

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

D.C.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

August 26, 2021

Court of Appeals Case No.
21A-JV-498

Appeal from the Whitley Circuit
Court

The Honorable Matthew J.
Rentschler, Judge

Trial Court Cause No.
92C01-2011-JD-42

Brown, Judge.

[1] D.C. appeals the juvenile court’s order committing him to the Indiana Department of Correction (“DOC”). We affirm.

Facts and Procedural History

[2] On August 1, 2020, the Whitley County Sheriff’s Department received a report of an unauthorized entry into a restaurant located in Larwill, Indiana, in which the back door to the restaurant’s kitchen had been kicked in and a vulgar statement was written on it. On October 18, 2020, the restaurant’s owner reported to law enforcement that his iPhone, which had been stolen from the restaurant during the break-in, had been turned on and the phone’s tracking application showed the device in the area of Kings Street and Main Street in Larwill. Law enforcement knocked on doors in the vicinity of where the device was located, and D.C.’s stepfather answered the door and told the officers that he would check if D.C. had the phone. Later that evening, D.C.’s mother found the phone and brought D.C. to the police station to turn it in.

[3] In the early morning hours of November 13, 2020, Whitley County Sheriff’s Sergeant Jon Stoffel stopped a vehicle for traveling without its headlights or taillights. When Sergeant Stoffel stopped the vehicle, he was able to identify the driver as fifteen-year-old D.C. D.C. told Sergeant Stoffel that he was unlicensed, which Sergeant Stoffel confirmed. D.C. was driving because the vehicle’s passenger and registered owner, who was twenty years old, had a panic attack and D.C. felt more comfortable driving the vehicle. Sergeant Stoffel transported D.C. to his mother’s residence.

[4] On November 18, 2020, with the juvenile court’s approval, the State filed a delinquency petition alleging that D.C. committed theft, a class A misdemeanor if committed by an adult, and operating a motor vehicle without ever receiving a license, a class C misdemeanor if committed by an adult. On December 7, 2020, the court held a hearing at which D.C. admitted to both allegations. Following the hearing, the court adjudicated D.C. a juvenile delinquent, ordered the preparation of a predispositional report, and scheduled a dispositional hearing.

[5] At the dispositional hearing, the juvenile court heard recommendations from Jennifer Christie of the Whitley County Probation Department, the prosecutor, D.C.’s counsel, and D.C.’s mother. Christie stated the recommendation in the predispositional report was for placement in the Indiana Boys School, but she was “hoping that [D.C.] can prove me wrong and show me that he cannot commit more offenses while he’s on probation, not violate probation.”

Transcript Volume II at 19. Christie added: “We’ve all been here before. [D.C.] has exhausted all the efforts that we have, but . . . if he’s willing, mom’s willing, [] we can give him one more shot at probation. If that doesn’t work . . . my ultimate recommendation would be boys school.” *Id.* The prosecutor indicated she was “surprised” by the Probation Department’s willingness to give D.C. another chance with probation but that she could support placing D.C. on probation. *Id.*

[6] D.C.’s mother requested that D.C. be placed on probation rather than in the Indiana Boys School. She also added D.C. was in therapy and his therapist had

recommended neurological testing to investigate the possibility of autism as a contributor to his behavior. D.C.'s counsel stated that probation "under some very limited terms" is the "best [D.C.] can hope for" because his "track record" as summarized in the predispositional report was "not great[.]" *Id.* at 25.

[7] The court observed that, if it "were to send you to boys' school today [D.C.], you would have earned it. The history of delinquent behavior outlined in this pre-dispositional report is, uh, it's terrible." *Id.* at 26. The court placed D.C. in the Indiana Boys School and suspended the placement to six months of supervised probation to be served on home detention and in accordance with the rules and conditions of probation.

