

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Ryan D. Bower
Bower Law Office, LLC
Salem, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Nicole D. Wiggins
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

T.R.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Petitioner.

March 31, 2023

Court of Appeals Case No.
22A-JV-2309

Appeal from the Washington
Circuit Court

The Honorable Larry W. Medlock,
Judge

Trial Court Cause Nos.
88C01-2110-JD-148
88C01-2112-JD-177

Memorandum Decision by Judge Bradford
Judges May and Mathias concur.

Bradford, Judge.

Case Summary

- [1] Over the course of approximately three months in late 2021, T.R. was alleged to have committed four acts, each of which would have constituted Level 6 felony auto theft if committed by an adult. T.R. subsequently admitted to having committed two of the alleged acts in exchange for dismissal of the remaining allegations. Although he had been initially placed on formal probation and then committed to residential placement, T.R. was committed to the Department of Correction (“DOC”) after his then-current residential placement closed. T.R. argues on appeal that the juvenile court abused its discretion in committing him to the DOC and that the juvenile court’s commitment order is insufficient. We affirm.

Facts and Procedural History

- [2] T.R. was born on December 18, 2006. At all times relevant to this appeal, T.R.’s grandparents were his legal guardians.
- [3] On October 2, 2021, then fourteen-year-old T.R. knowingly or intentionally exerted unauthorized control over “a Polaris Ranger 800 UTV,” which belonged to Calvin and Cathy Keller, with the intent to deprive the Kellers “of any part of its value or use.” Appellant’s App. Vol. II p. 87. Two days later, on October 4, 2021, the State filed a petition in cause number 88C01-2110-JD-148 (“Cause. No. JD-148”) alleging that T.R. was delinquent for committing what would be Level 6 felony theft if committed by an adult.

- [4] Less than a month later, on October 31, 2021, T.R. was arrested for stealing his grandfather's truck and driving it sixty-five miles per hour ("m.p.h.") in a thirty-m.p.h. zone. On November 3, 2021, in cause number 88C01-2111-JD-162 ("Cause No. JD-162"), the State filed another petition alleging that T.R. was delinquent for committing what would be Level 6 felony theft if committed by an adult. On December 2, 2021, in exchange for the dismissal of Cause No. JD-162, T.R. admitted to committing the delinquent act alleged in Cause No. JD-148, and the juvenile court placed him on formal probation.
- [5] On December 26, 2021, T.R. knowingly and intentionally exerted unauthorized control of a Volkswagen Passat belonging to T. Becker, with the intent to deprive Becker "of any part of its value or use." Appellant's App. Vol. II p. 85. Three days later, on December 29, 2021, the State filed a petition in cause number 88C01-2112-JD-177 ("Cause No. JD-177") alleging that then-fifteen-year-old T.R. was delinquent for committing what would be Level 6 felony theft if committed by an adult. Also on December 29, 2021, the State filed a petition to modify T.R.'s placement in Cause No. JD-148.
- [6] On December 27, 2021, in an apparent attempt to avoid Officer Joseph Keltner, T.R. "jumped out of the vehicle he was traveling in and ran into the woods." Appellant's App. Vol. II p. 142. He then "gained entrance into an elk enclosure" and while in the enclosure, "took a van that was there and started driving around the enclosure attempting to get out of the enclosure." Appellant's App. Vol. II p. 142. On January 3, 2022, in cause number 88C01-2201-JD-3 ("Cause No. 3"), the State filed a fourth petition alleging that T.R.

was delinquent for committing what would be Level 6 felony theft and Level 6 felony resisting law enforcement if committed by an adult.

[7] On February 14, 2022, the Washington County Probation Department (“the Probation Department”) filed a pre-dispositional report, in which it recommended that T.R. be placed in the DOC. The pre-dispositional report indicated that while T.R.’s grandparents wanted him to be returned to their home, they could not “guarantee that he [would] not go out and steal either their vehicles or someone else’s vehicles.” Appellant’s App. Vol. II p. 140. The pre-dispositional report additionally indicated that T.R. had previously been placed in residential placement and had failed to take advantage of the prior rehabilitative opportunities that had been afforded to him.

