

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

J.G.,
Appellant-Respondent

v.

State of Indiana,
Appellee-Plaintiff



April 2, 2024

Court of Appeals Case No.
23A-JV-179

Appeal from the Tippecanoe Superior Court

The Honorable Faith A. Graham, Judge

Trial Court Cause Nos.

79D03-2212-JD-187

79D03-2212-JD-157

79D03-2202-JS-2

79D03-2108-JD-100

Memorandum Decision by Judge Kenworthy

Chief Judge Altice and Judge Weissmann concur.

Kenworthy, Judge.

Case Summary

- [1] J.G. appeals the trial court’s order that his mother, O.G. (“Mother”), reimburse Tippecanoe County for \$6,940.50 in secure detention costs and other fees incurred due to J.G.’s delinquency adjudications under four cause numbers.¹ J.G. contends the trial court abused its discretion because it imposed an unaffordable financial obligation on Mother. We affirm.

Facts and Procedural History

- [2] In 2022, while on probation and a home pass from a private secure residential facility, then sixteen-year-old J.G. was arrested for stealing a truck and fleeing law enforcement. After an investigation, police believed J.G. also had stolen an AR-15-style rifle from the backseat of a sheriff’s deputy’s car on a previous weekend. For these actions, the State filed a delinquency petition alleging J.G. committed the following offenses if committed by an adult: Level 6 felony theft of a firearm; Class A misdemeanor dangerous possession of a firearm; Level 6

¹ In addition to the instant case, Cause No. 79D03-2212-JD-187, J.G. was formally adjudicated on September 14, 2021, under Cause No. 79D03-2108-JD-100, for theft as a Class A misdemeanor if committed by an adult; on December 30, 2021, under Cause No. 79D03-2112-JD-157, for possession of a firearm on school property, a Level 6 felony if committed by an adult; and on February 21, 2022, under cause number 79D03-2202-JS-2, for the status offense of leaving home without permission.

felony auto theft; and Class A misdemeanor resisting law enforcement. By plea agreement, J.G. admitted to theft of a firearm and auto theft and the State moved to dismiss the other allegations. After a hearing, the trial court accepted J.G.'s admission and adjudicated J.G. a delinquent on January 3, 2023. At the parties' agreed recommendation, the trial court committed J.G. to the Indiana Department of Correction.

[3] From his September 2021 adjudication until the adjudication in this case, J.G. was placed for various periods in secure detention, residential placement, home detention with GPS monitoring, and informal house arrest. During that time, the Department of Child Services ("DCS") also provided services to J.G. including intensive home-based services, day reporting, behavioral health services, and counseling. On February 23, the trial court held a reimbursement hearing on the cost of placement and services provided to J.G. under the four cause numbers. The Tippecanoe County Probation Department reported a total of \$13,881 owed to the county, which included secure detention costs of \$11,783 and other fees and costs of \$2,098.² DCS reported expenditures of \$129,860.80 for services provided to J.G, the bulk of which stemmed from J.G.'s stay in a private secure residential facility.³

² The miscellaneous fees and costs included a sheriff process fee, juvenile alternatives fee (electronic monitoring and/or programming), formal probation administrative fee, initial and monthly formal probation user's fees, and court costs.

³ The State also filed a motion for restitution, and the rifle owner submitted receipts totaling \$1,889.76 for the rifle and accessories. The trial court denied the motion as untimely.

[4] Mother appeared and testified about her ability to pay. J.G.'s father ("Father"), who lives out of state, was not served and did not appear. Mother testified she had three dependents at home, then ages fourteen, seven, and six. Her work history since 2018 included work in a factory, meat packing facility, and retail store. Mother recently was making \$19 per hour in full-time (forty hours per week) factory work but had lost her job two weeks prior to the reimbursement hearing after an arrest for a driving-related offense. She posted a \$200-or-so bond and expected to return to the same or similar employment. Mother also had some financial support from her family and boyfriend. Neither Mother nor Father paid child support to the other. Mother received Supplemental Security Income of \$914 for one of her children⁴ and generally kept her food expenses within her SNAP benefit amount. Mother recently lost subsidized housing due to her arrest but did not anticipate major changes to her monthly housing costs. Because she had been working, she already had been paying \$700 per month in rent. *See Supp. Tr. Vol. 2* at 10 ("I'm going to be paying my rent, but I was just paying rent anyways . . . because you pay rent over there. If you work, you pay rent."). Mother testified about her approximate monthly expenses for utilities (\$350); cable, phone, and internet (\$150); an auto loan (\$337); auto insurance (\$120); and gas (\$240). Mother had no other assets. Accounting for her recent income and expenses, the trial court calculated Mother was left with "less than

⁴ The payment is likely \$914 per month, but the frequency is not clear from the record.

