

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

K.S.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

August 17, 2022

Court of Appeals Case No.
22A-JV-366

Appeal from the Spencer Circuit
Court

The Honorable Jonathan A. Dartt,
Judge

Trial Court Cause No.
74C01-2010-JD-270

Altice, Judge.

Case Summary

[1] K.S. appeals the juvenile court’s modification order placing her in the Indiana Department of Correction (the DOC) following her probation violation. K.S. raises the following two restated issues:

1. Was K.S. denied due process because the probation officer did not file a modification report and because the trial court did not make a specific finding in the dispositional order about K.S.’s dual status?¹
2. Did the trial court abuse its discretion when it modified her disposition to placement at the DOC after various other less-restrictive placements had failed?

[2] We affirm and remand.

Facts & Procedural History

[3] In October 2020, K.S., age fifteen, was living with her grandmother (Grandmother), who was her guardian. On October 19, 2020, police were

¹ Our court has explained that a “dual status child” is one who, among other things:

- is alleged to be or is presently adjudicated to be a CHINS and is alleged to be or is presently adjudicated to be a delinquent child, Ind. Code § 31-41-1-2(1);
- is presently named in an informal adjustment under the CHINS statute and who is adjudicated a delinquent child, Ind. Code § 31-41-1-2(2); or
- has been previously adjudicated a CHINS or was a participant in an informal adjustment under the CHINS statute and was under a wardship that has been terminated or a program of informal adjustment that has been terminated before the current delinquency petition, Ind. Code § 31-41-1-2(4).

K.S. v. State, 114 N.E.3d 849, 852 (Ind. Ct. App. 2018), *trans. denied*.

summoned to Grandmother's home, where officers met with K.S.'s father (Father). Father reported that K.S. "was out of control again," damaging property, and had hit Grandmother the prior day. *Transcript* at 7. K.S. was removed from Grandmother's home.²

[4] On October 20, 2020, Spencer County Juvenile Probation Officer Jan Cochenour (PO Cochenour) filed a detention affidavit, stating that detention was "essential to protect the juvenile[] or the community" and placing K.S. at the Southwest Indiana Regional Youth Village (SIRYV) Detention Center. *Appendix* at 13. The next day, the State filed a petition alleging delinquency on the basis that K.S. committed what would be Class A misdemeanor battery resulting in bodily injury (Count 1), Class B misdemeanor disorderly conduct (Count 2), and Class B misdemeanor criminal mischief (Count 3) if committed by an adult.

[5] The detention/initial hearing was held on October 21, 2020. The trial court recognized the case as a "dual status case" because, in addition to the pending delinquency matter, K.S. was involved in a Children in Need of Services ("CHINS") matter "so CASA is also monitoring the case[.]" *Transcript* at 4. Present at the hearing were K.S., the prosecutor, PO Cochenour and law enforcement officers, as well as two CASA supervisors, DCS family case

² At the time of removal, K.S. was on probation in another delinquency matter for what would have been domestic battery and resisting law enforcement if committed by an adult.

manager Maureen Lambeck (FCM Lambeck), Grandmother, and K.S.'s stepmother (Stepmother).

[6] Grandmother described to the court that K.S. is calm one minute and “wild” another minute, as if “a switch flipped.” *Id.* at 8. FCM Lambeck stated that K.S. was not taking her “stabilizer” medication, gets angry and “totally out of control,” and that the family dynamic at home contributes to K.S.'s issues, as there were “a whole bunch of people” and “everyone’s mad and aggravated” and things “escalate[.]” *Id.* at 9. FCM Lambeck opined that K.S. should not “return to the home at this point” and recommended detention and “another evaluation.” *Id.* The CASA took no position. K.S. told the court she was tired of the “arguing and fighting and screaming at each other” at home, and she wanted “to go somewhere to get help.” *Id.* at 10. PO Cochenour requested that K.S. remain in detention and undergo a three-week diagnostic evaluation.³ The juvenile court assured K.S. that “everybody here . . . wants you to get better” and ordered her to remain in detention at SIRYV but directed temporary wardship to Logansport Diagnostic Center for K.S. to undergo testing.

[7] During the October 21 hearing, the juvenile court also advised K.S. of the State’s petition alleging delinquency and the three charged acts, which involved

³ PO Cochenour noted to the court that “we were just in court last Wednesday” and “at that time [K.S.] was given a pretty big break” as she “had a pending charged dropped and also a probation violation was dropped as well.” *Transcript* at 7.

battering Grandmother and damaging her property. The court explained the range of possible dispositional alternatives, advised K.S. of her rights, appointed an attorney to represent her, entered a denial on her behalf, and set the matter for hearing.

[8] Following a December 17, 2020 hearing, the court issued an order recognizing that “many previous alternatives to placement such as counseling, probation, house arrest and detention” had been unsuccessful and ordering K.S. to complete the Female Residential Program at SIRYV, as it provided a structured environment and would focus on K.S.’s anger management issues. *Appendix* at 23. The court was advised at a January 2021 review hearing that K.S. was “having behavior issues” in SIRYV’s residential program but the court continued her placement there and set the matter for a review hearing. *Id.* at 5. Following an April 2021 hearing, the court again ordered that K.S. continue with her SIRYV program. In May 2021, the State and probation agreed to weekend passes in order for K.S. to begin to transition home.

[9] On June 23, 2021, the juvenile court held a review hearing on the pending CHINS and delinquency actions. Present at the hearing were K.S. and her counsel, FCM Lambeck, DCS counsel, along with other DCS staff, CASA Delilah Purviance, a SIRYV representative, Grandmother and Stepmother, as well as PO Cochenour and the Chief Deputy Prosecutor. DCS counsel opened by advising the court that “things have not gone very well” during a trial visit and that DCS did not recommend that K.S. return home where “[t]here’s just too much drama.” *Transcript* at 21. Instead, DCS recommended that K.S.

attend a step-down group home facility called Life Choices which offered “more freedom” and would allow K.S. to volunteer or work. *Id.* at 22. The State and PO Cochenour indicated their agreement with Life Choices, noting that it provided some freedoms and an opportunity for K.S. to prove herself. The court told K.S.:

I just want to make sure you understand how important it is that you give it one hundred and ten percent because honestly [] I don't have many things I can do right now. It's detention or trying to find something to make it work and unfortunately, I think SWIRVY [sic] had exhausted their services so we're kind of left with the [DOC] or this and I know nobody wants to see you go to the [DOC] if you can get things turned around and behave in the community and get your education, that's what we all want to see[.] . . . [Y]ou're gonna be on probation till you're eighteen [and] part of your -- the term of your probation's gonna be successfully completing this [Life Choices] program. We've exhausted SWIRVY. [sic].

Id. at 25-26.

[10] As to the delinquency charges, K.S. admitted to Count 1, battery resulting in bodily injury if committed by an adult, and the State dismissed Counts 2 and 3. By agreement of the parties, the trial court entered the terms of K.S.'s disposition as probation until K.S.'s eighteenth birthday and successful completion of the Life Choices program. The court again warned K.S.:

If you fail to complete that program, . . . then it could result in an immediate probation revocation being filed by the Prosecutor's Office and it could result in an immediate detention order from the Court, potentially even a [DOC] commitment.

Again, it's not to threaten you it's just so [] that you know what the consequences are here and I've already told you that we all have hope for you and we want to see you get this turned around.

Id. at 36.

[11] On October 7, 2021, PO Cochenour filed a detention affidavit and, the following day, filed a petition for probation violation hearing, alleging that K.S. “was removed from the Life Choices facility due to her behaviors and noncompliance.” *Appendix* at 28. On October 8, the juvenile court held, by Zoom, a detention and initial hearing. K.S., who was detained at SIRYV, and her counsel appeared at the hearing, as well as the prosecutor and PO Cochenour. Also in attendance were a FCM, DCS counsel, two DCS supervisors, CASA Purviance, two CASA supervisors, the CASA director, and Grandmother. The court advised K.S. of the newly filed petition and her rights. The State told the court “we’ve been here multiple times and we believe that her behavior warrants the [DOC] placement at this point.” *Transcript* at 44. PO Cochenour stated that FCM Taylor Harper had contacted her and advised that things “had gotten pretty out of hand” at Life Choices and that the Life Choices Director told DCS by letter that it was no longer in K.S.’s safety or theirs for her to remain there. *Id.* PO Cochenour agreed with the State regarding DOC commitment.

