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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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 CASTULO C.,

No. 1 CA-JV 18-0158
FILED 9-20-2018

Appeal from the Superior Court in Maricopa County
No. JV201517
The Honorable Eartha K. Washington, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Maricopa County Public Defender's Office, Phoenix
By A. Jason Max
Counsel for Appellant

Maricopa County Attorney's Office, Phoenix
By Robert E. Prather
Counsel for Appellee Department of Child Safety

IN RE CASTULO C.
Decision of the Court

MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Maria Elena Cruz joined.

H O W E, Judge:

¶1 Castulo appeals the juvenile court’s disposition order placing him on standard probation until his 18th birthday unless restitution is satisfied and the juvenile probation department requests that his probation end before that date. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In October 2016, 12-year-old Castulo and three other minors entered a Phoenix store and attempted to shoplift a BB gun. The State petitioned the court to find Castulo delinquent, alleging that he obtained the BB gun without paying for it, in violation of A.R.S. §§ 13-1801, -1805, -707, -802, and 8-341. Castulo pled responsible to shoplifting with a stipulation that he pay \$69.74 in restitution to the store and that an allegation of possession of marijuana be dismissed.

¶3 At the change-of-plea hearing, the court decided whether to accept Castulo’s plea and determined the appropriate disposition. The court informed Castulo of the potential consequences of entering the plea and asked whether he understood the rights that he would be foregoing. Castulo said that he understood. The court found that the plea was a knowing, intelligent, and voluntary admission, and accepted the plea.

¶4 The juvenile court also found Castulo jointly and severally liable for the restitution with the other three juveniles. The juvenile court placed Castulo on standard probation until his 18th birthday – which could be terminated before that date upon payment of the restitution and the probation department’s recommendation that probation end – “because [Castulo] has to be placed on probation until the restitution is paid[.]” Moreover, the juvenile court reasoned that its order was appropriate because it provided for supervision of Castulo after release from Canyon State Academy. Referring to the shoplifting incident and the earlier incident of possession of marijuana, the court noted that “we need to make sure that once [Castulo is] back home, that there is a level of supervision over him,

IN RE CASTULO C.
Decision of the Court

so he doesn't regress back to the things that brought him before this court." Castulo moved for reconsideration of the term of probation, requesting that the court impose a probationary period of one year, with the option of extending probation if he failed to pay the entire restitution amount. The court denied the request. Castulo timely appealed the juvenile court's disposition order.

DISCUSSION

¶5 Castulo argues that the juvenile court abused its discretion in placing him on probation until his 18th birthday and asks this Court to impose a term of probation of one year, to be extended to his 18th birthday, until restitution is paid in full. He asserts that the probation term imposed is "not fair, not just and goes beyond any reasonable interpretation of a rehabilitative purpose." "The trial court has broad power to make a proper disposition[,] and this Court will not disturb that disposition absent an abuse of discretion. *In re Kristen C.*, 193 Ariz. 562, 563 ¶ 7 (App. 1999) (quoting *Maricopa Cty. Juv. Action No. J-72918-S*, 111 Ariz. 135, 137 (1974)). The purpose of all juvenile dispositions is to promote rehabilitation. *Id.* at ¶ 8. Further, "[a] condition of probation which does not violate basic fundamental rights and bears relationship to the purpose of probation will not be disturbed on appeal." *In re Miguel R.*, 204 Ariz. 328, 331 ¶ 4 (App. 2003) (quoting *Pima Cty. Juv. Action No. J-20705-3*, 133 Ariz. 296, 298 (App. 1982)).

¶6 The juvenile court did not abuse its discretion in placing Castulo on probation until his 18th birthday, with the possibility of early termination if he pays the restitution, because it promotes his rehabilitation. Castulo has engaged in delinquent behavior and the juvenile court reasonably believed that having him supervised on probation until he is 18 years old prevents him from relapsing into further delinquent behavior, as well as ensuring that he pays the restitution he owes. Although the juvenile court could have reasonably imposed a shorter term of probation, such as the one-year term that Castulo suggests, this Court "does not sit to second-guess the tough discretionary calls of front line decision makers in the trial courts." *State ex rel. Romley v. Superior Court*, 170 Ariz. 339, 344 (App. 1991).

¶7 Castulo also contends that the disposition was unjustified on fairness grounds because A.R.S. § 13-902 provides for a three-year maximum probation term for adults convicted of shoplifting. This argument fails because the juvenile court has inherent power to impose

IN RE CASTULO C.
Decision of the Court

conditions of probation as it sees fit to lead to rehabilitation. *In re Miguel R.*, 204 Ariz. at 332 ¶ 9.

¶8 Castulo also asserts that the juvenile court “has an obligation to impose a disposition that is the least restrictive alternative available to meet the juvenile’s needs.” Castulo relies on *In re Melissa K.*, which held that the juvenile court abused its discretion in committing a minor to the Arizona Department of Juvenile Corrections (“ADJC”) when the minor was presumptively ineligible for commitment to ADJC and the court failed to justify its deviation from that presumption. 197 Ariz. 491, 495 ¶ 15 (App. 2000). That decision, however, addresses concerns peculiar to commitment to a juvenile corrections facility—exposing mere “nuisance” offenders to violent or more serious offenders and expending resources on them that are better devoted to more serious offenders, *id.*—that do not pertain to probation dispositions. Moreover, although *Melissa K.* noted that the juvenile court had not “explored all alternatives[,]” *id.* at ¶ 16, it never held that juvenile courts must consider the least restrictive alternatives in determining the appropriate disposition. Thus, this argument is not persuasive.

CONCLUSION

¶9 For the foregoing reasons, we affirm.



AMY M. WOOD • Clerk of the Court
FILED: AA