

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

A.G.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

December 28, 2021

Court of Appeals Case No.
21A-JV-1472

Appeal from the Elkhart Circuit
Court

The Hon. Michael A.
Christofeno, Judge

The Hon. Deborah A. Domine,
Magistrate

Trial Court Cause No.
20C01-1712-JD-610

Bradford, Chief Judge.

Case Summary

- [1] In March of 2018, A.G. was adjudicated a juvenile delinquent for committing what would be Level 6 felony intimidation if committed by an adult and given probation. Over the course of the next three years, A.G. violated the terms of her probation approximately fifteen times, committed five more delinquent acts, ran away from residential placements twice, and generally failed to take advantage of services offered to her. In June of 2021, the juvenile court ordered A.G. committed to the Department of Correction (“DOC”). A.G. contends that the juvenile court abused its discretion in ordering her committed to DOC instead of a less-restrictive placement. We affirm.

Facts and Procedural History

- [2] On April 20, 2017, then-fourteen-year-old A.G. threatened to commit bodily harm against the school counselor and moved toward her while the school counselor was engaged in her duties. On December 11, 2017, the State petitioned to have A.G. found a juvenile delinquent for committing what would be Level 6 felony intimidation if committed by an adult. On March 23, 2018, the juvenile court adjudicated A.G. a delinquent child after her admission to the allegation and placed A.G. on formal supervised probation with mental-health assessments and community-based services.
- [3] In December of 2018, A.G. violated probation by being suspended from high school for threatening another student and being suspended from the bus for fighting. At a continued modification hearing on January 9, 2019, the juvenile court found that A.G. had committed the additional probation violations of

leaving home without permission for a three-day period, threatening her grandfather and mother, and getting arrested in Michigan. The juvenile court continued the existing orders, vacated services at Oaklawn, ordered services through Keys Counseling, and imposed a no-contact order with A.G.'s mother.

[4] On February 25, 2019, A.G. tested positive for marijuana but was otherwise doing well, so in March of 2019, the juvenile court continued the existing orders and ordered that A.G. participate in a drug-education program and Keys Academy. By June, however, A.G. had been suspended from school on two occasions for being disrespectful and fighting, and on June 19, 2019, the juvenile court found her in violation of probation and continued the existing orders.

[5] By October of 2019, A.G. was detained for committing domestic battery against her mother. At a hearing on October 7, 2019, the juvenile court heard evidence that A.G. had bit her mother above her right eye and that A.G. was failing her classes in school. The juvenile court found that A.G. had violated probation, that she was a flight risk, and that she was a danger to herself and others. The juvenile court ordered that A.G. remain in the juvenile detention center while the case was staffed for residential placement. At a review hearing a week later, the probation department advised that Youth Opportunity Center was the only facility that would staff A.G.'s case, but that the treatment team recommended that A.G. be given another opportunity for community services with electronic monitoring. Noting that this would be the "last time" for community-based options, the juvenile court released A.G. to home, placed her on electronic

monitoring, and ordered community corrections to evaluate her for that program. Tr. Vol. II p. 100.

- [6] Between October of 2019 and February of 2020, A.G. violated the no-contact order with her mother on multiple occasions, did not take her medication, did not engage in court-ordered services, and accumulated multiple violations of phase 2 home detention. At a hearing on February 19, 2020, the juvenile court found that A.G. had violated the terms of probation, vacated the no-contact order, ordered that the family engage in therapy, ordered that A.G. re-engage in services, and ordered that A.G.'s mother participate in a parenting assessment with DCS.
- [7] On February 24, 2020, the probation department notified the juvenile court that A.G. had not been home for five days and her whereabouts were unknown; the juvenile court denied the request for a body attachment. The next day, the probation department notified the juvenile court that A.G. had reported to probation on February 25, 2020, but had refused to be placed on electronic monitoring and had left the courthouse. At a hearing on March 3, 2020, A.G. failed to appear, so the juvenile court issued a body attachment and ordered probation to investigate residential placement.
- [8] A.G. was detained later that day when she was caught shoplifting at Walmart. At a hearing on March 5, 2020, the juvenile court found that A.G. had violated the terms of her probation and ordered that she remain in the juvenile detention center and that probation investigate placement options. By March 19th, the probation department had located a placement at White's Residential and

Family Services. Against this recommendation, the juvenile court ordered A.G. returned home on March 23, 2020, with electronic monitoring, and ordered that she take her medication and participate in “increased therapy[.]” Tr. Vol. II p. 159. In April of 2020, the juvenile court ordered that A.G. participate in an anger and aggression class.