[8] On February 16, 2022, in exchange for the dismissal of Cause No. 3, T.R. admitted to committing the delinquent act alleged in Cause No. JD-177 and to violating the terms of his probation in Cause No. JD-148. On March 9, 2022, the juvenile court entered a dispositional order placing T.R. in the DOC for “an indeterminate amount of time” but staying placement in the DOC to give T.R. another opportunity to take advantage of the rehabilitative opportunities afforded by residential placement. Appellant’s App. Vol. II p. 56. The juvenile court’s order provided, however, that if T.R. had “one violation while in [r]esidential placement, he shall immediately be transported [to]” the DOC. Appellant’s App. Vol. II p. 56. On August 16, 2022, the Probation Department filed a notice of violation with the juvenile court, indicating that T.R. had incurred multiple write-ups during his placement at Southwest Regional Youth

Village (“Southwest”). Following an August 17, 2022 review hearing, the juvenile court initially continued T.R.’s placement in residential placement but, on August 30, 2022, ordered that T.R. be committed to the DOC “until further order of the Court” in light of Southwest’s closure.¹ Appellant’s App. Vol. II p. 27.

Discussion and Decision

[9] At the outset, we note that “the purpose of the juvenile process is vastly different from the criminal justice system.” *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010) (citing *Jordan v. State*, 512 N.E.2d 407, 408 (Ind. 1987)). “Specifically, the goal of the juvenile process is *rehabilitation* so that the youth will not become a criminal as an adult.” *Id.* (emphasis in original). “Accordingly, juvenile courts have a variety of placement choices for juveniles who have delinquency problems, none of which are considered sentences.” *Id.*

[10] The disposition of a juvenile adjudicated a delinquent is a matter committed to the trial court’s discretion, subject to the statutory considerations of the child’s welfare, community safety, and the policy favoring the least harsh disposition. We review a trial court’s disposition for an abuse of discretion, which occurs if its decision is clearly against the logic and effect of the facts and circumstances before it or the reasonable inferences that may be drawn therefrom. In determining whether a trial court has

¹ Although it is unclear from the record why and for how long, it appears that Southwest was closed, at least temporarily, in the late-summer or early-fall of 2022.

abused its discretion, we neither reweigh evidence nor judge witness credibility.

J.S. v. State, 110 N.E.3d 1173, 1175 (Ind. Ct. App. 2018) (internal citations omitted), *trans. denied*.

[11] Indiana Code section 31-37-18-6 provides that

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.

[12] Indiana Code section 31-37-18-9(a) provides that the "juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report." Such written findings shall include:

- (1) The needs of the child for care, treatment, rehabilitation, or placement.
- (2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.
- (3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:
 - (A) prevent the child's removal from; or
 - (B) reunite the child with;the child's parent, guardian, or custodian.
- (4) Family services that were offered and provided to:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian.
- (5) The court's reasons for the disposition.
- (6) Whether the child is a dual status child under [Indiana Code article] 31-41.

Ind. Code § 31-37-18-9(a). In challenging the juvenile court's order, T.R. contends that (1) the juvenile court abused its discretion in ordering that he be committed to the DOC and (2) the juvenile court's order failed to comport with statutory requirements.

I. Commitment to the DOC

[13] T.R. argues that the juvenile court abused its discretion in ordering that he be committed to the DOC because "there is little evidence that the [juvenile] court considered other" less-restrictive programs and "there was no evidence that other, less restrictive options were considered prior to placing [him] on a zero tolerance DOC suspension." Appellant's Br. pp. 6–7. We are unpersuaded by T.R.'s argument. In the months leading up to his commitment in the DOC, T.R. had demonstrated that in-home placement and probation were insufficient

to persuade him to modify his behavior. Further, the record suggests that Southwest was the only facility willing to take T.R. and that upon its closure, the juvenile court was left with no viable less-restrictive options. The fact that the juvenile court, against the recommendation of the Probation Department, initially gave T.R. “one last chance” to avoid commitment to the DOC by suspending it in favor of a residential placement indicates that the juvenile court did consider the appropriateness of a less-restrictive placement before ultimately ordering that T.R. be placed in the DOC. Tr. Vol. II p. 30.