\$500.00 extra each month for sure,” and Mother said, “I don’t even think it would be that.” *Id.* at 13.

[5] Based on Mother’s testimony, the trial court found it was unreasonable to expect Mother to repay DCS nearly \$130,000 and reduced that balance to zero. Of the \$13,881 owed to the county, the trial court reasoned it would be unfair to require Mother to pay Father’s share. Thus, the trial court set Mother’s responsibility at half the total, or \$6,940.50, and instructed Mother to begin making regular payments to the Tippecanoe County Clerk once she received a paycheck. The trial court declined to fix a minimum payment amount, instead allowing Mother to pay what she could. The trial court reduced the order to a civil judgment against Mother, and J.G. now appeals.

The trial court did not abuse its discretion when it considered Mother’s ability to pay, allowed for flexible repayment terms, and Mother agreed she could make payments.

[6] The parents of a child adjudicated a delinquent are financially responsible for any services ordered by the trial court. *E.M. v. State*, 128 N.E.3d 1, 5 (Ind. Ct. App. 2019). The statute requiring parental reimbursement of county expenses incurred for care and treatment of a delinquent child provides, in relevant part:

(a) If a county is responsible for the payment of . . . the costs or expenses of services for or the placement of a delinquent child . . . the juvenile court ordering the services that the county is responsible for may hold a hearing. . . .

* * *

(c) At [a hearing held in accordance with this subsection] the juvenile court shall order the child’s parents to pay for, or reimburse the county for, the cost of services provided to the child or the parent unless the court makes a specific finding that the parent is unable to pay or that justice would not be served by ordering payment from the parent.

Ind. Code § 31-40-1-3.8 (2011).⁵ Generally, the juvenile or the parents bear the burden of presenting evidence to support the findings that would relieve parents of the reimbursement obligation. *J.T. v. State*, 111 N.E.3d 1019, 1024 (Ind. Ct. App. 2018), *trans. denied*. The trial court is in the best position to consider parents’ ability to pay costs and determine the amount commensurate with justice. *E.M.*, 128 N.E.3d at 7.

[7] We review a trial court’s order requiring a parent to reimburse the county for the cost of services for, or placement of, a delinquent child for an abuse of discretion. *F.A. v. State*, 148 N.E.3d 328, 330 (Ind. Ct. App. 2020). “An abuse of discretion occurs if the decision is clearly against the logic and effect of the facts and circumstances before the court.” *Id.* at 330–31. A trial court also abuses its discretion if it misapplies or misinterprets the law. *J.T.*, 111 N.E.3d at 1024.

⁵ At the time of the hearing in this case, a similar subsection of the statute required parents to reimburse DCS for services provided to a delinquent child unless the trial court found parents were unable to pay or reimbursement would be unjust. *See* I.C. § 31-40-1-3(c) (2009). Because the trial court reduced the reimbursement owed to DCS to zero, we do not discuss that statute here.

[8] On appeal, Mother does not challenge the adequacy of the trial court’s inquiry into her ability to pay. *See Appellant’s Br.* at 18–19 (“[B]ecause the information collected was adequate to determine that Mother does not have an ability to pay, J.G. is not asking for a remand for a new reimbursement hearing.”). Rather, Mother argues the trial court abused its discretion in ordering Mother to reimburse the county almost \$7,000 because the amount was unaffordable based on her financial resources, will result in hardship to the family, and as a matter of public policy “is not going to accomplish any positive goal for either society or the family.” *Id.* at 20.

