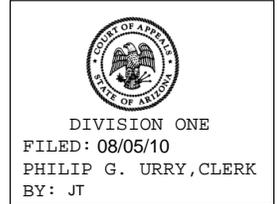


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



IN RE MONIQUE H.) 1 CA-JV 10-0005
)
) DEPARTMENT A
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
)
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)

Appeal from the Superior Court in Maricopa County

Cause No. JV552305

The Honorable Linda A. Akers, Judge

AFFIRMED

Richard M. Romley, Maricopa County Attorney Phoenix
by Jeffrey W. Trudgian, Appeals Bureau Chief/
Deputy County Attorney
and Linda Van Brakel, Deputy County Attorney
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
by Terry J. Reid, Deputy Public Defender
Attorneys for Appellant

P O R T L E Y, Judge

¶1 Monique H. ("Juvenile") appeals her adjudication and disposition. Her lawyer has filed a brief in accordance with

Anders v. California, 386 U.S. 738, 744 (1967), and *Maricopa County Juv. 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 requests that we search 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).

¶2 We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 8-235 (2007), and Arizona Rule of Procedure for the Juvenile Court 103.

FACTS¹

¶3 The State filed a delinquency petition on October 10, 2009, charging Juvenile with criminal damage and assault, both class two misdemeanors, and threatening or intimidating by a gang member, a class six felony. Juvenile pled guilty to misdemeanor threatening or intimidating by a gang member, and the State dismissed the remaining charges. She was adjudicated delinquent and the matter was set for disposition on December 4, 2009.

¶4 While awaiting disposition, Juvenile kicked her mother, and the State filed a second delinquency petition charging her with assault, a class three misdemeanor. She pled

¹ We review the facts in the light most favorable to sustaining the adjudication. See *In re John M.*, 201 Ariz. 424, 426, ¶ 7, 36 P.3d 772, 774 (App. 2001).

guilty to the assault charge, the court adjudicated her delinquent, and the matter was also set for disposition. The court placed Juvenile on standard probation on January 5, 2010, and, as a special condition, ordered that she be detained for up to 120 days, but released to a residential treatment program as soon as an appropriate facility was located. Juvenile was transferred to Mingus Mountain Academy on January 12, 2010.

DISCUSSION

¶15 We have read and considered counsel's brief and have searched the entire record for reversible error. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Procedure for the Juvenile Court. So far as the record reveals, Juvenile was represented by counsel at all stages of the proceedings, and the disposition imposed was within the statutory limits. See A.R.S. § 8-341 (Supp. 2009).

¶16 The brief indicated that the Juvenile "believes that the juvenile court abused its discretion by ordering that she participate in residential treatment rather than treatment and counseling while living at home." Because there was a question about whether the record supported the disposition, we ordered additional briefing pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988).

¶17 The juvenile court has broad discretion to determine an appropriate disposition, *In re Miguel R.*, 204 Ariz. 328, 331, ¶ 3, 63 P.3d 1065, 1068 (App. 2003), and is authorized to order residential treatment in appropriate cases, see A.R.S. § 8-341.01 (2007). Residential treatment services, however, must, unless waived by the court, be supported by a "written psychological, psychiatric or medical evaluation recommending residential treatment services." A.R.S. § 8-341.01(A).

¶18 Additionally, the court must "find by clear and convincing evidence that both: 1. The child requires residential treatment services to address the child's behavioral, psychological, social or mental health needs. 2. Available alternatives to residential treatment services were considered, but that residential treatment services are the least restrictive alternative." A.R.S. § 8-341.01(B).

¶19 Here, the juvenile court had all the requisite information at disposition. The court had a psychiatric report from October 2009; a subsequent psychological evaluation which provided a diagnosis of bipolar disorder and marijuana, cocaine, and alcohol abuse; the staffing oral recommendation that Juvenile be admitted to a residential treatment program; and her mother's support for residential treatment because without it she believed that her daughter would fail.

¶10 Although the court did not expressly make the requisite findings at disposition, we presume that the court implicitly made the findings prior to ordering residential treatment services. See *In re Niky R.*, 203 Ariz. 387, 392, ¶ 21, 55 P.3d 81, 86 (App. 2002) (stating that we presume that the juvenile court makes every finding necessary to support disposition). The record, moreover, demonstrates that the juvenile court had sufficient facts to make the finding by clear and convincing evidence that Juvenile needed residential treatment to address her behavioral, psychological, social or mental health needs; that available alternatives were considered; and that residential treatment was the least restrictive alternative. In fact, on March 2, 2010, the court found "by clear and convincing evidence[,] that placement at a residential treatment facility *continues* to be necessary to meet [Juvenile's] behavioral and mental health needs and that . . . placement at such a facility is the least restrictive available alternative." (Emphasis added.) Consequently, based on the record, the court did not abuse its discretion when it ordered that she participate in a residential treatment program. See *JV-117258*, 163 Ariz. at 485, 788 P.2d at 1236.

¶11 Having addressed the Juvenile's issue, we find no reversible error and affirm.

CONCLUSION

¶12 After the filing of this decision, counsel's obligations pertaining to Juvenile's representation in this appeal have ended. Counsel need do no more than inform her of the status of the appeal and her future options. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984).

¶13 Accordingly, we affirm the adjudication and disposition.

/s/

MAURICE PORTLEY, Presiding Judge

CONCURRING:

/s/

LAWRENCE F. WINTHROP, Judge

/s/

MARGARET H. DOWNIE, Judge