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State v. Michaud, 251 A.3d 9 (RI 2021).

Blair Robinson

Candidate for Juris Doctor, Roger Williams University School of Law

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Criminal Procedure. *State v. Michaud*, 251 A.3d 9 (RI 2021). A trial court justice must determine that a defendant has “knowingly, intelligently, and voluntarily” waived their right to a jury trial in open court in writing before proceeding with a bench trial. If the trial justice does make that determination, they must enter “some meaningful documentation” of their decision into the case record to signify that the defendant understood their right to a jury trial and gave it up voluntarily.

FACTS AND TRAVEL

This case came before the Court on appeal from the Family Court after the defendant, Brittany Michaud, was found guilty of cruelty to or neglect of a child, in violation of GL 1956 § 11-9-5, following a bench trial.¹ She contended that the trial court erred in allowing a bench trial without a formal finding that she had “knowingly, intelligently, and voluntarily” waived her right to a jury trial, in violation of her constitutional rights and Rule 23(a) of the Superior Court Rules of Criminal Procedure.² The defendant also appealed the ultimate conviction of child neglect, but the Court did not address this claim because it vacated the judgment on the former issue.³

The prosecution raised the waiver issue on the second day of the trial after two witnesses had already testified.⁴ The defense requesting a conference off the record, stating that the prosecution was requesting something that the Defendant “can’t offer.”⁵ After the chamber conference, the defendant submitted a waiver form and orally asserted that she waived her right to a jury trial.⁶ The trial justice rendered a guilty verdict and the defendant timely

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1. *State v. Michaud*, 251 A.3d 9, 10 (R.I. 2021).
 2. *Id.* at 11-12; Super. Ct. R. Crim. P. 23(a); Fam. Ct. R. Crim. P. 23(a).
 3. *Michaud*, 251 A.3d. at 12 n.4.
 4. *Id.* at 10.
 5. *Id.*
 6. *Id.* at 11.

appealed, arguing that she had been denied her Constitutional right to a jury trial because the trial court did not properly determine that she made her waiver “knowingly, intelligently, and voluntarily.”⁷

ANALYSIS AND HOLDING

The Court ultimately held that the trial judge did err in permitting the bench trial and therefore vacated the judgment of the Family Court.⁸ Because this decision involved interpreting court procedural rules, the Court reviewed this decision *de novo*.⁹ The Court first noted that it is well settled in Rhode Island that the criminally accused has an “absolute right to waive a jury trial.”¹⁰ The Court cited the Superior Court Rules of Criminal Procedure 23(a) which states that “[c]ases required to be tried by jury shall be so tried unless the defendant in open court waives a jury trial in writing with the approval of the court.”¹¹ Case law further specifies that the defendant must do so “knowingly, intelligently, and voluntarily,” and that the trial court must “determine that the defendant understands and accepts the consequences” of the waiver.¹²

Here, the Court focused on the fact that the record did not suggest that the trial justice had made this required inquiry.¹³ In fact, the Court noted that it was the prosecution, not the trial court, that raised the Rule 23(a) issue.¹⁴ The Court affirmed that it is the trial judge that is responsible for determining that the defendant understands the consequences of waiving a jury trial, and here there was nothing in the record indicating that the trial justice had done so.¹⁵ While the Court did not specify the format for making the determination,¹⁶ it found that there must be “some meaningful documentation in the record indicating that the trial justice made a

7. *Id.*

8. *Id.* at 12.

9. *Id.* at 11 (citing *State v. Morais*, 203 A.3d 1150, 1154 (R.I. 2019)).

10. *Id.* at 12 (quoting *Morais*, 203 A.3d at 1154).

11. Super. Ct. R. Crim. P. 23(a).

12. *Michaud*, 251 A.3d at 12 (quoting *Morais*, 203 A.3d at 1154).

13. *Id.* at 12.

14. *Id.*

15. *Id.*

16. *Id.*

determination that the defendant understood the right that [they] were giving up, and that [they] did so voluntarily.”¹⁷

COMMENTARY

The Court applied a straightforward reading of Rule 23(a) and heavily considered that the prosecutor, not the trial judge, brought up the initial waiver issue. The Court may also have considered that the trial had been going on for two days before the issue was raised, which could have unduly pressured the defendant to waive her right to a jury.

Although the opinion did not address the defense counsel’s statement that the State was seeking something that the defendant “can’t offer,”¹⁸ it is worth considering that the Court interpreted this statement as casting doubt on the defendant’s ability to give an intelligent and voluntary waiver. This ruling will require the trial judge to perform a more thorough interrogation of a defendant’s mental state on the record when considering waiving a jury trial. If the trial court leaves loose threads on the issue, they risk either improperly depriving a defendant of their Constitutional right to a jury trial or harming the court’s legitimacy by creating the appearance that they had done so.

CONCLUSION

The Rhode Island Supreme Court held that where a case calls for a constitutional jury trial requirement, the trial judge must make a determination that the defendant made that waiver “knowingly, intelligently, and voluntarily” before the right is waived and must enter “some meaningful document” into the record to memorialize that finding. This decision is binding on cases in Family Court but will likely be applied across the board as RI Supreme Court precedent.

Blair Robinson

17. *Id.*

18. *Id.* at 10.