[12] As it had in prior hearings, the juvenile court solicited input from others in attendance. CASA Director Katie Thompson stated that CASA agreed with the DOC recommendation. DCS counsel indicated that “I don’t know if DCS

has [] an appropriate placement for [K.S.] given her behaviors but we'll continue looking.” *Id.* at 45. DCS Supervisors expressed agreement with “everything that’s been said” in that “we’ve tried multiple different program[s], different placements, different services[.]” *Id.*

- [13] K.S. explained to the court that she “lost control” at Life Choices because she felt she “was not getting heard there” and that they were “disrespectful” to her. *Id.* at 46. She expressed that she had “no hope right now” and she felt like DCS and others were “not even trying.” *Id.* at 46-47. The court sympathized with K.S. but told her:

I gave you the path forward and we can’t even go [] a week or ten days without there being a major blow-up and I’m keepin’ an open mind. I’ve not made a decision on what we’re gonna do here but for today’s purposes, the Court still finds that there is a reason to continue with detention. There is probable cause to believe that you’re a danger to yourself or others or the community[.] . . . [E]verybody here cares about ya . . . and we have done nothing but try to figure out what worked, including sending you home several times, including sending you home too early last time because we were tryin’ to work with the family and it didn’t work.

Id. at 48, 49. The court set the matter for a review hearing and in closing reiterated to K.S.,

We’ve tried the nice approach. We’ve tried the pat on the back approach. We’ve tried the -- tried to get you into services approaches. We’ve tried to get you back home approach. We’ve tried counseling and treatment approach. We have tried multiple different facilities and there’s always something wrong with every

facility[.] . . . Quit blaming everybody else, work on your issues, talk to your counselors, and let's get this movin'. . . . If your actions merit a DOC commitment, DOC is where you will go and then I hope that will be what it takes to get you turned around . . . because I care about ya and nothing else has worked.

Id. at 51, 52. The court continued the matter of the probation violation to the subsequent hearing.

[14] The court convened on November 3, 2021, for the review hearing and fact-finding hearing on the probation violation. K.S. was present by Zoom from her detention at SIRYV along with her counsel, and, as with other hearings, there were counsel and representatives present as to both the probation and the CHINS matters. The prosecutor and PO Cochenour told the court that the Youth Behavior Report they received on K.S. was “not [] good” and reflected insubordination, harmful contraband, possession of a weapon, communication violations, safety violations, destruction of property, and sexual misconduct. *Id.* at 58. PO Cochenour recommended placement at the DOC.

[15] The court sought DCS's input, and DCS counsel stated that while DCS “echoes” probation's concerns, it was concerned that “if [K.S.] ages out . . . while in DOC then she would not qualify for collaborative care services.” *Id.* at 60.

[16] K.S. objected to DOC placement, arguing that it would not be in her best interests and would not be the least restrictive placement. K.S.'s counsel argued,

We'd also be concerned about how it would affect her going forward because *as the Court is well aware this is a dual-status matter*. DOC is not a long-term solution. . . . I don't know how it affects APPLA[.]⁴

Id. at 59 (emphasis added). Counsel requested a referral of K.S. to SIRYV's residential program "to see whether . . . [it] would accept her[.]" *Id.* CASA Purviance expressed her hope for a placement with intensive treatment and counseling and stated that DOC "would be my last choice for her." *Id.* at 62. Grandmother opined that DOC would be "the worst place" for K.S. and agreed with K.S.'s counsel as to placement at SIRYV. *Id.* at 61.

[17] K.S. apologized for previously putting blame "on DCS and everybody" and stated her intention to "do better." *Id.* at 64, 65. The court set a review hearing and a fact-finding hearing on the probation violation for December 15, 2021, warning K.S., "I gotta see a much different report if you're wanting a [] chance to continue to work on things outside the [DOC]." *Id.* at 72.

[18] The court opened the December 15 hearing by recognizing the "dual status" nature of K.S.'s case, with the hearing being a "combine[d]" hearing on the CHINS and delinquency matters. *Id.* at 76. Again, in attendance were, along with K.S. and her counsel, the prosecutor and probation, representatives from

⁴ APPLA refers to "another planned permanent living arrangement" used by child welfare when transitioning to independent living.

DCS and CASA, and various of K.S.'s family members. A representative from Life Choices was also present.

- [19] K.S. admitted to violating probation by not completing the Life Choices program but objected to the proposed dispositional plan of DOC placement. The trial court accepted K.S.'s admission to the probation violation and then proceeded to a dispositional hearing. The court solicited probation's position and PO Cochenour stated,

[M]y position on this has not changed. We have had many prior chances or -- or processes on trying to change behaviors for this juvenile. We've tried probation, home detention or electronic monitoring, residential placements; we've had intense individual therapy; we've had family therapy; trial home visits; we've had equine therapy; and detention at both [SIRYV] and Y[O]C. Currently, I can go back, I have a list of all of the placements that have failed. We have not successfully completed [] one placement, . . . [S]he has had the opportunity for . . . intensive therapy at all of the residentials that she's had. Given the fact that she has not successfully completed any program and is removed from all programs, I believe that her best chance would be at DOC where she would be evaluated and assessed and then they would place her in a program there.

Id. at 83. The prosecutor agreed, noting that while the State would have preferred some other course of action, "the only option left [] is DOC." *Id.* at 84.

- [20] K.S. argued that her behavior had improved since the November hearing, and since the last hearing on December 3, "there's been absolutely nothing" in

terms of incidents. *Id.* at 87. She argued that DOC was not the least restrictive placement as required by statute and not in her best interests. K.S. requested placement of K.S. at SIRYV's residential program, if accepted, where K.S. had developed a rapport with the staff. K.S. also argued that DOC placement was not in line with DCS's plan in the CHINS case for collaborative care and residential placement, and thereafter, a step-down program toward eventual independent living.

[21] K.S. testified regarding the probation violation, explaining that she was frustrated with the Life Choices program because, at some point, it switched its programming and was not independent and, while they wanted her to have a job, the program interfered with her ability to work. She objected to placement at DOC, testifying that she desired to continue with education and become a CNA, and thereafter possibly join the military, but she could not do that if she went to DOC. She also expressed that it is hard to find any placement after being in the DOC, and therefore, she requested to be in the SIRYV residential program if they would accept her. K.S. expressed a desire to participate in therapy and she liked the therapist that she previously had at SIRYV as "they know me and they can help me." *Id.* at 108.

[22] On cross-examination, the prosecutor asked K.S. about incidents and write-ups at SIRYV occurring on November 11, 26, and December 3. K.S. acknowledged them but noted she had been in detention in a locked cell, not in the residential program, and that she had not received any therapy. *Id.* at 93.

[23] CASA Purviance told the court her recommendation would be for intensive therapy and not DOC placement. Counsel for DCS expressed that DCS shared the concerns of the State and probation with regard to K.S.'s behavior but recommended that K.S. be placed at SIRYV residential program if it would accept her. FCM Harper agreed and stated that DCS's plan was to utilize collaborative care and ultimately move her from a residential program at SIRYV where she could receive therapy to a facility geared toward independent living. The court asked for input from the various family members in attendance, who desired placement at SIRYV.

[24] The trial court took the matter under advisement. In closing, the court remarked:

DOC doesn't just mean like prison but it means an evaluation, they have an expert to look at things and try to determine what are the best services available to you within the DOC structure and they have different services too and I'm not sayin' that's what I'm gonna do but I just want you to be aware of that.

* * *

[I]t won't be long until we are out of this picture, you are livin' on your own and the goal is can we get ya to do that successfully and not find yourself incarcerated in an adult court, in an adult jail, potentially in an adult facility or in an adult prison[.]

* * *

I'm going to do what I think's in your best interest and that's what I'll always do. Sometimes people agree. Sometimes people

disagree. Sometimes everybody disagrees and that's okay. But what I do want you to know is that everybody in this courtroom does care about ya. We believe in you[.]

Id. at 104, 105, 109.

[25] On January 20, 2022, the court issued a dispositional order (the Order), awarding wardship of K.S. to the DOC for an unspecified period of time not to exceed K.S.'s twenty-first birthday, "as it is essential to protect the child and community due to her inability or unwillingness to control her behavior."

Appendix at 11. The order also provided:

[R]easonable efforts were made by the probation department to prevent or eliminate the need for removal of the child including: The court attempted probation services, electronic monitoring, individual and family intensive outpatient counseling, detention at [SIRYV] and more than one residential placement before this commitment but was unable to change the child's behavior.

* * *

The wardship shall be for an unspecified period of time to be determined by the [DOC] not to exceed the child's twenty-first birthday. Once that counseling/treatment is complete the Juvenile may be released back to Spencer County Probation for further monitoring and potentially into collaborative care to begin transitioning her to future independent living.

Id. K.S. now appeals.

Discussion & Decision

1. Procedural Deficiencies

[26] K.S. asserts that she was deprived of due process because PO Cochenour did not file a modification report and because the trial court did not “make a specific finding in the dispositional order about K.S.’s dual status.” *Appellant’s Brief* at 14. “The standard for determining what due process requires in a particular juvenile proceeding is ‘fundamental fairness.’” *K.S. v. State*, 114 N.E.3d 849, 853 (Ind. Ct. App. 2018) (quoting *D.A. v. State*, 967 N.E.2d 59, 64 (Ind. Ct. App. 2012)), *trans. denied*; see also *In re M.T.*, 928 N.E.2d 266, 270 (Ind. Ct. App. 2010), *trans. denied*. A juvenile charged with delinquency is entitled to the “common law jurisprudential principles which experience and reason have shown are necessary to give the accused the essence of a fair trial.” *K.A. v. State*, 938 N.E.2d 1272, 1274 (Ind. Ct. App. 2010), *trans denied*.

