

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE
Court of Appeals of Indiana

C.U.,

Appellant-Respondent

v.

State of Indiana,

Appellee-Petitioner



March 14, 2024

Court of Appeals Case No.
23A-JV-2073

Appeal from the Lake Superior Court
The Honorable Thomas P. Stefaniak, Judge
The Honorable Jeffrey Miller, Magistrate

Trial Court Cause No.
45D06-2210-JD-543

Memorandum Decision by Judge Tavitias
Judges Mathias and Weissmann concur.

Tavitas, Judge.

Case Summary

- [1] C.U. was adjudicated to be a delinquent child for committing auto theft, a Level 6 felony if committed by an adult. The juvenile court ordered C.U. to serve thirty days in the Lake County Juvenile Detention Center but suspended this placement on the condition that C.U. serve six months of probation and complete thirty-two hours of community service. Thereafter, on the State’s petition, the juvenile court found that C.U. had violated the terms of her placement and ordered her to be a ward of the Department of Correction (“DOC”). C.U. appeals and argues that the juvenile court abused its discretion by making her a ward of the DOC. We disagree and, accordingly, affirm.

Facts

- [2] On October 3, 2022, then fifteen-year-old C.U. and three other teenaged girls stole a vehicle¹ belonging to Marcus Jones. On October 7, 2022, C.U.’s mother filed a report that C.U. had run away from home. C.U.’s location was unknown until she was arrested on October 16, 2022. The next day, the State filed a petition alleging that C.U. was a delinquent child for committing auto theft, a Level 6 felony if committed by an adult.

¹ The vehicle was later connected to a double homicide, but there is no allegation that C.U. was involved in the homicides.

[3] At a hearing on December 8, 2022, C.U., pursuant to a plea agreement with the State, admitted to being a delinquent child as alleged. The juvenile court ordered placement of C.U. in the Lake County Juvenile Center but suspended the placement on the condition that C.U. successfully complete six months of probation. The juvenile court also ordered C.U. to complete thirty-two hours of community service.

[4] On March 22, 2023, C.U. tested positive for marijuana use. On April 2, 2023, C.U.'s mother reported that C.U. had again run away from home. C.U.'s mother also stated that she believed that C.U. was hanging out with the other girls that were involved in the auto theft. Accordingly, on April 3, 2023, the State filed a petition alleging that C.U. had violated the terms of her probation and asked the juvenile court to modify her placement. The petition alleged that C.U. tested positive for THC, the active chemical in marijuana, and ran away from home. The juvenile court issued an order to detain C.U., but she was not located until April 23, 2023. On that date, C.U. was found at a local hotel, where she was so intoxicated that she had to be taken to the hospital.

[5] The juvenile court held a hearing on the State's petition on June 1, 2023. At the hearing, C.U. admitted that she had violated the terms of her probation by failing to complete her community service, using marijuana, and leaving the city. The State informed the juvenile court that no placement facility in Indiana would accept C.U. due to her diagnosis of conduct disorder. C.U. was accepted into a facility in Arizona, but C.U. and her mother did not agree on placement in this out-of-state facility. At the end of the hearing, the juvenile

court took the matter under advisement, and, on July 19, 2023, the court entered a modification order awarding wardship of C.U. to the DOC for housing in any correctional facility for children. C.U. now appeals.²

Discussion and Decision

[6] C.U. claims that the juvenile court abused its discretion by ordering her to be a ward of the DOC. As explained below, we disagree.

A. Standard of Review

[7] The goal of the juvenile process is rehabilitation, not punishment. *R.H. v. State*, 937 N.E.2d 386, 388 (Ind. Ct. App. 2010). “Accordingly, juvenile courts have a variety of placement options for juveniles with delinquency problems, none of which are considered sentences.” *Id.* Indiana Code Section 31-37-18-6 provides:

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

² On August 18, 2023, C.U. filed a motion to appoint appellate counsel, which the juvenile court granted on August 24, 2023. C.U., represented by counsel, filed a notice of appeal and a motion for permission to file a belated notice of appeal on September 5, 2023, which was granted on September 14, 2023. This appeal then ensued.

- (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.

[8] “Without question, th[is] statute requires the juvenile court to select the least restrictive placement in most situations; however, the 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, 28-29 (Ind. Ct. App. 2008) (citing *K.A. v. State*, 775 N.E.2d 382, 387 (Ind. Ct. App. 2002)). “That is, the statute requires placement in the least restrictive setting only ‘[i]f consistent with the safety of the community and the best interest of the child.’” *Id.* at 29 (quoting I.C. § 31-37-18-6). The statute, therefore, recognizes that in some cases the best interest of the child is better served by a more restrictive placement. *Id.* (citing *K.A.*, 775 N.E.2d at 386-87).

[9] Our juvenile courts enjoy “wide latitude” and “great flexibility” in dealing with juveniles. *J.S. v. State*, 881 N.E.2d 26, 28 (Ind. Ct. App. 2008). Thus, “the choice of the 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.*

B. The Juvenile Court Did Not Abuse Its Discretion

[10] Considering the facts and circumstances before the juvenile court, we cannot say that it abused its discretion by modifying C.U.'s placement and making her a ward of the DOC. C.U. admittedly stole an automobile and ran away from home. As part of her plea agreement, she was placed on only six months of probation and required to complete thirty-two hours of community service. Rather than complying with the conditions of her probation and taking advantage of the lenience that was afforded to her, C.U. squandered this opportunity within a few months. She used marijuana and again ran away from home. When C.U. was finally located at a hotel several days later, she was so intoxicated that she had to be taken to the hospital. Both the juvenile court and C.U.'s mother were understandably concerned for C.U.'s safety and welfare. The juvenile court could reasonably conclude that C.U.'s best interests were served by being placed in a more restrictive environment where her reckless behavior can be curtailed.

[11] Although C.U. claims that the trial court should have ordered a less-restrictive placement, the State presented evidence that none of the placement facilities in

Indiana would accept C.U. given her diagnosis of conduct disorder; a facility in Arizona would accept C.U.; but C.U. and her mother did not agree with C.U.'s placement in the Arizona facility. Returning C.U. to mother's care, as C.U. suggests, was clearly not in C.U.'s best interests, as she had repeatedly run away from her mother's home to engage in delinquent behavior.

[12] We find C.U.'s reliance on *E.H. v. State*, 764 N.E.2d 681 (Ind. Ct. App. 2002), *trans. denied*, to be misplaced. In that case, a panel of this Court concluded that the juvenile court abused its discretion by committing E.H. to the DOC after E.H. had committed an act that would be felony theft if committed by an adult. *Id.* at 686. In that case, however, E.H. had made considerable progress in foster care, and there was evidence that removing him would cause him to regress. *Id.*

[13] In contrast, here, the juvenile court had already tried less-restrictive placement for C.U., i.e., probation. Yet while on probation, C.U. ran away, used marijuana, and, when found, was dangerously intoxicated. And, as noted, no other treatment facilities in the State would accept C.U. Given C.U.'s behavior, which endangered herself, and her lack of success on probation, we cannot say that the trial court abused its considerable discretion by making C.U. a ward of the DOC.

Conclusion

[14] The trial court did not abuse its discretion when, following C.U.'s violations of the conditions of her probation, it ordered C.U. to be a ward of the DOC. Accordingly, we affirm the juvenile court.

[15] Affirmed.

Mathias, J., and Weissmann, J., concur.

ATTORNEY FOR APPELLANT

Karyn Price
Lake County Juvenile Public Defender
Crown Point, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Catherine E. Brizzi
Deputy Attorney General
Indianapolis, Indiana