

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of B.E., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070288-CA
)	
B.E.,)	F I L E D
)	(February 14, 2008)
Appellant,)	
)	2008 UT App 43
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Fourth District Juvenile, Provo Department, 508887
The Honorable Mary T. Noonan

Attorneys: Jose Silva, Orem, for Appellant
Mark L. Shurtleff and Ryan D. Tenney, Salt Lake City,
for Appellee

Before Judges Greenwood, Bench, and Orme.

BENCH, Judge:

B.E., a minor sentenced to secure confinement after admitting to three counts of manslaughter in juvenile court, claims that the juvenile court abused its discretion in ordering his confinement.

"As a general rule, claims not raised before the trial court may not be raised on appeal." State v. Holgate, 2000 UT 74, ¶ 11, 10 P.3d 346. This "rule applies to every claim, including constitutional questions, unless a defendant can demonstrate that 'exceptional circumstances' exist or 'plain error' occurred." Id. In order to preserve a claim or objection for appellate review, a defendant must raise a timely or contemporaneous objection, thereby giving the trial court a chance to correct the alleged error. See State v. Dibello, 780 P.2d 1221, 1226-28 (Utah 1989).

Here, there is nothing in B.E.'s appellate brief nor in the record itself to demonstrate that B.E. has preserved his arguments relating to the propriety of his sentence. Further, B.E. has failed to claim exceptional circumstances or plain error on appeal. B.E.'s claim, therefore, fails for lack of preservation.

In any event, the juvenile court did not exceed its discretion when it sentenced B.E. to secure confinement. B.E.'s manslaughter charges resulted after he drove his car into another vehicle at approximately eighty miles per hour on a two-lane canyon road, killing three teenage passengers. Before imposing the sentence, the juvenile court duly considered the various presentence reports, the egregiousness of B.E.'s conduct, as well as the best interests of B.E. and the type of sentence that would benefit him the most in dealing with the consequences of his conduct. B.E. has failed to show that the juvenile court is required to follow presentence recommendations. In fact, the Utah Code specifically grants juvenile courts broad discretion in ordering various types of sentences, including confinement. See Utah Code Ann. § 78-3a-118(2)(d)(i) (Supp. 2007) ("The court may commit a minor to the Division of Juvenile Justice Services for secure confinement.").

We therefore affirm.

Russell W. Bench, Judge

WE CONCUR:

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge