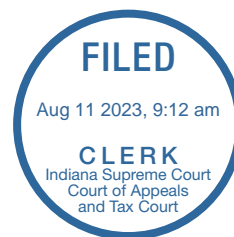


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

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A.B.,  
*Appellant-Respondent,*

v.

State of Indiana,  
*Appellee-Petitioner*

August 11, 2023

Court of Appeals Case No.  
23A-JV-615

Appeal from the Howard County  
Circuit Court

The Honorable Lynn Murray,  
Judge

Trial Court Cause No.  
34C01-2212-JD-448

**Memorandum Decision by Judge May**  
Chief Judge Altice and Judge Foley concur.

**May, Judge.**

[1] A.B. appeals her placement in the Department of Correction (“DOC”) following her adjudication as a delinquent for an act that, if committed by an adult, would constitute Class B misdemeanor possession of marijuana.<sup>1</sup> She argues the trial court abused its discretion when it granted DOC wardship of her because there were less restrictive placements available. We affirm.

## Facts and Procedural History

[2] On December 12, 2022, a student at Kokomo High School who had recently overdosed on marijuana reported to police that A.B. had supplied the marijuana in question. A.B.’s principal called A.B. into his office and searched her purse, wherein he found fourteen vape cartridges containing THC oil and three vape cartridges containing nicotine. Based thereon, police arrested A.B. and transported her to Kinsey Youth Center for detention. On December 14, 2022, A.B. was released from Kinsey Youth Center into her mother’s (“Mother”) care, during which A.B. was to receive “24 hour adult supervision.” (App. Vol. II at 60.)

[3] On December 28, 2022, the State alleged A.B. was a delinquent for an act that, if committed by adult, would constitute Class B misdemeanor possession of marijuana. At the initial hearing the same day, A.B. admitted she was a delinquent based on the allegations against her and the trial court adjudicated

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<sup>1</sup> Ind. Code § 35-48-4-11(a).

her accordingly. The trial court ordered the juvenile probation department to file a pre-dispositional report. Mother indicated A.B. was scheduled to complete intake at the Indiana Hoosier Youth Academy on January 4, 2023, and to move in on January 8, 2023. The trial court accordingly scheduled a dispositional hearing for June 2, 2023. A.B. remained in Mother's care pending disposition.

[4] On December 30, 2022, Mother brought A.B. to the juvenile probation department and alleged A.B. was a delinquent for committing habitual disobedience. Mother asked the police to detain A.B., which they did. However, after Mother left, A.B. began to self-harm, and the police called Mother to tell her that they could not detain A.B. until Mother took her to the hospital. Mother indicated she could not take A.B. to the hospital that night and rescinded her detention request. A.B. was then released to Mother's care. Shortly thereafter, the juvenile probation department learned A.B. would not be attending Indiana Hoosier Youth Academy, so the trial court moved A.B.'s dispositional hearing to January 30, 2023.

[5] At the January 30, 2023, dispositional hearing, the State presented evidence of A.B.'s extensive delinquent behavior, which began July 23, 2021, when she was arrested for habitual disobedience.<sup>2</sup> For that adjudication, the trial court ordered A.B. to complete formal probation. On March 14, 2022, the trial court

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<sup>2</sup> Ind. Code § 31-37-2-4.

found A.B. violated the terms of her probation because she had amassed forty-six unexcused absences from class periods at school. From March 14, 2022, to March 23, 2022, A.B. was detained in shelter care while Mother looked into placement options. On March 23, 2022, the juvenile probation department felt A.B.'s behavior had improved sufficiently for her to be released from detention into Mother's care, where A.B. would receive twenty-four-hour adult supervision. Ultimately, A.B. completed the probation ordered in 2021, but she committed the delinquent act before us less than a month later.

[6] The State also presented evidence of A.B.'s unsuccessful attempts to complete mental health inpatient services. A.B. had entered four inpatient mental health facilities since 2020 and did not complete any of them. At the dispositional hearing, the juvenile probation department told the trial court it tried to secure detention for A.B. at the Kinsey Youth Center, but it would not provide adequate services because A.B. needed "more intensive programming than she would receive" there. (*Id.* at 63.) The juvenile probation department recommended placement in the DOC because

[A.B.] will be able to work on her mental health, substance use and education. She will be provided with programming that she will have to complete in order to be released and [A.B.] is in need of a higher level of supervision than can be provided in her parents' home. The Indiana Department of Correction has a plethora of adolescent programs that address substance abuse, anger management, how/why to change thinking errors and Dialectical Behavior Therapy (DBT)/Moral Reconciliation [sic] Therapy (MRT) that address behavioral modification. This will be the recommendation of the Probation Department to [A.B.'s]

behaviors being a danger to herself, her family and the community.

(*Id.*) Mother testified she wanted A.B. “safe until she is 18 [years] old.” (*Id.* at 53.) Based thereon, the trial court awarded wardship of A.B. to the DOC.

## Discussion and Decision

- [7] The juvenile court system is founded on the notion of *parens patriae*, which allows the court to step into the shoes of the parents. *In re K.G.*, 808 N.E.2d 631, 635 (Ind. 2004). The *parens patriae* doctrine gives juvenile courts power to further the best interest of the child, “which implies a broad discretion unknown in the adult criminal court system.” *Id.*
- [8] A.B. argues the trial court abused its discretion when it placed her in the DOC because there were less restrictive placements available. “The specific disposition of a delinquent child is within the juvenile court’s discretion,” *K.S. v. State*, 114 N.E.3d 849, 854 (Ind. Ct. App. 2018), *trans. denied*, and we thus review a trial court’s dispositional order for an abuse of discretion. *Id.* A decision is an abuse of discretion if it is clearly against the logic and effect of the facts and circumstances before the court or against “the reasonable, probable, and actual deductions to be drawn” from those facts and circumstances. *Id.*
- [9] While juvenile courts have “wide latitude and great flexibility” in fashioning dispositions for delinquents, *id.* (quoting *C.T.S. v. State*, 781 N.E.2d 1193, 1203

(Ind. Ct. App. 2003), *trans. denied*), our legislature delineated several factors the trial court should consider as it makes its decision:

If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

(1) is:

(A) in the least restrictive (most family like) and most appropriate setting available; and

(B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

(4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and

(5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

Ind. Code § 31-37-18-6.

[10] Here, the State presented evidence of multiple unsuccessful placements prior to the adjudication before us. Additionally, early in the case, A.B. did not report as expected to the Indiana Hoosier Youth Academy. Several times when A.B. was returned to Mother's care, she was returned to placement because Mother was unable to care for her. During one incident, police would not take custody of A.B. until Mother took her to the hospital to determine the extent of her self-harm injuries. As indicated by the juvenile probation department, A.B. has

several untreated mental health conditions and a substance abuse problem. Based thereon, we conclude the trial court did not abuse its discretion when it awarded wardship of A.B. to the DOC. *See, e.g., D.S. v. State*, 829 N.E.2d 1081, 1086 (Ind. Ct. App. 2005) (“In light of D.S.’s failure to respond to the numerous less restrictive alternatives already afforded to him, we cannot say that the juvenile court abused its discretion in committing him to the Department of Correction.”).

## Conclusion

[11] The trial court did not abuse its discretion when it awarded wardship of A.B. to the DOC because she had been unsuccessful in prior placements and the DOC could provide her with services to address her mental health and substance abuse problems. Accordingly, we affirm the trial court’s decision.

[12] Affirmed.

Altice, C.J., and Foley, J., concur.