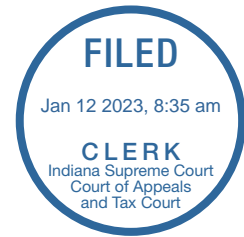


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as binding precedent, but it may be cited for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



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## IN THE COURT OF APPEALS OF INDIANA

R.B.,

*Appellant-Defendant,*

v.

State of Indiana,

*Appellee-Plaintiff.*

January 12, 2023

Court of Appeals Case No.  
22A-JV-1686

Appeal from the Gibson Circuit  
Court

The Honorable Jeffrey F. Meade,  
Judge

Trial Court Cause No.  
26C01-2110-JD-217

**Brown, Judge.**

[1] R.B. appeals the trial court’s order awarding wardship of him to the Indiana Department of Correction for housing in a correctional facility for children. We affirm.

### ***Facts and Procedural History***

[2] On October 27, 2021, the State alleged under cause number 26C01-2110-JD-217 (“Cause No. 217”) that R.B., who was born in 2007, committed delinquent acts on October 25, 2021, which if committed by an adult would constitute criminal confinement as a level 6 felony, domestic battery as a level 6 felony, domestic battery in the presence of a child as a level 6 felony, two counts of strangulation as level 6 felonies, interference with reporting a crime as a class A misdemeanor, and intimidation as a class A misdemeanor. All of the delinquent acts were allegedly committed against R.B.’s mother. That same day, the court held an initial hearing. The court asked R.B.’s mother if she was comfortable taking R.B. home, and she answered: “Not at the moment.” Transcript Volume II at 5. She also stated: “I would rather him stay for a little while.” *Id.* The court appointed counsel for R.B. and scheduled a further hearing.

[3] On November 1, 2021, the court held a pretrial conference at which it advised R.B. of his rights. R.B.’s mother indicated that she was willing to allow R.B. to return home with some rules. R.B. indicated he would attend school and was willing to follow his mother’s rules. The court released R.B. to his mother’s care for a pretrial period and stated “if I feel [R.B. is] endangering somebody, I’m going to lock him back up.” *Id.* at 50.

[4] On December 8, 2021, the court held a pretrial conference, and R.B.’s mother reported that R.B. had “been doing wonderful” and had learned to love his four-year-old sister. *Id.* at 61. On February 25, 2022, the court held a pretrial conference, and R.B.’s mother reported that R.B. was “doing really good.” *Id.* at 70.

[5] On May 16, 2022, the court held a detention hearing. The prosecutor referenced cause number 26C01-2205-JD-98 (“Cause No. 98”) and stated:

[I]t was – Thursday, I think it was, I got a call regarding a battery. The allegation was that [R.B.] had committed battery on another child, and that battery was serious – with serious bodily injury strangulation. And then, subsequent to that, when they were looking for the juvenile, they were unable to locate him. And the juvenile decided to post on social media a threat towards Wood Memorial High School, middle school basically stating that he would be shooting the school up the next day. . . . And then we were able to locate the juvenile, and I authorized detention under the existing cause number. And then, subsequently, we filed a new charge. So he needs to be advised of the new charge . . . .

*Id.* at 80-81. The prosecutor then advised R.B. of the allegations under Cause No. 98 as including delinquent acts on May 12 or 13, 2022, which if committed by an adult would constitute aggravated battery as a level 3 felony, strangulation as a level 6 felony, and intimidation with a deadly weapon as a level 5 felony.

[6] On May 25, 2022, the court held a factfinding hearing at which R.B. acknowledged that he received a petition of delinquency filed on May 24th

under Cause No. 98. R.B.'s counsel indicated that R.B. would admit the allegations under Cause No. 217 and would like to schedule a factfinding hearing for Cause No. 98. R.B. admitted that he committed the delinquent acts of criminal confinement, domestic battery, strangulation, interference, and intimidation. Specifically, he admitted that he confined his mother without her consent, committed battery against her resulting in moderate bodily injury, applied pressure to her neck in a manner that impeded her normal breathing or blood circulation, interfered with or prevented her from calling 911, and intimidated her. That same day, the court entered an order under Cause Nos. 217 and 98 finding that R.B. admitted to all counts in Cause No. 217, ordered a predispositional report, and scheduled a factfinding hearing for Cause No. 98 and a dispositional hearing for Cause No. 217.

