occur, C.S. argues that "it appears" Mother "in the midst of a stressful situation and in the presence of investigating officers, merely turned [C.S.] over for questioning with no discussion" and "no additional consultation." *Appellant's Brief* at 14. "[T]he State needs only to prove that the police provided a relatively private atmosphere that was free from police pressure in which the juvenile and the parent could have had a meaningful discussion about the allegations, the circumstances of the case, and the ramifications of their responses to police questioning and confessions." *D.M. v. State*, 949 N.E.2d 327, 335 (Ind. 2011) (internal quotation omitted); *see also Estrada v. State*, 969 N.E.2d 1032, 1043 (Ind. Ct. App. 2012) ("The consultation requirement is satisfied when the State demonstrates actual consultation of a meaningful nature or the express opportunity for such consultation, which is then forsaken in the presence of the proper authority by the juvenile[.]"), *trans. denied*.

[23] In this case, C.S. and Mother each executed a waiver stating that they had been given the opportunity to talk in private before C.S. decided to waive his rights and before Mother gave her permission for police to speak with C.S. Officer Vela signed a certification also stating that C.S. and Mother had been given an opportunity to speak in private and consult an attorney. On the record before

us, we find that C.S. and Mother had, or were given an opportunity for, meaningful consultation.

[24] The record thus does not establish that the waiver of C.S.'s rights prior to speaking with police was invalid. Accordingly, the trial court properly denied C.S.'s request to set aside the delinquency adjudication under T.R. 60(B)(6) on this ground.

B. Lack of Advisements and Waiver - Admission Hearing

[25] The trial court advised C.S. of his constitutional rights at the July 3, 2019 initial hearing. However, at the August 19, 2019 hearing – at which C.S. entered his admission – the court did not again advise C.S. of his rights or explain to C.S. that by admitting to the allegations, he was waiving his rights. C.S. asserts that because of these failures, his delinquency adjudication is void and, consequently, so too is the September 13, 2019 dispositional order.

[26] In support of his position, C.S. relies on this court's recent decision in *T.D. v. State*, 198 N.E.3d 1197 (Ind. Ct. App. 2022), *trans. pending*, where a juvenile filed a T.R. 60(B)(6) motion to set aside his delinquency adjudication because the trial court accepted his admission of guilt without ensuring that T.D. knowingly and voluntarily waived his statutory and constitutional rights.[8] The trial court denied the motion, and on appeal, a split panel of this court reversed,

[8] *T.D.* was decided on October 31, 2022, which was after the State filed its Appellee's Brief in this case but before C.S. filed his Reply Brief.

holding that "a trial court's failure to ensure that a juvenile knowingly and voluntarily waives his rights when the juvenile admits to being a delinquent child means that the agreed delinquency adjudication is void" and should be set aside under T.R. 60(B)(6). *Id.* at 1203. As *T.D.* bears resemblance to the facts before us, a discussion of it is warranted.

[27] In *T.D.*, the State filed a delinquency petition in June 2020, and T.D. was detained. T.D. filed a motion for release, which included statements that T.D. had viewed a video of his rights and had no questions about them. In the motion, counsel stated that he had informed T.D.'s mother of T.D.'s rights, and she too had no questions. The trial court denied the motion for release and, in its order, stated that T.D. "has been advised of his rights, understands them, and has no questions regarding his rights." *Id*. at 1199. On July 2, 2020, a virtual initial hearing was held but T.D.'s mother was unable to attend due to work. A week later, an omnibus hearing was held, which T.D.'s mother attended, and T.D.'s counsel advised the court that T.D. and the State had reached an oral agreement. The trial court asked T.D. if he desired to admit to the allegation of Level 6 felony auto theft if committed by an adult, T.D. answered in the affirmative, and his mother agreed. This court later observed on appeal that, at that hearing, "[t]he court did not discuss T.D.'s rights, reference a video, or explain that T.D. was waiving his rights by admitting to auto theft." *Id*. Following the hearing, the trial court adjudicated T.D. a delinquent child, and, in its order, stated that T.D. and his mother "understand the admission [and] waives those rights explained in the video." *Id.*

[28] About a year later, in September 2021, T.D. filed a T.R. 60(B) motion, asserting that his delinquency adjudication was void. He argued that his admission was not knowing, intelligent, and voluntary because at the omnibus hearing the court did not advise him of his statutory or constitutional rights or inquire whether he was knowingly and intentionally waiving them. The trial court denied T.D.'s T.R. 60(B) motion, stating that T.D. was represented by counsel at all hearings and was "presented with a video that goes over his rights several times before each court hearing." *Id*. at 1200.