[27] As we have observed, “[t]he legislature has provided a fairly detailed list of procedural requirements for juvenile courts to follow in delinquency proceedings.” *K.S.*, 114 N.E.3d at 853.

When modification of a dispositional decree is requested, the probation department must complete a modification report governed by the requirements for a predispositional report, Ind. Code § 31-37-22-4 (incorporating the requirements of Ind. Code ch. 31-37-17 regarding predispositional reports), and the juvenile court must comply with the requirements governing dispositional orders, including the requirement for written findings and conclusions, Ind. Code § 31-37-22-3(c) (incorporating the requirements of Indiana Code section 31-37-18-9).

Id. K.S. correctly argues that the juvenile court's order should include a specific finding as to the child's status. *See id.* (recognizing that the juvenile court's modification order did not comply with statute where it failed to include a specific finding as to child's dual status); I.C. §§ 31-37-22-3(c), 31-37-18-9(a)(6).

[28] Here, while the trial court did not make the required specific finding in its Order that K.S. was a dual status child, it is apparent from the record that all parties, including the court, were well aware of K.S.'s status. That is, representatives and counsel relative to both the CHINS matter and the delinquency matter were present at the various hearings, and at multiple hearings it was mentioned on the record that the matter was a "dual-status" case. *See Transcript* at 4, 59, 76; *see also id.* at 18 ("we're here on two cases," citing the CHINS and delinquency cause numbers). Furthermore, the court's Order, while not making the specific dual-status finding, included the following provision, which acknowledged and incorporated DCS's plan: "Once that counseling/treatment is complete the Juvenile may be released back to Spencer County Probation for further monitoring and potentially into collaborative care to begin transitioning her to future independent living."⁵ *Appendix* at 11. Under these facts and circumstances, we find that K.S. was not denied due process as a result of the omission in the Order, and we remand for the trial court to make the required specific finding concerning K.S.'s dual status. *Compare K.S.*, 114 N.E.3d at 854

⁵ Collaborative care refers to DCS services or payment for service for older youth, such as foster care, a host home, or group home. *See* Ind. Code Chap. 31-28-5.8.

(juvenile court’s failure to make specific finding as to whether child was dual status was a procedural deficiency that did not result in denial of due process where “K.S. was given notice of the charges against him alleged to warrant modification of his placement, had counsel, and was afforded an evidentiary hearing at which no evidence was adduced that would clearly support a finding that he was a dual status child”).

[29] K.S. is also correct that I.C. § 31-37-22-4 requires the filing of a modification report that contains the contents required under Ind. Code Chap. 31-37-17 for a predispositional report. Ind. Code § 31-37-17-6.1 lists information a probation officer “must include” in these reports, including the results of a dual-status screening tool that bears on whether the child is both a delinquent child and a CHINS. I.C. § 31-37-17-6.1(a). The list also includes “[a] description of all dispositional options considered” and “[a]n evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended” under statutory guidelines. *Id.*

[30] As to PO Cochenour’s failure to file a modification report in this case, the State argues, and we agree, that K.S. did not object to proceeding to disposition without said report and has waived her argument. Waiver notwithstanding, we find that K.S. was not denied fundamental fairness as a result of the absence of the report.

[31] As explained above, K.S. was identified and treated as a dual status child throughout the proceedings and multiple hearings. Thus, the lack of a “dual

status screening tool to determine whether the child is a dual status child” was harmless. Further, at several hearings, modification of placement was discussed at length, and all parties, including K.S., her counsel, DCS, and CASA, weighed in on the options that had been considered, attempted, and exhausted. The placement options were considered “in relation to the plan of care [and] treatment” for K.S.; that is, DCS and CASA offered opinions as to whether certain options, including placement at DOC, were – or were not – consistent with their plan for K.S. While we reiterate the importance of statutory compliance, procedural irregularities do not render proceedings per se fundamentally unfair. *See e.g., K.S.*, 114 N.E.3d at 853-54 (holding that juvenile was not deprived of due process where court failed to make statutorily-required finding regarding dual status). On the record before us, we do not find that K.S. was denied fundamental fairness because of the lack of a probation modification report.

