

## 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

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R.P.,  
*Appellant-Respondent,*

v.

State of Indiana,  
*Appellee-Petitioner.*

April 5, 2022

Court of Appeals Case No.  
21A-JV-2131

Appeal from the  
St. Joseph Probate Court

The Honorable  
Graham C. Polando, Magistrate

Trial Court Cause No.  
71J01-2101-JD-12

**Molter, Judge.**

[1] The juvenile court placed R.P. on probation after he admitted to committing what would be a Class B misdemeanor criminal mischief if committed by an adult. R.P. later ran away from home, and the juvenile court determined that R.P. should remain detained while the probation department filed a modification report. In its report, the probation department recommended placement in the Indiana Department of Correction (“DOC”), and, in its modification order, the juvenile court awarded wardship of R.P. to the DOC. R.P. appeals and argues that the juvenile court abused its discretion when it committed him to the DOC. Finding no abuse of discretion, we affirm.

### **Facts and Procedural History**

[2] On December 17, 2020, R.P. slashed the tires on a car belonging to his neighbor and was caught throwing a brick through the back window of another neighbor’s car. The State filed a delinquency petition alleging R.P. had committed what would be Class B misdemeanor criminal mischief if committed by an adult. On January 29, 2021, an initial hearing was held, during which R.P. admitted to the allegations in the delinquency petition. The juvenile court determined it was in R.P.’s best interest to be detained in the St. Joseph County Juvenile Justice Center while awaiting disposition.

[3] While in custody awaiting disposition, R.P. accumulated sixty-five incident reports, mainly for disorderly conduct, disrespecting staff, failure to follow instructions, and removal from school. He was placed on room restriction nine times for those incidents and was also placed on Administrative Hold two times for his repeated inability to follow detention guidelines and blatant disregard for

staff authority. Even after these measures, R.P.'s behaviors remained disruptive. He tested positive for marijuana and was not cooperative in completing a psychological evaluation with a staff psychologist. When he did cooperate, R.P.'s interview was "problematic" because he denied "everything" despite his prior admission to the allegations. Appellant's App. Vol. 2 at 15.

[4] At the dispositional hearing on April 6, 2021, the juvenile court ordered that R.P. should be placed on "strict and indefinite" probation and that he should serve ninety days on home detention. *Id.* at 20. From May 4, 2021, until July 28, 2021, R.P. was alleged to have violated the terms of his placement multiple times, including: leaving home without permission for a time period less than twenty-four hours; using profanity toward a teacher, resulting in a suspension for the rest of the summer school term; submitting three urine drug screens which tested positive for the presence of marijuana; admitting to his therapist that he and his brother had broken into a locked bedroom in their house and had stolen several items belonging to their mother's boyfriend in order to sell them; and destroying his school computer.

[5] On July 23, 2021, a probation officer went to R.P.'s house to conduct a random home visit and found that R.P. was not at home and did not have his mother's permission to be away from the home. R.P.'s mother filed a runaway report with Mishawaka Police Department and informed the probation officer on July 25 that R.P. did not return home over the weekend. He finally returned home on July 26 and was placed in detention.

[6] A detention hearing was held on July 28, 2021, at which the juvenile court determined R.P. had placed himself in danger by running away for a lengthy period of time and concluded he should remain in detention in the St. Joseph County Juvenile Justice Center until a modification hearing could be held. On August 4, 2021, the probation department filed a petition for modification to address the violations that R.P. had accrued while on probation. At the August 10, 2021 modification hearing, the probation department recommended that R.P. be placed on day reporting. Before the juvenile court modified R.P.'s placement, it directed the probation department to investigate and make referrals to appropriate residential facilities. R.P. was ordered to continue in detention while awaiting disposition of his case.

[7] While the probation department was investigating residential placement for R.P., he accrued thirty-two new behavioral incident reports for disrespecting staff, failing to follow staff instructions, disorderly conduct, sexual vulgarity toward female staff members and peers, interfering with shower procedures, being removed from pat downs, calling staff members profane names, disrespecting his peers, destroying property, flashing gang signs, attempting battery on a staff member, threatening harm to staff members and fellow detainees, being removed from class, possessing contraband, and trafficking. Overall, the probation department reported that R.P.'s behavior had been disruptive, and he had put staff and other residents at risk.

[8] As a result of this continued disruptive behavior, the probation department filed a status report on August 20, 2021, changing their placement recommendation

from day reporting to placement in the DOC. In this report, the probation department found that R.P.'s lack of accountability and insight into his need for rehabilitation and mental-health treatment made him a poor candidate for residential placement. It also concluded that R.P.'s "behavior could put residential treatment staff in danger due to [his] blatant disregard for safety protocols and rules." *Id.* at 38.

