

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

G.M.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

March 30, 2021

Court of Appeals Case No.
20A-JV-1966

Appeal from the Lake Superior
Court

The Honorable Thomas P. Stefaniak,
Judge

The Honorable Robert G. Vann,
Magistrate

Trial Court Cause Nos.
45D06-1811-JD-635
45D06-2004-JD-235
45D06-2007-JD-302

Bailey, Judge.

Case Summary

- [1] G.M. appeals a juvenile dispositional order awarding his custody to the Indiana Department of Correction (“the DOC”). He presents the sole issue of whether the juvenile court abused its discretion in its placement selection. We affirm.

Facts and Procedural History

- [2] On December 20, 2018, then fifteen-year-old G.M. admitted his delinquency for having committed an act that would be Armed Robbery, as a Level 3 felony, if committed by an adult. He was committed to the wardship of the DOC, where he was offered anger management classes, moral choices therapy, a learning strategies program, substance abuse treatment, and participation in the National Youth Advocate Program (“NYAP”). On November 7, 2019, G.M. was released to probation.
- [3] Fifteen days later, the probation department filed a petition to modify G.M.’s probation, alleging that he had been suspended from school and had threatened to “shoot up” the school and shoot the principal. (App. Vol. II, pg. 113). On December 12, 2019, G.M. admitted to those allegations and he was placed on intensive probation. He was ordered to continue in NYAP and was enrolled in welding and boxing classes.
- [4] On April 7, 2020, the probation department filed a second petition to modify, alleging that G.M. left home without permission on three occasions. On April 13, 2020, the probation department filed a second petition alleging delinquency.

On May 14, 2020, G.M. admitted that he had left home without permission and had committed an act that would be Resisting Law Enforcement, as a Class A misdemeanor, if committed by an adult. G.M. was continued on intensive probation, to include day treatment, medication evaluation, and cognitive behavioral therapy.

[5] On July 10, 2020, G.M.'s probation officer submitted an affidavit to the juvenile court, averring that G.M.'s whereabouts were unknown after he cut off his ankle monitor. On July 13, 2020, the probation department filed a petition to modify the terms of G.M.'s probation; on the following day, the department filed a third petition alleging delinquency. On July 15, 2020, G.M. was detained, with an order that the probation department find a juvenile placement for him.

[6] On August 13, 2020, G.M. appeared at a hearing and admitted that he had cut off his ankle monitor. He also admitted that he had committed an act that would be Theft, as a Class A misdemeanor, if committed by an adult. G.M. was placed in secure detention. On September 29, 2020, the juvenile court awarded wardship of G.M. to the DOC, for purposes of G.M.'s receiving mental health and medication management services and his completion of anger management, moral choices, and learning strategies classes. G.M. now appeals.

Discussion and Decision

[7] G.M. argues that placement in a residential treatment program for juveniles would have been the least restrictive and best option for him, and that the juvenile court abused its discretion by instead ordering wardship to the DOC. According to G.M., his prior placement in a DOC facility had been detrimental to him and the current placement decreased participation by his guardian, who has no vehicle.

[8] Indiana Code Section 31-37-18-6 provides that:

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.

[9] The foregoing statute recognizes that in certain situations the best interest of the child is better served by a more restrictive placement. *J.S. v. State*, 881 N.E.2d 26, 29 (Ind. Ct. App. 2008). "The specific disposition of a delinquent is within the juvenile court's discretion, to be guided by the following considerations: the safety of the community, the best interests of the child, the least restrictive alternative, family autonomy and life, freedom of the child, and the freedom and participation of the parent, guardian, or custodian." *K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006). We will reverse the disposition only for an abuse of discretion, that is, 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.*

[10] The juvenile court requested a report from NYAP prior to determining G.M.'s placement. NYAP personnel had requested G.M. be discharged from the program, opining that G.M. was able to learn appropriate coping skills, but chose not to apply the skills. The probation department recommended placement in the DOC, due to concerns that G.M. had continued to engage in illegal conduct and express criminal ideations. Shortly after beginning probation, G.M. made verbal threats against another student and his principal, and he threatened a school shooting. He committed an act that would be Resisting Law Enforcement, if committed by an adult, when he "kneed" the side of a police officer responding to a complaint from G.M.'s guardian. (App.

Vol. III, pg. 9.) He cut off his ankle monitor and absconded, necessitating a warrant for his arrest. G.M.'s last alleged act of delinquency involved his entering a CVS store, taking two bottles of liquor, leaving without paying, and breaking the door by kicking it on his way out.

[11] During his juvenile residential placements, G.M. was frequently assigned to isolation and had twice been found attempting to make "hooch." (*Id.* at 158.) He made sexually inappropriate comments to a nurse and was heard expressing a desire to harm a woman upon his release. G.M. had been non-compliant with his prescription medication regimen and resisted attending classes. He was twice hospitalized in a psychiatric ward for substance abuse. On one occasion, he drank alcohol until he lost control of his bodily functions. On the second occasion, he ingested all of his great uncle's anti-seizure medication. When G.M. was in his guardian's home, she called police to report G.M.'s physical aggression, destruction of property, and refusal of medication. In light of G.M.'s significant juvenile history, violations of probation, warrant for failure to appear, and his need for treatment best provided in a structured facility, we cannot say that the juvenile court abused its discretion.

Conclusion

[12] G.M. has not demonstrated an abuse of the trial court's discretion.

[13] Affirmed.

May, J., and Robb, J., concur.