2. Placement at DOC

[32] K.S. argues that the juvenile court abused its discretion by ordering wardship of her to the DOC. The juvenile court has wide latitude and great flexibility in its dealings with juveniles, and the choice of the specific disposition of a juvenile adjudicated a delinquent child is a matter within the sound discretion of the juvenile court. *M.T.*, 928 N.E.2d at 268. 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. *Id.* 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.

Id.

[33] I.C. § 31-37-18-6 sets forth the factors that a juvenile court must consider in entering a dispositional decree:

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.

The statute thus requires placement in the least restrictive setting only "[i]f consistent with the safety of the community and the best interest of the child."

Id. This language "reveals that a more restrictive placement might be appropriate under certain circumstances." *J.T. v. State*, 111 N.E.3d 1019, 1026 (Ind. Ct. App. 2018), *trans. denied*. We have held that commitment to the DOC

“should be resorted to only if less severe dispositions are inadequate.” *E.L. v. State*, 783 N.E.2d 360, 366 (Ind. Ct. App. 2003).

- [34] In this case, K.S. argues that “[i]t cannot be said that the commitment to the DOC was in K.S.’s best interests and welfare” or was the least restrictive dispositional option. *Appellant’s Brief* at 19. We disagree.
- [35] K.S. was removed from Grandmother’s home in October 2020, due to being out of control, battering Grandmother, and damaging property. At the time, she was on probation in another matter. At the October 2020 initial/detention hearing, the court ordered that K.S. continue in detention and undergo a three-week diagnostic evaluation. At some point thereafter, K.S. went home for trial visit(s), but in December 2020, the parties were back in court and K.S. was ordered to residential placement at SIRYV. She was unsuccessful there, but the parties nevertheless agreed in June 2021 to a less-restrictive placement at Life Choices, which all parties hoped would give her more freedom to work and volunteer and the chance to prove herself. Completion of Life Choices was a condition of probation and the court repeatedly warned K.S. that the alternatives to DOC placement were dwindling. By October 2021, K.S. had been removed from Life Choices, and the State filed a probation violation.
- [36] Three hearings ensued, in October, November, and December 2021, during which all parties, including DCS counsel and the FCM, the CASA and supervisors, and probation and the State, appeared and presented evidence as to the appropriate disposition for K.S. Rather than placing her at DOC upon her

violation, as PO Cochenour and the State requested, the court continued K.S. in detention at both the October and November 2021 hearings, in hopes that K.S. would turn her behavior in a positive direction. The court emphasized to K.S. that all parties desired her to succeed but that DOC was an option that the court was considering if necessary. At the December 15, 2021 hearing, the court heard evidence about incident write-ups at SIRYV detention on November 11, 26, and December 3.

[37] K.S. nevertheless argues that it was an abuse of discretion to order wardship to the DOC because “K.S. was in the process of transitioning to collaborative care” and by placing her at the DOC, “the trial court [thereby] removed the need for DCS to keep a case open,” and “foreclosing those services is not in K.S.’s best interests.” *Reply Brief* at 4, 5. The court was aware that DCS’s plan was for collaborative care and eventual independent living and that their request was for the court to place K.S. back at the SIRYV residential program, if available. However, K.S. had previously been placed there unsuccessfully and thereafter accumulated violations while in detention at SIRYV. Moreover, although the court placed wardship at the DOC, it acknowledged and incorporated DCS’s plan in its Order by ordering that “[o]nce that counseling/treatment is complete the Juvenile may be released back to Spencer County Probation for further monitoring and potentially into collaborative care to begin transitioning her to future independent living,” noting the possibility that K.S. might be able to earn an earlier release with good behavior and compliance. *Appendix* at 11.

[38] In sum, K.S. was offered probation, home detention, residential placements, intensive therapy, trial home visits, and detention in two locations. All ended unsuccessfully. On the record before us, the court's modification of K.S.'s placement to the DOC was not an abuse of discretion. *See M.C. v. State*, 134 N.E.3d 453, 459 (Ind. Ct. App. 2019) (affirming commitment where juvenile continued to use marijuana, committed additional offenses, was suspended from school, and committed theft after his involvement with the juvenile justice system), *trans. denied, cert. denied* (2020) ; *J.T.*, 111 N.E.3d at 1027 (affirming commitment to DOC where juvenile was found delinquent four times, and less-restrictive options failed including home detention, problem-solving court, and services such as counseling and therapy).

[39] Judgment affirmed and remanded.

Vaidik, J. and Crone, J., concur.