

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

A.B.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Plaintiff

September 15, 2022

Court of Appeals Case No.
22A-JV-894

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Magistrate

Trial Court Cause Nos.
71J01-1703-JD-85
71J01-2108-JD-265
71J01-2202-JD-72

May, Judge.

[1] A.B. appeals his placement in the Indiana Department of Correction (“DOC”) following his latest adjudication as a delinquent. A.B. asserts the juvenile court abused its discretion by placing him in the DOC because it was not the least restrictive placement available. In light of A.B.’s history of delinquent behavior, the prior placements that have not modified his behavior, and the recommendations of his probation officer, we find no abuse of discretion in A.B.’s placement in the DOC. Accordingly, we affirm.

Facts and Procedural History

[2] On March 15, 2017, under cause number 71J01-1703-JD-85 (“JD-85”), the State alleged A.B. was a delinquent for committing an act that would be Level 3 felony child molesting if committed by an adult.¹ At his initial hearing, A.B. admitted the allegation, and after a dispositional hearing, the court placed A.B. on “Strict and Indefinite Probation” and ordered he be placed in Bashor Children’s Home. (App. Vol. II at 28.)

[3] On August 30, 2018, the probation department filed a modification report. Following a hearing on September 4, 2018, the court ordered A.B. be unsuccessfully discharged from Bashor Children’s Home and placed in the Youth Opportunity Center (“YOC”). While at YOC, A.B. “struggled to maintain consistent behavior on the unit” and “displayed argumentative and

¹ Ind. Code § 35-42-4-3(a).

aggressive behaviors with staff and peers.” (*Id.* at 51.) He threatened staff, he was physically aggressive to peers, and he attempted to destroy property. On November 12, 2019, A.B. stabbed a pencil in the ear of a YOC staff member, so on November 13, 2019, the court determined A.B. should be detained at the St. Joseph County Juvenile Justice Center (“JJC”) as “an emergency [placement] required to protect the health and welfare of the child.” (*Id.* at 49.) A.B.’s behavior problems continued at the JJC, so in 2020 the court placed A.B. in the custody of the DOC.

[4] On March 31, 2021, probation filed a petition for modification that reported A.B. successfully completed treatment at the DOC and would be released on April 19, 2021. Probation accordingly asked the court to continue A.B.’s probation and place him on home detention for ninety days. The court held a hearing, and on April 20, 2021, ordered A.B. returned to probation with several special conditions imposed. On May 25, 2021, the court ordered additional conditions requested by the probation department but continued A.B. at home.

[5] Less than three months later, while living at home, A.B. headbutted his mother’s partner, breaking her nose and causing a concussion, which required hospital intervention. On August 23, 2021, under cause number 71J01-2108-JD-265 (“JD-265”), the State filed a delinquency petition that alleged A.B. committed an act that, if A.B. were an adult, would be Class B misdemeanor

disorderly conduct.² A.B. admitted committing disorderly conduct, and the court ordered the preparation of a predispositional report. On September 21, 2021, in both JD-85 and JD-265, the court ordered A.B. placed at Bashor Children’s Home for not more than sixty days, after which he was to be released to the custody of his mother and placed on home detention. On November 16, 2021, A.B. was released to home detention.

[6] On December 1, 2021, A.B. smashed cameras at his mother’s house, and on February 18, 2022, A.B. smashed a mirror at his mother’s house. On February 25, 2022, under cause number 71J01-2202-JD-72 (“JD-72”), the State alleged A.B. was a delinquent for committing acts that would be Class B misdemeanor criminal mischief if committed by an adult. At his initial hearing, A.B. admitted committing the delinquent acts. Following a hearing regarding disposition as to JD-72 and modification as to JD-85 and JD-265, the court ordered wardship of A.B. to the DOC “for housing in any correctional facility for children or any community-based correctional facility for children.” (*Id.* at 156.) The court order explained its reasoning:

The Court has given the Respondent numerous opportunities to reform his behavior in the community, but little progress has been made. His behavior while detained this most recent time has been quite poor. The Court agrees with the Probation Officer’s assessment: “When the home setting, residential treatment, and detention setting do not correct a juvenile’s behavior, the least restrictive means become incarceration at the

² Ind. Code § 35-45-1-3(a)(1).