[9] On June 11, 2020, the probation department notified the juvenile court that A.G. had violated home detention on multiple occasions, been gone from home for multiple days, snuck her boyfriend into the home at night, and failed to answer the door when officers conducted a home check. At a modification hearing on June 17, 2020, the juvenile court found that A.G. had violated electronic monitoring on several occasions. The juvenile court discharged A.G. from community corrections but ordered that she participate in the Youth Advocacy Program (“YAP”).

[10] A.G. initially did well on YAP. By late October of 2020, however, A.G. had been referred for possession of marijuana at school, had tested positive for marijuana on October 6, and had tested positive for marijuana and alcohol on October 21. At a hearing on November 4, 2020, the juvenile court also heard evidence that A.G. had not been attending her meetings at YAP and was not attending school; the probation department recommended a group home or residential placement. The juvenile court found A.G. was violating the terms of her probation, continued the existing orders, and ordered that A.G. participate in services; the juvenile court also ordered the probation department to investigate residential placement. On November 25, 2020, the probation

department notified the juvenile court that A.G. could be placed at the PATH program at White's.

[11] On December 9, 2020, the juvenile court held a hearing on both new allegations against A.G. and a modification under the existing cause. A.G. admitted to the new delinquency petition alleging that she had possessed marijuana at school. The juvenile court accepted the admission and closed that case. The juvenile court also heard evidence that A.G. was not participating in YAP and found that she had violated the terms of her probation. The juvenile court ordered A.G. to “fully cooperate with services” and declined to order residential placement. Tr. Vol. II p. 218.

[12] In February of 2021, the juvenile court found that A.G. had again violated the terms of her probation by leaving the state with her grandfather to attend a funeral; finding good cause, the juvenile court continued the existing services. On March 10, 2021, the probation department notified the juvenile court that A.G. had committed a new delinquent act of stealing vodka from Walmart, had tested positive for marijuana twice, was not attending school, was failing her classes, and had been arrested for auto theft in Detroit. At a hearing on May 4, 2021, the juvenile court found that A.G. had violated the terms of her probation and, over the State's request to place her in DOC, placed her in the juvenile detention center. At a review hearing on May 19, 2021, A.G. admitted to committing theft at Walmart on January 21, 2021; the juvenile court accepted the admission and closed that case. The juvenile court heard additional evidence that A.G. had not attended school since January 25, 2021; was not

attending YAP or therapy; and had been arrested in Detroit in a stolen vehicle. The State, the probation department, and YAP believed that residential placement was no longer an option and that A.G. should be placed in DOC. Taking placement in DOC under advisement, the juvenile court ordered that A.G. remain in detention and that the probation department investigate residential placement.

[13] On June 7, 2021, the probation department notified the juvenile court that, after investigating fifteen facilities, two would accept A.G.—Bashor Children’s Home Secure Program (available in September) and Gateway Woods Drug and Alcohol Program (available immediately). At a hearing on June 9, 2021, the juvenile court ordered A.G. placed at Gateway Woods, a placement that began the next day. On June 11 and 13, 2021, A.G. left campus without permission and fled from police when located at a local splash park on June 13. A body attachment was issued for her detention.

[14] At the final hearing on June 17, 2021, the probation department noted that A.G. had been ordered to participate in supervised probation, individual therapy, family therapy, case management, medication evaluation, electronic monitoring/home detention, drug education and screens, Keys Academy, Keys Café, YAP, Gateway Woods, and the juvenile detention center. A.G. had run away numerous times and committed delinquent acts of intimidation, domestic battery, theft (twice), possession of marijuana, and false informing. Noting that A.G. had continued to place herself and others at serious risk of harm and that community resources had been exhausted, the juvenile court ordered A.G.

placed in DOC to give her the opportunity for more intensive placement in a secure setting.

