

IN THE COURT OF APPEALS OF MARYLAND

No. 147

September Term, 1995

IN RE: LAKEYSHA P. AND DONTANYON T.

* Murphy, C.J.
Eldridge
Rodowsky
Chasanow
Karwacki
Bell
Raker

JJ.

PER CURIAM

Filed: November 1, 1996

* Murphy, C.J., now retired, participated in the hearing and conference of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the adoption of this order.

ORDER

In refusing to follow Henry v. State, 273 Md. 131, 328 A.2d 293 (1974), in which the difference between unauthorized use, Maryland Code (1957, 1992 Replacement Volume) Article 27, § 349 and larceny, former Article 27, § 342, was explored, the Court of Special Appeals inappropriately revisited and adopted arguments that this Court rejected in that case. Nevertheless, the result it reached would appear to be warranted. The crime of larceny has now been subsumed by § 340 of the Consolidated Theft Statute, Article 27, §§ 340-344. The opinion of the Court of Special Appeals referenced that statute, specifically § 340(c). Application of § 340(c) supports the same result the juvenile court ultimately reached even though it is clear that the intermediate appellate court neither relied on, nor applied, that section to arrive at its conclusion.

Therefore, the petition for writ of certiorari in the above entitled case having been granted and heard, it is this first day of November, 1996

ORDERED, by the Court of Appeals of Maryland, that the writ of certiorari be, and it is hereby, dismissed with costs, the petition having been improvidently granted.

Judge Raker concurs in the result only.