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IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

IN RE JOSHUA K.

No. 1 CA-JV 20-0179

FILED 10-29-2020

Appeal from the Superior Court in Maricopa County
No. JV202573
The Honorable Joshua Yost, Judge *Pro Tempore*

AFFIRMED

COUNSEL

The Law Offices of Kevin Breger, PLLC, Phoenix
By Kevin Breger
Counsel for Appellant

Maricopa County Attorney's Office, Phoenix
By Robert A. Walsh
Counsel for Appellee

MEMORANDUM DECISION

Judge Jennifer M. Perkins delivered the decision of the Court, in which Judge David B. Gass and Judge Michael J. Brown joined.

P E R K I N S, Judge:

¶1 Joshua K. appeals from the juvenile court’s disposition committing him to the Arizona Department of Juvenile Corrections (“ADJC”). We affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2 “We view the facts in the light most favorable to affirming the findings of the superior court.” *In re Daniel A.*, 210 Ariz. 162, 164, ¶ 2 (App. 2005).

¶3 In 2018 and 2019, Joshua pled delinquent under two delinquency petitions to two separate felonies. In 2018, the juvenile court placed him on standard probation and dismissed a third delinquency petition the state filed while the first two were pending. As a condition of that plea deal, the juvenile court ordered Joshua to spend four weeks on Juvenile Electronic Technical Surveillance (“JETS”) and serve twelve hours of community service. Joshua’s 2019 plea led to the state’s dismissal of one offense and juvenile intensive probation (“JIPS”) for Joshua. The juvenile court placed him in the protective custody of a probation officer and physical custody of the Department of Child Safety (“DCS”) while awaiting placement.

¶4 DCS placed Joshua at Canyon State Academy in April 2019 and transferred him to another group home in August 2019. Joshua’s behavior failed to improve during his placements. Joshua routinely left the group home without permission and transferred high schools due to behavioral issues. To address these issues, Joshua attended monthly team meetings sponsored by DCS and High Needs Case Management. Although present at these meetings, Joshua refused to participate and argued that “he already participated in therapy in the past and [did] not feel he [needed] any more services.”

¶5 In December 2019, the state filed a fourth delinquency petition charging Joshua with two counts of aggravated assault with a deadly

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weapon, each a felony, and one count of disorderly conduct, a misdemeanor. According to the police report, Joshua “pointed a black airsoft handgun at the victims when they asked him to stop throwing rocks in [a] parking lot.” He threatened to shoot the victims and fled the scene before police arrived. The juvenile court held an advisory hearing and ordered Joshua’s release to DCS until its next hearing.

¶6 In January 2020, the state filed a fifth delinquency petition during the pendency of the fourth petition. The state charged Joshua with one count of disorderly conduct, a misdemeanor. Joshua broke a window of his group home with a rock during a fight with another resident. The juvenile court released Joshua to DCS with instructions to participate in JETS and submit to urinalysis drug testing at TASC while awaiting his next hearing scheduled for February 2020.

¶7 While on release for the fourth and fifth delinquency petitions, Joshua violated the terms of his release. TASC staff reported that Joshua forbid them from observing his urine stream during a scheduled urinalysis. He also violated his JETS condition by impermissibly removing his JETS unit. Joshua failed to appear for his February 2020 juvenile court hearing, resulting in an arrest warrant.

¶8 In March 2020, the state filed a direct complaint charging Joshua as an adult with one count of aggravated assault, a felony, and one count of false reporting to law enforcement, a misdemeanor. Phoenix police arrested Joshua after receiving a report that Joshua threatened an employee of a vehicle repossession company with a knife. Once in custody, Joshua provided a false birthdate to a police officer. A Maricopa County Grand Jury indicted Joshua on the false reporting misdemeanor and remanded the case as a sixth delinquency petition to juvenile court.

¶9 The juvenile court held a consolidated change of plea hearing for all three of Joshua’s pending delinquency petitions in April 2020. The juvenile court advised Joshua that he could be placed with ADJC under the plea agreement and, at a minimum, would be placed on JIPS.

¶10 At the disposition hearing, Joshua resolved all pending delinquency petitions by entering into a global plea agreement with the state. In exchange for the dismissal of every other remaining charge, Joshua pled delinquent as a repetitive juvenile offender to one count of facilitation to commit aggravated assault, a felony, and one count of false reporting to law enforcement, a misdemeanor. The probation officer recommended commitment to ADJC based on his beliefs that “[every] level of supervision,

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standard, intense, has been unsuccessful so far,” and “Joshua continues to victimize the community.” The state also recommended commitment to ADJC, noting that Joshua is fifteen years old and one felony away from being tried as an adult. Defense counsel asked the juvenile court to place Joshua on JIPS.

¶11 The juvenile court committed Joshua to ADJC for a minimum term of 30 days or until his 18th birthday. Joshua timely appealed.

DISCUSSION

¶12 We review a juvenile court’s disposition for abuse of discretion. *In re Niky R.*, 203 Ariz. 387, 390, ¶ 10 (App. 2002). “The primary function of juvenile courts is treatment and rehabilitation,” *David G. v. Pollard ex rel. Cnty. of Pima*, 207 Ariz. 308, 312, ¶ 21 (2004), but courts need not “explore[] all alternatives to ADJC prior to an adjudication committing a juvenile to ADJC.” *Niky R.*, 203 Ariz. at 392, ¶ 21 (internal quotation omitted).

¶13 The Arizona Supreme Court’s guidelines for juvenile dispositions require juvenile courts to (1) only commit juveniles adjudicated for a delinquent act, and for the protection of the community; (2) consider commitment to be a final rehabilitation opportunity; (3) give special consideration to the type of offense, the risk the juvenile poses to the community, and whether less restrictive alternatives exist; and (4) identify the offense for which the juvenile is being committed. Ariz. Code Jud. Admin. § 6-304(C)(1); *In re Melissa K.*, 197 Ariz. 491, 496, ¶ 14 (App. 2000); A.R.S. § 8-246(C). A juvenile court has broad discretion to determine the disposition of a delinquent juvenile. *In re R.E.*, 241 Ariz. 359, 362, ¶ 13 (App. 2017).

¶14 Joshua contends the juvenile court abused its discretion by relying on a psychological report that was “almost a year and a half old.” He contends that “[i]f the court had obtained an updated psychological [evaluation] it may have opened the door for placement in a less restrictive residential treatment center.” This contention is too speculative to overcome the substantial evidence supporting the juvenile court’s findings. We will not reweigh this evidence. See *Jesus M. v. Ariz. Dep’t of Econ. Sec.*, 203 Ariz. 278, 280, ¶ 4 (App. 2002).

¶15 Joshua also argues commitment to ADJC was error because less restrictive alternatives existed, including placement in a residential treatment center. Specifically, he argues JIPS at Canyon State Academy would offer the structure necessary to conform his behavior. But the

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juvenile court noted that Canyon State Academy won't admit Joshua, and even if it did, the mere existence of an alternative disposition does not establish an abuse of discretion. *Niky R.*, 203 Ariz. at 391-92, ¶¶ 19-21.

¶16 Here, the juvenile court found Joshua's commitment to ADJC appropriate based on the probation officer's report, the psychological evaluation, and Joshua's two prior felony adjudications. The juvenile court thus generally considered the full context of Joshua's conduct and rehabilitation failures in determining the proper disposition.

CONCLUSION

¶17 We affirm.



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