

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MICHAEL BATES.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

MICHAEL BATES,

Respondent-Appellant.

UNPUBLISHED
February 12, 2004

No. 242866
Wayne Circuit Court
Juvenile Division
LC No. 99-377610

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

MEMORANDUM.

Respondent Michael Bates, a minor, entered a plea of admission to a charge of possession with intent to deliver cocaine, MCL 333.7401(2)(a)(iv). He was initially placed at home with his mother by an order of disposition, but on a motion for rehearing a subsequent order of disposition was issued placing him with the Wayne County Department of Community Justice. Respondent appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At respondent's original disposition hearing, the court did not realize that the parental rights of respondent's parents had been terminated and therefore the court placed respondent on intensive probation in the home of his former mother. Although the prosecutor claimed the former mother had once complained that respondent was not listening to her, all other reports indicated that respondent was doing very well on intensive probation in this placement. Nonetheless, when it was brought to the court's attention that respondent had been placed with someone who was no longer his parent, the court determined that this placement could not continue.

Respondent argues that the trial court abused its discretion when it sent him to the Department of Community Justice. Respondent claims the judge erroneously accepted the prosecutor's claim that respondent was not obeying his mother, and thus characterizes this move as an "escalation" not warranted by the evidence. Respondent analogizes this case to a violation of probation, and asserts that there was no showing of noncompliance with probationary terms so as to justify the commitment to the Department of Community Justice.

Respondent mischaracterizes what happened. First, there is no indication that the trial court based its decision on the prosecutor's claim that respondent had not listened to his mother. There was no finding that this action was taken due to any noncompliance with the terms of probation. Similarly, there is no indication that the trial court sent respondent to the Department of Community Justice as a punishment or "escalation." Rather, it appears that the trial court was simply trying to rectify the initial mistake of placing respondent with his former mother when she was no longer his parent. The placement had been recommended by the Clinic for Child Study report. Accordingly, we find no abuse of discretion. See *People v Brown*, 205 Mich App 503, 504-505; 517 NW2d 806 (1994).

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood