

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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B.P.,  
*Appellant-Respondent,*

v.

State of Indiana,  
*Appellee-Petitioner.*

October 5, 2023

Court of Appeals Case No. 23A-  
JV-310

Appeal from the Lake Superior  
Court

The Honorable Thomas P.  
Stefaniak, Jr., Judge

The Honorable Jeffrey L. Miller,  
Magistrate

Trial Court Cause No.  
45D06-2208-JD-000466

**Memorandum Decision by Judge Felix**  
Judges Crone and Brown concur.

**Felix, Judge.**

## **Statement of the Case**

- [1] After B.P. admitted to committing gun-related offenses, the juvenile court placed B.P. in the Indiana Department of Correction (“DOC”). B.P. appeals the placement and argues the juvenile court abused its discretion. We affirm the juvenile court’s decision.

## **Facts and Procedural History**

- [2] The State filed a petition alleging B.P. was a delinquent child for committing acts which would constitute both felonies and misdemeanors if committed by an adult. Ultimately, B.P. entered an admission to two of the five allegations against him.
- [3] On December 13, 2022, the juvenile court held a dispositional hearing. B.P.’s probation officer and the State recommended B.P. be placed with the DOC. B.P.’s mother questioned the ability of her son to change his behavior if he were placed at home because as soon as his previous probation ended<sup>1</sup>, B.P. reverted to dangerous behavior by breaking into properties and dealing guns.

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<sup>1</sup> Following a 2020 adjudication for domestic battery, on February 3, 2022, B.P. completed 17 months of probation. Appellant’s App. Vol. 2 at 72–74. His probation included residential placement, psychological therapy, and mentoring services. *Id.* at 86–87.

Additionally, on the day B.P. was detained on gun charges, he got expelled from school for fighting another student.

- [4] On January 18, 2023, the juvenile court awarded wardship of B.P. to the DOC. The juvenile court noted that reasonable efforts were made to avoid DOC placement, but DOC placement was found to be in B.P.'s best interest.

## **Discussion and Decision**

- [5] “The specific disposition of a delinquent is within the juvenile court’s discretion . . . .” *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006). “We reverse only for an abuse of discretion, namely a decision that is ‘clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.’” *Id.* (quoting *In re L.J.M.*, 473 N.E.2d 637, 640 (Ind. Ct. App. 1985)).

- [6] Indiana Code section 31-37-18-6 provides guidelines for the court to use in its disposition. The juvenile court must enter a 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.

[7] I.C. § 31-37-18-6. However, the application of these guidelines is subject to the overarching condition that the disposition be “consistent with the safety of the community and the best interest of the child.” *Id.*

[8] Importantly, the statute does not require the juvenile court to choose the least restrictive means whenever available. *See* I.C. § 31-37-18-6. Rather, “the statute requires placement in the least restrictive setting only ‘[i]f consistent with the safety of the community and the best interest of the child.’” *M.C. v. State*, 134 N.E.3d 453, 459 (Ind. Ct. App. 2019) (quoting I.C. § 31-37-18-6).

[9] Further, “in certain situations the best interest of the child is better served by a more restrictive placement.” *K.A. v. State*, 775 N.E.2d 382, 387 (Ind. Ct. App. 2002) (citing *Madaras v. State*, 425 N.E.2d 670, 672 (Ind. Ct. App. 1981)).

Although wardship to the DOC is the most restrictive option, DOC placement is warranted when it is found necessary to prevent the juvenile “from continuing to commit acts that are harmful to himself and the community.” *M.C.*, 134 N.E.3d at 459.

[10] Due to B.P.’s consistent dangerous behavior, the juvenile court properly exercised its discretion when finding B.P. would be best served as a ward of the DOC. Despite receiving prior rehabilitative treatment, B.P. continued to engage in harmful, damaging behavior. Prior to the present delinquency matter, B.P. spent 17 months on probation for domestic battery. During his probation, B.P. spent time at a residential placement facility, attended therapy, and participated

in a mentorship program. These rehabilitative services did not work. After being released from probation, B.P. started “breaking into cars and homes and selling guns.” Appellant’s App. Vol. 2 at 72. Therefore, nearly a year and a half of probation and rehabilitative treatment did not keep B.P. on a path to improve his behavior.

[11] B.P. argues DOC placement was an abuse of the juvenile court’s discretion because it was only his second delinquency. He asks this Court to rely on *D.P. v. State* to find an abuse of discretion. In *D.P.*, a panel of this Court found abuse of discretion when the juvenile was placed with the DOC after a second delinquency, *D.P. v. State*, 783 N.E.2d 767, 771 (Ind. Ct. App. 2003), but those facts are distinct from the present case. In *D.P.*, the juvenile committed theft five years after successfully completing probation, *id.*, whereas B.P. reverted to dangerous behavior immediately after probation. In comparison to *D.P.*, B.P.’s actions rose to a “level of repetitive and serious misconduct” that showed he might not respond positively to a more lenient disposition. 783 N.E.2d at 771.

[12] B.P.’s behavior demonstrates a “sustained period of criminal conduct” that was absent from the facts in *D.P.* and warrants a different disposition. 783 N.E.2d at 771. Considering the persistence of B.P.’s dangerous conduct, the juvenile court reasonably concluded that DOC placement was “consistent with the safety of the community and the best interest of the child.” I.C. § 31-37-18-6.

## Conclusion

[13] The juvenile court's decision to place B.P. with the DOC was not “‘against the logic and effect of the facts and circumstances before the court’” and was, therefore, within the juvenile court's discretion. *K.S.*, 849 N.E.2d at 544 (quoting *In re L.J.M.*, 473 N.E.2d 637, 640 (Ind. Ct. App. 1985)). We affirm the juvenile court's disposition.

Crone, J., and Brown, J., concur.