

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

J.M.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

February 16, 2022

Court of Appeals Case No.
21A-JV-1636

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Magistrate

Trial Court Cause No.
71J01-2101-JD-13

Mathias, Judge.

- [1] The St. Joseph Probate Court adjudicated J.M. a delinquent child after he admitted to striking his mother and her fiancée. J.M. later alleged that he was

not competent to stand trial and filed a motion to set aside his admissions. After three competency evaluations, the trial court concluded that J.M. was competent on the date he admitted to the delinquent acts and denied his motion. J.M. appeals, challenging the trial court's competency determination.

[2] We affirm.

Facts and Procedural History

[3] On January 14, 2021, the State filed three petitions alleging that ten-year-old J.M. was a delinquent child for committing acts that would be domestic battery if committed by an adult. Specifically, the State alleged that J.M. struck his mother on two separate dates and that he struck his mother's fiancée. The next day, the trial court held a hearing on the delinquency petitions, and J.M. was present and represented by counsel. His mother and father were also present in the courtroom.

[4] J.M. indicated that he understood the State's allegations against him but stated that he did not understand the court proceedings. Tr. p. 11. The court allowed J.M. to speak with his attorney. Thereafter, J.M.'s attorney informed the court that J.M. understood the court's advisements and potential dispositions of a delinquency finding. *Id.* at 12. J.M. confirmed that he understood the court's advisements. *Id.* J.M. then admitted that he struck his mother and his mother's fiancée as alleged in the petitions. *Id.* at 12–14.

[5] Because J.M. had a history of mental health treatment and a recent history of severe aggressive behavior, the probation department requested that J.M. be

placed in secure detention. The probation department also asked the trial court to order a psychological evaluation. The trial court expressed reservations about the probation department's request to detain ten-year-old J.M. but ultimately agreed that detention was necessary to protect J.M. and the community. The court also ordered the psychological evaluation as requested. J.M. was placed at Bashor Children's Home, an emergency shelter care.

[6] Psychologist Dr. Paul Bittlemeyer evaluated J.M. and issued his reports on three dates: February 16, April 7, and May 20, 2021. During the first two evaluations, J.M. exhibited emotional volatility and extreme anger. The doctor concluded that J.M.'s "cognitive abilities are affected by his emotional state." Appellant's App. p. 26. Dr. Bittlemeyer concluded that J.M.'s ability to stand trial was highly dependent on his emotional state. After the first evaluation, the doctor found that J.M. was not competent to stand trial. *Id.* at 27.

[7] Dr. Bittlemeyer issued his second report after a more extensive evaluation of J.M. spanning several days. Dr. Bittlemeyer concluded that J.M. is easily overwhelmed by his emotions, which has an adverse effect on his judgment and reasoning. *Id.* at 35. Once again, he concluded that J.M. was not competent to stand trial.

[8] On May 14, 2021, the trial court held a competency hearing. Relying on Dr. Bittlemeyer's findings, J.M. asked the trial court to set aside his factual admissions. During the hearing, Amy Sturma, who is a social worker and the program director at Bashor Children's Home, testified that J.M. was making

significant progress in residential treatment and was able to exercise greater control over his emotions. Tr. pp. 26–27. Sturma worked with J.M. daily and did not agree with Dr. Bittelmeyer’s competency evaluation. *Id.* at 28. Sturma also testified that J.M. understood why he was placed at Bashor. *Id.* at 39. Dr. Bittelmeyer testified that after hearing Sturma’s testimony, he would like to reevaluate J.M. for a third time. *Id.* at 44. After the hearing, J.M. filed a written motion to set aside the factual admissions he made at the January 15, 2021, hearing.

[9] Thereafter, Dr. Bittelmeyer issued his third report addressing J.M.’s competency. During the evaluation, J.M. was upset, frustrated and anxious, but he exhibited more control over his emotions and behavior. Appellant’s App. p. 46. Dr. Bittelmeyer concluded that J.M. understood the State’s delinquency allegations, the role of the court, and the potential dispositions of the juvenile proceedings. The doctor concluded that J.M. seems capable of aiding his attorney in his defense. *Id.* at 47. Although J.M.’s cognitive capacity still seemed largely dependent on his emotional state, Dr. Bittelmeyer concluded that during the third evaluation, J.M. “seemed better able to utilize his full cognitive capacity.” *Id.* at 48. J.M.’s guardian ad litem requested that the court adopt Dr. Bittelmeyer’s conclusions and find that J.M. was competent to stand trial. *Id.* at 51.

[10] At another competency hearing held on June 11, 2021, J.M. informed the court that while living at Bashor he had learned coping skills for controlling his anger

and frustration. *Id.* at 65. He stated he understands when he does “something wrong.” *Id.* He also indicated that he understood the court proceedings. *Id.*

[11] On July 20, 2021, the trial court issued its competency finding and held J.M.’s dispositional hearing. The court found that after reviewing Dr. Bittelmeyer’s reports and considering J.M.’s age, the court was left with the impression that “there is a [J.M.] that presents when he is overwhelmed and then [J.M.] when he is calm.” Tr. p. 84. The court found that during the January 15 hearing, J.M. was alert and oriented to time and place. *Id.* And the court recalled that J.M. “answered very, very quickly a lot of the Court’s questions, but his responses were appropriate to the questions asked. There was an agreement that made sense based on the facts.” *Id.* And J.M. was asked questions using age-appropriate terms. *Id.* (explaining that defense counsel did not ask J.M. whether he committed a domestic battery but whether he hit his mom). The trial court concluded that J.M. was competent when he was adjudicated a delinquent and denied his motion to set aside his factual admissions. *Id.* at 85. The court then issued a dispositional order placing J.M. on “Strict and Indefinite Probation” and awarded custody of J.M. to his father after a thirty-day transitional period. Appellant’s App. pp. 67–68.

