

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE A.W.

No. 2 CA-JV 2015-0031
Filed May 7, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f);
Ariz. R. P. Juv. Ct. 103(G).

Appeal from the Superior Court in Pima County
No. JV20130307
The Honorable Wayne E. Yehling, Judge Pro Tempore

AFFIRMED

COUNSEL

Lori J. Lefferts, Pima County Public Defender
By Susan C. L. Kelly, Assistant Public Defender, Tucson
Counsel for Minor

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MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Miller and Judge Espinosa concurred.

E C K E R S T R O M, Chief Judge:

¶1 A.W. appeals from the juvenile court's orders revoking probation imposed in October 2014, adjudicating him delinquent after he admitted two drug-related offenses charged in a December 2014 delinquency petition, and committing him to the Arizona Department of Juvenile Corrections (ADJC) for not less than thirty days and not beyond his eighteenth birthday. Appointed counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). See also *In re Maricopa Cnty. Juv. Action No. JV-117258*, 163 Ariz. 484, 486-87, 788 P.2d 1235, 1237-38 (App. 1989) (juveniles adjudicated delinquent have constitutional right to *Anders* appeal). We affirm.

¶2 Pursuant to *Anders* and its progeny, counsel states she has found no meritorious issue to raise on appeal but asks this court to consider as an arguable issue whether the juvenile court abused its discretion by revoking A.W.'s probation and committing him to ADJC, "rather than ordering out-of-home placement at Sycamore Canyon Academy or a similar, less restrictive program." Counsel also asks this court to review the entire record for fundamental, reversible error.

¶3 "We will not disturb a juvenile court's disposition order absent an abuse of discretion." *In re John G.*, 191 Ariz. 205, ¶ 8, 953 P.2d 1258, 1260 (App. 1998); see also *In re Thomas D.*, 231 Ariz. 29, ¶ 9, 290 P.3d 223, 225 (App. 2012) (juvenile court has discretion to revoke, modify, or terminate juvenile's probation). Commitment to ADJC is among the disposition alternatives available to the juvenile court for a minor adjudicated delinquent. See A.R.S. § 8-341(A)(1)(e); see also A.R.S. § 41-2816(C) (authorizing ADJC and juvenile court to

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develop length-of-stay guidelines “consistent with both treatment and public safety considerations”); Ariz. Code of Jud. Admin. § 6-304 (commitment guidelines). In determining the appropriate disposition and before committing a juvenile to ADJC, the court must consider the commitment guidelines, although it is not required to follow them. See *In re Niky R.*, 203 Ariz. 387, ¶¶ 10-12, 55 P.3d 81, 84 (App. 2002).

¶4 In its minute entry order, the juvenile court stated that it had considered “the Risk/Needs Assessment and Commitment Guidelines” and that A.W. “meets the criteria for commitment to [ADJC].” The transcript from the hearing confirms the court considered the guidelines; it expressly noted it had considered community safety, A.W.’s substance abuse issues, and the fact that commitment would give him the opportunity for rehabilitation and substance abuse treatment. The court stated, “with a very heavy heart, I will indicate that he does meet the criteria for commitment to [ADJC],” reiterating the need to protect the public and adding, “there is no less restrictive alternative that is available,” and A.W. “has engaged in a pattern of conduct characterized by persistent and delinquent offenses that cannot be controlled in a less secure setting, as demonstrated by the previous use of other alternatives.” The court also considered the fact that A.W. had absconded from Oasis Behavioral Health, an acute psychiatric hospital and residential treatment center. Based on the record before us, we cannot say the court abused its discretion. Cf. *Niky R.*, 203 Ariz. 387, ¶ 22, 55 P.3d at 86 (affirming commitment order where juvenile had been under court supervision and had run away, committed additional delinquent acts, and failed to participate in rehabilitation programs, and court found him “a danger to himself and the community” and that he “was violent, sold and used drugs, and had no regard for the property of others”).

¶5 We have reviewed the record for fundamental, reversible error and have found none. Rather, the record establishes A.W. admitted he had left his placement at Oasis and violated probation, which the juvenile court had imposed after adjudicating him delinquent based on his having committed disorderly conduct with a deadly weapon or dangerous instrument, possession of a

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narcotic, and assault. A.W. also admitted he had used or possessed marijuana and drug paraphernalia, as alleged in the December 16, 2014 delinquency petition. The record supports the court's finding that there was an adequate factual basis for these admissions and that A.W. had entered these admissions knowingly, voluntarily and intelligently.

¶6 For the reasons stated, we affirm the juvenile court's orders revoking probation, adjudicating A.W. delinquent on the December 2014 petition, and committing him to ADJC.