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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1629**

In the Matter of the Welfare of: A. H. C., Child.

**Filed April 6, 2020
Affirmed
Larkin, Judge**

Cass County District Court
File No. 11-JV-18-922

Cathryn Middlebrook, Chief Appellate Public Defender, Leslie J. Rosenberg, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Benjamin T. Lindstrom, Cass County Attorney, Walker, Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Worke, Judge; and Larkin, Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant challenges the district court's order adjudicating him delinquent. We affirm.

FACTS

On May 17, 2018, respondent State of Minnesota charged appellant A.H.C. by juvenile-delinquency petition with first-degree criminal sexual conduct. The petition alleged that 13-year-old A.H.C. had sexually abused a six-year-old family member in January 2018. On June 19, 2018, A.H.C. pleaded guilty to second-degree criminal sexual conduct pursuant to a plea agreement in which the state agreed to dismiss the first-degree criminal-sexual-conduct charge. On August 28, 2018, the district court continued the case for 180 days and placed A.H.C. on probation, without adjudicating him delinquent. The district court ordered several probationary conditions, including that A.H.C. successfully complete outpatient adolescent sex-offender treatment and remain law abiding.

On January 15, 2019, the district court held a review hearing. Cass County Probation recommended extending the continuance without adjudication an additional 180 days to provide A.H.C. time to complete treatment. The parties agreed to that extension, and the district court continued the case for an additional 180 days without adjudicating A.H.C. delinquent, effective February 25, 2019.

On March 28, 2019, the state charged A.H.C. by juvenile-delinquency petition with third- and fourth-degree criminal sexual conduct. The petition alleged that A.H.C. had approached a 13-year-old child on the playground at school in October or November 2018 and “attempted to jam a carrot into his rectum.” On April 22, 2019, A.H.C. was terminated from sex-offender treatment because of the new charges. On April 24, Cass County Probation filed a probation-violation report. The report alleged that A.H.C. violated

probation by failing to complete sex-offender treatment and by failing to remain law abiding.

The district court held a probation-violation hearing on September 10, 2019. A.H.C. admitted that he had failed to complete sex-offender treatment. A.H.C. also admitted that he pressed a carrot against a child's "behind" at school in October 2018, that he committed a crime by doing so, and that he therefore had failed to remain law abiding.¹ The district court adjudicated A.H.C. delinquent and reinstated him on the same terms and conditions of probation previously imposed. This appeal follows.

D E C I S I O N

A.H.C. contends that the district court abused its discretion by adjudicating him delinquent.

For each of the proven charges in a juvenile-delinquency petition, the district court shall either: "(A) adjudicate the child delinquent pursuant to Minnesota Statutes, section 260B.198, subdivision 1; or (B) continue the case without adjudicating the child delinquent pursuant to Minnesota Statutes, section 260B.198, subdivision (7)." Minn. R. Juv. Delinq. P. 15.05, subd. 1.

When it is in the best interests of the child to do so and not inimical to public safety and when the child has admitted the allegations contained in the petition before the judge or referee, . . . [and] before a finding of delinquency has been entered, the court may continue the case for a period not to exceed 180 days on any one order. The continuance may be extended for one additional successive period not to exceed 180 days, but only with the consent of the prosecutor and only

¹ A.H.C. later pleaded guilty to fifth-degree criminal sexual conduct based on that conduct.

after the court has reviewed the case and entered its order for the additional continuance without a finding of delinquency.

Minn. Stat. § 260B.198, subd. 7(a) (2018). The district court is not required to make particularized findings regarding its decision whether to impose or withhold adjudication of delinquency. *In re Welfare of J.R.Z.*, 648 N.W.2d 241, 246 (Minn. App. 2002), *review denied* (Minn. Aug. 20, 2002).

We review a district court's decision whether to continue a case without adjudication of delinquency for an abuse of discretion. *In re Welfare of J.L.Y.*, 596 N.W.2d 692, 695 (Minn. App. 1999), *review granted* (Minn. Sept. 28, 1999) *and order granting review vacated* (Minn. Feb. 15, 2000). The district court has "broad discretion in choosing the appropriate juvenile delinquency disposition" and "[t]his court will affirm the disposition as long as it is not arbitrary." *In re Welfare of J.A.J.*, 545 N.W.2d 412, 414 (Minn. App. 1996). "Imposing an adjudication within the limits prescribed by the legislature is not an abuse of discretion." *J.L.Y.*, 596 N.W.2d at 695.

The district court explained its decision to adjudicate A.H.C. delinquent as follows:

The Court is troubled by but bound by the Legislature limiting the length of time that adjudication can be stayed. If there were ever a case that would be appropriate to continue at a stay of adjudication for a longer period of time, I think this is it, and these are facts that I'm looking at. The new offense occurred at the time that sex offender treatment would have just been starting so that . . . [A.H.C.'s] understanding of the seriousness of the circumstances of what kinds of conduct would be questionable and harmful to other people, all of that education process wouldn't have even been starting at that point.

The family responded to the policy of the sex offender treatment program, that they terminate people that have matters

pending by finding the next available services that [A.H.C.] could participate in. And to my knowledge, he has been actively participating in that and making progress, according to his mom, being able to deal with his own victimization. That type of healing is the type of thing that allows people to succeed ultimately.

But the policies of [the] sex offender treatment program, the one that is available . . . , has said that if you have charges pending, then you can't participate in treatment. And the Legislature has barred continuing adjudication to respond to that.

A.H.C. asserts that the district court should have continued his case without adjudicating him delinquent. He argues that he had only just begun "his treatment program when the new incident occurred, [he] was still receiving treatment at another clinic, [he] was taking responsibility for what happened and it had been discovered during counseling that [he], himself, had earlier been a victim of sexual abuse." He further argues that the "new charge and the prior charge were quite different" because the "new charge was an impulsive act, in tandem with what the other children were doing on the playground, and . . . [he] immediately took responsibility." He also argues that the district court's order "adjudicating [him] delinquent and, thus, requiring him to register as a sex offender, failed to provide a reason specific to [his] situation as to why adjudication and registration was a valid exercise of discretion." Lastly, A.H.C. argues that "the district court merely found that because there had been a new offense," he had to be adjudicated delinquent.

Contrary to A.H.C.'s assertions, the district court did not adjudicate him delinquent simply because he had committed a new offense. A.H.C. admitted that he had failed to remain law abiding and that he had failed to complete sex-offender treatment. The district

court explained its reasons for adjudicating A.H.C. delinquent. The district court expressed sympathy for A.H.C.'s situation, acknowledging that the new offense occurred when A.H.C.'s sex-offender treatment had just begun and that A.H.C. "has been actively participating" in treatment and "making progress." The district court indicated that this was a case in which it "would be appropriate to continue at a stay of adjudication for a longer period of time" but reasoned that it was "bound by the Legislature limiting the length of time that adjudication can be stayed." We understand the district court's explanation to mean that it could not continue A.H.C.'s case without an adjudication long enough for him to complete the sex-offender-treatment component of his probation.

Because the district court had previously continued A.H.C.'s case for 180 days without adjudicating him delinquent and later continued his case for an additional 180 days, the district court correctly reasoned that Minn. Stat. § 260B.198, subd. 7(a), prevented it from further continuing A.H.C.'s case long enough for him to complete a new treatment program. Under the circumstances, the district court's decision to adjudicate A.H.C. delinquent was within its broad discretion, and not arbitrary. Moreover, it was within the limits prescribed by the legislature. We therefore affirm.

Affirmed.