[12] J.M. now appeals.

Discussion and Decision

[13] J.M. argues the trial court abused its discretion when it denied his motion to set aside the factual admissions he made at the January 15, 2021, delinquency

hearing. Relying on Dr. Bittelmeyer's first two competency reports, J.M. argues that he had "an absolute right to understand the nature and object of the proceedings against him" but he did not. Appellant's Br. at 6.

[14] We review the trial court's competency finding "under the clearly erroneous standard." *Edwards v. State*, 902 N.E.2d 821, 824 (Ind. 2009). We will reverse only if the court's determination is "unsupported by the facts and circumstances before the trial court together with any reasonable inferences to be drawn therefrom." *Id.* In finding whether a defendant is competent to stand trial, the trial court, as the trier of fact, decides what weight is to be given to expert testimony. *Ind. Family & Soc. Servs. Admin. v. Hospitality House of Bedford*, 783 N.E.2d 286, 292 (Ind. Ct. App. 2003). "We will not reweigh the evidence or judge the credibility of the witnesses when reviewing the trial court's judgment." *Id.*

[15] It is well settled that "a juvenile alleged to be delinquent has the constitutional right to have her competency determined before she is subjected to delinquency proceedings." *In re K.G.*, 808 N.E.2d 631, 635 (Ind. 2004); *see also In re Gault*, 387 U.S. 1, 30 (1967), *abrogated on other grounds*.

A juvenile charged with delinquency is entitled to have the court apply those common law jurisprudential principles which experience and reason have shown are necessary to give the accused the essence of a fair trial. Without question, these include the right to adequate notice of the charges, appointment of counsel, the constitutional privilege against self-incrimination, and the right to confront opposing witnesses. The cornerstone of these substantive rights is competence to understand the nature of

the charge and to assist in a defense. In our view the want of competence renders the other rights meaningless. [N]either the Fourteenth Amendment nor the Bill of Rights is for adults alone. It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense may not be subjected to a trial. Principles of fundamental fairness require that this right be afforded in juvenile proceedings.

In re K.G., 808 N.E.2d at 635 (internal citations and quotations omitted).

[16] Importantly, “the juvenile court system is founded on the notion of *parens patriae*, which allows the court the power to step into the shoes of the parents.”

Id. The doctrine “gives juvenile courts power to further the best interests of the child, which implies a broad discretion unknown in the adult criminal court system.” *Id.* at 636. Juvenile courts have “a degree of discretion and flexibility, unparalleled in the criminal code, to address the needs of children and to act in their best interests.” *Id.* at 637.

[17] We also observe that [Indiana Code section 31-32-12-1](#) provides in pertinent part that

the juvenile court may authorize mental or physical examinations, including drug and alcohol screens, or treatment under the following circumstances: . . .

(3) If the court has authorized the filing of a petition alleging that a child is a delinquent child or a child in need of services, the court may order examination of the child to provide information for the dispositional hearing. The court may also order medical

examinations and treatment of the child under any circumstances otherwise permitted by this section.

(4) After a child has been adjudicated a delinquent child or a child in need of services, the court may order examinations and treatment under IC 31-34-20 or IC 31-37-19.

The statute allows “for the examination and/or treatment of a child after a delinquency petition has been filed in order to determine the child’s competency.” *In re K.G.* 808 N.E.2d at 639.

- [18] J.M. was ten years old at the January 15, 2021, hearing. The trial court was understandably concerned about J.M.’s ability to understand the proceedings due to his young age. As the court explained the proceedings and the alleged delinquent acts, the court made certain that J.M. understood the court’s advisements. Tr. pp. 10–12. When J.M. indicated that he was confused about the possible dispositions of a juvenile adjudication, he was allowed to consult with his attorney. *Id.* at 12. After a conversation with counsel, J.M. indicated that he understood the court’s explanation of the proceedings. J.M. then admitted that he hit his mother and his mother’s fiancée as alleged in the delinquency petitions.
- [19] Dr. Bittelmeyer’s first interview with J.M. occurred several days after the January 15 hearing and after J.M. had been placed in residential care. After evaluating J.M. on multiple dates, the doctor concluded that when J.M. is unable to control his emotions, it affects his cognitive abilities. In Dr. Bittelmeyer’s third report, he concluded that J.M. was exhibiting greater control

over his emotions and was competent to stand trial. Moreover, our review of the record leads us to conclude that throughout these proceedings, J.M. understood that hitting his mother and her fiancée resulted in these delinquency proceedings and his resulting placement in residential care at Bashor Children's Home.

[20] At the final competency hearing, the court reflected on J.M.'s demeanor during the January 15 hearing and recalled that J.M. was alert and oriented to time and place. *Id.* at 84. The court found that J.M. "answered very, very quickly a lot of the Court's questions, but his responses were appropriate to the questions asked. There was an agreement that made sense based on the facts." *Id.* In essence, the court concluded that J.M. was calm enough to understand the proceedings and his cognitive abilities were not impaired during the January 15, 2021, hearing.

[21] J.M.'s argument to the contrary is merely a request to reweigh the evidence and the credibility of the witnesses, which our court will not do. We will not second guess the trial court's competency determination on appeal.¹

[22] For all of these reasons, we affirm the trial court's denial of J.M.'s motion to set aside his factual admissions to the delinquency petitions.

¹ Moreover, J.M. has not presented any compelling reason to support his request that our court instruct the trial court to order a fourth competency evaluation.

[23] Affirmed.

Bailey, J., and Altice, J., concur.