[29] In its opinion, the *T.D.* majority observed that a juvenile has statutory[9] and constitutional rights that, pursuant to the Juvenile Waiver Statute, may be waived only in one of three ways – (1) by counsel, (2) by a parent, guardian or custodian, or guardian ad litem, or (3) by the juvenile – and "[u]nder all three options, the juvenile's waiver must be knowing and voluntary." *Id*. at 1201 (discussing I.C. § 31-32-5-1). The State did not dispute that the trial court failed to ensure that T.D. knowingly and voluntarily waived his rights; rather, the State argued that the juvenile court's failure to comply with the Juvenile Waiver Statute was a "procedural error" that made the delinquency adjudication voidable, not void. *Id*. at 1202.

[9] Ind. Code § 31-37-12-5(2) requires the trial court to advise the child, and, if present, the child's parent, guardian, or custodian of, among other things, the child's right to: be represented by counsel, a speedy trial, confront and cross-examine witnesses, obtain witnesses or tangible evidence by compulsory process, introduce evidence, refrain from testifying against himself, and have the state prove beyond a reasonable doubt that the child committed the delinquent act charged.

[30] The *T.D.* court rejected the State's "voidable" argument and, rather, determined that the trial court's failure to ensure that T.D. knowingly and intentionally waived his statutory and constitutional rights at the omnibus hearing, when he admitted to the allegations, rendered the delinquency adjudication void such that the trial court erred when it did not set aside the adjudication under T.R. 60(B)(6). The court reasoned that "[j]uvenile admissions are equivalent to adult pleas of guilty" – and when an adult pleads guilty the record must demonstrate that the adult was advised of his *Boykin* rights and knowingly and voluntarily waived them, otherwise his plea must be vacated. 198 N.E.3d at 1201. The *T.D.* court opined that "[t]he standard for juvenile waivers should be the same as that for adult pleas of guilty[.]" *Id*. Finding that the record showed "that T.D. did not freely and with informed consent enter into his admission," a majority of this court determined that T.D. met his burden of showing that his delinquency adjudication should have been set aside as void by the trial court. *Id*. at 1203.

[31] Judge Bailey dissented. While he agreed that the trial court "did not adequately advise T.D. of his rights prior to accepting his admission," *id*., and caused the admission to not be knowing or voluntary, Judge Bailey did not agree that such error rendered the delinquency judgment void.

[32] First, Judge Bailey recognized two Indiana cases in which there had been a violation of the Juvenile Waiver Statute but the appellate court found the error to be harmless. *Id*. at 1204 (discussing *Stewart v. State*, 754 N.E.2d 492, 496 (Ind. 2001); *Bryant v. State*, 802 N.E.2d 486, 494 (Ind. Ct. App. 2004), *trans.*

denied). Judge Bailey observed that "[i]t goes without saying that an error that renders a judgment void cannot be harmless." *Id*.

[33] Second, Judge Bailey observed that, while the majority's analysis likened juvenile admissions to adult guilty pleas, it is well-settled that juvenile proceedings are civil proceedings, not criminal in nature; that is, an act of juvenile delinquency is not a crime, and juveniles are not defendants. Furthermore, the purpose of the juvenile process is "vastly different" from the criminal justice system, with the goal being rehabilitation so that the youth will not become a criminal as an adult. *Id*. at 1205.

[34] Third, Judge Bailey rejected the proposition that if an adult's guilty plea was not made knowingly or voluntarily, the judgment is void. Rather, he maintained that while such a guilty plea may be vacated, that guilty plea remains in full force and effect unless it is challenged, making the judgment "merely voidable, not one that is void." *Id*. In the same way, "an admission following the unknowing or involuntary waiver of a juvenile's rights results in a judgment that is merely voidable, not one that is void."[10] *Id*.

[35] After due consideration, we align with and adopt the reasoning of Judge Bailey's dissent and find that C.S.'s adjudication was not void and was, at most,

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[10] Judge Bailey noted that T.D. was not without recourse for the trial court's error, as he could have filed – and indeed did file – a motion for relief under T.R. 60(B)(8), for relief for "any reason justifying relief from the operation of the judgment[.]" However, (B)(8) required T.D. to allege a meritorious claim or defense, "which requirement T.D. wholly failed to satisfy." 198 N.E.3d at 1205.

voidable. Indeed, as our Supreme Court has recognized, "[t]hough parallels exist between Indiana's criminal and juvenile systems, there remain significant differences separating the two, not least of which are the constitutional origins for criminal and juvenile rights." *A.M. v. State*, 134 N.E.3d 361, 366 (Ind. 2019). Indiana's juvenile justice system gives "the court the power to step into the shoes of the parents" in order to "further the best interests of the child[,]" and judges are given "broad discretion" over juvenile proceedings. *Id*. (quotations omitted). Our Supreme Court has specifically recognized that "juvenile delinquency hearings are 'conducted free from the formalities, procedural complexities, and inflexible aspects of criminal proceedings.'" *Id*. (quoting *Bible v. State*, 253 Ind. 373, 254 N.E.2d 319, 326 (1970)). Simply stated, in our view, juvenile proceedings and adult criminal proceedings are not equivalents.

