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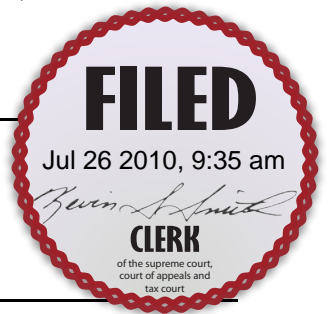
ATTORNEY FOR APPELLANT:

KATHLEEN A. YOUNG
Kokomo, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

JODI KATHRYN STEIN
Deputy Attorney General
Indianapolis, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

B.H.,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 34A05-1002-JV-58

APPEAL FROM THE HOWARD CIRCUIT COURT
The Honorable Lynn Murray, Judge
Cause No. 34C01-0904-JD-81

July 26, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

B.H. was adjudicated a juvenile delinquent and ultimately placed at the Residential Treatment Facility (the Facility). After B.H. was terminated from the Facility, the juvenile court ordered B.H. placed at the Indiana Department of Correction (DOC). On appeal, B.H. presents one issue for our review: did the juvenile court properly modify B.H.'s placement to the DOC?

We affirm.

In May of 2009, B.H. admitted to committing class C misdemeanor possession of alcohol by a minor and criminal conversion, a class A misdemeanor if committed by an adult, and the juvenile court found the petition true. Following a disposition hearing in June 2009, the juvenile court ordered that B.H. be placed on formal probation and that he participate in two programs: Operation to Reduce Recidivism and Thinking for a Change.¹ On July 30, 2009, the State sought modification of B.H.'s placement on formal probation based upon his commission of the offense of aggravated battery, a class B felony if committed by an adult, and residential entry, a class D felony if committed by an adult. At a fact-finding hearing on the new allegations held on September 2, 2009, B.H. admitted that he violated his probation by committing the offense of aggravated battery, a class B felony if committed by an adult. The State dismissed the allegation for residential entry. On October 14, 2009, the juvenile court held a disposition hearing and ordered that B.H. be placed at the Facility.

Three months later, in January 2010, the State filed a second petition to modify B.H.'s placement based upon his termination from the Facility. B.H. admitted that his termination

¹ The juvenile court ultimately waived the requirement that B.H. complete the Thinking for a Change program.

from the Facility constituted a violation of the special terms of his probation. On January 25, 2010, the juvenile court held a disposition hearing on the State's request for modification. The juvenile court ordered B.H. committed to the DOC. B.H. now appeals.

After a juvenile has been adjudicated delinquent, choosing a specific disposition is a matter committed to the juvenile court's discretion, subject only to the statutory considerations of the welfare of the child, the safety of the community, and the Juvenile Code's policy of favoring the least harsh disposition. *M.B. v. State*, 815 N.E.2d 210 (Ind. Ct. App. 2004); *see also* Ind. Code Ann. § 31-34-19-6 (West, Westlaw through 2010 Public Laws approved and effective through 3/25/2010). We will overturn a dispositional order only if we determine the court “abused its discretion because its conclusion and judgment are clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.” *Id.* at 215 (quoting *L.L. v. State*, 774 N.E.2d 554 (Ind. Ct. App. 2002), *trans. denied*).

B.H. argues that the juvenile court erred in placing him in the DOC because the juvenile court had not previously provided him with a written warning of consequences for violation of a special rule of probation. In support of his argument, B.H. directs us to *P.F.B. v. State*, 751 N.E.2d 341 (Ind. Ct. App. 2001), *trans. denied*. In *P.F.B.*, a panel of this court held that the juvenile court abused its discretion in committing P.F.B. to the DOC because P.F.B. did not receive a written warning of the consequences of a violation of his placement. The statute applicable in *P.F.B.*, Ind. Code Ann. § 31-37-22-5 (West, Westlaw through 2010 Public Laws approved and effective through 3/25/2010), applies to runaways who are placed in a shelter care facility or other residence pursuant to a court order and then violate the terms

of that placement. *See A.M.R. v. State*, 741 N.E.2d 727 (Ind. Ct. App. 2000) (citing I.C. § 31-37-22-5, Ind. Code Ann. § 31-37-2-2 (West, Westlaw through 2010 Public Laws approved and effective through 3/25/2010)). Such is not the case here. B.H. was not a runaway who violated his placement. B.H. was adjudicated a delinquent for committing class C misdemeanor possession of alcohol by a minor, criminal conversion, a class A misdemeanor if committed by an adult, and aggravated battery, a class B felony if committed by an adult. B.H. violated the terms of his placement in the Facility when his placement was terminated before he completed his treatment. The basis for his termination from the Facility was that B.H. continued to act out violently, including threats to “kill the staff at [the Facility] and burn that facility down.” *Appellant’s Appendix* at 10.

Given that the written notice provisions of I.C. § 31-37-22-5 are inapplicable, B.H. has not established that the juvenile court abused its discretion in placing him in the DOC. We therefore conclude that the juvenile court properly ordered B.H. committed to the DOC after all other alternative means of rehabilitation had failed.

Judgment affirmed.

BARNES, J., and CRONE, J., concur.