

380
IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

IN THE MATTER OF

Name _____, **Juvenile** **Case No.** _____
DOB xx /xx / ____ A **male** **female**

NOTICE OF APPEAL

Pursuant to K.S.A. 38-2380, 38-2381 and 38-2382

Comes now counsel for _____ (*party*) _____ and hereby provides notice of appeal of the decision of the Court issued on the _____ day of _____, _____, specifically the order _____.

Appellant

VERIFICATION

STATE OF KANSAS,

COUNTY OF _____, SS:

COMES NOW _____, of lawful age, being first duly sworn and under oath, and states:

I am _____, and I have read and understand the above and foregoing Notice of Appeal, and know that all of the content thereof is true and correct.

Appellant

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public/Clerk of the Court/Deputy

Authority

K.S.A. 38-2380; 38-2381 and 38-2382.

Notes on Use

The juvenile offender may appeal from an order of adjudication or sentencing, or both, as well as an order authorizing prosecution as an adult, unless the juvenile offender consented to the order. The statute specifies time limits, procedure, and limitations on review. K.S.A. 38-2380.

The prosecutor may take an appeal from an order dismissing proceedings when jeopardy has not attached, an order denying authorization to prosecute the juvenile as an adult, an order quashing a warrant or search warrant, an order suppressing evidence, or upon a question reserved by the prosecution. K.S.A. 38-2381(a). Appeals from a district magistrate judge shall be to a district judge, shall be by trial *de novo* unless parties agree to a *de novo* review on the record, and shall be heard within 30 days from the date the notice of appeal was filed. Appeals from a district judge shall be to the court of appeals. Procedure shall be governed by article 21 of chapter 60. K.S.A. 38-2382.

Comments

The section gives the defendant the right to appeal adjudication as an adult even though the defendant entered a plea of nolo contendere. *State v. Ransom*, 268 Kan. 653, 999 P.2d 272 (2000).

There is no appellate review of a refusal of a jury trial in juvenile offender proceeding. *Findlay v. State*, 235 Kan. 462, 681 P.2d 20 (1984).

The appeal of an order of dismissal filed by the prosecution was untimely filed. *In re J.D.B.*, 259 Kan. 872, 915 P.2d 69 (1996).

This case discusses substantial evidence to certify a juvenile to be prosecuted as an adult notwithstanding the judge's failure to mention statutory factors. *State v. Avalos*, 266 Kan. 517, 974 P.2d 97 (1999).

The respondent is deemed adjudicated as a juvenile offender when the conviction is affirmed, but the order authorizing prosecution as an adult is reversed. *State v. Smith*, 268 Kan. 222, 993 P.2d 1213 (1999).

The dismissal of the imposition of sanctions, based on untimely filing, which was appealed by the prosecution, is upheld. *In re D.G.K.*, 26 Kan.App.2d 884, 995 P.2d 413 (2000).