Indiana Department of Correction. If [A.B.] is not committed to IDOC, he will engage in further acts of disrespect, danger to staff and family, and the blaming of others. Until [A.B.] can take responsibility for his actions and realize how he contributes to his own delinquency, no other setting will modify his behavior in such a way. The Probation Department would be doing a huge disservice to any residential treatment facility, his parents if he were to return home, or to detention staff, if he were to be placed in those settings. [A.B.] has had multiple chances to prove that he can control his behavior, but his focus on blaming others has seriously impeded his ability to modify his behavior for the better.”

(*Id.*)

Discussion and Decision

- [7] A.B. challenges the order that he be placed in the custody of the DOC. “The specific disposition of a delinquent child is within the juvenile court’s discretion,” *K.S. v. State*, 114 N.E.3d 849, 854 (Ind. Ct. App. 2018), *trans. denied*, and we thus review a juvenile court’s dispositional order for an abuse of discretion. *Id.* A decision is an abuse of discretion if it is clearly against the logic and effect of the facts and circumstances before the court or against “the reasonable, probable, and actual deductions to be drawn” from those facts and circumstances. *Id.*
- [8] While juvenile courts have “wide latitude and great flexibility” in fashioning dispositions for delinquents, *id.* (quoting *C.T.S. v. State*, 781 N.E.2d 1193, 1203

(Ind. Ct. App. 2003), *trans. denied*), our legislature delineated factors the juvenile court should consider as it makes its decision:

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.

Ind. Code § 31-37-18-6.

[9] A.B. asserts his case is just like *D.P. v. State*, 783 N.E.2d 767 (Ind. Ct. App. 2001), because he could have responded positively to probation and his conduct is not “repetitive or serious misconduct.” (Appellant’s Br. at 10.) We find A.B.’s reliance on *D.P.* misplaced. *D.P.* was placed in the DOC following his adjudication as a delinquent for stealing mail from his neighbor and using that neighbor’s credit card. *Id.* at 768-69. It was *D.P.*’s second juvenile adjudication, but more than five years had passed since *D.P.* had successfully

completed probation for an adjudication when he was ten years old. *Id.* at 770. D.P. had never been offered any other form of treatment, and the Probation Department recommended against placing D.P. in the DOC. *Id.* at 769.

[10] A.B., on the other hand, had been adjudicated a delinquent for molesting a three-year-old, head-butting his mother’s partner, and smashing family property; and his behavior had not been modified by stints in group homes, on probation, and in the DOC, all of which led the juvenile court to determine he poses “a danger to self and others.” (App. Vol. 2 at 156.) At the dispositional hearing on March 22, 2022, A.B.’s probation officer, Officer Poynter, testified A.B. had been in custody since February 19, 2022, and in that month, A.B. had accumulated thirty-six behavior related incident reports. Officer Poynter testified services provided to A.B. “not only include intensive services within the community, but several emergency shelter care stays, three residential treatment places, and one prior commitment to the [DOC].” (Tr. Vol. 2 at 8.) She further explained:

During staffing of this case, several options were considered including placement in the Bridge Link Program, but because of [A.B.]’s consistent refusal to follow any reasonable rules in any setting, his highly oppositional nature, as well as the other concerns discussed in the reports, it is believed a second commitment to the [DOC] is the most appropriate option available.

Probation in the community has been tried for the last year and no services have had the desired effect. [A.B.] continues to be

disruptive and oppositional in every setting, and has been over the last year – in every setting he’s been in over the last year.

We believe that [A.B.] will continue to engage in further acts of delinquency, placing both himself and the community at risk for harm. We respectfully request the Court adopt the recommendations as outlined in both the predispositional report and the petition for modification to include [A.B.] be committed to the [DOC].

(*Id.* at 8-9.) Not only did A.B. not want to return to his mother’s home, but his mother also requested that he not return home. In light of A.B.’s history of delinquent behavior, the prior placements that have not modified his behavior, and the recommendations of his probation officer, we find no abuse of discretion in the juvenile court’s decision to place A.B. in the DOC. *See M.M. v. State*, 189 N.E.3d 1163, 1167 (Ind. Ct. App. 2022) (holding juvenile court did not abuse its discretion by granting wardship to DOC when “numerous and intensive efforts and lesser restrictive placements” had failed).

Conclusion

[11] The juvenile court did not abuse its discretion when it placed A.B. in the DOC following his most recent adjudication as a juvenile delinquent, and we accordingly affirm.

[12] Affirmed.

Crone, J., and Weissmann, J., concur.