

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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A.F.,  
*Appellant-Respondent*

v.

State of Indiana,  
*Appellee-Petitioner.*

February 23, 2024

Court of Appeals Case No.  
23A-JV-2568

Appeal from the Tipton Circuit  
Court

The Honorable Thomas R. Lett,  
Judge

Trial Court Cause No.  
80C01-2305-JD-64

## Memorandum Decision by Judge Pyle

Judges Bailey and Crone concur.

**Pyle, Judge.**

## Statement of the Case

[1] Thirteen-year-old A.F. (“A.F.”) appeals the juvenile court’s order that awarded wardship of A.F. to the Indiana Department of Correction (“the DOC”). A.F. specifically argues that the juvenile court abused its discretion when it awarded wardship to the DOC. Finding no abuse of the juvenile court’s discretion, we affirm the juvenile court’s judgment.

[2] We affirm.

## Issue

Whether the juvenile court abused its discretion when it awarded wardship of A.F. to the DOC.

## Facts<sup>1</sup>

[3] A.F. lived with his father (“Father”) and mother (“Mother”). In December 2022, A.F. placed one of his prescription medicines in Father’s vape pen. Mother called the police. When police arrived at A.F.’s house, Mother told them that A.F. had been making statements about wanting to hurt and kill Father. A.F. also had behavioral problems at school resulting in his school only allowing him to attend for one to two hours per day. In January 2023, A.F. entered into an informal adjustment with the Tipton County Probation Department and began receiving mental health wrap-around services.

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<sup>1</sup> We note that A.F. only provided transcripts of his dispositional hearing in his appeal.

[4] In April 2023, A.F. threw a rock through a neighbor's window and fled. When an officer found A.F. and drove him home, A.F. stole the officer's gas card from his police car. Later that month, A.F. stole money from his parents, left home without permission multiple times, and threatened to stab Father. Also in April 2023, A.F., while at school, repeatedly stole food from the cafeteria and also stole a ring from the school's lost and found. A.F.'s informal adjustment and wrap-around services were not successful, resulting in the probation department recommending that the State file a petition alleging that A.F. was a delinquent child.

[5] In May 2023, the State filed a petition alleging that A.F. was a delinquent child for committing what would have been Class B misdemeanor criminal recklessness for putting one of his prescription medications in his father's vape pen in December 2022. In June and July, a psychologist with Dalton and Associates ("Dalton") performed a psychological assessment of A.F. and thereafter issued a psychological assessment report ("the psychological report"). The probation department filed the psychological report with the juvenile court. In the psychological report, the psychologist made the following finding regarding A.F.:

[A.F.] is a young boy who is presenting with extreme forms of behavioral and emotional maladjustment including disregard for his safety and the safety of others, impulsive physical and verbal aggression, continual threats of harm to self and others, attempts to harm/kill his father, abusive sexual and physical behaviors towards peers, expressions of romantic and sexual desires

towards his mother, and extreme forms of community interruption and risks, among many others.

(App. Vol. 2 at 40). The psychologist’s findings also noted that A.F. had been referred for the assessment, in part, because he had engaged in “fire setting and the abuse of animals[.]” (App. Vol. 2 at 24). Additionally, A.F. had choked other kids, had engaged in negative sexual touching of other students at school, and had fired a BB gun at people and property. Finally, the psychologist noted that A.F. had engaged in “maladaptive sexual behaviors” that included “putting his fingers inside a dog’s vagina to the point of bleeding, French kissing and fondling the dog, attempting to kiss . . . [M]other on the mouth, and attempting to walk in while . . . [M]other showers,” among other sexualized behaviors. (App. Vol. 2 at 28).

[6] The juvenile court held a factfinding hearing in August 2023. At the hearing, A.F. admitted that he had committed what would have been Class B misdemeanor criminal recklessness if committed by an adult. The juvenile court ordered the probation department to prepare a pre-dispositional report (“the pre-dispositional report”).

[7] The pre-dispositional report showed that the State had filed numerous juvenile referrals against A.F. for acts in addition to his act of criminal recklessness. For example, the State had filed a referral for habitual disobedience in May 2023. Specifically, the pre-dispositional report indicated that A.F. had swung a metal pipe around while playing with other children in the neighborhood. When the mother of the children (“the neighborhood mother”) told A.F. to drop the metal

pipe, he swung the pipe at her. When the neighborhood mother told A.F. to drop the metal pipe again, A.F. told her to “go to hell” and called her a “dumb bitch[.]” (App. Vol. 2 at 52). When the neighborhood mother followed A.F. home to talk to Mother, A.F. swung a metal rake at the neighborhood mother and threatened to shoot her. The pre-dispositional report also provided that the State had filed a referral for battery in September 2023. Specifically, the pre-dispositional report indicated that A.F. had grabbed and hit Mother while Mother was driving her car and that he had nearly caused Mother to crash her car. The pre-dispositional report also indicated A.F.’s attack on Mother resulted in Mother having a sprained wrist and bruising on her arms. Police moved A.F. to a secure detention center after he had attacked Mother. The pre-dispositional report noted that A.F. had involvement with the police multiple times a week.

