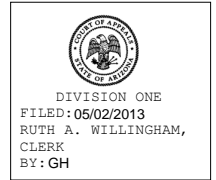


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE LESTER H., JR.) 1 CA-JV 12-0270
)
) DEPARTMENT C
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. JV556677

The Honorable Bradley H. Astrowsky, Judge

AFFIRMED

William G. Montgomery, Maricopa County Attorney Phoenix
by Diane Meloche, Appeals Bureau Chief/
Deputy County Attorney
Attorneys for Appellee

Christina Phillis, Maricopa County Public Advocate Phoenix
by Devra N. Ellexson, Deputy Public Advocate
Attorneys for Appellant

T H U M M A, Judge

¶1 Lester H. appeals from the superior court's order requiring him to register as a sex offender until his 25th birthday. Finding no error, the order is affirmed.

FACTS AND PROCEDURAL HISTORY¹

¶2 In 2011, when Lester was 16, he was seen on multiple occasions exposing himself to a nine-year-old child. Lester pled delinquent to indecent exposure, a Class 1 misdemeanor, agreeing to possible sex offender registration pursuant to Arizona Revised Statutes (A.R.S.) section 13-3821.² At his disposition hearing, the superior court placed Lester on probation (including completion of sex offender treatment and therapy), but deferred the issue of sex offender registration.

¶3 In September 2012, Lester was charged with violating his probation, a charge Lester admitted. The court found Lester violated his probation by lying to his therapist, committed Lester to the Arizona Department of Juvenile Corrections and set a review hearing in late November 2012 to address possible sex offender registration.

¹ On appeal, this court views the facts "in the light most favorable to sustaining the adjudication." *In re John M.*, 201 Ariz. 424, 426, ¶ 7, 36 P.3d 772, 774 (App. 2001).

² Absent material revisions after the relevant dates, statutes cited refer to the current version unless otherwise indicated.

¶14 Prior to the review hearing, the court received a written report from Lester's probation officer and a progress report from the treatment program. At the review hearing, Lester's probation officer stated that Lester was "not completing the written work and he [did not] appear motivated . . . and he also is a moderate to high risk for reoffending." Based on his past offending behaviors the State had concerns about Lester being released into the community. Both Lester's probation officer and the State recommended that Lester be ordered to register as a sex offender.

¶15 Lester's attorney argued that Lester had made progress in sex offender treatment and therapy and had made good faith efforts. Lester's father said he told Lester not to participate in treatment and therapy because he believed the court would order Lester to register as a sex offender no matter what happened. Lester told the court that he felt he whole-heartedly participated in the program. After considering the information and arguments provided, the court ordered Lester to register as a sex offender until his 25th birthday. See A.R.S. § 13-3821(D). Lester timely appealed from that decision. This court has jurisdiction pursuant to A.R.S. § 8-235 and Arizona Rule of Procedure for the Juvenile Court 103.

DISCUSSION

¶16 Lester's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738, 744 (1967), and *Maricopa County Juvenile Action No. JV-117258*, 163 Ariz. 484, 485-87, 788 P.2d 1235, 1236-38 (App. 1989), advising this court that after a search of the entire record on appeal, she finds no arguable ground for reversal. Counsel asks this court to review the record for fundamental error. See *Anders*, 386 U.S. at 744; *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶17 Pursuant to A.R.S. § 13-3821(D), the superior court has the discretion to require a juvenile who commits certain enumerated offenses (including indecent exposure to a person under 15 years of age) to register as a sex offender until the juvenile's 25th birthday. See also A.R.S. § 13-3821(A)(15) (citing A.R.S. § 13-1402). Given the discretion provided to the superior court, a sex offender registration order is reversible only if "the reasons given by the court for its action are clearly untenable, legally incorrect, or amount to a denial of justice." *State v. Davis*, 226 Ariz. 97, 102-03, ¶ 23, 244 P.3d 101, 106-07 (App. 2010) (citation omitted).

¶18 Lester pled delinquent to indecent exposure and, in his plea agreement, agreed to be subject to potential sex offender registration at the court's discretion. Lester was advised multiple times, including by the superior court, that he

could be ordered to register as a sex offender if he failed to meet the requirements of his probation, which included completion of sex offender treatment and therapy. Although acknowledging he understood the potential consequences, Lester nonetheless violated his probation by lying to his therapist.

¶9 The superior court evaluated Lester over the course of many months before ordering him to register as a sex offender and considered various arguments and information, including the juvenile probation officer's report and the most current progress report for Lester. Although Lester disputed the reports, the progress report noted that Lester was not sufficiently progressing in his treatment and both the State and Lester's probation officer recommended registration for community safety reasons. Given this record, the superior court did not abuse its discretion in requiring Lester to register as a sex offender until his 25th birthday pursuant to A.R.S. § 13-3821(D).

CONCLUSION

¶10 The court has read and considered counsel's brief, and searched the record, and has found no fundamental error. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. From the court's review, the record reveals that all of the proceedings were conducted in compliance with the Arizona Rules of Procedure for the Juvenile Court, that Lester was represented by counsel at

all stages of the proceedings and that the disposition imposed was authorized by statute. See A.R.S. § 8-341. Accordingly, the adjudication and disposition are affirmed.

¶11 The filing of this decision ends counsel's obligation to represent Lester in this appeal. Counsel must only inform Lester of the status of the appeal and Lester's future options, unless counsel identifies 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). Lester shall have 30 days from the date of this decision to proceed, if he desires, with a pro se motion for reconsideration or petition for review.

/S/
SAMUEL A. THUMMA, Presiding Judge

CONCURRING:

/S/
MICHAEL J. BROWN, Judge

/S/
DIANE M. JOHNSEN, Judge