

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

J.R.M.,

Appellant.

No. 41869-0-II

UNPUBLISHED OPINION

Hunt, J. — JRM¹ appeals the juvenile court’s revocation of his deferred disposition. He argues that the deferral period had expired before the State moved to revoke and, therefore, the juvenile court could not revoke his deferred disposition. Holding that the State moved to revoke before the end of the extended deferral period, we affirm.

FACTS

On June 30, 2009, the Cowlitz County juvenile court entered an Order of Deferred Disposition of a second degree theft charge against JRM. A condition of the deferred disposition was that JRM abide by all city, state and federal laws. The disposition was to be deferred until July 6, 2010. When JRM failed to appear when the juvenile court convened the annual review of

¹ Under RAP 3.4, this court changes the title of the case to the juvenile’s initials and uses pseudonyms for the other juveniles to protect their privacy.

JRM's disposition on July 6, 2010, the juvenile court extended the deferred disposition one week, until July 13, 2010, at the probation officer's request.

When the court reconvened on July 13, JRM again failed to appear. His probation officer had second-hand information that JRM had done well on probation and was residing with his grandmother in another county. On the State's motion, the juvenile court extended the deferred disposition two more weeks, to July 27, to obtain JRM's presence in court so that the juvenile court could check on his progress before dismissing his deferred disposition. On July 26, however, the day before the extension was to expire, the State moved to revoke JRM's deferred disposition based on his having been recently arrested and charged with a new crime, second degree rape.²

JRM, by then in custody, appeared at his reconvened annual review on July 27 and contested the State's motion to revoke.³ He later argued that (1) the Order of Deferred Disposition had expired on July 6, 2010, three weeks before his July 27 review; and (2) because the State had not moved to revoke the deferred disposition before this July 6 expiration date, the juvenile court could not revoke his deferred disposition. The State responded that JRM's failures to appear at the July 6 and July 13 hearings had tolled the end of his deferral period.

The juvenile court concluded that (1) JRM's failures to appear had established good cause to extend his deferred disposition until July 27, 2010; and (2) because the State had filed its motion to revoke before that date, it (the juvenile court) could consider the motion. The juvenile

² JRM was later found guilty of the lesser-included crime of first degree rape of a child.

³ JRM was also arraigned on the new rape charge at this July 27 hearing.

court then granted the State's motion to revoke JRM's deferred disposition based on the new crime that he had committed during his deferred disposition, a violation of the deferral condition that he must obey the law. JRM appeals.⁴

analysis

On appeal, JRM renews his argument below that the juvenile court erred in revoking his deferred disposition because that disposition had expired before the State filed its motion to revoke. This argument fails.

I. Applicable Statutes

Under former RCW 13.40.127(2) (2009), the juvenile court may defer a disposition for up to one year. Under former RCW 13.40.127(8), the juvenile court may extend the deferral for up to one additional year for good cause. Under former RCW 13.40.127(9), "upon a finding by the court of full compliance with conditions of supervision and payment of full restitution, the [juvenile] respondent's conviction shall be vacated and the court shall dismiss the case with prejudice." If the State does not file a motion to revoke the deferred disposition before the deferral period ends, the juvenile court lacks the authority to revoke the disposition. *State v. May*, 80 Wn. App. 711, 716-17, 911 P.2d 399 (1996); *State v. Todd*, 103 Wn. App. 783, 790-91, 14 P.3d 850 (2000).

II. Good Cause To Extend Deferred Disposition

JRM appears to concede that the juvenile court had good cause to extend his deferred disposition the first time, from July 6 to July 13, 2010. But he argues that (1) the juvenile court

⁴ A commissioner of this court initially considered J.R.M.'s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

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did not have good cause to extend his deferred disposition a second time, from July 13 to July 27, because the State knew he was living with his grandmother in another county at that time; and (2) his deferred disposition expired on July 13, 2010, *before* the State filed its motion to revoke, because his probation officer had represented to the juvenile court that he (JRM) had completed all deferred disposition requirements. *State v. Mohamoud*, 159 Wn. App. 753, 762, 246 P.3d 849 (2011). We disagree.

We review the juvenile court's determination of good cause for an abuse of discretion. *State v. Young*, 125 Wn.2d 688, 691, 888 P.2d 142 (1995). JRM does not show that the juvenile court abused its discretion in finding good cause to extend his deferred disposition for two weeks, from July 13 to July 27, 2010, to assess whether he had completed all the of his deferred disposition requirements. We hold that this short delay for this purpose was not an abuse of discretion.

His probation officer's informing the juvenile court on July 13 that JRM had completed all of his deferred disposition requirements was not sufficient grounds to vacate the deferred disposition at that time and to dismiss the charge *sua sponte*. Before vacating a deferred disposition, the juvenile court must find "full compliance with conditions of supervision and payment of full restitution." Former RCW 13.40.127(9). Here, however, the juvenile court did not make such a finding on July 13; therefore, it could not, and did not, vacate and dismiss JRM's conviction underlying his deferred disposition under former RCW 13.40.127(9).

Because the juvenile court had extended JRM's deferred disposition to July 27, 2010,

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for good cause, and the State had filed its motion to revoke before July 27, the juvenile court did not err in revoking JRM's deferred disposition on that date. We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Worswick, ACJ.

Quinn-Brintnall, J.