

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.

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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE HENRY S.)
) 2 CA-JV 2008-0135
) DEPARTMENT B
)
) MEMORANDUM DECISION
) Not for Publication
) Rule 28, Rules of Civil
) Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 17185501

Honorable Jane L. Eikleberry, Judge

AFFIRMED

Barbara LaWall, Pima County Attorney
By James M. Coughlin

Tucson
Attorneys for State

Robert J. Hirsh, Pima County Public Defender
By Susan C. L. Kelly

Tucson
Attorneys for Minor

V Á S Q U E Z, Judge.

¶1 Pursuant to an agreement with the state, sixteen-year-old Henry S. was adjudicated delinquent after admitting he had committed misdemeanor possession of

marijuana in violation of A.R.S. § 13-3405(A)(1). The juvenile court placed Henry on nine months' probation. On appeal, Henry argues the court abused its discretion in ordering a copy of the disposition minute entry sent to the Motor Vehicle Division of the Arizona Department of Transportation (MVD). We affirm.

¶2 Section 28-3320, A.R.S., generally requires MVD to suspend a juvenile's driver's license—or, if no license has been issued, to refuse its issuance—until his eighteenth birthday “on receiving the record” of a delinquency adjudication for violation of specified statutes, including “any provision of title 13, chapter 34.” § 28-3320(A)(6), (E). However, a court may order MVD to restrict a juvenile's driving privileges to work- or school-related travel during specified periods of time in lieu of suspending his license. *See* § 28-3320(B). Henry argues MVD's statutory obligation to take action against a juvenile's driving privileges arises only if the juvenile court exercises its discretion to forward a record of the adjudication to MVD. He contends the court abused its discretion in notifying MVD of his delinquency adjudication because he was not driving at the time of the offense, does not yet possess a driver's license, and has no prior record of substance abuse.

¶3 We recently held that juvenile courts are statutorily required to notify MVD when a juvenile has been adjudicated delinquent for violating A.R.S. § 4-244(33), which prohibits a person under the age of twenty-one from “driv[ing] or be[ing] in physical control of a motor vehicle while there is any spirituous liquor in [his or her] body.” *See In re Hillary C.*, No. 2 CA-JV 2008-0121, ¶ 2, 2009 WL 902413 (Ariz. Ct. App. Apr. 3, 2009).

We need not decide here, however, whether a court has a similar obligation to report to MVD all adjudications of delinquency based on drug offenses found in title 13, chapter 34. *See Progressive Specialty Ins. Co. v. Farmers Ins. Co. of Ariz.*, 143 Ariz. 547, 548, 694 P.2d 835, 836 (App. 1985) (appellate court should not decide issues other than those required to dispose of appeal under consideration). Assuming, without deciding, that the court's decision to report Henry's delinquency adjudication to MVD was discretionary and not mandatory, we find no abuse of discretion.

¶4 “A juvenile court has broad discretion in determining the proper disposition of a delinquent juvenile, and we will not disturb a disposition order absent an abuse of the court's discretion.” *In re Themika M.*, 206 Ariz. 553, ¶ 5, 81 P.3d 344, 345 (App. 2003) (citation omitted). In considering the analogous question of whether a court has abused its discretion in sentencing an adult after conviction, we will not disturb a legal sentence unless it is arbitrary, capricious, or based on an inadequate investigation of relevant facts. *State v. Stotts*, 144 Ariz. 72, 87, 695 P.2d 1110, 1125 (1985); *see also In re Miguel R.*, 204 Ariz. 328, ¶ 31, 63 P.3d 1065, 1073 (App. 2003) (juvenile disposition hearing analogous to adult sentencing hearing).

¶5 Here, Henry had told the court he understood an admission of responsibility could affect his driving privileges before he admitted his offense and agreed to the judgment of delinquency. The court read the disposition report prepared by a Pima County juvenile probation officer, and at the disposition hearing, Henry and the state both told the court they

agreed with the report's recommendation that Henry be placed on probation. The state asked the court to forward its disposition order to MVD, and Henry, without argument, asked the court to refrain from doing so. The court then provided Henry and his parents an opportunity to be heard.

¶6 Henry told the court he had no immediate plans to obtain a driver's license, but Henry's father expressed some confusion and concerns about the prospect of notification to MVD, telling the court, "[Henry] plans to attend college . . . and transportation will become an issue in his life." The court explained to Henry and his parents that it typically notifies MVD when a juvenile is adjudicated delinquent for possession of alcohol or marijuana because it would endanger public safety if the juvenile were to drive under the influence of one of those substances. In announcing Henry's disposition, the court ordered its decision sent to MVD but further ordered the minute entry "to show that the Court has no objection to the issuance of a restricted driver's license to allow Henry to drive to and from school, to and from counseling, and to and from work if he should obtain a job."

¶7 Based on this record, the juvenile court adequately investigated the facts relevant to Henry's disposition, and its order was neither arbitrary nor capricious. *Cf. Stotts*, 144 Ariz. at 87, 695 P.2d at 1125. In deciding to report the adjudication to MVD, the court considered and addressed concerns Henry's father had raised at the disposition hearing. Furthermore, the court's disposition, including the notification to MVD, was appropriately guided by the dual goals of rehabilitation and public safety. *Cf. Ariz. R. P. Juv. Ct. 31(A)*

(“The court shall impose on the juvenile conditions of probation that will promote rehabilitation and public safety.”).

¶8 The juvenile court did not abuse its discretion in ordering that MVD be notified of Henry’s adjudication of delinquency, and Henry has raised no other issue on appeal. We therefore affirm the court’s judgment of delinquency and disposition order.

GARYE L. VÁSQUEZ, Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

J. WILLIAM BRAMMER, JR., Judge