COURT OF APPEALS
DECISION
DATED AND RELEASED

October 5, 1995

No. 95-1860

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN THE INTEREST OF KRYSTAL G.J.,
A PERSON UNDER THE AGE OF 18:

STATE OF WISCONSIN,

Petitioner-Respondent,

v.

KRYSTAL G.J.,

Respondent-Appellant.

APPEAL from orders of the circuit court for Rock County: J.R. LONG, Judge. *Affirmed*.

VERGERONT, J.[1] Krystal G.J., a minor, appeals from an order imposing a sanction on her for violating two conditions of a dispositional order entered after she was found delinquent, and from an order denying her motion to vacate the sanction. The sanction imposed was twenty days in secured

[1] This appeal is decided by one judge pursuant to § 752.31(2)(e), STATS.

detention with credit for one day served, ten of those days to be served on weekends, commencing March 3, 1995, and nine days stayed until November 2, 1995. Krystal argues that the sanction violates § 48.355(6), STATS.,[2] because that statute authorizes the imposition of no more than ten days in secured detention,

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[2] Section 48.355(6), STATS., provides in part:

> SANCTIONS FOR VIOLATION OF ORDER. (a) If a child who has been adjudged delinquent violates a condition specified in sub. (2)(b)7., the court may impose on the child one of the sanctions specified in par. (d) if, at the dispositional hearing under s. 48.335, the court explained the conditions to the child and informed the child of the possible sanctions under par. (d) for a violation.
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> ....
>
> (d) The court may order any one of the following sanctions:
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> 1. Placement of the child in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department of corrections by rule, for not more than 10 days and educational services consistent with his or her current course of study during the period of placement.
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> 2. Suspension of or limitation on the use of the child's operating privilege, as defined under s. 340.01(40), or of any approval issued under ch. 29 for a period of not more than 90 days. If the court suspends the child's operating privileges or an approval issued under ch. 29, it shall immediately take possession of the suspended license or approval and forward it to the department that issued it, together with the notice of suspension.
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> 3. Detention in the child's home or current residence for a period of not more than 20 days under rules of supervision specified in the order. An order under this subdivision may require the child to be monitored by an electronic monitoring system.
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> 4. Not more than 25 hours of uncompensated community service work in a supervised work program authorized under s. 48.34(9).

even though two conditions of the dispositional order were violated. Krystal also argues that the trial court did not have the authority to stay imposition of any part of the sanction. We conclude that § 48.355(6) authorizes a court to impose a separate sanction for each condition violated and that the court had the authority to stay imposition of any part of the sanction or sanctions imposed. We therefore affirm the trial court orders.

The delinquency petition alleged that Krystal intentionally gave a false alarm to a public officer or employee by means of a fire alarm system, contrary to § 941.13, STATS. After a consent decree was entered, the State petitioned for revocation of the consent decree alleging that Krystal skipped school on September 16, 1994, and ran away from home on September 17 and 18, 1994. The court reinstituted the proceedings on the delinquency petition and found Krystal delinquent. The court-ordered terms of supervision, entered on November 2, 1994, included among other conditions, these two: (1) "You are ordered to obey the curfew set for you by the Probation Department. Your curfew is 9:00 p.m. on week nights and 11:00 p.m. on weekends. Your parents may set a stricter curfew;" and (2) "Unless legally excused, you [must] attend school all day and maintain an acceptable behavior record and acceptable grades."

On February 20, 1995, the State moved for the imposition of sanctions on Krystal. The motion alleged that Krystal was a runaway from home, not returning home on February 2, 1995 through February 19, 1995; and that she had therefore violated the curfew condition and the school attendance condition. The State requested as a sanction twenty days' secured detention with ten days stayed.

At the hearing on the State's petition, Krystal admitted the allegations. Her counsel argued that twenty-five hours of community service for each violation would be more appropriate than secured detention. But if the court saw fit to order detention, her counsel requested that detention be on weekends so that Krystal would not get further behind in her schooling. The court imposed as a sanction twenty days in secured detention, with one day credit. Ten days were ordered to be served beginning after the hearing, and the remaining nine days were stayed until November 2, 1995.[3] In imposing the

[3] Apparently November 2, 1995, is the date the dispositional order expires.

sanction, the court emphasized to Krystal how dangerous it is for a person her age (Krystal was then seventeen) to run away from home and be with "people who may or may not have any interest in seeing whether you live or die."

