

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

R.B.,
Appellant-Respondent

v.

State of Indiana,
Appellee-Petitioner



March 18, 2024

Court of Appeals Case No.
23A-JV-2542

Appeal from the Washington Superior Court
The Honorable Dustin L. Houchin, Judge

Trial Court Cause Nos.
88D01-2212-JS-245
88D01-2302-JD-013
88D01-2309-JD-127

Memorandum Decision by Judge Mathias

Judges Tavitias and Weissmann concur.

Mathias, Judge.

[1] R.B. appeals the Washington Superior Court’s order committing him to the wardship of the Department of Correction (“DOC”). R.B. argues that the court’s commitment order is an abuse of discretion because the evidence did not support the juvenile court’s finding that R.B. is a danger to the community.

[2] We affirm.

Facts and Procedural History

[3] R.B.’s first referral to the juvenile system occurred when he was ten years old. In 2020, he was placed on formal probation for eleven months for committing battery resulting in bodily injury, a Class A misdemeanor if committed by an adult. In 2021, the State alleged that R.B. was a delinquent child for committing acts that would be the following offenses if committed by an adult: Level 5 felony burglary, Level 6 residential entry, Class A misdemeanor criminal mischief, and Class A misdemeanor criminal trespass. The juvenile court concluded that R.B. was a juvenile delinquent for committing criminal trespass, a Class A misdemeanor if committed by an adult, and placed him on formal probation for eleven months.

[4] On April 4, 2023, R.B. admitted that he was truant because he missed sixty-six days of school. He also admitted that, in January 2023, he had trespassed on

private property. The juvenile court placed R.B. on formal probation for six months.

[5] Two weeks after he began formal probation, R.B. was suspended from school because he possessed a vape device. On April 27, the State filed a petition to modify R.B.'s probation. Before the hearing was held on that petition, R.B. was involved in a traffic stop on August 30. R.B. was a backseat passenger in the vehicle, and the police officer smelled marijuana during the traffic stop. The juveniles in the car admitted that there was marijuana in the vehicle, and the officer found twenty-six grams of marijuana, Gabapentin, and a box of ammunition. The officer also found a handgun under the front passenger seat. During the stop, R.B. demanded to call his grandmother. When the officer replied that R.B. would have to wait to place his call, R.B. became disruptive. He resisted law enforcement when the officer attempted to restrain him.

[6] As a result of the events that occurred during that traffic stop, the State filed another delinquency petition alleging that R.B. had committed the following criminal offenses if committed by an adult: possession of a legend drug, unlawful carrying of a handgun, possession of marijuana, and resisting law enforcement. R.B. admitted that he had committed resisting law enforcement and that he had violated his probation.

[7] The juvenile court held a dispositional hearing on September 28. R.B. was seventeen years old on the date of the hearing. R.B.'s dispositional report stated that he was in the high domain risk level. R.B.'s probation officer did not

believe that R.B. would be successful on probation and recommended detention in the Indiana Boys' School. The trial court agreed that R.B. would likely not comply with the conditions of home detention. In its dispositional order, the juvenile court found that R.B. "continues to place himself and the community in danger." Appellant's App. p. 148. Therefore, the court awarded wardship of R.B. to the DOC for an indeterminate period.

[8] R.B. appeals.

Discussion and Decision

[9] R.B. argues that the juvenile court abused its discretion when it committed him to the DOC when a less harsh alternative was available. The "juvenile court is accorded wide latitude and great flexibility in its dealings with juveniles." *M.C. v. State*, 134 N.E.3d 453, 458 (Ind. Ct. App. 2019), *trans. denied*. Thus, we will reverse the court's choice of the specific disposition of a juvenile adjudicated a delinquent child only for an abuse of discretion. *Id.* The "court's discretion is subject to the statutory considerations of the welfare of the child, the safety of the community, and the policy of favoring the least harsh disposition." *Id.* The trial court abuses its discretion when its "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.*

[10] The choice of an appropriate disposition is governed by [Indiana Code Section 31-37-18-6](#), which provides as follows:

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 “states that placement in the least restrictive setting is required only “[i]f consistent with the safety of the community and the best interest of the child.” *R.H. v. State*, 937 N.E.2d 386, 391 (Ind. Ct. App. 2010) (quoting *Ind. Code § 31-37-18-6*). “Thus, the statute recognizes that in certain situations the best interest of the child is better served by a more restrictive placement.” *J.S. v. State*, 881 N.E.2d 26, 29 (Ind. Ct. App. 2008).

