

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE DELINQUENCY OF J.R.

No. 2 CA-JV 2024-0010
Filed April 30, 2024

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NOT FOR PUBLICATION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. 602(i)(17).

Appeal from the Superior Court in Pima County
No. JV20230282
The Honorable Bunkye Olson, Judge Pro Tempore

AFFIRMED

COUNSEL

Laura Conover, Pima County Attorney
By Kara Crosby, Deputy County Attorney, Tucson
Counsel for State

Law Office of John C. Gilmore Jr. P.C., Tucson
By John C. Gilmore Jr.
Counsel for Minor

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MEMORANDUM DECISION

Judge Sklar authored the decision of the Court, in which Judge O'Neil and Judge Eckerstrom concurred.

S K L A R, Judge:

¶1 Fifteen-year-old J.R. appeals from the juvenile court's disposition order committing him to the Arizona Department of Juvenile Corrections (ADJC). He contends the court lacked statutory authority to commit him to ADJC and failed to adequately consider the Commitment Guidelines, Ariz. Code of Jud. Admin. § 6-304, and a less restrictive alternative. We affirm.

¶2 Pursuant to a plea agreement, J.R. admitted to attempted theft of a means of transportation, armed robbery, three counts of theft of a means of transportation, unlawful use of a means of transportation, reckless driving, attempted armed robbery, aggravated assault, and possession of burglary tools. The juvenile court adjudicated him delinquent and committed him to the ADJC for a minimum of thirty days. This appeal followed.

¶3 On appeal, as he did at the disposition hearing, J.R. contends the juvenile court lacked authority to send him to ADJC based on his first felony adjudication. The juvenile court retains broad powers to determine an appropriate disposition for a delinquent juvenile, and we will not disturb the court's disposition order absent an abuse of that discretion. *See In re Kristen C.*, 193 Ariz. 562, ¶ 7 (App. 1999).

¶4 J.R. asserts that nothing in A.R.S. §§ 8-341 or 8-342 "clearly states" that a first-time felony juvenile offender can be committed to ADJC. And he argues that the legislature's intent from those statutes "was to not allow the [juvenile c]ourt to commit a minor to ADJC for their first felony adjudication." But those statutes do not support his argument. Rather, § 8-341(A)(1)(e) explicitly grants the juvenile court authority to order a delinquent juvenile to ADJC. Although § 8-342(A) proscribes certain minors from being committed to the ADJC, J.R. does not fall into any of those categories: J.R. is over fourteen years of age and was adjudicated delinquent for a felony offense.

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¶5 J.R. also contends the juvenile court did not adequately consider the Commitment Guidelines and “failed to properly consider the less restrictive alternative” to ADJC. The Commitment Guidelines require the juvenile court to consider “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.” Ariz. Code of Jud. Admin. § 6-304(C)(1)(c). However, they “do not mandate that the less restrictive alternative be ordered.” *In re Niky R.*, 203 Ariz. 387, ¶ 19 (App. 2002).

¶6 Contrary to J.R.’s argument, the juvenile court considered the Commitment Guidelines and the propriety of a less restrictive alternative to ADJC at the disposition hearing. Specifically, the court recognized that Sycamore Canyon, a residential treatment center, was an option but explained its doubts that J.R. was ready “to seriously commit to that type of program and stay and do the work that [he] need[s] to do.” The court further found that J.R. posed a risk to the community and himself that necessitated commitment. The court also expressly found that “there is no less restrictive alternative appropriate at this time” and that J.R. had “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 to include the GPS monitoring system, supportive services in the community, and conditions of release.”

¶7 Despite these findings, J.R. maintains that the alternatives considered by the juvenile court were not therapeutic or rehabilitative services and therefore did not permit the court to commit him to the ADJC. But J.R. cites no authority requiring therapeutic and rehabilitative services to be offered before a juvenile can be committed to the ADJC. Finally, to the extent J.R. contends the court improperly considered the Commitment Guidelines in fashioning his disposition order, that argument essentially amounts to a request that we reweigh the factors. We decline to do so. *Cf. State v. Towery*, 186 Ariz. 168, 189 (1996) (appellate court will not reweigh sentencing factors).

¶8 We affirm the juvenile court’s disposition order committing J.R. to the ADJC.