

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

H.A.,
Appellant-Respondent,

v.

State of Indiana,
Appellee-Plaintiff.

August 15, 2022

Court of Appeals Case No.
22A-JV-586

Appeal from the St. Joseph Probate
Court

The Honorable Graham C.
Polando, Judge

Trial Court Cause No.
71J01-2103-JD-71
71J01-2112-JD-447

Bailey, Judge.

Case Summary

- [1] H.A. appeals the juvenile court’s award of wardship over him to the Indiana Department of Correction (“DOC”). We affirm.

Issue

- [2] H.A. presents a single issue for our review, namely, whether the juvenile court abused its discretion when it placed him with the DOC.

Facts and Procedural History

- [3] On March 12, 2021, the State filed a petition in Cause Number 71J01-2103-JD-71 (“JD-71”) alleging that H.A. was a juvenile delinquent because he had committed two acts of auto theft, as Level 6 felonies if committed by an adult. H.A. admitted to one count, and, in exchange, the State agreed to dismiss the second count. The court adjudicated H.A. a delinquent and, on May 25, placed H.A. on “[s]trict and [i]ndefinite” probation with an order that H.A. attend school or an educational program “with no unexcused absences, tardies or suspensions, and obey all school rules and regulations.” Appellant’s App. Vol. 2 at 36. The court further ordered H.A. to attend Keys Academy (“Keys”), participate in a substance abuse assessment, participate in Aggressions Replacement Training (“ART”) or a similar program, and participate in individual therapy.

- [4] On June 7, H.A. attended Keys for the first time. On that day, staff members confiscated a vape pen that H.A. had taken with him. The next day, staff members sent H.A. home “due to his poor behavior and disrespect toward the staff.” *Id.* at 38. Ultimately, H.A. received eight noncompliance reports “in less than a month’s time” because he “refuse[d]” to abide by the rules, was disrespectful to staff, “threaten[ed] to fight” other students, and made “no progress academically.” *Id.* The staff did “not feel safe around” H.A. H.A. was “unsuccessfully discharged” from Keys on June 28. *Id.*
- [5] On June 29, the State filed a petition to modify H.A.’s placement. In support of that request, the State cited to H.A.’s discharge from Keys. The State further alleged that H.A. had not completed his substance abuse assessment despite a referral and that H.A. has “missed multiple appointments” with his ART instructor. *Id.* The State also cited to H.A.’s legal history, in which the State alleged that H.A. had left home without permission on June 13.
- [6] On July 9, following a hearing, the court continued H.A.’s placement on probation, ordered that he participate in the day reporting program and another educational program, and placed him on home detention for sixty days. The court also ordered that H.A. be committed to the DOC but stayed that commitment on the condition that H.A. comply with the order. *See id.* at 46.
- [7] H.A. began class on July 19 and had “no absences or significant behavioral issues.” *Id.* at 50. H.A. was then released from GPS monitoring and placed on house arrest on August 16. H.A. was absent from class on August 17, 19, and

26. H.A. was then placed back on GPS monitoring from August 31 through September 7. Thereafter, H.A. accumulated twelve “unexcused absences.” *Id.* H.A. also “chose not to attend Gradpoint,” regularly and, when he did attend, he did not do “the work as he should.” *Id.* H.A. only completed “one pretest and one quiz,” both of which he failed. *Id.*

[8] As a result, on November 2, the State filed a second petition to modify H.A.’s placement on probation. On December 14, following a hearing, the court continued H.A. on probation, placed him on home detention for sixty days, ordered that he participate in and successfully complete the day reporting program, and “admonished that there is a suspended commitment to” the DOC. *Id.* at 55.

[9] On December 26, officers received an alert that H.A.’s monitor had “been tampered with.” *Id.* at 80. Officers contacted H.A.’s mother, who stated that H.A. had removed his ankle monitor, took her car, and left home. Officers located and detained H.A. On December 30, the State filed a petition in Cause Number 71J01-2112-JD-447 (“JD-447”) and alleged that H.A. had committed escape and conversion, both as Level 6 felonies if committed by an adult. The State then filed another petition to modify H.A.’s placement on probation in JD-71 based on the alleged new offenses.

[10] On January 4, 2022, the court held an initial hearing in JD-447 and a hearing on the petition to modify his placement in JD-71. At the hearing, H.A. admitted that he had committed escape in JD-447, and the State agreed to

dismiss the conversion charge. The court then entered a dispositional order in that cause. In its order, the court found that H.A. “was uncooperative with probation services,” that his “actions pose [a] danger to self and others,” and that H.A. “is in need of supervision, care, treatment and services which are NOT available in the local community.” *Id.* at 88 (emphasis in original). Accordingly, the court placed H.A. under the wardship of the DOC. At the same time, the court modified H.A.’s placement in JD-71 to the DOC. This appeal ensued.

Discussion and Decision

[11] H.A. 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.

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

[12] On appeal, H.A. contends that the court abused its discretion when it placed him under the wardship of the DOC because he only “had one (1) previous adjudication, for which he was still on probation,” and because his “conduct does not rise to the level of repetitive or serious misconduct.” Appellant’s Br. at 8. And H.A. maintains that “the court should have instituted a less harsh disposition until [he] demonstrated that he would not respond positively to probation.” *Id.*

[13] However, the record is clear that the court gave H.A. several opportunities at less-restrictive placements. Indeed, following his adjudication for auto theft in JD-71, the court placed H.A. on probation. But H.A. failed to comply with the terms of his placement. H.A. refused to abide by Keys’ rules, threatened to fight other students, and made staff feel unsafe and, consequently, was unsuccessfully discharged from Keys. In addition, H.A. failed to complete a substance abuse evaluation, “missed multiple appointments with his ART instructor, and left home without permission. But despite those violations, the court again offered H.A. a less restrictive placement by continuing him on probation, ordering him to participate in day reporting, and placing him on home detention for sixty days.

[14] Thereafter, H.A. was released from GPS monitoring and accrued three absences within ten days and was placed back on GPS monitoring. When his monitor was removed again, he accrued twelve unexcused absences. He also chose not to attend Gradpoint regularly and, when he did attend, he did not do “the work as he should.” *Id.* at 50. The State then filed another petition to

modify H.A.'s placement. But the court again continued H.A. on probation, placed him on home detention for sixty days, and ordered him to complete the day reporting program.

[15] Just twelve days later, while still on probation in JD-71, H.A. removed his ankle monitor and left his house. As a result, the court ordered H.A.'s detention; the State filed another petition alleging that he is a delinquent in JD-447; and H.A. admitted that he had committed escape, as a Level 6 felony if committed by an adult. And, at the joint initial hearing in JD-447 and modification hearing in JD-71, H.A.'s probation officer testified that H.A. had tested positive for alcohol on one occasion and marijuana on another occasion.

[16] Based on that evidence, we agree with the court that "[r]easonable efforts were made to prevent or eliminate the need for removal[.]" Appellant's App. Vol. 2 at 88, 91. But despite those efforts, H.A. continued to violate the terms of his probation and break the law.

Conclusion

[17] We hold that the juvenile court did not abuse its discretion when it ordered that H.A. be committed to the DOC. We therefore affirm the trial court.

[18] Affirmed.

Vaidik, J., and Bradford, C.J., concur.