

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



DIVISION ONE  
FILED: 09/2/10  
RUTH WILLINGHAM,  
ACTING CLERK  
BY: DN

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

	)	No. 1 CA-JV 10-0109
	)	
IN RE JONATHAN F.	)	DEPARTMENT C
	)	
	)	<b>MEMORANDUM DECISION</b>
	)	(Not for Publication -
	)	103(G) Ariz. R.P. Juv. Ct.;
	)	Rule 28 ARCAP)
	)	
	)	
	)	
	)	

Appeal from the Superior Court in Maricopa County

Cause No. JV553290

The Honorable Linda A. Akers, Judge

**AFFIRMED**

---

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

Richard M. Romley, Maricopa County Attorney	Phoenix
By Jeffrey W. Trudgian, Appeals Bureau Chief,	
Maricopa County Attorney's Office	
Attorneys for Appellee	

---

**S W A N N**, Judge

¶1 On May 5, 2010, Jonathan F. entered a plea agreement, admitting to possession of marijuana, a violation of A.R.S. § 13-3405(A)(1) (2010) and a class 1 misdemeanor. See A.R.S.

§ 13-604(A) (permitting a court to enter judgment of a conviction for a class 1 misdemeanor if a defendant is convicted of a class 6 felony involving a non-dangerous offense). Jonathan appeals from the juvenile court's order placing him on standard probation.

¶12 Appellate counsel for Jonathan has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000), *Anders v. California*, 386 U.S. 738 (1967), and *Maricopa County Juvenile Action No. JV-117258*, 163 Ariz. 484, 788 P.2d 1235 (App. 1989). Counsel for Jonathan has searched the record and can find no arguable question of law that is not frivolous. At Jonathan's request, however, counsel asks this court to determine whether the trial court erred when it refused to "grant [Jonathan] a restricted driver['s] license for the purpose of driving between his home and place of employment." We have reviewed the record and find no fundamental error. Accordingly, we affirm.

#### *FACTS AND PROCEDURAL HISTORY*

¶13 On September 10, 2009, Jonathan knowingly possessed a usable amount of marijuana while at the Pavilions shopping center in Scottsdale, Arizona. On March 5, 2010, the State filed a petition alleging that Jonathan was delinquent, and an advisory hearing was set for March 30, 2010. Jonathan failed to appear for the advisory hearing and a temporary custody warrant was issued. The juvenile court proceeded *in absentia* and found

probable cause to believe that Jonathan committed the acts alleged in the petition.

¶14 On April 1, 2010, the warrant was quashed when Jonathan appeared for the rescheduled advisory hearing. At this hearing Jonathan denied the charge against him, and the court appointed him counsel and set a pre-adjudication hearing for May 5, 2010.

¶15 At the May 5, 2010 pre-adjudication hearing, the parties informed the court of a plea agreement. Jonathan's counsel informed the court that the State offered to reduce the charge from a felony to a misdemeanor in exchange for Jonathan's admission of possession of marijuana. The State clarified that the offer included a stipulation that the court would suspend Jonathan's driver's license. Counsel for Jonathan responded, "We were unaware of that stipulation, Your Honor. That was not in writing. I was told it was just possession of marijuana as a misdemeanor; there was no written term or any such stipulation mentioned." The juvenile court asked if the offer was then declined.

¶16 After conferring with her client, Jonathan's counsel informed the court that he was still willing to accept the plea agreement. The court asked if the parties wanted it to "make a decision based on the case law as to whether or not the conviction should be reported to the Department of Motor

Vehicles[.]” The parties agreed, and Jonathan’s counsel stated, “That’s the impression we originally had[.]”

¶17 The court proceeded with a change of plea. During its explanation of the charge and the potential consequences, the court stated, “You could lose your privilege to drive -- and, in fact, if the Court determines it’s appropriate to report this conviction to the Department of Motor Vehicles, then the Department of Motor Vehicles would decide whether or not to revoke your driver’s license. But most likely, under the statute, your license would be revoked[.]” When the court asked if Jonathan understood, he responded affirmatively.

¶18 The court then advised Jonathan of his constitutional rights, including the right to trial, the presumption of innocence, and the right to confront witnesses against him. Jonathan indicated that he understood that by accepting the plea agreement he would be giving up those rights. When the court asked if he was threatened or forced to accept the plea, or if he was promised a particular consequence or disposition if he accepted the plea, Jonathan responded in the negative. Jonathan agreed that he knowingly possessed a usable amount of marijuana while at the Pavilions shopping center in Scottsdale, Arizona. The court found that the plea was entered into knowingly, intelligently, and voluntarily, and that it was supported by a factual basis. Accordingly, it accepted the plea.

