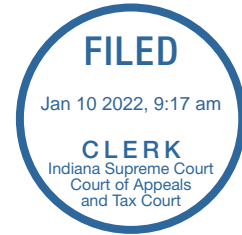


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

B.C.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

January 10, 2022

Court of Appeals Case No.
21A-JV-1820

Appeal from the Vanderburgh
Superior Court

The Honorable Brett J. Niemeier,
Judge

The Honorable Renee A.
Ferguson, Magistrate

Trial Court Cause Nos.
82D04-2105-JD-771
82D04-2105-JM-749
82D04-2106-JD-858

Najam, Judge.

Statement of the Case

- [1] B.C. appeals the juvenile court’s award of wardship over him to the Indiana Department of Correction (“DOC”). B.C. presents a single issue for our review, namely, whether the juvenile court abused its discretion when it placed him with the DOC.
- [2] We affirm.

Facts and Procedural History

- [3] On April 2, 2021, B.C. and three other individuals broke into the home of Brett Schaefer and stole some of his property. As a result, officers detained B.C., and he was placed at the Youth Care Center (“YCC”). Upon his admission to the YCC, B.C. tested positive for marijuana. *See* Tr. at 6. On May 15, B.C. struck N.C., a resident of the YCC. And, on May 26, B.C. struck, G.S., another resident of the YCC. As a result, G.S. suffered a seizure that lasted several minutes. *See* Appellant’s App. Vol. 2 at 123.
- [4] Thereafter, the State filed petitions alleging B.C. to be a delinquent because he had committed burglary, as a Level 4 felony if committed by an adult; theft, as a Class A misdemeanor, if committed by an adult; and battery, as a Class A misdemeanor if committed by an adult, based on his offense against G.S. At a hearing on July 2, B.C. admitted to the allegations contained in the petition.¹

¹ In its dispositional order, the court also stated that B.C. had admitted to a second count of battery, as a Class A misdemeanor if committed by an adult, for his actions against N.C. Appellant’s App. Vol. 2 at 27.

At a sentencing hearing, the court noted that B.C. had battered two juveniles while placed at the YCC. And the court found one of the batteries to be “especially egregious” as it caused the victim to have a seizure and require ongoing medical care. Tr. at 24. Accordingly, the court found that B.C. “would not be appropriate for a less restrictive placement,” and placed him under the wardship of the DOC. This appeal ensued.

Discussion and Decision

[5] B.C. contends that the trial court abused its discretion when it ordered him to be committed to the DOC rather than a less restrictive setting. As the Indiana Supreme Court has explained:

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. We reverse only for an abuse of discretion, namely 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.

And, at a hearing, B.C. admitted to having struck N.C. However, the record on appeal does not contain a copy of the petition alleging B.C. to be a delinquent for having committed that offense. B.C. makes no argument on appeal that the trial court’s dispositional order is incorrect.

K.S. v. State, 849 N.E.2d 538, 544 (Ind. 2006) (citations and quotation marks omitted).

[6] On appeal, B.C. contends that the court abused its discretion when it placed him under the wardship of the DOC because there are “special circumstances” surrounding his life. Appellant’s Br. at 9. Specifically, he asserts that he has “a history of being homeless” but has had a stable residence for a year, that he has a “learning disability and emotional disability,” and that he “needs help in learning to deal with stressors and different coping mechanisms.” *Id.* at 9-10. In addition, he maintains that his offenses “do not equate to a sustained period of criminal conduct.” *Id.* at 10.

[7] However, as the trial court found out, B.C. “is beyond the control” of his parents. Appellant’s App. Vol. 2 at 28. And the record is clear that the court gave B.C. numerous opportunities at less-restrictive placements. Indeed, prior to the instant offenses, B.C. had had five referrals to the juvenile court. First, in June 2018, B.C. received a referral for a battery charge, but the prosecutor chose not to file charges. *See* Appellant’s App. Vol. 2 at 38. Then, in September 2018, B.C. received a second referral for a battery charge, for which B.C. received a lecture and was then released. In April 2019, B.C. received a referral for a theft charge, and the court sentenced him to time served. Also in April 2019, B.C. received a referral for battery, and the court again sentenced him to time served. And in April 2020, B.C. received another referral for battery. But the court continued to offer B.C. a less restrictive placement and sentenced him to thirty days in the YCC.

- [8] In addition, when B.C. arrived at the YCC for the present theft and burglary offenses, he tested positive for marijuana. *See* Tr. at 6. And while he was detained for those offenses, he battered two other juveniles and caused one to suffer a seizure. *See id.* at 24.
- [9] Based on that evidence, it is clear that the trial court has made reasonable efforts to place B.C. in less-restrictive settings. But despite those efforts by the court, B.C. has continued to break the law. We therefore hold that the juvenile court did not abuse its discretion when it ordered that B.C. be committed to the DOC. We affirm the trial court.
- [10] Affirmed.

Vaidik, J., and Weissmann, J., concur.