

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Annunziata and Frank
Argued at Alexandria, Virginia

VISANOUKOUN SOUKSENGMANY

v. Record No. 1641-99-4

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION* BY
JUDGE LARRY G. ELDER
APRIL 4, 2000

FROM THE CIRCUIT COURT OF LOUDOUN COUNTY
Thomas D. Horne, Judge

Pamela L. Grizzle (Pamela L. Grizzle, P.C.,
on brief), for appellant.

Michael T. Judge, Assistant Attorney General
(Mark L. Earley, Attorney General, on
brief), for appellee.

Visanoukoun Souksengmany (appellant) appeals from his convictions for breaking and entering, robbery, and four counts of abduction, entered on his guilty pleas.¹ All offenses occurred on or about August 20, 1996, when appellant was a juvenile. In 1999, following indictment, conviction, and sentencing in the circuit court, appellant moved the trial court to set aside his convictions. Citing Baker v. Commonwealth, 28

* Pursuant to Code § 17.1-413, recodifying Code § 17-116.010, this opinion is not designated for publication.

¹ The Commonwealth filed a motion to transfer this appeal to the Virginia Supreme Court based on our purported lack of jurisdiction. By order entered January 12, 2000, that motion was denied, and we give no further consideration to the Commonwealth's jurisdictional argument.

Va. App. 306, 504 S.E.2d 394 (1998), aff'd, 258 Va. 1, 516 S.E.2d 219 (1999), appellant contended the circuit court lacked jurisdiction to convict him because he was a juvenile at the time of the offenses and the record failed to establish that either he or his mother was served with summonses as required by Code § 16.1-263.

The resolution of this appeal is controlled by the recent decision in Moore v. Commonwealth, ___ Va. ___, ___ S.E.2d ___ (2000) (No. 990776). See also Carter v. Commonwealth, 31 Va. App. 393, 394-95, 523 S.E.2d 544, 545 (2000). Because the offenses for which appellant was convicted occurred on or after July 1, 1996, the amendments to Code § 16.1-269.1 apply. See Moore, ___ Va. at ___, ___ S.E.2d at ___. Therefore, appellant's indictment in the circuit court cured the alleged defects, and the circuit court properly denied his motion to set aside the convictions. See id.

For these reasons, we affirm the trial court's refusal to set aside the convictions.

Affirmed.