[8] In October 2023, the juvenile court held a dispositional hearing. Tipton County Probation Officer Barbara Burton (“PO Burton”) testified that the psychologist at Dalton had recommended a secure psychiatric residential placement for A.F. Burton further testified that she had “systematically” went through “every single place” on the list of locations that would provide the services that Dalton had recommended for A.F. (Tr. at 9). PO Burton testified that none of the secure psychiatric residential placements had the ability to take in A.F. PO Burton noted that the facilities stated that they were either too full, overwhelmed, or were unable to provide A.F. placement due to his “history of violent behaviors and the psych eval[uation][.]” (Tr. at 10). PO Burton also

testified that she had provided a list of other potential placements for A.F. to Mother. Ultimately, PO Burton testified that placing A.F. in a DOC facility was the “best option available” at that time. (Tr. at 12).

[9] Mother also testified at the hearing. Mother testified that she had also called many potential placements for A.F., but none of those placements would accept him. Mother further testified that she believed that A.F. needed to be placed in a DOC facility and that she was not willing to take him back into her home.

[10] A.F.’s counsel, after evidence had been presented, stated:

I think the issue here is that we know what we have to do and we know what is being recommended. But what is being proposed right now is the best option . . . I don’t want this young man to fall through the cracks of well, this is just the best option we have. So I’m hopeful maybe we can try to find another alternative, but I will acknowledge that it seems like there’s been efforts made to that effect.

(Tr. at 15-16). The juvenile court ordered wardship of A.F. to the DOC “for housing in any correctional facility for children.” (App. Vol. 2 at 93). When the juvenile court issued its order, it specifically noted as follows:

The victim of [A.F.’s] offense is his father and caregiver. [A.F.] is regularly violent against his parents, and they do not feel safe in his presence. Remaining in the home is contrary to the welfare of the child and placement is in the best interests of the child because: He does not follow the rules of his parents and puts his parents and himself in harm’s way.

(App. Vol. 2 at 92-93). The order further provided that “[a]ll possible wraparound services and resources ha[d] been exhausted and [that] no other alternative exist[ed] at th[at] time.” (App. Vol. 2 at 92). The juvenile court further noted that there was “always a possibility of modifying a disposition should one of these other facilities come forward[.]” (Tr. at 16). The juvenile court set a review hearing for March 2024.

[11] A.F. now appeals.

## **Decision**

[12] A.F. argues that the juvenile court abused its discretion when it awarded wardship of him to the DOC. A juvenile court is accorded wide latitude and great flexibility in its dealings with juveniles. *J.T. v. State*, 111 N.E.3d 1019, 1025 (Ind. Ct. App. 2018), *trans. denied*. The choice of a specific disposition of a juvenile adjudicated to be a delinquent child will be reversed only if the juvenile court abuses its discretion. *Id.* The juvenile court’s discretion in determining a disposition is subject to the statutory considerations of the welfare of the child, the safety of the community, and the policy favoring the least harsh disposition. *Id.* An abuse of discretion occurs when the juvenile court’s action is clearly 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. *M.C. v. State*, 134 N.E.3d 453, 458 (Ind. Ct. App. 2019), *trans. denied, cert. denied*.

[13] INDIANA CODE § 31-37-18-6 sets forth the following factors that a juvenile court must consider when entering a dispositional decree in a juvenile matter:

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.

[14] Although the statute requires the juvenile court to select the least restrictive placement, the statute allows for a more restrictive placement under certain circumstances. *M.C.*, 134 N.E.3d at 459. That is, the statute requires placement in the least restrictive setting only “[i]f consistent with the safety of the community and the best interest of the child[.]” *See* I.C. § 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 because “commitment to a public institution is in the best interest of the juvenile and society.” *M.C.*, 134 N.E.3d at 459 (internal quotation marks and citation omitted).

[15] Our review of the record reveals that A.F. has an ongoing history of troubling behaviors. This includes impulsive, aggressive, and sexual behaviors towards



his peers, family, and dog. Specifically, A.F. attempted to harm his father by placing prescription medications in his vape pen, made threats to harm and kill his father, and expressed romantic and sexual desires towards Mother. Furthermore, A.F. swung a metal pipe and a metal rake at the neighborhood mother, attacked Mother while she was driving, choked other kids, and fired a BB gun at people and property. Additionally, A.F.'s behavioral problems at school resulted in the school only allowing A.F. to attend class for one to two hours per day. Furthermore, A.F. damaged his neighbor's property by throwing a rock through their window, stole property from a police officer, and stole food and property while at school. The probation department determined that wrap-around mental health services and informal probation were ineffective on A.F. Dalton's recommendation for A.F. was a placement in a secure psychiatric facility, but no such placement was available. Given these facts before the juvenile court and based on the best interests of A.F. and the community, the juvenile court determined that A.F. should be placed in a DOC facility. *See M.C.*, 134 N.E.3d at 459. We hold that the juvenile court did not abuse its discretion when it awarded wardship of A.F. to the DOC.

[16] Affirmed.

Bailey, J., and Crone, J., concur.