[11] R.B. argues that there is no evidence that he is a risk to the safety of the community or that it is in his best interest to be a ward of the DOC. R.B. argues that the trial court should have imposed home detention because it “would have been an appropriate increase in scrutiny and restriction on the child given his continued legal issues while also allowing less intrusion upon the family’s life

and allowing the child an opportunity to get himself on track.” Appellant’s Br. at 13.

[12] The juvenile court committed R.B. to the Department of Correction after observing that:

I do find that you have an extensive history of involvement with the . . . legal system with the juvenile Probation Office starting at age ten (10), I count nine (9) different contacts, some of those are informal, some of those are more formal, . . . but nine (9) incidents going back to age ten (10) sadly much of that is refusing to obey your parents, or your grandparent, or your grandmother, . . . with them calling in with you leaving home or being disrespectful or something like that, . . . two (2) battery cases, a burglary case that was later plead [sic] to trespass, and lots of substance abuse issues, so . . . many, many factors, . . . spanning the range of possible offenses that you’ve had with . . . the juvenile system. You’ve had equally wide range of services provided to you, ranging from just warning you to knock it off to in-home counseling services, you’ve been detained multiple times, you’ve been on Formal Probation. Mr. Ooley suggests home detention which you’ve not had but I don’t believe given your history that you’ll comply with home detention . . . I think your lack of compliance with all the other rules that I’ve put on you and that Judge Medlock has put on you throughout your career, . . . indicates to me that you probably won’t follow the rules of home detention.

Tr. p. 55.

[13] The juvenile court has placed R.B. on formal probation three times as a result of delinquent acts that he has committed, which include trespass and battery. In this case, R.B. was in a vehicle where law enforcement officers found

marijuana, Gabapentin, ammunition, and a handgun. During the traffic stop, R.B. was disruptive and resisted arrest. This evidence supports the juvenile court's determination that R.B. "continues to place himself and the community in danger." Appellant's App. p. 148. These events occurred while R.B. was placed on formal probation for a prior delinquent act.

[14] R.B. resided with his grandmother for approximately sixteen months prior to committing the offenses in this case. And his grandmother agreed that R.B. could continue to live with her if the juvenile court would place him on probation or home detention. Tr. p. 45. But the State presented evidence that R.B. continued to violate his probation while living with his grandmother.¹ *Id.* at 40-41, 49.

[15] R.B. has not responded to prior, less restrictive alternatives afforded to him. And, as our court has previously observed, placement with the Department of Correction is not a penalty but a secure environment that can better serve the overall purpose of rehabilitating a juvenile. *M.C.*, 134 N.E.3d at 461. Although the juvenile court did not explicitly use the language "best interests of the child" when it ordered R.B. committed to the DOC, the trial court implicitly considered R.B.'s best interests before making its placement determination. *See*

¹ R.B.'s probation officer considered recommending R.B.'s placement in a residential facility but the waiting list for those facilities was three to six months. Tr. p. 42.

Tr. p. 55. For these reasons, we conclude that the juvenile court did not abuse its discretion when it ordered R.B. to be a ward of the DOC.

Conclusion

[16] We affirm the juvenile court's order granting wardship of R.B. to the DOC because less-restrictive services have not modified R.B.'s behavior.

[17] Affirmed.

Tavitas, J., and Weissmann, J., concur.

ATTORNEY FOR APPELLANT

A. David Hutson
Lorch Naville Ward, LLC
New Albany, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Jesse R. Drum
Assistant Section Chief, Criminal Appeals
Indianapolis, Indiana