

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

S.S.,
Appellant-Respondent

v.

State of Indiana,
Appellee-Petitioner

April 8, 2024

Court of Appeals Case No.
23A-JV-2528

Appeal from the Wayne Superior Court
The Honorable Darrin M. Dolehanty, Judge

Trial Court Cause No.
89D03-2307-JD-24

Memorandum Decision by Judge Vaidik
Judges May and Kenworthy concur.

Vaidik, Judge.

Case Summary

- [1] S.S. appeals her commitment to the Indiana Department of Correction (DOC) following a juvenile-delinquency adjudication. We affirm.

Facts and Procedural History

- [2] S.S. was born in October 2006. Beginning in February 2018, S.S. participated in outpatient services with Centerstone and was diagnosed with Conduct Disorder and ADHD. Her juvenile history started in November 2020, when she was fourteen years old. Between November 10 and 30, S.S. was arrested and referred to juvenile court three times for leaving home without permission. On December 2, the court placed S.S. on an informal adjustment for six months. On both December 9 and 17, S.S. was again arrested and referred for leaving home without permission. Following the December 17 referral, the juvenile court placed S.S. on electronic monitoring. The State filed a delinquency petition, but there was ultimately no adjudication, and the case was closed in February 2021.
- [3] Less than a week later, S.S. once again left home without permission. She was initially put on electronic monitoring and then was placed in emergency shelter care at Youth Opportunity Center (YOC). In March, S.S. admitted to the offense and was adjudicated a delinquent. She was put on formal probation and placed in residential treatment at YOC's Tru Harbor unit in April. She successfully completed her stay sixteen months later in August 2022 but started

acting out again after returning home. She was placed back at Tru Harbor on a modification in September. During the second stay, S.S. underwent diagnostic testing and brain mapping. S.S. was released from Tru Harbor in January 2023 and placed on three months of formal probation with sixty days of home detention, which she successfully completed, and the case was closed. But she was arrested two months later, in June, for leaving home without permission and placed on electronic monitoring in a new case. On July 3, the juvenile court released S.S. from electronic monitoring and closed that case.

[4] A week later, S.S., then sixteen, and her mother got into a fight while S.S. was trying to leave the house, and S.S. “used the back of her hand and open-handedly smacked her mother across the chest.” Appellant’s App. Vol. II p. 34. In a police interview after the fight, S.S. admitted she hit her mom and explained that she sneaks out in the middle of the night because her parents won’t let her go out late. She also admitted to “engaging in unprotected sex” and “exchanging nude images with strange men.” *Id.* The State filed a delinquency petition, alleging S.S. committed what would be Class A misdemeanor domestic battery if she were an adult. S.S. admitted to the allegation and was adjudicated a delinquent.

[5] Emily Graham, who’d been S.S.’s probation officer since 2020, prepared a predispositional report. At the time of the report, S.S. was participating in case management and counseling at Meridian Health. Graham noted, however, that S.S. was “still struggling immensely” and not only continued to sneak out but had also escalated to violence. *Id.* at 45. S.S. told Graham “she doesn’t care and

wants to do whatever she wants,” and “this is who she wants to be and no one can change her.” *Id.* at 43, 45. Graham recommended in the report that S.S. be committed to the DOC so she could receive services and education in a safe environment, noting that formal probation and residential placement had been previously attempted with limited success.

[6] At the August 2023 dispositional hearing, Graham testified about S.S.’s “risky behavior,” explaining that she leaves home after her parents go to bed, meets people at a park, and engages in sexual activity. Tr. p. 16. Graham also said S.S. isn’t always compliant during school and skips class often. The day before the hearing, Graham learned that YOC would accept S.S. into their Growing, Empowering & Mentoring for Success (GEMS) program, a secure unit that provides treatment for females with behavioral issues and aggressive tendencies. Graham explained that, at GEMS, S.S. could attend school on campus and receive individual, group, and family therapy. Even so, Graham still recommended DOC commitment because S.S. had already done residential treatment twice, had told Graham she “does not want to do another program,” and wouldn’t have the choice to skip school, groups, or therapy at DOC. *Id.* at 19.

[7] The court committed S.S. to the DOC, finding that “all of the services that have been offered to the child have been appropriate, and unfortunately have not been able to deter the activities that she is engaged in, and have not been able to rehabilitate her,” and that “the only option at this point is the Indiana Department of Correction.” *Id.* at 20-21.

[8] S.S. now appeals.

Discussion and Decision

[9] S.S. contends the juvenile court should not have placed her in the DOC. The disposition of a juvenile adjudicated a delinquent is within the discretion of the juvenile court and is reviewed on appeal for an abuse of discretion. *J.S. v. State*, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008). “An abuse of discretion occurs when the juvenile court’s action is clearly erroneous and against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual inferences that can be drawn therefrom.” *Id.* The court has “wide latitude” in dealing with juveniles. *Id.*

[10] The court’s discretion is subject to Indiana Code section 31-37-18-6:

If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents’ home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

The statute favors the least harsh placement only if “consistent with the safety of the community and the best interest of the child.” *J.S.*, 881 N.E.2d at 29. The statute recognizes that a more restrictive placement is sometimes in the best interest of the child. *Id.*

[11] S.S. argues the juvenile court abused its discretion by committing her to the DOC when there were less restrictive options available. But S.S. has been given many chances to participate in less restrictive programming, including outpatient services through two providers, informal adjustment, electronic monitoring three times, emergency shelter care, two placements in residential treatment (one of which was for over a year), formal probation, and home detention. Despite these efforts, this is S.S.'s second delinquency adjudication and her eighth time being arrested and referred to juvenile court. S.S. contends residential placement at the GEMS unit would be more appropriate, but she has already completed two bouts of residential placement at Tru Harbor, which have proven ineffective. Her first stay lasted about sixteen months, and less than a month after her release, she was placed back at Tru Harbor because she'd resumed her “risky behavior” once she returned home. After her second stay, S.S. was immediately released to home detention as part of her formal probation. A few months after her probation was terminated, she was arrested

for running away again and had to be put back on electronic monitoring. As shown by the present offense and noted by Graham in the predispositional report, S.S. has escalated to violence. And she told Graham she “does not want to do another program.” The record demonstrates that residential placement will not correct the problem. The juvenile court acted well within its discretion by placing S.S. in the DOC.¹

[12] Affirmed.

May, J., and Kenworthy, J., concur.

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¹ S.S. also argues that her sentence “reflects a systemic bias where female juveniles are punished more severely for lesser offenses” and that if she “were a different gender, or perhaps an adult, she would not have been committed to D.O.C. for such a minor offense.” Appellant’s Br. pp. 16, 18. She briefly discusses the history of females in the juvenile justice system, but she doesn’t provide any authority to support her claim or identify where the juvenile court factored her gender into its decision. Because S.S. has failed to develop a cogent argument as to this claim, it is waived. *See* Ind. Appellate Rule 46(A)(8)(a) (“The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on . . .”).