

IN THE COURT OF APPEALS OF IOWA

No. 9-330 / 08-1176
Filed May 29, 2009

IN THE INTEREST OF J.T., Minor Child,

J.T., Minor Child,
Appellant.

Appeal from the Iowa District Court for Washington County, Lucy J. Gamon, District Associate Judge.

A minor appeals from the order requiring him to register as a sex offender.

AFFIRMED.

Jeffrey L. Powell of Tindal Law Office, P.L.C., Washington, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Barbara A. Edmondson, County Attorney, and Wyatt Peterson, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

SACKETT, C.J.

J.T. appeals, contending the juvenile court abused its discretion in requiring him to register as a sex offender. We affirm.

BACKGROUND AND PROCEEDINGS. J.T. was born in May of 1990. At age thirteen he forced his seven-year-old cousin to perform oral sex on him and admitted to committing various less serious offenses on three children between the age of five and ten. J.T. was found to be a delinquent on the basis of indecent exposure under Iowa Code 709.9 and assault with the intent to commit sexual abuse under Iowa Code section 709.11 (2003). He received extensive services including sexual offender treatment, being for a time in a residential program and then in therapeutic foster home.

Just before J.T.'s eighteenth birthday the juvenile court held a hearing to determine whether J.T. should be listed on the Sex Offender Registry. See Iowa Code § 692A.2 (2007). The juvenile court entered an order finding J.T. should register. The court found J.T. often excelled in school, was musically talented, and had been active in his church. The court noted T.J. had set educational goals for himself and hoped to attend a community college and then continue his education with the goal of becoming a college music professor. The court further noted J.T. had demonstrated a willingness to rehabilitate himself in completing a sex offender treatment program and aftercare, had not committed any new sexual offenses, and J.T. showed remorse for the offenses and there were other factors that militated against requiring J.T. to register—namely strong family support from his parents, aunt, and grandmother, as well as his faith community.

The court noted therapist Byron Allmandinger, who had not met with J.T. since J.T. left inpatient treatment, identified J.T.'s risk to reoffend as low-moderate to moderate as a result of a March 2008 evaluation. The juvenile court considered and gave weight to the fact that the juvenile court officer who had worked with J.T.'s for some time was of the opinion J.T. should register because of the offenses he committed, the number of his victims, the force used against his victims, J.T.'s slow progress in sex offender treatment, the fact J.T. had to remain in a foster home, the incidents that have occurred since he was released from treatment, and his secretiveness with those who know him well.

The juvenile court determined that there is a serious risk that J.T. will reoffend, as he does not always use his relapse prevention plan, he acts impulsively, and he is not always forthcoming. The court ordered that J.T. should be required to register as a sex offender.

SCOPE OF REVIEW. A juvenile court's decision that a sex offender should be required to register, like all juvenile proceedings, is reviewed de novo. *In re A.M.H.*, 516 N.W.2d 867, 870 (Iowa 1994). We review the entire record to decide if the juvenile court abused its discretion in refusing to excuse J.T. from the mandatory registration requirement of Iowa Code section 692A.2(1).

The statute begins with the general requirement that all offenders in the specified group of crimes be required to register, but it allows a juvenile court to excuse registration in some cases according to its discretion. *In re S.M.M.*, 558 N.W.2d 405, 407 (Iowa 1997). The statute is a regulating or remedial statute and not punitive. See *id.* The burden is on J.T. to prove he is entitled to an

exception. See *id.* In general, an abuse of discretion occurs only when the discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *State v. Atley*, 564 N.W.2d 817, 830 (Iowa 1997).

J.T.'s argument is that the juvenile court should have given greater weight to Almandinger's opinion that T.J. presents a low-to-moderate risk to reoffend, noting his opinion was based on an ERASOR test given about two months before the registration hearing. He argues that the court should have given less credibility to therapist Melissa Rogers, for her contact with T.J. was limited to less than thirty half-hour sessions over the course of two years. Rogers testified it was her opinion that J.T. should register.

The State contends J.T. has not overcome the presumption for registration or established a good cause against his registration and requests that the juvenile court be affirmed. The State argues that the juvenile court's decision agreeing with the recommendations of the State, the juvenile court officer, J.T.'s therapist for the last two years, J.T.'s foster mother, and his father should be affirmed. It notes that J.T. has a strong interest in sex and little respect for the rights of others. He viewed adult videotapes with his younger brother and viewed pornography on the Internet despite his parents disciplining him. The State further advances that J.T. repeatedly forced his younger cousin to engage in oral sex and watch him masturbate. The State further points to J.T.'s inappropriate behaviors with other smaller children. The State argues J.T.'s has had extensive services, resisted treatment, was not honest in working with the sex offender

program, and only when he became worried about being transferred to the State Boys' Training School did he cooperate with services.

The State also argues that J.T.'s current therapist essentially agreed with the recommendations of the juvenile court officer, as does J.T.'s father, who emphasized that J.T. offers excuses for any inappropriate behavior and that he will pose a threat to teenagers as well as younger boys if he lives in a community without supervision. The juvenile court did not abuse its discretion.

AFFIRMED.