[9] At the hearing, the trial court thoroughly inquired into Mother’s financial situation, including assets, income, and necessary expenses. The record shows Mother had a work history, was not disabled, and had no health concerns. Although Mother had recently lost employment, she planned and expected to work again in the same or similar job earning similar hourly wages. The trial court acknowledged Mother’s normal budget provided less than \$500 per month after fixed expenses. For this reason, the trial court reduced the DCS balance to zero.⁶ As to the county costs of \$13,881, the trial court did not obligate Mother to pay Father’s share. Father had a relationship with J.G. and participated in some adjudication proceedings despite living out of state. But

⁶ The statute providing for parental reimbursement of DCS was amended effective July 1, 2023, and now a trial court *may not* order a child’s parents to reimburse DCS unless the trial court makes a specific finding that the parents *are able* to pay. I.C. § 31-40-1-3(c) (2023). The revised statute thus presumes parents are unable to pay or reimburse DCS, rather than asking them to prove they cannot. The statute providing for reimbursement of county costs, however, was not similarly amended. *See* I.C. § 31-40-1-3.8 (2011).

Father had not been served and thus did not appear at the reimbursement hearing. The trial court therefore reduced Mother's obligation for the county costs to half of the total, or \$6,940.50.

[10] As the State points out, the trial court ordered Mother to pay less than five percent of the total cost of services and care provided to J.G. by DCS and the county. Nevertheless, Mother argues the "very significant reduction in costs for reimbursement does not mean that Mother can afford to pay what she has been ordered to pay." *Appellant's Br.* at 16. But the record shows the trial court considered the whole of Mother's financial situation when crafting the reimbursement order. Aware of Mother's limited discretionary budget and current employment status, the trial court declined to fix a minimum monthly or weekly payment amount. Instead, the trial court allowed Mother to pay what she could in part because the court did not want Mother to be subject to contempt if she had a "rough" week or month. *Supp. Tr. Vol. 2* at 15. The trial court also explained the clerk was unlikely to send Mother to collections if she made regular payments, and advised Mother of the option to start, stop, and adjust voluntary wage garnishments as her employment and budget allowed.

[11] Further, when the trial court asked if Mother could make some payments over time toward a balance, Mother responded "probably in the future, yeah." *Id.* at 13. Mother did not testify she was unable to eventually reimburse the costs or that repayment would cause the family undue financial hardship or otherwise be unjust. *See J.T.*, 111 N.E.3d at 1025 (holding the trial court did not abuse its discretion in ordering the mother of a delinquent child to pay \$20 per month

toward costs and fees of \$7,463 incurred in the child’s delinquency proceedings in part because the mother agreed she could make that payment). The trial court properly considered Mother’s ability to pay and allowed for flexible repayment terms, and Mother agreed she could make payments. We therefore cannot say the trial court abused its discretion in ordering Mother to repay the county \$6,940.50.

[12] Finally, to the extent Mother argues it is contrary to public policy to require Mother to reimburse the county, “choices of policy are solely within the purview of the Legislature” unless the result is unconstitutional.⁷ *State v. Int’l Bus. Machs. Corp.*, 964 N.E.2d 206, 210 (Ind. 2012). The best evidence of legislative intent is the statute itself. *Nicoson v. State*, 938 N.E.2d 660, 663 (Ind. 2010). Here, the General Assembly requires a trial court to order a child’s parents to reimburse the county unless the court finds the parent is unable to pay or justice would not be served. The legislature could shift the presumption to unaffordability and require trial courts to find parents are able to pay, as it has for payments and reimbursements to DCS. *See* Ind. Code § 31-40-1-3(c) (2023). But it has not. When interpreting a statute, it is not our role to question the wisdom of the General Assembly but ascertain and give effect to its intent. *Nicoson*, 938 N.E.2d at 663. Because the trial court did not find Mother was unable to pay or justice would not be served, the trial court properly followed

⁷ Mother does not present a constitutional argument regarding the reimbursement statute.

the statute by ordering Mother to partially reimburse the county for the cost of services provided to J.G.

Conclusion

[13] The trial court did not abuse its discretion in ordering Mother to reimburse the county for \$6,940.50 in secure detention costs and other fees incurred due to J.G.'s delinquency adjudications.

[14] Affirmed.

Altice, C.J., and Weissmann, J., concur.

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