[36] We therefore conclude that C.S.'s delinquency adjudication was not rendered void due to lack of advisements or express waiver thereof at the admission hearing, and C.S. was not entitled to relief under T.R. 60(B)(6) on this basis.[11]

[11] In its order denying relief, the trial court stated, "Pursuant to TR 60(B), even if the judgment was void, the motion 'shall be filed within a reasonable time.'" *Appendix* at 72. We note that in *Stidham*, our Supreme Court determined that a default judgment that was void for lack of personal jurisdiction could be set aside at any time and "the 'reasonable time' limitation under Rule 60(B)(6) means no time limit." 698 N.E.2d 1156; *see also In re Adoption of D.C.*, 887 N.E.2d 950, 955 (Ind. Ct. App. 2008) (recognizing that a judgment entered without personal jurisdiction over a defendant is void and may be collaterally attacked at any time such that T.R. 60(B)'s "'reasonable time' limitation does not apply"). Because here we find that the delinquency adjudication was not rendered void, we do not reach the issue of whether C.S.'s T.R. 60(B)(6) motion was timely filed.

II. Relief under T.R. 60(B)(8)

[37] Because C.S. raised subsection (B)(8) as an alternate basis for relief in his motion – albeit in the context of what we have determined to be a waived ineffective assistance of counsel claim – we proceed to assess C.S.'s claims under subsection (B)(8), which, in relevant part, provides relief for "any reason justifying relief from the operation of the judgment."[12] As earlier mentioned, the decision of whether to grant a T.R. 60(B)(8) motion is left to the equitable discretion of the trial court and is reviewable only for abuse of discretion. *Collier*, 61 N.E.3d at 268.

[38] A motion under subsection (B)(8) must be filed "within a reasonable time." T.R. 60(B); *Collier*, 61 N.E.3d at 268. Determining what is a reasonable time period depends on the circumstances of each case, including the potential prejudice to the party opposing the motion and the basis for the moving party's delay. *Smith,* 38 N.E.3d at 222; *Parham v. Parham*, 855 N.E.2d 722, 728 (Ind. Ct. App. 2006), *trans. denied*. Here, C.S.'s offered justification for the delay was a general reference to the COVID-19 pandemic and the disciplinary restrictions placed upon C.S. while in the DOC. The State urged that "a lot of time has passed" and the arresting officer was no longer with the police department and was believed to have moved out of the county. *Transcript* at 9. On this record,

[12] None of the rule's other enumerated reasons for granting relief is applicable to C.S.'s situation.

we find that C.S.'s request for relief under T.R. 60(B)(8), filed 900 days after disposition, was not filed within a reasonable time.

[39] In addition, a motion under subsection (B)(8) "must allege a meritorious claim or defense." T.R. 60(B). A meritorious claim or defense for purposes of T.R. 60(B) is one that would lead to a different result if the case were tried on the merits. *Collier*, 61 N.E.3d at 268. Absolute proof of the defense is not necessary, but there must be enough admissible evidence to make a prima facie showing that the judgment would change and that the defaulted party would suffer an injustice if the judgment were allowed to stand. *Smith*, 38 N.E.3d at 221. C.S.'s motion did not allege a meritorious defense.

[40] Regardless, we find that C.S. has not established that the circumstances justified setting aside the delinquency adjudication. Specifically, the trial court advised C.S. of his rights at the July 3, 2019 initial hearing.[13] Mother was present at that hearing, and C.S. was represented by counsel who was also currently representing C.S. in another delinquency matter, in which C.S. had entered an admission on May 22, 2019. Indeed, before expressly advising C.S. of his rights at the July 3 hearing, the court generally referred to the other case, stating, "All those rights that we discussed before[,] they still apply." *Supplemental Transcript* at 5. At the August 19 fact-finding hearing, the same attorney appeared with C.S., as did the GAL and Mother. After the parties advised the court that C.S.

[13] We note that this is in contrast to the juvenile in T.D. who was effectively presumed to have watched a video, one that the court said is customarily played prior to hearings.

intended to enter an admission that day, the court confirmed with C.S. that he desired to admit the allegations against him. Where, as here, the record shows that C.S. was properly advised at a hearing the prior month, had a recent prior admission in a separate case, and his counsel, his GAL, and Mother were present at the hearings, we are convinced that C.S. knew his rights and understood he was giving up those rights by admitting to the alleged conduct. Accordingly, C.S. has not established "extraordinary or exceptional circumstances justifying equitable relief" under T.R. 60(B)(8). *Collier*, 61 N.E.3d at 268 (recognizing "in order to be granted relief pursuant to [T.R.] 60(B)(8), the moving party must demonstrate some extraordinary or exceptional circumstances justifying equitable relief").

[41] For the reasons discussed herein, we affirm the trial court's denial of C.S.'s T.R. 60(B) motion for relief from judgment.

[42] Judgment affirmed.

Brown, J. and Tavitas, J., concur.