

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

S.R.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

March 2, 2023

Court of Appeals Case No.
22A-JV-1798

Appeal from the
Lawrence Circuit Court

The Honorable
Nathan G. Nikirk, Judge

Trial Court Cause No.
47C01-2201-JD-7

Memorandum Decision by Judge Foley
Judges Robb and Mathias concur.

Foley, Judge.

- [1] S.R., a minor, appeals the juvenile court’s grant of wardship to the Department of Correction (“DOC”). Finding no abuse of discretion, we affirm.

Facts and Procedural History

- [2] On January 22, 2022, the State filed a petition of delinquency against S.R., alleging that S.R. had struck his uncle in the face and thrown rocks at a neighborhood garage, causing more than \$750 worth of damage. The petition alleged that S.R.’s acts—if committed by an adult—would have constituted domestic battery, a Class A misdemeanor, and criminal mischief, a Class A misdemeanor. On April 19, 2022, S.R. admitted the allegations. S.R. was fourteen years old at the time the charges were filed.
- [3] At the time, S.R. lived with his grandparents and two siblings. S.R. had multiple prior juvenile adjudications and had been expelled from school. One of the prior adjudications had been for intimidation and arose from an occasion where S.R. threatened to bring a gun to school. S.R. also had an arrest in 2021 for battering his sister. In May of 2022, S.R. cut the lock on a closet in his grandfather’s home, removed a gun, and pointed it at his grandfather, threatening to shoot him. The Department of Child Services (“DCS”) shortly thereafter made an urgent-need referral, finding weapons and ammunition in

the home and contacting animal control regarding the number of animals in the home.¹

[4] S.R. had been prescribed multiple medications, but only took them intermittently, and refused to attend scheduled mental health therapy. S.R. also admitted to the probation department that he used marijuana, methamphetamine, and consumed alcohol. He also informed the probation department that he was attracted to troublemakers and liked the feeling of doing what he is not supposed to do. The probation department filed a pre-dispositional report detailing its findings on June 16, 2022. S.R. was considered a high risk for re-offending, and the probation department recommended that wardship be granted to the DOC.

[5] The juvenile court held a dispositional hearing on June 21, 2022. S.R.'s probation officer testified that he had been referred to juvenile problem-solving court, but that the court rejected S.R. given his resistance to treatment and his history of guns and threats. After a home study, the problem-solving court also recommended that wardship be given to the DOC. The probation department considered residential placement for S.R. but concluded that—between the limited number of available beds and the fact that S.R. did not have any “acute stays” in a residential facility previously—S.R. was unlikely to be admitted to

¹ S.R.'s grandfather testified that there were some twenty-three cats present and even offered to gift one to the prosecutor.

any residential facilities. Tr. Vol. II p. 8. Accordingly, the probation department did not pursue the possibility.

- [6] S.R.'s grandparents testified that they were willing to obtain substance abuse counseling and therapy. S.R.'s grandmother testified that S.R. helped with household chores and cleaning, as well as assisting her with technological needs. S.R.'s grandfather testified that he had a doctor's appointment for S.R. scheduled regarding medications, and that he had a plan in place to engage S.R. in online schooling. He asked that S.R. be placed on house arrest.
- [7] S.R. testified and expressed his willingness to engage in online schooling and participate in mental health and substance abuse counselling. He acknowledged a desire to attend his doctor's appointments and take his medications. He also testified that he was interested in youth groups and a violence prevention program.
- [8] On June 27, 2022, the juvenile court granted wardship of S.R. to the DOC. The juvenile court found as follows: (1) S.R. refused to attend services and take his medication; (2) efforts to rectify his refusal had been unsuccessful in the home; (3) S.R. required services and treatment that he was not receiving; (4) the probation department had taken reasonable steps to avoid removal from the home; (5) S.R.'s family members in the home had been victims of battery at S.R.'s hands; (6) S.R.'s history with threats and guns represent a danger to himself and others; and (7) S.R. requires stabilization, particularly with respect

to his schooling. The juvenile court concluded that the DOC was the least-restrictive placement available given S.R.'s needs. This appeal followed.

Discussion and Decision

[9] S.R. argues that the trial court abused its discretion when awarding wardship of him to the DOC. Specifically, S.R. contends that there was insufficient evidence to determine whether a less-restrictive setting, namely residential placement, was available as a viable alternative. “The disposition of a child adjudicated to be delinquent is generally left to the discretion of the trial court.” *J.B. v. State*, 849 N.E.2d 714, 717 (Ind. Ct. App. 2006) (citing *R.S. v. State*, 796 N.E.2d 360, 364 (Ind. Ct. App. 2003), *trans. denied*). “That discretion, however, is subject to the statutory considerations of the child’s welfare, the community’s safety, and the policy of favoring the least-harsh disposition.” *Id.*; *see also* Ind. Code § 31-37-18-6. “We will reverse a juvenile disposition only for an abuse of discretion, which occurs only if the trial court’s action is ‘clearly erroneous and against the logic and effect of the facts and circumstances before the court, or against the reasonable, probable, and actual deductions to be drawn therefrom.’” *Id.*

[10] Because S.R.’s claim pertains to whether there was sufficient evidence we note that “[w]hen reviewing a claim of insufficient evidence regarding juvenile adjudications, we do not reweigh the evidence nor judge the credibility of witnesses, and we consider only the evidence and reasonable inferences favorable to the judgment.” *C.S. v. State*, 953 N.E.2d 1144, 1145–46 (Ind. Ct.

App. 2011) (citing *R.B. v. State*, 839 N.E.2d 1282, 1283 (Ind. Ct. App. 2005)).

“This court will affirm if there is substantial evidence of probative value to support the judgment.” *Id.* at 1146 (citing *G.N. v. State*, 833 N.E.2d 1071, 1075 (Ind. Ct. App. 2005)).

[11] We find dispositive the fact that the juvenile court “is only required to consider the least restrictive placement *if* that placement comports with the safety needs of the community and the child’s best interests.” *J.B.*, 849 N.E.2d at 717 (citing I.C. § 31-37-18-6) (emphasis original). It was well within the juvenile court’s discretion to conclude that placement with the DOC was in S.R.’s best interests. The home was unsanitary and overrun with cats. It was also inhabited by numerous family members with whom S.R. had a contentious and sometimes violent or antagonistic past. And, while living there, S.R. had been expelled from school and was falling behind in his education.² He was not receiving treatment, attending therapy, or taking his prescribed medications. Similarly, the juvenile court was within its discretion to determine that placement with the DOC was conducive to the safety needs of the community. S.R. had multiple adjudications and/or arrests for threatening behavior, violent altercations, the use of guns, and property damage. Far from being tempered or mitigated, S.R.’s behavior seemed to be escalating, and nothing in the record suggests that

² Despite the testimony that S.R. would engage in online education, it was revealed at the dispositional hearing that there was no internet service at the home, and that there would not be for at least several more weeks.

he was reticent about his conduct or choices. To the contrary, he appeared to be enamored of the idea of doing things he knew he was not supposed to do.

[12] S.R.’s argument focuses squarely on the testimony of his probation officer, who assessed his chances of placement in a residential facility as poor, and therefore did not pursue any inquiries with residential facilities. S.R. argues that “there was a possibility, even if that possibility seemed remote from [the probation officer’s] perspective, that S.R. could have been placed into a residential facility.” Appellant’s Br. p. 12. Even if a residential placement had been available, S.R. fails to convince us that the trial court’s determination that S.R. requires help that he is unlikely to receive outside the DOC was clearly erroneous.

[13] Affirmed.

Robb, J., and Mathias, J., concur.