

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Q.C.,
Appellant-Respondent

v.

State of Indiana,
Appellee-Petitioner

April 26, 2024

Court of Appeals Case No.
23A-JV-2687

Appeal from the Delaware Circuit Court
The Honorable Kimberly S. Dowling, Judge
The Honorable Amanda L. Yonally, Juvenile Magistrate

Trial Court Cause No.
18C02-2301-JD-5

Memorandum Decision by Judge Pyle
Judges Bailey and Crone concur.

Pyle, Judge.

Statement of the Case

- [1] Q.C. (“Q.C.”) appeals the juvenile court’s order that committed him to the Indiana Department of Correction (“the DOC”). Q.C. specifically argues that the juvenile court abused its discretion when it committed him 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 committed Q.C. to the DOC.

Facts

- [3] At 3:00 a.m. on December 5, 2022, sixteen-year-old Q.C. and a friend kicked in the door to Single Stone Collectibles, LLC (“Single Stone”). A video surveillance camera in Single Stone recorded Q.C. knocking over furniture, breaking glass objects, and throwing items around the store. When the two young men left Single Stone, one of them was riding a vintage Schwinn bicycle. The two young men returned to the area less than an hour later and used a furniture dolly to damage the front of a vending machine.
- [4] The owners of Single Stone determined that, in addition to damaging the store, the two young men had taken two cell phones and two cameras. A law

enforcement officer posted a press release, including photographs of the two young men taken from the surveillance footage, on the Kokomo Police Department's Facebook page and asked for the public's help in identifying the two young men. Amber Dockery ("Dockery") contacted the police department and informed an officer that one of the young men was her foster child, Q.C.¹ A law enforcement officer went to Dockery's house, and Q.C. gave the cameras and cell phones to the officer.

[5] One week later, on December 12, 2022, the State filed a petition alleging that Q.C. was a delinquent child for committing what would be Level 5 felony burglary if committed by an adult. In January 2023, Q.C. admitted the allegations in the petition, and the juvenile court adjudicated him to be a delinquent child.

[6] In a March 2023 dispositional order, the juvenile court ordered Q.C. to: (1) serve six months of probation; (2) complete thirty hours of community service; (3) participate in a mental health evaluation and follow all recommendations; (4) participate in appropriate educational programs; and (5) submit to random drug screens. The dispositional order further provided that if Q.C. complied with the terms and conditions of his probation and completed his hours of community service, he could petition the court for an early release from probation after four months. Because Dockery did not want Q.C. to return to

¹ Q.C.'s parents' parental rights had been terminated, and DCS had placed Q.C. in eight different placements in 2022. Dockery was Q.C.'s most recent foster parent.

her home, DCS placed Q.C. in kinship placement with Bonnie Austin (“Austin”), who had known Q.C. since he was a young child and hoped to adopt him.

- [7] At a March 2023 review hearing, Austin told the juvenile court that Q.C. had left her home and that she had not known where he was for three hours. According to Austin, she had “grounded [Q.C.] to the house . . . [and] from his [cell] phone[.]” (Tr. Vol. 2 at 33). The juvenile court pointed out that Q.C. had just turned seventeen years old and told Q.C. that if he did not follow the dispositional order, the consequences would be serious. Specifically, the juvenile court told Q.C. that the DOC was “on the table.” (Tr. Vol. 2 at 36).
- [8] While living with Austin, Q.C. tested positive for marijuana multiple times. On June 1, 2023, Q.C. left Austin’s home in the middle of the night without her permission. When the police found Q.C., he had a handgun in his possession.
- [9] The State filed a petition alleging that Q.C. was a delinquent child for committing what would be Class A misdemeanor dangerous possession of a firearm and Class A misdemeanor unlawful carrying of a handgun if committed by an adult. The petition further alleged that Q.C. was a delinquent child for committing the status offense of leaving home without Austin’s permission.
- [10] At a June 2023 hearing, Q.C. admitted the allegations in the most recent petition. Q.C.’s probation officer recommended that Q.C. be placed in a residential treatment program at Pierceton Woods Academy (“Pierceton Woods”). The juvenile court adopted the probation officer’s recommendation

and told Q.C. that it was “really concerned that if [he did not] take this opportunity seriously, that [he] very likely could find [him]self at the [DOC].” (Tr. Vol. 2 at 67).

[11] At the end of June 2023, the juvenile court issued an order modifying the March 2023 dispositional order. Specifically, the modified dispositional order required Q.C. to participate in and successfully complete the Substance Abuse, Behavioral and Emotional Regulation Program (“the SABER program”) at Pierceton Woods. The juvenile court’s order further provided that upon successful completion of the SABER program, Q.C. would be placed on probation until his eighteenth birthday in March 2024. The juvenile court also imposed a ninety-day commitment to the county juvenile detention center. The juvenile court suspended this commitment pending Q.C.’s successful completion of the SABER program.

[12] Pierceton Woods admitted Q.C. to its facility at the end of June 2023. As a condition of his admission, Q.C. was required to wear, for eight weeks, an electronic ankle monitor that would be monitored by the probation department.