¶9 After hearing from the parties with respect to the disposition of sentence,<sup>1</sup> the court placed Jonathan on standard probation, which included, *inter alia*, the following conditions: (1) random drug testing; (2) a 9 p.m. curfew; and (3) school attendance every weekday. With respect to his driver's license, the court ordered "that the fact of this conviction be reported to the Department of Motor Vehicles." The court further declined to approve any type of temporary license because Jonathan was not currently enrolled in school and he was working for a family business, where members of his family could provide transportation to and from work.

¶10 Jonathan filed a motion to reconsider, requesting that the juvenile court grant him a restricted license, so that he could drive to and from school and to obtain employment. The motion explained that he no longer worked for the family business, and was currently employed by Integra-Crete, LLC, in Chandler, Arizona. The trial court denied the motion.

¶11 Jonathan timely filed a notice of appeal. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) (2003) and 8-235(A) (2007), and Ariz. R.P. Juv. Ct. 103(A).

---

<sup>1</sup> Jonathan requested that the court at least permit him to obtain a restricted license.

*DISCUSSION*

¶12 We have read and considered counsel's brief and fully reviewed the record for reversible error. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. We find none.

*I. LICENSE*

¶13 Jonathan argues that the trial court erred when it refused to approve a restricted driver's license. We disagree.

¶14 Pursuant to A.R.S. § 28-3320 (Supp. 2009), the Arizona Department of Transportation is required to refuse to issue a license to a minor who commits any one of the offenses enumerated in the statute. But it is left to the discretion of the trial court "whether to forward to MVD the record of a juvenile adjudicated delinquent for possessing marijuana." *In re Martin M.*, 223 Ariz. 244, 248, ¶ 14, 221 P.3d 1058, 1062 (App. 2009). A juvenile court has broad discretion to determine the appropriate disposition of a delinquent juvenile. *Id.* at ¶ 15.

¶15 When, as here, the juvenile court's decision is not arbitrary or capricious, we will not disturb the disposition. See *id.* Here, the juvenile court found that a driver's license was not a necessity for Jonathan. It reasoned that because Jonathan worked for his family's business, a family member could provide transportation to and from work. Additionally, the court noted that Jonathan was not currently enrolled in school,

despite the fact that he had been court-ordered to do so. The facts support the juvenile court's decision.

¶16 Moreover, at the time of the disposition hearing, Jonathan stipulated that the juvenile court would determine whether a copy of the conviction would be submitted to the Motor Vehicle Division. To be sure, he did not stipulate to the court's decision concerning a restricted license. But during its explanation of the consequences of pleading guilty, the juvenile court cautioned that his license would most likely be revoked. The implication of that statement was that Jonathan would be without a license to drive. It was well within the court's broad discretion to deny his request for a restricted license.

¶17 Although the juvenile court did not provide an explanation for its refusal to approve a restricted license in its ruling on the motion for reconsideration, we find no error. No rule requires the court to state reasons for denying a motion for reconsideration, and the court was not informed of the purported change in circumstances before issuing its ruling at the disposition hearing.

## *II. REMAINING ISSUES*

¶18 The record indicates that all the proceedings were conducted in compliance with the laws of this State and the applicable rules of the court. See Ariz. R.P. Juv. Ct. 6, 29,

30. Jonathan was present at all critical stages and was represented by counsel during the change of plea hearing, disposition and on this appeal. The juvenile court informed Jonathan of his constitutional rights, and the record indicates that Jonathan knowingly, intelligently and voluntarily waived his rights pursuant to Ariz. R.P. Juv. Ct. 28(C)(5). Jonathan was informed of the nature of the charge and the range of possible dispositions and the right to plead not delinquent. The record reflects a factual basis for the plea and the disposition falls within the authority of the juvenile court. See A.R.S. § 8-341(A)(1)(a) (Supp. 2009).

*CONCLUSION*

¶19 We have reviewed the entire record for reversible error and find none. Accordingly, we affirm. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), Jonathan's counsel's obligations in this appeal are at an end.



Counsel need only inform Jonathan of the status of his appeal and of his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. See Ariz. R.P. Juv. Ct. 107(A). See also Ariz. R.P. Juv. Ct. 107(J).

/s/

---

PETER B. SWANN, Judge

CONCURRING:

/s/

---

MARGARET H. DOWNIE, Presiding Judge

/s/

---

DONN KESSLER, Judge