Krystal filed a motion to vacate the nine-day sanction on the ground that the court did not have the authority under § 48.355(6), STATS., to impose any more than ten days in secured detention. The trial court denied the motion. This appeal followed.[4]

This appeal presents a question of statutory interpretation, a question of law that we decide *de novo*. ***In re Leif E.N.***, 189 Wis.2d 480, 484, 526 N.W.2d 275, 276 (Ct. App. 1994). The purpose of statutory construction is to ascertain the intent of the legislature, and our first resort is to the language of the statute itself. ***Kelley Co. v. Marquardt***, 172 Wis.2d 234, 247, 493 N.W.2d 68, 74 (1992). If the words of the statute convey the legislative intent, that ends our inquiry. We will not look beyond the plain language of a statute to search for other meanings; we will simply apply the language to the case at hand. ***Id.***

Section 48.355(6)(a), STATS., provides that "[i]f a child who has been adjudged delinquent violates a condition specified in sub. (2)(b)7., the court may impose on the child one of the sanctions specified in par. (d)." There are four different sanctions listed in para. (d), and secured detention for not more than ten days is one of the listed sanctions.

Krystal argues that the statutory language is ambiguous because there are two reasonable interpretations. One interpretation is that each violation of a condition in a dispositional order may be sanctioned by a ten-day period of secured detention; if there is more than one violation, more than one ten-day period of secured detention may be imposed for each violation. The other reasonable interpretation, according to Krystal, is that when there are

[4] With her notice of appeal, Krystal filed a motion for a three-judge panel and a motion to shorten the time periods for briefing so that this appeal could be decided before November 2, 1995. We granted the motion to shorten the appeal deadlines and denied the motion for a three-judge panel, stating that we would consider whether we should, on our own motion, decide the appeal as a three-judge panel following the submission conference. We determine that this case is appropriate for disposition by one judge.

multiple violations, no more than one ten-day period of secured detention may be imposed for all violations.

We do not agree with Krystal that there is more than one reasonable interpretation of § 48.355(6)(a) and (d), STATS. The plain language of para. (a) permits the imposition of "*one* of the sanctions specified in par. (d)" when a child "violates *a* condition." (Emphasis added.) There is no hint in the language of either para. (a) or para. (d) that the trial court may impose only one sanction at a time or one sanction regardless of the number of violations of conditions.

Krystal appears to contend that because both the violation of curfew and the violation of school attendance took place during the time that she ran away from home, only one sanction should be imposed. However, there are two distinct conditions--one relating to evening curfew and one relating to school attendance--and there was distinct conduct on Krystal's part that violated each of the two conditions. The failure to be home at night by curfew involves different conduct than the failure to attend school during the day.

Krystal argues that § 48.355(6g), STATS.,[5] relating to contempt procedures for "a 2nd or subsequent violation of a condition" of the dispositional order, demonstrates that the trial court was authorized to impose only one sanction on Krystal for the two conditions violated. We disagree. The fact that the legislature authorizes the increase of consequences for the second and subsequent violations of a condition does not indicate that a separate sanction may not be imposed for the first violation of each condition.

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[5] Section 48.355(6g), STATS., provides in relevant part:

> CONTEMPT FOR CONTINUED VIOLATION OF ORDER. (a) If a child upon whom the court has imposed a sanction under sub. (6)(d) commits a 2nd or subsequent violation of a condition specified in sub. (2)(b)7., the district attorney may file a petition under s. 48.12 charging the child with contempt of court, as defined in s. 785.01(1), and reciting the disposition under s. 48.34 sought to be imposed.

Krystal points out that unless § 48.355(6)(a), STATS., is limited as she contends, it would be possible for the State to seek a separate sanction of ten days in secured detention for each night Krystal failed to return home by curfew and each day Krystal failed to attend school, leading to an excessive period in detention. The answer to this concern is that the State did not seek to impose such a sanction. Appellate courts may set aside, as a misuse of the trial court's discretion, the imposition of a sanction that constitutes an unreasonable use of secured detention. ***In re B.S.***, 162 Wis.2d 378, 396, 469 N.W.2d 860, 867 (Ct. App. 1991). However, the imposition of one ten-day secured detention for all the curfew violations that occurred while Krystal was a runaway and one ten-day secured detention for all the truancy violations that occurred while Krystal was a runaway is not, we conclude, a misuse of the trial court's discretion.

Krystal also contends that the trial court did not have the authority to stay the imposition of the nine-day sanction because § 48.355(6), STATS., does not expressly permit this. We reject this argument. The purpose of the trial court's stay of the nine-day period in detention was to permit Krystal to demonstrate compliance with the conditions of the dispositional order thereby, perhaps, obviating the need to serve the additional nine days.[6] Since, as we have held, the trial court had the authority to impose this additional nine-day sanction, it also had the authority to stay it rather than require Krystal to serve it immediately.

By the Court.—Orders affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.

[6] This is the purpose the State ascribes to the stay in its brief and Krystal does not contend otherwise in her reply. A position asserted by a respondent on appeal and not disputed by the appellant's reply is taken as admitted. *See* ***Schlieper v. DNR***, 188 Wis.2d 318, 322, 525 N.W.2d 99, 101 (Ct. App. 1994).