[7] On June 14, 2022, the court held a dispositional hearing. It referenced Cause Nos. 217 and 98, and the parties expressed a preference for first addressing the disposition in Cause No. 217. R.B.'s mother testified that "[t]hings were good" between October and May and requested that R.B. be allowed to return home on house arrest. *Id.* at 104. On cross-examination, she acknowledged that R.B. committed battery on her in front of her daughter and he tested positive for marijuana. She stated that R.B. was sneaking out at night with a man, she addressed that issue with him, and R.B. did not sneak out anymore.

[8] The court stated:

[T]he Court will adjudicate the juvenile as a juvenile delinquent and impose the disposition of a commitment to the Indiana

Department of Correction[] Boys School at this time, largely based on the violent nature of the events, as well as, I would suggest, that I don't believe it's in the interest of justice or the well-being of this child to be placed back in the home at this time with the victim in this case. I see concerns for the allegations in what has been admitted to wherein the mother was the victim, and I do not feel comfortable for the safety of not only the community, but as well as the juvenile, being placed back in the house at this time.

*Id.* at 117. The court also noted that the Predispositional Report mentioned serious concerns regarding drug use, referenced the statements of R.B.'s mother related to adult men coming to her house, and stated "I'm going to take a guess and suggest I have a good idea of where those drugs were coming from or how they were getting into your hands." *Id.* at 118. The court told R.B. to view the placement as an opportunity. After the court announced the disposition in Cause No. 217, the prosecutor moved to dismiss Cause No. 98, and the court granted the motion. That same day, the court entered an order adjudicating R.B. a delinquent and placing him in the Indiana School for Boys under Cause No. 217 and dismissing Cause No. 98.

### *Discussion*

[9] R.B. asserts that he did well at his mother's home after the juvenile court placed him there following his initial removal and detention, it was only after the State made new allegations against him that the juvenile court's level of comfort with having him in his mother's home appears to have changed, and those allegations were never proven and were dismissed. He asserts there was

nothing from which the trial court could have concluded that it was unsafe for him to be in his mother's home after disposition. He acknowledges he "continued to have issues with substance abuse while at home" and "was sneaking out of the house" but asserts that his mother "got [him] to stop sneaking out and resolved the issue of the adult man [he] was spending time with." Appellant's Brief at 11.

[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). Ind. Code § 31-37-18-6 provides:

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.

We will not reverse the court's disposition absent a showing of an abuse of discretion, which occurs if its actions are clearly against the logic and effect of the facts and circumstances or the reasonable inferences that can be drawn from them. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010).

[11] The record reveals that R.B. admitted to committing delinquent acts against his mother in October 2021, which if committed by an adult would constitute criminal confinement as a level 6 felony, domestic battery as a level 6 felony, domestic battery in the presence of a child as a level 6 felony, two counts of strangulation as level 6 felonies, interference with reporting a crime as a class A misdemeanor, and intimidation as a class A misdemeanor.

[12] The June 13, 2022 Predispositional Report indicates that R.B.'s mother had joint physical custody of him for the prior six years and that R.B. "states that he can not 'deal with her or reason with her'" and "reports that it is like 'she has [a] split personality.'" Appellant's Appendix Volume II at 74. It indicates that R.B. reported using nicotine, THC, mushrooms, LSD, K2, methamphetamine, Xanax, and Klonopin. It reveals that R.B. reported THC is his drug of choice, he uses THC often, and he uses methamphetamine "quite often now and is now addicted." *Id.* at 75. It states that R.B.'s mother reported that R.B. started hanging out with a thirty-three-year-old man and "that was when [R.B.] started sneaking out of the home and start[ed] to use drugs again." *Id.* at 78. It also found that R.B.'s actions posed a danger to himself and others.

[13] Under the circumstances as described above and in the record, we conclude the placement ordered by the court is consistent with R.B.'s best interest and the safety of the community and find no abuse of discretion.

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

[15] Affirmed.

Altice, C.J., and Tavitas, J., concur.