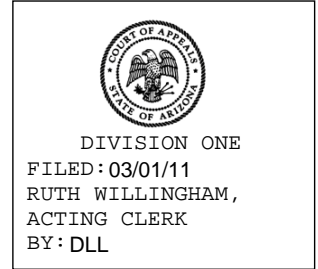


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE  
COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



IN RE ETHAN B. )  
 ) 1 CA-JV 10-0230  
 )  
 ) DEPARTMENT E  
 )  
 ) MEMORANDUM DECISION  
 ) (Not for Publication -  
 ) Ariz. R.P. Juv. Ct. 103(G);  
 ) ARCAP 28)  
 )  
 )

Appeal from the Superior Court of Maricopa County

Cause No. JV 554606

The Honorable Mark F. Aceto, Judge

**AFFIRMED**

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Thomas C. Horne, Attorney General  
by Kent E. Cattani, Chief Counsel  
Criminal Appeals Section  
and  
Jeffrey W. Trudgian, Appeals Bureau Chief  
Maricopa County Attorney's Office  
Westside Juvenile Division  
Attorneys for Appellee Phoenix

James Haas, Maricopa County Public Defender  
by Suzanne Sanchez, Deputy Juvenile Public Defender  
Attorneys for Appellant Mesa

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**W E I S B E R G**, Judge

¶1 Ethan B. appeals from a disposition order placing him on juvenile probation, ordering his detention in a juvenile detention

facility pending placement in a residential treatment center, and ordering him to successfully complete treatment in residential care. His appellate counsel 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), stating that she has found no arguable issues for appeal and asking this court to search the record for fundamental error. For reasons that follow, we affirm. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 8-235(A)(2007) and 12-2101(B)(2003).

#### **BACKGROUND AND DISCUSSION**

¶2 The State charged Ethan with two counts of sexual abuse. Ethan pled delinquent to an amended count of attempted sexual abuse, a Class 4 felony, and the State dismissed the other charge. At the change of plea hearing, the juvenile admitted that he touched his sister's breast, but on the top of her clothes. The court found that Ethan had knowingly, intelligently and voluntarily waived his trial rights and that there was a factual basis for the plea. The court found and adjudicated Ethan to be delinquent. The court ordered that Ethan remain in detention until the disposition hearing or until a risk assessment was done.

¶3 Dr. Martig performed a psychosexual evaluation on Ethan. The juvenile probation officer conducted a pre-disposition investigation. She found that Ethan experienced high levels of

stress from his parents' divorce, lacked peer relationships, showed signs of impulsivity, and suffered from low self-esteem and depression, which increased risk factors, but concluded that Ethan's risk of engaging in sexual misconduct in the future was low. The probation officer expressed concern about the motivation of Ethan's father regarding treatment because he "may be minimizing Ethan's referral behavior." She recommended placement in an in-treatment facility so Ethan "can develop healthy sexual attitudes and become a lesser risk to the community."

¶14 At the disposition hearing on October 13, 2010, the probation officer told the court that she was concerned because Ethan acknowledged that what he did was wrong, but he continued to do it; that Ethan was in a stressful situation because of his relationship with his divorced parents; and that Ethan's father believed the police and court "overacted in regards to this situation." The probation officer recommended that Ethan be placed on probation, remain in detention until space became available in a residential treatment program, and that he successfully complete sexual behavior therapy. Ethan's father objected, telling the court that Ethan could get immediate counseling if he returned home and would be better off if he stayed with his family. Ethan and his attorney also asked the court to consider this option. Although the judge acknowledged that "I may be wrong," and that it was not an "ideal situation" where Ethan would not get treatment

while in detention, he concluded that, "I just reached a judgment that in the long run the likelihood of success is heightened if we go in the direction that we're going to go in." The court ordered that Ethan be detained "for 200 days until a bed is available," that he successfully complete a sex offender treatment program, and that sex offender registration be deferred. Ethan timely appealed. The record reveals that Ethan was placed in a residential treatment center on October 28, 2010.

¶15 Ethan's counsel has asked this court to review the record and determine whether the juvenile court abused its discretion in ordering residential treatment and detention while awaiting treatment. The juvenile court has broad powers to determine the appropriate disposition for a delinquent offender, and we will not alter that disposition absent an abuse of discretion. *In re Niky R.*, 203 Ariz. 387, 390, ¶ 10, 55 P.3d 81, 84 (App. 2002). The court can order the juvenile incarcerated in a juvenile detention center for "not more than one year," and order placement in a "public or private agency subject to the supervision of the probation department." A.R.S. § 8-341(A)(1)(b), (d) (Supp. 2010). There was no abuse of discretion.

¶16 The record shows that counsel represented the juvenile at all stages of the proceedings and in this appeal. We have read and considered counsel's brief and have searched the entire record for reversible error. *See Juv. Action No. JV-117258*, 163 Ariz. at

487-88, 788 P.2d at 1238-39. We find none. The court conducted the hearings in compliance with Rules 23, 29 and 30, Arizona Rules of Procedure for the Juvenile Court, and the disposition is within the court's statutory authority. A.R.S. § 8-341.

¶17 Upon the filing of this decision and pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), the obligations of the juvenile's counsel in this appeal are at an end. Counsel need do no more than inform the juvenile of the status of the appeal and 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),(J).

#### CONCLUSION

¶18 We affirm the adjudication and disposition ordered by the juvenile court.

/S/\_\_\_\_\_  
SHELDON H. WEISBERG, Judge

CONCURRING:

/S/\_\_\_\_\_  
PETER B. SWANN, Presiding Judge

/S/\_\_\_\_\_  
ANN A. SCOTT TIMMER, Judge