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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-704

Filed 5 December 2023

Carteret County, No. 21 JB 43

IN THE MATTER OF: A.J.G.

Appeal by juvenile from an order entered 21 December 2022 by Judge Paul J. Delamar in Carteret County District Court. Heard in the Court of Appeals 20 November 2023.

Attorney General Joshua H. Stein, by Assistant Attorney General Sarah G. Zambon, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender Candace Washington, for the juvenile appellant.

WOOD, Judge.

I. Factual and Procedural History

On 11 April 2022, a delinquency petition was filed for the juvenile alleging financial transaction card fraud. On 19 April 2022, additional delinquency petitions were filed for the juvenile for the following offenses: two counts of breaking or entering a vehicle; two counts of larceny of a vehicle; two counts of possession of a

feloniously stolen vehicle; two counts of injury to personal property; two counts of unauthorized use of a motor vehicle; two counts of larceny of a firearm; and felony larceny and possession of stolen property. On 5 May 2022, two additional delinquency petitions were filed for the juvenile, both for felony possession of a stolen firearm. On 25 October 2022, two delinquency petitions were filed for the juvenile for: misdemeanor larceny and possession of stolen property, and felony larceny and possession of stolen property.

The trial court held the delinquency proceeding on 21 December 2022. The juvenile admitted to all but one of the offenses,¹ and the trial court adjudicated him delinquent. On 21 December 2022, the trial court entered a disposition order for a level three disposition and ordered that the juvenile be committed to the Juvenile Justice Section of the Division of Adult Correction until his nineteenth birthday unless he provided information on the location of a missing gun that he had stolen. On 30 December 2022, the juvenile filed a written notice of appeal. On 19 January 2023, the trial court amended the disposition order, requiring the juvenile to be held in the youth development center until his eighteenth birthday unless he provided information on the missing gun. On 21 March 2023, the trial court again amended the disposition order by striking the condition regarding the juvenile providing information on the missing gun because the State was provided with information on

¹ The trial court dismissed the charged misdemeanor possession offense by order dated 15 May 2023.

its location. However, the disposition order still required him to be held in the youth development center until his eighteenth birthday.

On each disposition order, the trial court checked boxes indicating it received, considered, and incorporated by reference the contents of the predisposition report, risk assessment, and needs assessment.

II. Analysis

A. Jurisdiction

The juvenile argues the trial court erred by failing to include in its disposition orders written findings as required by N.C. Gen. Stat. § 7B-2501(c) (2022). Before addressing this argument, however, we must first determine whether we have jurisdiction over this matter. N.C. Gen. Stat. § 7B-2602 (2022) provides a right of appeal to this Court for review of any final order in a juvenile matter, specifically including a disposition order “after an adjudication that a juvenile is delinquent.” N.C. Gen. Stat. § 7B-2602(3). Our appellate rules provide that “[t]he writ of certiorari may be issued in appropriate circumstances by either appellate court to permit review of the judgments and orders of trial tribunals when the right to prosecute an appeal has been lost by failure to take timely action.” N.C. R. App. P. 21(a)(1).

Here, the juvenile provided written notice of appeal of the trial court’s first disposition order but not of the two amended disposition orders. In our discretion, we grant the juvenile’s petition for the writ of certiorari to reach the merits on appeal. After careful review, we conclude the trial court erred by failing to comply with N.C.

Gen. Stat. § 7B-2501(c).

B. Written Findings Pursuant to N.C. Gen. Stat. § 7B-2501(c)

Defendant argues, and the State concedes, the trial court failed to comply with N.C. Gen. Stat. § 7B-2501(c). We agree. N.C. Gen. Stat. § 7B-2501(c) directs a trial court in a juvenile delinquency matter:

In choosing among statutorily permissible dispositions, the court shall select the most appropriate disposition both in terms of kind and duration for the delinquent juvenile. . . . [T]he court shall select a disposition that is designed to protect the public and to meet the needs and best interests of the juvenile, based upon:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

N.C. Gen. Stat. § 7B-2501(c). It is well established “that the trial court is required to make findings demonstrating that it considered the [N.C. Gen. Stat.] § 7B-2501(c) factors in a dispositional order entered in a juvenile delinquency matter.” *In re V.M.*, 211 N.C. App. 389, 391–92, 712 S.E.2d 213, 215 (2011). “The plain language of Section 7B-2501(c) compels us to find that a trial court must consider each of the five factors in crafting an appropriate disposition.” *Matter of I.W.P.*, 259 N.C. App. 254, 261, 815 S.E.2d 696, 702 (2018).

Here, the trial court noted that it received, considered, and incorporated by reference the contents of the predisposition report, risk assessment, and needs

assessment. However, item number “7” on each level three disposition order form that the trial court completed includes a section for:

Other Findings: (Continue on attached pages if necessary. State any findings regarding the seriousness of the offense(s); the need to hold the juvenile accountable; the importance of protecting the public; the degree of the juvenile’s culpability; the juvenile’s rehabilitative and treatment needs; and available and appropriate resources.)

Therefore, item “7” on the disposition form mirrors the statutory language of N.C. Gen. Stat. § 7B-2501(c). This section must be completed with findings made by the trial court regarding the five factors required by the statute, otherwise it is reversible error. *In re V.M.*, 211 N.C. App. at 392, 712 S.E.2d at 216. The trial court in this case left the section blank on each disposition order.

III. Conclusion

Because the trial court must make findings addressing the statutory factors in N.C. Gen. Stat. § 7B-2501(c), we vacate the disposition order and remand for a new dispositional hearing and entry of an order that includes written findings showing its consideration of the five factors contained in N.C. Gen. Stat. § 7B-2501(c). *In re V.M.*, 211 N.C. App. at 392, 712 S.E.2d at 216.

VACATED AND REMANDED.

Judges COLLINS and CARPENTER concur.

Report per Rule 30(e).