[13] During the two months that Q.C. was at Pierceton Woods, staff members completed more than thirty incident reports chronicling Q.C.’s failure to follow the rules. Specifically, the incident reports reveal that Q.C. left his unit and went outside the facility without permission several times, refused to go to bed on time, refused to take his medication, damaged Pierceton Woods’ property, bullied another resident, made inappropriate racial comments, twice removed

his ankle monitor, assaulted another resident, called staff obscene names, and threatened staff with physical violence.

[14] On August 30, 2023, Q.C.'s Pierceton Woods case manager sent the following letter to the juvenile court:

As you know, [Q.C.] has struggled to manage his behavior since being placed at Pierceton Woods Academy. He has been involved in verbal and physical aggression on multiple occasions since coming to Pierceton Woods Academy. [Q.C.]'s behavior has started to significantly interfere with the safety and therapeutic progress of other residents. Due to [Q.C.]'s significant negative behaviors, as well as the negative influence he has had on other youth, we are requesting that [Q.C.] be removed from Pierceton Woods Academy. [Q.C.] has ongoing behavioral issues that warrant a level of security which we cannot provide. It is, therefore, our thoughtful recommendation that [Q.C.] be placed in an environment more suitable to his level of behavior which could better accommodate more direct supervision and intervention. Pierceton Woods Academy recommends that this transfer happen as soon as possible[.]

(App. Vol. 3 at 17).

[15] On September 1, 2023, before Q.C. could be transported to the county juvenile detention center, Q.C. absconded from Pierceton Woods. Law enforcement officers found Q.C. five days later on September 6, 2023. That same day, Q.C.'s probation officer filed a petition for an emergency change of placement wherein he asked the juvenile court to commit Q.C. to the DOC because Q.C. was a danger to himself and the community.

[16] The juvenile court held a hearing on the petition in October 2023. At the hearing, Q.C.'s probation officer told the juvenile court that he was recommending that Q.C. be placed in the DOC. According to the probation officer, Pierceton Woods had been the only residential treatment program to accept Q.C. in June 2023. In addition, Q.C.'s DCS case manager told the juvenile court that DCS had "exhausted all opportunities for residential placement for [Q.C.]" (Tr. Vol. 2 at 89).

[17] Also, at the hearing, the juvenile court asked Q.C. why he had "disrupt[ed] [his] Pierceton Woods placement[.]" (Tr. Vol. 2 at 89). Q.C. responded that he did not know but that Pierceton Woods had not been "for [him]." (Tr. Vol. 2 at 89). The juvenile court then asked Q.C. whether he knew what the alternative was, and Q.C. responded, "Yup." (Tr. Vol. 2 at 89).

[18] At the end of the hearing, the juvenile court stated as follows:

[Q.C.], we - we have tried many things including, outpatient treatment, residential treatment, many services, and I do believe at this time that a commitment to the Indiana Department of Corrections, Division of Youth Services is the most appropriate for you. We have exhausted all of our rehabilitative remedies in Delaware County for you. This doesn't make me happy. It's not something that I ever want to do, but I do believe it's in your best interest.

(Tr. Vol. 2 at 91). The following day, the juvenile court issued a detailed three-page order committing Q.C. to the DOC.

[19] Q.C. now appeals his commitment to the DOC.

Decision

[20] Q.C. argues that the juvenile court abused its discretion when it committed him to the DOC. We disagree.

[21] 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 only be reversed 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*.

[22] 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.

I.C. § 31-37-18-6.

[23] 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).

[24] Here, our review of the evidence reveals that less restrictive rehabilitative efforts have failed to produce positive changes in Q.C.'s behavior. Specifically, after being adjudicated to be a delinquent child for committing what would be Level 5 felony burglary if committed by an adult, the juvenile court ordered that Q.C. be placed in kinship placement with Austin, who hoped to adopt Q.C. The

juvenile court placed Q.C. on probation for six months but offered him the opportunity to petition the court for an early release from probation after only four months if he complied with the terms of probation. However, Q.C. was unwilling to follow the rules while in Austin's home and was subsequently adjudicated to be a delinquent child again after he left Austin's home in the middle of the night without permission and was later found in possession of a handgun.

[25] Thereafter, the juvenile court sent Q.C. to Pierceton Woods for residential treatment. However, Q.C. was again unwilling to follow the rules. During the two months that Q.C. was at Pierceton Woods, staff members completed more than thirty incident reports revealing that Q.C. had left his unit and had gone outside the facility without permission several times, had refused to go to bed on time, had refused to take his medication, had damaged Pierceton Woods' property, had bullied another resident, had made inappropriate racial comments, had twice removed his ankle monitor, had physically assaulted another resident, had called staff obscene names, and had threatened staff with physical violence. Q.C.'s case manager at Pierceton Woods subsequently requested that the juvenile court remove Q.C. from Pierceton Woods as soon as possible because his behavioral issues warranted a greater level of security than Pierceton Woods could provide. We further note that throughout the proceedings, the juvenile court told Q.C. that if he failed to comply with the March 2023 dispositional decree and the June 2023 modified dispositional decree, his commitment to the DOC was a possibility.

[26] In light of Q.C.'s history and the failure of these less restrictive measures, the juvenile court did not abuse its discretion when it committed Q.C. to the DOC. *See, J.T.*, 111 N.E.3d at 1027.

[27] Affirmed.

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

ATTORNEY FOR APPELLANT

Ana M. Quirk
Muncie, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Catherine E. Brizzi
Deputy Attorney General
Indianapolis, Indiana