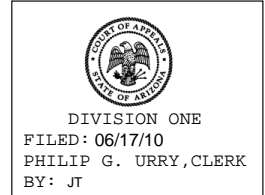


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

IN RE COLIN Y.) No. 1 CA-JV 10-0070
)
) DEPARTMENT E
)
) MEMORANDUM DECISION
)
) (Not for Publication -
) Ariz. R.P. Juv. Ct. 103(G);
) ARCAP 28)
)

Appeal from the Superior Court in Maricopa County

Cause No. JV549927

The Honorable Linda A. Akers, Judge

DISPOSITION AFFIRMED

Richard M. Romley, Maricopa County Attorney Phoenix
By Jeffrey W. Trudgian, Deputy Maricopa County Attorney
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Suzanne Sanchez, Deputy Juvenile Public Defender
Attorneys for Appellant

J O H N S E N, Judge

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969), following Colin Y.'s commitment to the Arizona Department of Juvenile Corrections ("ADJC"). Colin's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999); *Matter of Appeal in Maricopa County Juvenile Action No. JV-117258*, 163 Ariz. 484, 485-88, 788 P.2d 1235, 1236-39 (App. 1989). Colin's counsel has told us that Colin "proposes that this court determine whether the superior court abused its discretion when [it] ordered" him to be detained at ADJC. In addition, counsel asks this court to search the record for fundamental error. After reviewing the entire record, we affirm the court's disposition order.

FACTUAL AND PROCEDURAL HISTORY

¶2 On March 24, 2010, after Colin admitted to violating his probation by using opiates and THC, the superior court committed him to ADJC until his eighteenth birthday.¹ Prior to the order at issue, nine referrals had been filed against Colin, and he had been detained four times previously. Colin's initial adjudication occurred on March 9, 2009, when he admitted to possession of marijuana, a Class 1 misdemeanor, for which he was detained for 60 days and placed on standard probation. On June 4, 2009, Colin admitted to violating his probation by failing to

¹ Colin will turn 18 in September 2010.

comply with drug testing requirements, and the court ordered he be detained for 61 days and continued on standard probation. On October 8, 2009, Colin admitted to committing criminal damage, a Class 2 misdemeanor, and he was continued on standard probation.

¶13 On March 24, 2010, after testing positive for opiates and THC, Colin once again admitted to violating his probation. Without objection, the court immediately proceeded to consider a disposition. Colin's parents expressed their unwillingness to have Colin continue to live in their home because of his pattern of behavior and their concern for his sibling. Colin's guardian ad litem told the court he had no recommended disposition, and a representative from Child Protective Services stated that placing Colin in a group home would not be advisable because it would not be secure. Additionally, the court heard evidence of a psychological evaluation that concluded that Colin had sometimes binged on heroin and marijuana and had a moderately high chance of acting out again. The State asked the court to commit Colin to ADJC until he turned 18; Colin asked the court to commit him to ADJC for a minimum of no longer than 30 days, allowing ADJC to determine if more time was necessary.

¶14 Based on the record, the superior court observed that Colin

has had numerous opportunities through dismissals and other agreements and private programs that have been arranged to him by -

- for him by his family to work on his addiction issues. Everyone sitting in this courtroom has said that Colin -- and even Colin himself has said he needs a secured care facility. He needs a place where he can't just walk away from the program when it gets tough for him.

And I think that the secured care facility is imperative not only for Colin, but for the protection of the community because as Mother has pointed out, he's a part of a drug culture where drugs are even delivered to his home. . . . I think that the protection of the community does require that there be secure care for Colin.

Citing a need for rehabilitation and accountability, "the level of risk the juvenile poses to the community" and the absence of less restrictive alternatives, the court committed Colin to ADJC until he turns 18.

DISCUSSION

¶15 We have read the entire record and find no grounds for reversal or modification of the superior court's order. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. Colin was present and represented by counsel at all proceedings. The superior court conducted its proceedings according to the Arizona Rules of Juvenile Procedure. The disposition imposed was permitted by A.R.S. § 8-341(A) (Supp. 2009) and consistent with the

guidelines stated in Arizona Code of Judicial Administration § 6-304(C)(1).²

¶16 Prior to Colin's admission to violating his probation, the court informed him of the nature of the charge, the possible disposition, his constitutional rights, and his right to contest adjudication. The record supports the court's conclusion that Colin knowingly, voluntarily, and intelligently admitted the violation.

¶17 The superior court has the discretion to order the minimum length of a juvenile's commitment to ADJC. See A.R.S. § 8-341(A)(1)(e); see also, e.g., *In re Niky R.*, 203 Ariz. 387, 388-89, ¶¶ 1-2, 55 P.3d 81, 82-83 (App. 2002) (affirming

² 1. When considering the commitment of a juvenile to the care and custody of ADJC, the juvenile court shall:

- 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.

commitment to ADJC for a minimum six months). We will not overturn the court's disposition absent an abuse of discretion. *In re Miguel R.*, 204 Ariz. 328, 331, ¶ 3, 63 P.3d 1065, 1068 (App. 2003).

¶18 Based on Colin's repeated offenses and demonstrated inability to abstain from drug use, and the recommendations given at the disposition hearing, the court had reasonable grounds to conclude that commitment to ADJC until Colin's eighteenth birthday was a last opportunity to rehabilitate him, consistent with the interests of his family and the community. See Arizona Code of Judicial Administration § 6-304(C)(1)(a)-(b); see also *Niky R.*, 203 Ariz. at 392, ¶ 23, 55 P.3d at 86 ("The juvenile court specifically found that the juvenile was 'at a high level of risk based upon the length of time that he has been engaging in delinquent behavior and his unwillingness to cooperate with the rehabilitative services as they have been offered.' . . . The trial judge was well within her discretion to hold the appellant accountable for his conduct and commit him to ADJC."). We therefore conclude that the superior court did not abuse its discretion in entering its order of disposition.

CONCLUSION

¶19 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶10 After the filing of this decision, defense counsel's obligations pertaining to Colin's representation in this appeal have ended. Defense counsel has no further obligations, unless, upon review, counsel finds "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).

/S/
DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/S/
PATRICK IRVINE, Judge

/S/
PHILIP HALL, Judge