[9] On August 31, 2021, the juvenile court adopted the probation department's recommendation, reasoning that it had given R.P. the opportunity to return home and stay within the community but that his behavior had escalated in severity and was "appalling." Tr. Vol. 2 at 11. Looking at R.P.'s behavior during his placements at home and in the Juvenile Justice Center, the juvenile court determined that "there is simply no reason to believe" that R.P. would succeed in a residential placement. *Id.* The juvenile court found that reasonable efforts were made to prevent or eliminate the need for removal and that such efforts did not prevent removal of R.P. because he continued to engage in aggressive and violent behavior. Appellant's App. Vol. 2 at 40–41. Therefore, the juvenile court ordered R.P. committed to the DOC. *Id.* at 41; Tr. Vol. 2 at 11. R.P. now appeals.

## **Discussion and Decision**

[10] R.P. argues the juvenile court abused its discretion when it ordered him committed to the DOC because the determination was not supported by sufficient evidence. A juvenile court is given "wide latitude" and "great

flexibility” in its dealings with juveniles. *J.T. v. State*, 111 N.E.3d 1019, 1026 (Ind. Ct. App. 2018), *trans. denied*. “[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.*

[11] The goal of the juvenile system is rehabilitation rather than punishment. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010). Under Indiana Code section 31-37-18-6:

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.

“[T]he statute contains language that reveals that a more restrictive placement might be appropriate under certain circumstances.” *J.S. v. State*, 881 N.E.2d 26, 29 (Ind. Ct. App. 2008). 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).

[12] In this case, the least restrictive disposition available to R.P. that was consistent with the safety of the community and the best interests of the child was placement in the DOC. Although he was given opportunities to be placed in less restrictive environments, R.P. did not demonstrate he was amenable to treatment and failed to respond to the less restrictive placement alternatives provided to him.

[13] After R.P. admitted to the actions that would have been a Class B misdemeanor criminal mischief if committed by an adult, the juvenile court gave R.P. the opportunity to remain in his community, and to stay at home with his mother, through “strict and indefinite” probation with ninety days of home detention. Appellant's App. Vol. 2 at 20. A few weeks later, R.P. was found in violation

for leaving his home without permission. *Id.* at 31. At that time, the juvenile court continued to permit R.P. to remain on home detention with the added condition that he wear a GPS monitor. *Id.* at 31–32.

[14] Over the next three months, R.P. abused the juvenile court’s leniency and committed numerous violations of the terms of his probation including testing positive for marijuana three times. *Id.* On July 23, 2021, R.P. ran away from home, which is itself a delinquent act. *Id.* at 32; *see* Ind. Code § 31-37-2-2 (“A child commits a delinquent act if, before becoming eighteen (18) years of age, the child leaves home . . . without reasonable cause; and . . . without permission” of their parent.). From there, the juvenile court provided R.P. with another opportunity to prove himself when it placed him at the Juvenile Justice Center in order to find him an appropriate residential placement. Appellant’s App. Vol. 2 at 38. But while there, R.P. committed thirty-two new violations and demonstrated that a less restrictive placement was not a viable option for rehabilitation.

[15] Further, R.P. did not show he was receptive to modifying his behavior or engaging in mental-health treatment. He consistently minimized his behavior and blamed staff and peers when being held accountable for his actions. *Id.* at 38. He also “display[ed] little to no insight into the seriousness of his behavior in detention and possible repercussions.” *Id.* R.P. was reluctant to receive mental-health treatment, he refused to take his medication, and he failed to appreciate his need for treatment. *Id.*



[16] R.P. contends his case is similar to *D.P. v. State*, 783 N.E.2d 767 (Ind. Ct. App. 2003), where this court reversed the juvenile court’s “overly harsh” commitment of D.P. to the DOC because D.P. only had “one prior contact with the juvenile justice system,” suffered from “diminished cognitive capacity and impulsive behavior,” “did not show an unresponsiveness to less restrictive alternatives,” and his conduct did “not rise to the level of repetitive and serious misconduct.” *Id.* at 771. We disagree with R.P.’s characterization that his behavior is like that in *D.P.*

[17] Contrary to *D.P.*, where we found that the commission of two crimes in a short period of time hardly amounted to the sustained period of criminal conduct, here, R.P. had a sustained period of conduct that showed he would not respond to less restrictive placement. R.P. was placed on probation, home detention, and GPS monitoring but continued to commit repeated violations of the terms of his probation, culminating in him running away from home for several days. Then, while awaiting disposition on his petition for modification, R.P. accumulated thirty-two incident reports, showing again that less restrictive placement was not appropriate or consistent with the safety of the community and his best interest. Indeed, the juvenile court reasonably found R.P.’s behavior in detention awaiting disposition “alone would justify a commitment to the [DOC].” Appellant’s App. Vol. 2 at 41. R.P.’s failure to comply with the efforts of the juvenile court and the probation department to assist in his rehabilitation and mental-health treatment shows that his placement in the DOC was not against the logic and effect of the facts and circumstances before

the juvenile court. Given R.P.'s repetitive violations and the failure of less restrictive alternatives, we cannot say the juvenile court abused its discretion when it ordered R.P.'s commitment to the DOC.

[18] Affirmed.

Riley, J., and Robb, J., concur.