

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Mark F. James
Mark James Legal, LLC
South Bend, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Indiana Attorney General

Daylon L. Welliver
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

K.H.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner

April 25, 2023

Court of Appeals Case No.
22A-JV-2494

Appeal from the St. Joseph Probate
Court

The Honorable Jason A.
Cichowicz, Judge

Trial Court Cause No.
71J01-2205-JD-159

Memorandum Decision by Judge Crone
Judges Robb and Kenworthy concur.

Crone, Judge.

Case Summary

- [1] Sixteen-year-old K.H. appeals the trial court’s dispositional order following his delinquency adjudication for conduct constituting class A misdemeanor resisting law enforcement and class B misdemeanor criminal mischief if committed by an adult. K.H. contends that the trial court abused its discretion in placing him in a residential treatment facility. Finding no abuse of discretion, we affirm.

Facts and Procedural History

- [2] Police were called to K.H.’s home on March 15, 2022. K.H.’s mother reported that K.H. was destroying the home and that she wanted him out. The glass had been broken out of the front door window, and officers located K.H. in the upstairs of the home with a bloody hand from punching through the window. As officers approached him, K.H. said, “[F]**k you cops[,]” and “balled up his hand into a fist.” Appellant’s App. Vol. 2 at 4. An officer grabbed K.H.’s wrist due to that sign of aggression, but K.H. pulled away and “pound[ed] his head into the wall and then the floor.” *Id.* The officer then wrapped his arm around K.H.’s chest and “lever[ed]” his head to the floor so that he could be handcuffed. Officers stood K.H. up, but as they tried to walk him out of the home, he continued to physically resist and struggle while cursing at the officers, stating that he wanted “to die” and threatening to “blow his brains out.” *Id.* Accordingly, the officers had to get him on the ground to gain control of the situation. K.H.’s mother began yelling at the officers and standing over them. When an officer asked her to back up, she refused and said, “[F]**k you I

know my rights.” *Id.* As K.H. was taken out of the house to an ambulance that had arrived at the scene, he kicked and dented the door of a police vehicle.

K.H. was transported to the hospital due to his injuries and was detained due to his suicidal threats.

- [3] The State subsequently filed a delinquency petition alleging that K.H. committed class A misdemeanor resisting law enforcement and two counts of class B misdemeanor criminal mischief. In June 2022, K.H. admitted to committing class A misdemeanor resisting law enforcement and one count of class B misdemeanor criminal mischief. The State dismissed the other criminal mischief count. A dispositional hearing was held on September 20, 2022. At the conclusion of the hearing, the trial court determined that it was in K.H.’s best interests to not return to his home and ordered that he be placed in a residential treatment facility, followed by probation and “a six month after-care program to monitor the transition back home in the community.” Appealed Order at 4. This appeal ensued.

Discussion and Decision

- [4] K.H. contends that the trial court abused its discretion when it ordered that he be placed in a residential treatment facility. Our standard of review is well settled:

[T]he choice of the specific disposition of a juvenile adjudicated a delinquent child is a matter within the sound discretion of the juvenile court and will only be reversed if there has been an abuse of that discretion. The juvenile court’s discretion is subject to the statutory considerations of the welfare of the child, the safety of

the community, and the policy of favoring the least harsh disposition. An abuse of discretion occurs when the juvenile court's action is clearly erroneous and against the logic and effect of the facts and circumstances before the court or the reasonable, probable, and actual inferences that can be drawn therefrom. Hence, the juvenile court is accorded wide latitude and great flexibility in its dealings with juveniles.

J.S. v. State, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008) (citations omitted).

[5] Indiana Code Section 31-37-18-6 sets forth the following factors that a trial court must consider when entering a dispositional decree in a juvenile matter:

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.

Although this statute requires the juvenile court to select the least restrictive placement, it recognizes that, in certain situations, the best interest of the child is better served by a more restrictive placement. *M.C. v. State*, 134 N.E.3d 453, 459 (Ind. Ct. App. 2019), *trans. denied* (2020), *cert. denied*.

[6] Here, our review of the evidence supports the trial court's conclusion that placement in a residential treatment facility was in K.H.'s best interest. K.H. has been struggling with his mental health and has demonstrated aggressive behavior towards others since as early as 2013. At that time, he was removed from his home and placed in foster care. He has been diagnosed with oppositional defiant disorder and attention-deficit-hyperactivity disorder. In addition to demonstrating aggression toward others, K.H. has suffered from repeated suicidal ideation. Remaining in his home following his most recent behavioral outburst, which resulted in the delinquency adjudication, has proven unsuccessful in terms of obtaining necessary services, as evidenced by his mother's report at the dispositional hearing that she had not yet been able to provide K.H. with therapy and/or psychiatric treatment. Under the circumstances, we cannot say that the trial court abused its discretion in ordering K.H. placed in residential treatment where he could receive the intensive mental health support and therapy he desperately needs.

[7] Affirmed.

Robb, J., and Kenworthy, J., concur.