[14] Further, the record reveals that in connection to unrelated delinquent behavior, T.R. had previously been placed in residential placement at Childplace for “about ten (10) months” but was released “because he was doing nothing.” Tr. Vol. II p. 7. This prior attempt at leniency did not convince T.R. to modify his delinquent behavior. As it relates to the instant case, in late 2021 and early 2022, he accumulated the four delinquency petitions and two true findings, all of which involved acts that would have constituted auto theft if committed by an adult. After being placed on formal probation following the first of these two true findings, T.R. violated the terms of his probation by committing additional acts that would have constituted auto theft if committed by an adult. In addition, his legal guardians indicated that they could not “guarantee that [T.R. would] not go out and steal either their vehicles or someone else’s vehicles” if T.R. was returned to their care. Appellant’s App. Vol. II p. 140. “[T]he 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) (internal quotation omitted). Based on the facts before the juvenile court, we cannot say that the juvenile court abused its discretion in finding that commitment to the DOC was the least-restrictive disposition consistent with T.R.’s best interests and the safety of the community at-large.

II. Sufficiency of Juvenile Court’s Order

[15] T.R. argues that the juvenile court’s order, which was issued on August 30, 2022, “does not include findings sufficient to satisfy Indiana Code [section] 31-37-18-9(a).” Appellant’s Br. p. 11 (emphasis omitted). T.R. argues that the juvenile court failed “to issue appropriate written findings and conclusions concerning [his] care, treatment, rehabilitation, or placement; parental participation in the plan; efforts made to prevent [his] removal from the parent; family services offered; and the court’s reasons for its dispositions.” Appellant’s App. Vol. II p. 12. He further argues that the juvenile court’s order is “cursory and conclusory” and, as a result, the case should be remanded to the juvenile court “for reconsideration and the issuance of detailed findings and conclusions.” Appellant’s Br. p. 11.

[16] The juvenile court’s August 30, 2022 order indicated that T.R. was being committed to the DOC until further order of the Court “due to his current residential placement, [Southwest] closing.” Appellant’s App. Vol. II p. 27. In committing T.R. to the DOC, the juvenile court found that T.R. “having admitted the delinquent act(s) and having been found to have committed the

delinquent act(s) alleged in the Petition filed herein, the Court now finds that [T.R.] did commit (a) (the) delinquent act(s), as follows: Theft, a Level 6 Felony and Theft, a Level 6 Felony.” Appellant’s App. Vol. II p. 27. The juvenile court further found that

The Court finds that it is in the best interests of the child to be removed from the home environment and remaining in the home would be contrary to the welfare of the child because:

Said child does not follow the rules of the home and leaving him in the home does not constitute that he will remain in the home or follow the rules. And the juvenile is currently on formal probation. He left home without permission on December 26, 2021, exerted unauthorized control over a neighbor’s automobile, ran from the police and stole [an] automobile in Orange County to try to flee.

(X) The Court finds that reasonable efforts to prevent or eliminate removal of the child were not required due to the emergency nature of the situation, as follows: the juvenile was detained from November 3rd through December 1st and the last case that was dismissed. O[n] December 1st he pled and was placed on formal probation in a prior case for stealing an ATV.

Appellant’s App. Vol. II p. 27 (bold in original). Despite T.R.’s claim to the contrary, the juvenile court’s order clearly explained the reason for T.R.’s commitment to the DOC, stating that commitment in the DOC was necessary due to the closure of Southwest and given that placement in his grandparents’ home would be contrary to T.R.’s welfare and best interests. The juvenile court’s order also detailed prior efforts to prevent removal from his grandparents’ home, stating that even after being found to be a delinquent child

and placed on probation, T.R. would not follow the rules and continued to leave his grandparents' home without permission. The juvenile court indicated that these prior efforts to avoid removal from his grandparents' home were reasonable but that T.R.'s continued behavior necessitated removal from the home. The juvenile court's order is sufficient to explain why it ordered commitment to the DOC and to outline prior attempts at rehabilitation and efforts made to prevent removal from his grandparents' home.

[17] Moreover, while the juvenile court's August 30, 2022 order does not specifically refer back to the juvenile court's prior orders in this case, these orders are part of the appellate record and, given that the August 30, 2022 order was issued following a review hearing, we conclude that it is reasonable to consider the related prior orders. These orders, when read together with the August 30, 2022 order, which was clearly an emergency order issued after the juvenile court became aware of Southwest's imminent closure, include findings relating to each of the factors listed in Indiana Code section 31-37-18-9(a). We therefore cannot say that the juvenile court's order is insufficient to satisfy Indiana Code section 31-37-18-9(a).

[18] The judgment of the juvenile court is affirmed.

May, J., and Mathias, J., concur.