[8] On February 12, 2021, the Probation Department filed a Petition Alleging Violation of Probation alleging that D.C. had tested positive for THC on February 4, 2021, and was suspended from school on that same date, both in violation of the terms of his probation. On March 1, 2021, the court held a hearing at which D.C. admitted to violating his probation by using marijuana and being suspended from school as alleged. The Probation Department and the State both recommended that D.C. be placed in the Indiana Boys School. D.C.'s counsel argued that the nature of the violations, smoking marijuana and the accompanying school suspension, were "somewhat minimal" and that other alternatives to the Indiana Boys School should continue to be explored. *Id.* at 32.

[9] After hearing argument from the parties and statements from D.C. and his mother, the court observed:

I, I'm certain we made very clear to you in December how close you were to going to boys school. It's a punishment/placement of last resort and we were at our last resort in December. And I went out of my way to give you, yet another chance and you continued to use marijuana in violation of your rules. And I can't understand that, nor can I countenance it.

Id. at 35. The court stated it would commit D.C. to the Indiana Boys School as a result of his probation violation in the hope that his time spent there would help him learn “[t]o be a good father. To be a decent human being. A productive member of society.” *Id.* at 36. Following the hearing, the court issued an Order on Violation of Probation and Dispositional Order in which it awarded wardship of D.C. to the DOC for housing in any correctional facility for children.

Discussion

[10] The juvenile court is given wide latitude and great flexibility in determining the disposition of a delinquent child. *D.A. v. State*, 967 N.E.2d 59, 65 (Ind. Ct. App. 2012). However, its discretion is circumscribed by Ind. Code § 31-37-18-6, which provides that, “[i]f consistent with the safety of the community and the best interest of the child,” the juvenile court shall enter a dispositional decree that is “in the least restrictive (most family like) and most appropriate setting available” and “close to the parents’ home, consistent with the best interest and special needs of the child”; least interferes with family autonomy; is least

disruptive of family life; imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and provides a reasonable opportunity for participation by the child's parent, guardian, or custodian. Under the statute, placement in the least restrictive and most appropriate setting available applies only "[i]f consistent with the safety of the community and the best interest of the child." *J.D. v. State*, 859 N.E.2d 341, 346 (Ind. 2007) (citing Ind. Code § 31-37-18-6). We review the juvenile court's disposition for an abuse of discretion. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010).

[11] D.C. argues that the juvenile court abused its discretion by granting wardship of him to the DOC, contending that a more appropriate and less harsh placement would have been to the Allen County Juvenile Center which would provide him with a structured environment. He acknowledges his history of delinquent behavior but asserts that it did not demonstrate that he was a danger to society such that removal to the DOC was warranted.

[12] The record reveals that D.C., who was born on September 23, 2005, was first adjudicated a delinquent in August 2018 for burglary and theft, and again in January 2019, for counterfeiting. Since his initial contacts with the juvenile justice system as a twelve-year-old, D.C. has violated his probation on numerous occasions, including two instances in which he tested positive for marijuana and two instances of theft involving taking a debit card belonging to his mother and stepfather and taking his sister's knife. D.C. had been detained at the Allen County Juvenile Center, committed to Bashor Children's home for a year, placed on home detention, and received counseling. The court had

previously warned D.C. when it initially suspended his placement in the Indiana Boys School that “if you trip up, the littlest bit, you’re telling me that boys school is what I should [have] done today. And boys school is likely what’s going to happen, that’s all we have left really.” Transcript Volume II at 26. Despite the court’s warning, D.C. violated his probation a little more than one month later. In modifying D.C.’s placement after revocation, the court noted placement in the Indiana Boys School was a “last resort and we were at our last resort in December. And I went out of my way to give you, yet another chance and you continued to use marijuana in violation of your rules.” *Id.* at 35.

[13] Based upon the record and under the circumstances, we conclude that the court’s ordered placement is consistent with D.C.’s best interests and the safety of the community and find no abuse of discretion. *See D.E. v. State*, 962 N.E.2d 94, 97 (Ind. Ct. App. 2011) (observing that where prior attempts to rehabilitate the juvenile’s behavior had been unsuccessful, placement in the DOC was not an abuse of discretion).

[14] For the foregoing reasons, we affirm the court’s order.

[15] Affirmed.

Najam, J., and Riley, J., concur.