

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

IN RE VICTOR C.

No. 1 CA-JV 17-0494
FILED 5-31-2018

Appeal from the Superior Court in Maricopa County
No. JV601754
The Honorable Shellie F. Smith, Judge *Pro Tempore*

AFFIRMED

COUNSEL

The Law Offices of Kevin Breger, Scottsdale
By Kevin Breger
Counsel for Appellant

Maricopa County Attorney's Office, Phoenix
By E. Catherine Leisch
Counsel for Appellee

MEMORANDUM DECISION

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Jennifer M. Perkins joined.

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C A T T A N I, Judge:

¶1 Victor C. appeals from the juvenile court's order committing him to the Arizona Department of Juvenile Corrections ("ADJC") for a 30-day minimum length of stay. For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 Victor was charged with felony unlawful use of means of transportation and minor in possession of a firearm in violation of Arizona Revised Statutes ("A.R.S.") §§ 13-1803 and 13-3111 in March 2017. He pled delinquent to unlawful use of means of transportation, and the juvenile court placed him on standard probation.

¶3 The following month, the juvenile probation department filed a petition alleging two probation violations, and the juvenile court issued a temporary custody warrant. Victor admitted to one violation alleged in the petition, and in May, the juvenile court ordered him to be detained for 3 days, followed by supervised probation.

¶4 In July 2017, the juvenile probation department filed another petition alleging two more probation violations, and when Victor failed to appear for an advisory hearing, the court issued another temporary custody warrant.

¶5 On September 16, 2017, while Victor remained on warrant status, the State charged him with one count of theft of means of transportation in violation of A.R.S. § 13-1814. In October 2017, at his hearing, Victor admitted to facilitation to commit theft of means of transportation, a class 6 designated felony, in violation of A.R.S. §§ 13-1814(A)(5), -1004(A), (C)(2).

¶6 After considering the juvenile probation officer's recommendation, a psychological examination report, and argument from Victor's counsel, the court committed Victor to ADJC for a minimum of 30 days. Victor timely appealed, and we have jurisdiction under A.R.S. § 12-120.21(A)(1).

DISCUSSION

¶7 Victor argues that the juvenile court abused its discretion by committing him to ADJC. He asserts in particular that the court failed to consider less restrictive alternatives to commitment. We review a juvenile

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court's disposition order for an abuse of discretion. *In re Nickolas T.*, 223 Ariz. 403, 404, ¶ 4 (App. 2010).

¶8 When determining whether to commit a juvenile to the care and custody of ADJC, the juvenile court must consider the following guidelines promulgated in the Arizona Code of Judicial Administration § 6-304(C)(1) (the "Guidelines"):

- a. Only commit those juveniles who are adjudicated for a delinquent act and whom the court believes require placement in a secure care facility for the protection of the community;
- b. Consider commitment to ADJC as a final opportunity for rehabilitation of the juvenile, as well as a way of holding the juvenile accountable for a serious delinquent act or acts;
- c. Give special consideration to the nature of the offense, the level of risk the juvenile poses to the community, and whether appropriate less restrictive alternatives to commitment exist within the community; and
- d. Clearly identify, in the commitment order, the offense or offenses for which the juvenile is being committed and any other relevant factors that the court determines as reasons to consider the juvenile a risk to the community.

These Guidelines should not, however, be applied in a mechanical fashion. *In re Niky R.*, 203 Ariz. 387, 390, ¶ 13 (App. 2002); *In re Melissa K.*, 197 Ariz. 491, 495, ¶ 14 (App. 2000). The court must instead "determine whether, under the unique circumstances of the particular juvenile, commitment to ADJC is appropriate." *Niky R.*, 203 Ariz. at 390, ¶ 13. The juvenile court has broad discretion to determine the appropriate disposition for a delinquent juvenile. *Id.* at 390, ¶ 10.

¶9 Neither the Guidelines, the statute, nor our prior decisions require the juvenile court to specify that it has explored all alternatives before committing a juvenile to ADJC. And we have long held that "[i]n reviewing the evidence, we are mindful of the fact that the trial court will be deemed to have made every finding necessary to support the judgment." *Maricopa Cty. Juv. Action No. JS-3594*, 133 Ariz. 582, 585 (App. 1982).

¶10 Here, commitment to ADJC was supported by the fact that within months of being placed on probation, Victor had two felony

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adjudications, warrants had to be issued on three separate occasions, he was noncompliant with house arrest, he was not successful while in detention, and he continued to commit offenses similar to those leading to the initial delinquency. Additionally, the probation officer's report and Victor's psychological evaluation both recommended commitment to ADJC, and the prosecutor, having concluded that continued supervision in the community would not be fruitful, recommended commitment to ADJC as the least restrictive alternative. Even Victor's guardian ad litem, although willing to file a dependency petition to assist in Victor's placement at Canyon State Academy, did not advocate for an alternative to ADJC. Thus, the juvenile court reasonably concluded that Victor was a threat to the community and commitment to ADJC was required.

¶11 Accordingly, the juvenile court did not abuse its discretion by committing Victor to ADJC.

CONCLUSION

¶12 For the foregoing reasons, we affirm.



AMY M. WOOD • Clerk of the Court
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