Discussion and Decision

[15] A.G. contends that the juvenile court abused its discretion in ordering her committed to DOC. A juvenile court is accorded “wide latitude” and “great flexibility” in its dealings with juveniles. *J.S. v. State*, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008). “[T]he choice of a specific disposition of a juvenile adjudicated a delinquent child is a matter within the sound discretion of the juvenile court and will only be reversed if there has been an abuse of that discretion.” *Id.* The juvenile court’s discretion in determining a disposition 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 it. *Id.*

[16] The goal of the juvenile process is rehabilitation rather than punishment. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010). “Accordingly, juvenile courts have a variety of placement options for juveniles with delinquency problems, none of which are considered sentences.” *Id.* Indiana Code section 31-37-18-6(1)(A) provides that “[i]f consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that is in the least restrictive (most family like) and most appropriate setting available.” “[T]he statute contains language that reveals that a more restrictive placement might be appropriate under certain circumstances.” *J.S.*,

881 N.E.2d at 29. The law requires only that the disposition selected be the least restrictive disposition that is “consistent with the safety of the community and the best interest of the child.” *D.S. v. State*, 829 N.E.2d 1081, 1085 (Ind. Ct. App. 2005). “When 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).

[17] A.G. contends that the juvenile court abused its discretion in ordering her committed to DOC. Under the circumstances, we cannot agree. Between March of 2018 and June of 2021, A.G. was given multiple opportunities to take advantage of services and less-restrictive placements, all to no avail. During that period, A.G. violated the terms of her probation approximately fifteen times, committed five new delinquent acts, stopped attending school and therapy, and engaged in high-risk behavior, such as soliciting money from a stranger at a motel and getting arrested in a stolen vehicle in Detroit. Moreover, A.G. ran away from residential placement twice, and her actions became dangerous, including fighting in school and the above-mentioned solicitation and arrest in Detroit. “Although options other than commitment to an institution are available for juvenile courts to utilize in dealing with a juvenile, there are times when commitment to a suitable public institution is in the best interest of the juvenile and of society.” *S.C. v. State*, 779 N.E.2d 937,

940 (Ind. Ct. App. 2002), *trans. denied*. The juvenile court did not abuse its discretion in concluding that this is one of those times.

[18] A.G. points to evidence that she had a difficult upbringing and has a contentious relationship with her mother and argues that this should result in a less-restrictive placement. The juvenile court, however, was under no obligation to fully credit this evidence and was also in the best position to evaluate its significance if it did. This argument is nothing more than an invitation to reweigh the evidence, which we will not do. *See C.S.*, 953 N.E.2d at 1145–46. Moreover, A.G.’s reliance on *D.P. v. State*, 783 N.E.2d 767 (Ind. Ct. App. 2003), is unavailing. In that case, we concluded that commitment to DOC was overly-harsh in large part because no less-restrictive placements had been attempted. *Id.* at 770–71. Here, however, A.G. was given more than three years of opportunities to take advantage of less-restrictive placements without progress before finally being committed to DOC, which distinguishes this case from *D.P.* A.G. has failed to establish that the juvenile court abused its discretion in committing her to DOC. *See, e.g., K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2006) (affirming juvenile’s commitment to DOC after several probation violations); *M.C. v. State*, 134 N.E.3d 453, 459 (Ind. Ct. App. 2019) (affirming commitment to DOC 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*; *J.T. v. State*, 111 N.E.3d 1019, 1027 (Ind. Ct. App. 2018) (affirming commitment to DOC where juvenile was found delinquent four times, was offered many more

less-restrictive options, consistently failed to take advantage of home detention, problem-solving court, the YOC, and services such as counseling and therapy), *trans. denied*; and *K.A. v. State*, 775 N.E.2d 382 387 (Ind. Ct. App. 2002) (affirming commitment to DOC where juvenile had failed to reform her behavior at other placements), *trans. denied*.

[19] We affirm the judgment of the juvenile court.

Crone, J., and Tavitas, J., concur.