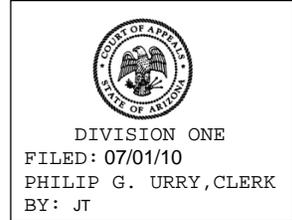


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE RONNIE G.) No. 1 CA-JV 10-0096
)
) DEPARTMENT E
)
) **MEMORANDUM DECISION**
)
) (Not for Publication -
) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
)
_____)

Appeal from the Superior Court in Yuma County

Cause No. S1400JV20080609

The Honorable John Neff Nelson, Judge

DISPOSITION AFFIRMED

Jon R. Smith, Yuma County Attorney) Yuma
By Mark Hessinger, Deputy County Attorney
Attorneys for Appellee

Michael A. Breeze, Yuma County Public Defender) Yuma
By John A. Cicala, Deputy Juvenile Public Defender
Attorneys for Appellant

J O H N S E N, Judge

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), following Ronnie G.'s commitment to the Arizona Department of Juvenile Corrections ("ADJC"). Ronnie's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999); *Matter of Appeal in Maricopa County Juvenile Action No. JV-117258*, 163 Ariz. 484, 485-88, 788 P.2d 1235, 1236-39 (App. 1989). Counsel asks this court to search the record for fundamental error. After reviewing the entire record, we affirm the juvenile court's order of commitment.

FACTUAL AND PROCEDURAL HISTORY¹

¶2 With her daughters in her car, R. followed Ronnie as he drove to his house one night in March 2010. By her account, R. thought Ronnie earlier had thrown a brick at her parked car, and she wanted to tell Ronnie to leave her and her daughters alone. When Ronnie exited his vehicle, he appeared to be in an angry rage and was holding a BB gun that was nearly

¹ In reviewing an order of the superior court in a juvenile proceeding, "we view the evidence in the light most favorable to sustaining" the order. *In re John M.*, 201 Ariz. 424, 426, ¶ 7, 36 P.3d 772, 774 (App. 2001).

indistinguishable from an actual handgun. According to R., Ronnie pointed the gun at her and her family. Thinking it was a real gun, R. drove off in fear. Ronnie put the gun back into his car and proceeded to follow R. in his car.

¶13 The petition filed against Ronnie alleged he committed disorderly conduct. Ronnie entered a plea of responsibility for attempted disorderly conduct. In addition to other warnings, the court advised Ronnie that as a consequence of admitting to the charge, he could be committed to ADJC. Ronnie indicated he understood.

¶14 At the disposition hearing, the court received the probation officer's recommendation that Ronnie be committed to ADJC for a minimum of nine months. The probation officer stated his concern for the potential threat Ronnie posed to the community and probation officers. He said that when Ronnie showed the BB gun to R. during the altercation, he intended R. to think the gun was real, and that she and others present had no reason to believe it was not a real handgun. The officer also expressed a fear of what would have happened if an officer had come to the scene, reminding the court that Ronnie's use of the gun could have given an officer reason to fire his weapon.

¶15 According to the probation officer, Ronnie had successfully completed a prior term of probation, which ended in November 2009. He had violated his probation once by engaging

in disorderly conduct in his home. According to the probation officer, Ronnie, who was born in January 1994, dropped out of high school on January 8, 2010. He re-enrolled on February 23, 2010, but was expelled because of the charge against him in the altercation with R.

¶16 In addition to considering Ronnie's prior delinquent history and difficulty with maintaining his education, the superior court noted the potential threat Ronnie created by pulling the gun and expressed concern with Ronnie's decision to carry the gun in his car. In addressing Ronnie, the judge stated:

Why are you carrying it around to begin with? Obviously because you think there's a possibility or an opportunity you're going to have to threaten somebody with it. Well, lo and behold, that's what happened.

* * *

[W]hat's a parole officer going to do? What are they going to think when you're paroled and they got to go to your house and they know you pulled out a gun on somebody, or what looks to be like a real gun? And in this case it is a gun.

* * *

But I do find that there's really nothing that is available here. I think you're too much of a risk to the community and certainly to our probation officers.

Citing a concern for community safety, the superior court ordered Ronnie committed to ADJC until his 18th birthday for a minimum period of six months.

¶7 Ronnie timely appealed. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003) and 8-235(A) (2007). For the following reasons, we affirm the juvenile court's order.

DISCUSSION

¶8 We have read the entire record and have identified no grounds for reversal or modification of the superior court's order. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. Ronnie was present and represented by counsel at all proceedings. The juvenile court conducted its proceedings according to the Arizona Rules of Juvenile Procedure. The disposition imposed was permitted by A.R.S. § 8-341(A) (Supp. 2009) and consistent with the guidelines found in Arizona Code of Judicial Administration § 6-304(C)(1).

¶9 Prior to Ronnie's plea of responsibility, the court informed him of the nature of the charge, the possible disposition, his constitutional rights and his right to contest adjudication. The record supports the court's conclusion that Ronnie entered his plea knowingly, voluntarily and intelligently.

¶10 The superior court has discretion to order the minimum length of a juvenile's commitment to ADJC. See A.R.S. § 8-341(A)(1)(e); see also, e.g., *In re Niky R.*, 203 Ariz. 387, 388-89, ¶¶ 1-2, 55 P.3d 81, 82-83 (App. 2002) (affirming commitment to ADJC for a minimum six months). We will not overturn the court's disposition absent an abuse of discretion. *In re Miguel R.*, 204 Ariz. 328, 331, ¶ 3, 63 P.3d 1065, 1068 (App. 2003).

¶11 Based on Ronnie's prior delinquent history, his difficulty in maintaining his education, and his violent and threatening act, the court had reasonable grounds to conclude that commitment to ADJC was necessary for the safety of the community and the safety of the probation officers who would be responsible for Ronnie on probation. See Arizona Code of Judicial Administration § 6-304(C)(1). We conclude, therefore, that the superior court did not abuse its discretion in entering its order of disposition.

CONCLUSION

¶12 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶13 After the filing of this decision, defense counsel's obligations pertaining to Ronnie's representation in this appeal have ended. Defense counsel has no further obligations, unless, upon review, counsel finds "an issue appropriate for submission"

to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984).

/s/ _____
DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/s/ _____
PATRICK IRVINE, Judge

/s/ _____
PHILIP HALL, Judge